

**Invitation for Bid
IFB 04132015P**

Quotes will be received until: May 15, 2015 at 3:00 PM
Commodity: Produce

Using Agency: Gaston County Board of Education (GCBE)
Gaston County School Nutrition (GCSN)

Refer ALL Inquiries to: Caren Berrier
Gaston County School Nutrition
500 Reid Street
Lowell, NC 28098
704-824-8423
ckberrier@gaston.k12.nc.us

NOTICE TO BIDDER

Quotes, subject to the conditions made a part hereof, will be received at this office, The Gaston County School Nutrition Department, 500 Reid Street, Lowell, NC, 28098 until May 15, 2015 at 3:00 PM, for furnishing and delivering the commodity as described herein. Refer to page 2 for proper mailing instructions. Quotes are subject to rejection unless submitted on this form. Interested parties are invited to attend a non-mandatory pre-bid conference to be held at the Gaston County School Nutrition Department, 500 Reid Street, Lowell, NC, 28098 on April 28, 2015 at 12:00 PM.

EXECUTION

In compliance with this IFB 04132015P, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are offered, at the prices set opposite each item within the time specified herein. The undersigned certifies that this quote is made without prior understanding, agreement, or connection with any firm, corporation, or person submitting a quote for the same commodity, and is in all respects fair and without collusion or fraud. Under penalty of perjury, the undersigned bidder certifies that this quote has not been arrived at collusively or otherwise in violation of Federal or North Carolina law.

Failure to execute/sign quote prior to submittal shall render quote invalid. **Late quotes are not acceptable.**

Bidder:	Federal ID or Social Security No.
Street Address	PO Box Zip
City& State & Zip	Telephone Number Toll Free Tel No (800)
Type or Print Name & Title of Person Signing	Fax Number
Authorized Signature Date	Email

Bid pricing valid August 1, 2015 through July 31, 2016

USDA is an equal opportunity provider and employer.

ACCEPTANCE OF QUOTE

If any or all parts of this quote are accepted, an authorized representative of the GCBE/GCSN shall affix their signature hereto. This document and the provisions of the Instructions for Proposal, special terms and conditions specific to this IFB 04132015P, the specifications, and the Gaston County School General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful bidder.

FOR GASTON COUNTY BOARD OF EDUCATION USE ONLY
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Offer accepted and contract awarded this ____ day of _____, 20____, as indicated on attached certification by _____ (Authorized representative of GCBE)
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MAILING INSTRUCTIONS

Mail only one fully executed quote document, unless otherwise instructed, and only one quote per envelope. Address envelope and insert quote number as shown below: It is the responsibility of the bidder to have the quote in this office by the specified time and date of opening.

Delivered by U S Postal Service	Delivered by any other means
QUOTE NO. IFB 04132015P Gaston County School Nutrition Attention: Caren Berrier 500 Reid Street Lowell, NC 28098	QUOTE NO. IFB 04132015P Gaston County School Nutrition Attention: Caren Berrier 500 Reid Street Lowell, NC 28098

PROCUREMENT STATEMENT OF NON-PREFERENCE

It is the intent of the GCBE/GCSN to procure a product or service in the size, quality, and parameters of the following specifications. Sometimes for facilitation of bidding/quoting procedures only, a certain manufacturer, product, or bidder will be utilized to help streamline this process. However, the GCBE/GCSN invites and encourages all other qualified bidders to submit equivalent bids/quotes. The primary purpose is to ensure that no interested party is excluded or limited from the bidding/quoting process. All bids are evaluated equally, based on the Award Criteria as follows:

AWARD CRITERIA

The right is reserved to award this contract to a Bidder for all goods or services for the period of August 1, 2015 through July 31, 2016. The following criteria will be used to evaluate the proposals but not necessarily in the order given:

- a. Cost of goods or services quoted for the contract period; this is a “bottom line” bid to be awarded to a single Bidder. Cost of goods will be determined by calculating the average cost to the Bidder for the four periods listed in Appendix A. The per case delivery fee for the bid period of August 1, 2015 to July 31, 2016 will be added to the average cost of goods quoted in Appendix A, and will then be multiplied by the estimated quantities in Appendix A. Overall costs of all products will then be combined to determine the “bottom line” bid. GCSN will require copies of invoices as documentation of Bidder costs for the four periods.
- b. The quality of the articles or services offered;
- c. The general reputation, performance capabilities, and past performance of the bidders;
- d. The substantial conformity with the specifications and other conditions set forth in the request for bids/quotes. All bids/quotes submitted should be as closely sized, equipped, etc., to the desired specifications. Any exceptions to the specifications will be evaluated based on the best interest of GCBE/GCSN;
- e. The suitability of the articles or services for the intended use;
- f. The personal or related services needed;
- g. Transportation charges;
- h. The dates of delivery and performance;
- i. Such other reasonable factors as GCSN may establish, which if deemed pertinent or peculiar to the purchase in question, if controlling, shall be made matter of record;
- j. GCSN reserves the right to accept or reject any and all proposals or any portion thereof and to waive any informality or technical defect in any proposal;
- k. GCSN further reserves the right to reject any proposal which has attached to it any additional terms and conditions not included in or incorporated into this IFB 04132015P.

TABULATIONS

Verbal tabulations of quotes and award information can be obtained by calling the purchaser listed of the first page of this document.

TRANSPORTATION CHARGES

FOB Destination, Lowell, NC, with all transportation charges prepaid and included in the quoted price.

PROPOSAL PRICE SUMMARY SHEET (QUOTE SHEET) – Appendix A

The bidder must provide quotes for all or any of the goods and services listed on the Proposal Price Summary Sheets (Quote Sheet). The quantities listed on the Proposal Price Summary Sheets (Quote Sheet) are estimates. GCBE/GCSN reserves the right to order greater or lesser quantities during the term of any contract awarded pursuant to this IFB 04132015P. Prices quoted should be net of taxes, and shall include all transportation and delivery charges.

NOTE: Complete information must be given for each item or service quoted. Failure to complete brands, code numbers, and all prices requested may result in rejection of the quote.

QUOTE EVALUATION

Quotes are requested on the items and/or services as hereinafter specified or like items similar in design, function and performance. The GCBE/GCSN reserves the right to reject any quote on the basis of function, compatibility with user requirements of utility as well as costs. Bidders are cautioned that any/all information furnished or not furnished on this quote may be used as a factor in determining the award of this contract.

BRAND SPECIFIC

Manufacturer's name and product description used in this solicitation indicates an item is product specific. Bidders may offer other brands of equal or higher quality, but are encouraged to also provide a quote for all specified brands in a line item. All substitutes must match the description as specified for ingredients, size, and shape. The GCBE/GCSN may request a sample of products quoted for testing prior to making the award. Bidders will be given the testing date when samples are requested. It is the bidder's responsibility to ensure that items are delivered on time and in good condition. Samples must be one full case pulled from existing stock with proper labels attached. Nutritional information must be sent for every sample.

SUBSTITUTIONS

GCSN will not accept any substitutes after item(s) have been awarded as specified, unless such substitutions are deemed to be in the best interest of GCSN, and unless prior agreements have been reached and reduced to writing regarding such substitutions. Substituting without the prior approval of GCSN will constitute a breach of contract by the bidder which may result in the initiation of actions covered in the General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination" and the associated financial impacts attached thereto, and may jeopardize any future business from GCSN. If the successful bidder is unable to supply awarded products in a timely manner, as determined by GCSN, and GCSN is forced to find alternative sources for the same or similar products, any additional costs will be the responsibility of the nonperforming bidder and subtracted from any monies owed to the bidder by GCSN.

BUY AMERICAN PROVISION

GCSN's participation in the National School Lunch and School Breakfast programs in the contiguous United States requires the purchase, to the maximum extent practicable, of domestic products for use in meals served under the programs. Regulations define "domestic products" as ones that are produced in the United States and are processed in the United States, substantially using agricultural commodities that are produced in the United States. "Substantially" means over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

GEOGRAPHIC PREFERENCE

GCBE/GCSN may at their discretion designate geographic preference when procuring unprocessed locally grown or locally raised agricultural products (as seasonally available). Such purchases may be made through the successful bidder of IFB 04132015P, or may be made directly with qualified local growers exclusive of this contract, or with State agencies making purchases on behalf of such school food authorities. When utilizing the geographic preference to procure such products, the school food authority making the purchase or the State agency making purchases on behalf of such school food authorities have the discretion to determine the local area to which the geographic preference option will be applied. For the purpose of applying the optional geographic procurement preference, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: Cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce.

DELIVERY

GCSN will only receive deliveries at the GCSN Production Facility, 500 Reid Street, Lowell, NC, 28098 between the hours of 7:00 a.m. and 3:00 p.m. EST or EDT (as applicable), and at the GCSN Lowell Bonded Warehouse, 1010 North Main Street, Lowell, NC, 28098 between the hours of 8:30 a.m. and 2:00 p.m. EST or EDT (as applicable). Except as otherwise noted in the Purchase Order or on the Quote Sheet, the goods may be delivered on pallets. The bidder shall not charge GCSN for the pallets. GCBE/GCSN reserves the right to consider the delivery time offered as a factor in the award of contract. Repeated failure to meet delivery dates and times will constitute a breach of Contract by the bidder, and may result in the initiation of actions covered in the General Terms and Conditions document entitled “Remedies for Non-Performance of Contract”, and “Contract Termination” and the associated financial impacts attached thereto, as well as jeopardize any future business from GCSN. **It is recommended that all products bid should be stock items to ensure timely delivery of these products.** There are no minimum order requirements from bidder to GCSN.

DESCRIPTIVE LITERATURE

All quotes must be accompanied by complete descriptive literature, specifications and other pertinent data necessary for their evaluation as required by the attached General Contract Terms and Conditions, otherwise, they will be subject to rejection.

DEVIATIONS

Any deviations from specifications and requirements herein must be clearly pointed out by the bidder. Otherwise it will be considered that product or service offered is in strict compliance with these specifications and requirements, and the successful bidder will be held responsible therefore. Deviations must be explained in detail below or on an attached sheet. However, no implication is made by the GCBE/GCSN that deviations will be acceptable. Bidder is advised that the response (or lack thereof) on this question does not take precedence over specific responses or non-responses provided elsewhere in this bid.

FIRM QUOTE

Prices and any other entry made here on by the bidder shall be considered firm and not subject to change or withdrawal.

INDEFINITE ORDER QUANTITY

Bidders are informed that this quote is for an estimated quantity of goods or services. No guarantees in order quantities exist until bidder receives a purchase order from GCBE/GCSN. The quantities listed in this bid are for estimation and planning purposes only. The listed quantities are subject to change, with no guaranteed minimum order implied by this request for proposal. The pricing reflected in bids are considered valid for the period shown under "execution" section of this bid. The GCBE/GCSN will procure certain goods through the term, August 1, 2015 through July 31, 2016, of this bid only upon actual award. The GCBE/GCSN conveys to the successful bidder that purchases will be made as a matter of convenience (convenience contract) to the GCBE/GCSN. Award of items to certain bidders pertaining to this IFB do not guarantee purchase of stated quantities.

ROLLOVER OR RENEWAL

GCBE/GCSN reserves the option to rollover pricing on all items as mutually agreed upon for the periods of August 1, 2016 to July 31, 2017; and August 1, 2017 to July 31, 2018. If prices cannot be rolled over unchanged, then GCSN may at its sole discretion accept price increases for the roll-over period conditional upon documentation provided by the Bidder of inflationary activity as indicated by the preceding April Unadjusted 12 month Consumer Price Index for All Urban Consumers (CPI-U) for all items as published by the U. S. Department of Labor Bureau of Labor Statistics. Increases in price to GCSN may match only the exact amount of the rate of inflation indicated by the CPI-U. After each bid period in the event that item prices are not renewed by rollover, those items will be terminated according to the effective date of contract.

WARRANTY

The bidder warrants that all goods and services delivered pursuant to the contract will meet the customary standards in the industry; will be free from defect; will conform strictly to the specifications or samples furnished; and will be manufactured, processed, packaged, stored, handled, transported, and delivered in full compliance with all applicable federal, state and local laws; and regulations and industry standards. This warranty shall survive any inspection, delivery, acceptance, or payment by GCBE/GCSN of the goods. This expressed warranty is in addition to the bidder's implied warranties of merchantability and fitness for a particular purpose, which shall not be disclaimed by the bidder.

PRODUCT SUBSTITUTIONS

Once a bid for a product or item has been accepted by GCSN, then the bidder may, at the sole discretion of GCSN, substitute another product or item of equal quality and price only under the following circumstances:

- A. GCSN must be notified in advance;
- B. GCSN must receive an ingredient statement, a nutritional analysis, preparation instructions, a copy of the product label, pack size information, and pricing in advance; and
- C. GCSN must authorize the substitution in advance.

If the substitute is deemed, at the sole discretion of GCSN, to be unsuitable, then the bidder will be liable for any additional cost incurred by GCSN in procuring the specified item or product from an alternate source, or for fiscal actions imposed by the USDA because of meal pattern or nutritional non-compliance resulting from unauthorized substitutions.

QUALITY

Unless otherwise indicated in the IFB, all items proposed must be new and in highest quality condition and must conform to the highest standards of manufacturing practice, including containers suitable for shipment and storage. Unless otherwise requested, GCSN will not accept “factory seconds” or otherwise inferior goods and reserves the right to return any such item(s) within (30) days of receipt at bidder’s expense. GCSN reserves the right to return products within (30) days of receipt for any reason.

GCSN GENERAL CONTRACT REQUIREMENTS

A bidder receiving an award of the Contract must comply with the following standard GCSN contractual requirements given herein.

1. Obligations of the bidder receiving an award of the Contract (herein after referred to as the “Contractor”)

The Contractor shall provide the required work as directed by GCSN within the scope of services required as defined in this IFB 04132015P. The Contractor is assumed to have made himself familiar with and shall comply with all Federal, State and Local laws, ordinances and regulations which may in any manner affect those engaged or employed in the work or the materials or equipment in or upon the work.

2. Obligations of GCSN

GCSN will provide the Contractor with any available site information necessary to perform any of the services required.

3. Contractor Supervisor

The designated Contractor supervisor must be identified on the Contractor Data Sheet as the Contractor supervisor for the Contractor. The Contractor supervisor is fully authorized to act on behalf of the Contractor in connection with this Contract. The Contractor supervisor will be the first line of contact between GCSN and this Contractor.

4. Terms and Methods of Payment

Full payment of the selected Contractor’s invoices shall be made after the requested work has been completed and is accepted by GCSN. GCSN will make payment after invoices are approved on a net 30 day basis. Invoices should be submitted in duplicate. Invoices should be addressed to GCSN as indicated in the Mailing Instructions on page 2. At the option of GCSN, invoices with incorrect prices or other errors or inconsistencies will not be paid until corrected, whether by credit memo(s) or issuance of a corrected invoice. At the option of GCSN, invoices may be corrected upon receipt and payment may be made based upon their corrections.

5. Contract Funding

GCSN’s obligation under the Contract is contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of GCSN for any payment may arise until funds are made available to the Finance Officer and until the Contractor receives notice of such availability. Should such funds not be appropriated or allocated, the Contract will be terminated immediately. GCSN shall not be liable to the Contractor for damages of any kind (including without limitation general, special or consequential) as a result of such termination.

6. Accounting Procedures

The Contractor shall comply with all accounting and fiscal management procedures prescribed by GCSN to apply to the Contract. The Contractor shall assure such fiscal control and accounting procedures as may be necessary for proper disbursement of and accounting for all project funds. The Contractor shall assure that all funds received by it pursuant to the Contract will be used only to support the cost of those activities described in the Contract.

7. Improper Payments

The Contractor shall assume all risks attendant to any improper expenditure of funds under the Contract. The Contractor shall refund to GCSN any payment made pursuant to the Contract if it is subsequently determined by audit that such payment was improper under any applicable law, regulation or procedure. The Contractor shall make such refunds within 30 days after GCSN notifies the Contractor in writing that a payment has been determined to be improper.

8. Indemnity and Insurance Requirements

- A. The Contractor shall indemnify and hold harmless GCSN, its officers, agents, employees and assigns from and against all losses, costs, damages, expenses, attorney's fees and liability that any of them may sustain:
 - i. arising out of the Contractor's failure to comply with any applicable law, ordinance, regulation, or industry standard;
 - ii. arising directly or indirectly out of the Contractor's performance or lack of performance of the Contract;
 - iii. arising out of liens that are asserted relating to the Contractor's performance or lack of performance of the Contract.
- B. The Contractor shall certify that it currently has and will agree to maintain during its performance under the Contract the following insurance from one or more insurance companies acceptable to GCSN and authorized to do business in the State of North Carolina:
 - i. Automobile Insurance – The Contractor shall maintain bodily injury and property damage liability covering all owned, non-owned, and hired automobiles for a combined single limit of not less than \$ 1,000,000 each person/each occurrence;
 - ii. Commercial General Liability – The Contractor shall maintain commercial general liability insurance that shall protect the Contractor from claims of bodily injury or property damage which arise from performance under the Contract. The insurance shall include coverage for Contractual liability. The policy limits of such insurance shall not be less than \$1,000,000 combined single limit each occurrence/annual aggregate;
 - iii. Worker's Compensation and Employers' Liability Insurance – The Contractor shall meet the statutory requirements of the State of North Carolina for worker's compensation coverage and shall maintain employers' liability insurance for an amount of not less than \$500,000 each accident/disease-policy limit/disease-each employee;
 - iv. Certificates of such insurance will be furnished by the Contractor to GCSN with the Contractor's proposal and shall contain the provision that GCSN be given 30 days written notice of any intent to amend or terminate by either the Contractor or the insuring company. Failure to maintain such insurance certificates or to maintain such insurance shall be a default under the Contract and shall be grounds for immediate termination of the Contract.

9. Contract Transfer

No services may be subcontracted. The Contractor shall not assign, transfer, pledge or make other disposition of the Contract or any part thereof, or of any of the Contractor's rights, claims or obligations under the Contract, except with prior written approval of GCSN.

10. Contract Personnel

The Contractor will secure at its own expense all personnel required to perform the services set forth in the Contract.

11. Key Personnel

The Contractor shall not substitute for key personnel assigned to the performance of the Contract without prior written approval from GCSN. "Key personnel" are defined as those individuals identified by name or title in the Contract or in written communication from the Contractor.

12. Contract Modifications

- A. The Contract may be amended only by written amendment duly executed by and between GCSN and the Contractor. However, minor modifications may be made by the GCSN to take advantage of unforeseen opportunities that:
 - i. do not change the intent of the Contract or the scope of the Contractor's performance;
 - ii. do not increase the Contractor's total compensation or method of payment;
 - iii. either improves the overall quality of the product or service to the GCSN without increasing the cost, or reduces the total cost of the product or service without reducing the quantity or quality.
- B. All such minor modifications to the Contract must be recorded in writing and signed by both the GCSN and the Contractor, and placed on file with the Contract. No price adjustments will be made unless the procedure has been included in the Contract and a maximum allowable amount stipulated.

13. Relationship of Parties

The Contractor is an independent Contractor and not an employee of the GCSN. The conduct and control of the work will lie solely with the Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any Manager-agent relationship for any purpose between the Contractor and GCSN. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.

14. Publicity or Advertising

The Contractor shall not advertise the fact that such Contractor is a supplier of services to GCSN. Also, the Contractor shall in no other manner whatsoever use the name, emblem, or official seal of GCSN in connection with his business or otherwise.

15. USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and, where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.

USDA is an equal opportunity provider and employer.

16. Minority and Small Business (HUB Historically Under-Utilized Businesses) Statement

The grantee and sub-grantee will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Positive efforts shall be made to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible.

17. Conflict of Interest

The Contractor shall not permit any member of the GCSN or any of its employees or officers to obtain a personal or financial interest or benefit from the performance of the Contract or to have any interest in any contract, subcontract or other agreement related to the Contract, either for himself or for those with whom he has family or business ties during or at any time within three years after the termination of such person's engagement by GCSN. The Contractor shall cause this paragraph to be included in all contracts, subcontracts and other agreements related to the Contract.

18. Gratuities

The right of the Contractor to proceed may be terminated by written notice if GCSN determines that the Contractor, its agent or another representative offered or gave a gratuity to an official or employee of GCSN in violation of the policies of GCSN.

19. Kickbacks

The Contractor shall not permit any kickbacks or gratuities to be provided, directly or indirectly, to itself, its employees, subcontractors or subcontractor employees for the purpose of improperly obtaining or rewarding favorable treatment in connection with a GCSN Contract or in connection with a subcontract relating to a GCSN Contract. The Contractor must be in compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). When the Contractor has grounds to believe that a violation of this clause may have occurred, the Contractor shall promptly report to GCSN in writing the possible violation.

20. Monitoring and Evaluation

The Contractor shall cooperate with the GCSN, or with any other person or agency as directed by the GCSN, in monitoring, inspecting, auditing or investigating activities related to the Contract. The Contractor shall permit GCSN to evaluate all activities conducted under the Contract.

21. Financial Responsibility

The Contractor shall be financially solvent and able to perform under the Contract. If requested by the GCSN, the Contractor agrees to provide a copy of its most recent audited financial statement or other financial statements as deemed acceptable by the GCSN's Finance Office.

22. Disputes

Except as otherwise provided in the Contract, any dispute arising under the Contract which is not disposed of by agreement shall be decided by the GCSN's designee, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the designee shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal to be referred to arbitration. Each party shall appoint one arbitrator. Both arbitrators shall appoint a third arbitrator, who will perform as chairman. The procedure and the applicable legislation will be determined by the arbitrators. The parties recognize that they are definitely bound by the arbitral decision.

23. Mediation

If a dispute arises out of or relates to the Contract, or the breach of the Contract, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to litigation. Such mediation shall take place in Gastonia, North Carolina.

24. No Third Party Benefits

The Contract shall not be considered by the Contractor to create any benefits on behalf of any third party. The Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party benefits.

25. Confidentiality of Student Information

If, during the course of the Contractor's performance of the Contract, the Contractor should obtain any information pertaining to the students' official records, the Contractor agrees that the Contract shall not be construed by either party to constitute a waiver of, or in any manner diminish, the provisions for confidentiality of students' records.

26. Entire Agreement

The Contract shall constitute and express the entire agreement and understanding between the parties concerning the subject matter of the Contract. "Contract" shall mean this document (including exhibits, if any), any purchase order used in connection with this Contract and any other document expressly incorporated in this Contract by reference. This Contract supersedes all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this Contract.

27. Contract Situs

All matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement of the Contract, will be determined in Gaston County, North Carolina. North Carolina law will govern the interpretation and construction of the Contract.

28. Existing Utilities

The Contractor will be responsible for any damage that occurs to utilities as a result of his operations.

29. Patent Indemnity

The Contractor shall pay all royalty and license fees relating to the goods or services provided under the Contract. In the event any third party shall claim that the manufacture, use and sales of these goods and services provided under the Contract constitutes an infringement of any copyright, trademark or patent, the Contractor shall indemnify and hold GCSN and its representatives harmless from any cost, expenses, damage or loss incurred in any manner by GCSN on account of any such alleged infringement.

30. Regulations, Laws, and Codes

In any installation related to the Systems, the Contractor shall comply in every way with the requirements of federal, state and local laws, codes and ordinances. No claims for additional payment will be approved for changes required to comply with codes, ordinances and regulations in effect on date of bidding, since it is the Contractor's responsibility to become familiar with such requirements before submitting the proposal.

31. Termination

- A. Termination for Cause and for Convenience - The Contract may be terminated by GCSN by written notice delivered to the Contractor at least 30 days before the effective date of termination. If the Contract is so terminated, the Contractor shall be compensated to the extent that GCSN shall be liable for payment for services rendered or to be rendered prior to the effective date of termination.
- B. Termination for Default - The GCSN may terminate the Contract immediately and without prior notice upon breach of the Contract by the Contractor.
- C. In the event that any contract awarded pursuant to this IFB 04132015P is terminated for any reason, GCBE/GCSN may (I) re-quote the contract for the goods or services which were subject to such contract, (II) enter into contract negotiations for the goods or services which were subject to the contract with the next lowest bidder, or if the next lowest bidder is not available, the second next lowest bidder or if the second next lowest bidder is not available, the third next lowest bidder, or (III) purchase the goods or services as GCBE/GCSN, in its sole discretion, deems to be in its best interests.

32. Applicable Law

The Contractor shall abide by all applicable State and Federal laws and policies of the North Carolina State Board of Education when providing services under this contract.

33. Standard of Performance

The Contractor agrees that the services performed pursuant to the requirements of the Contract shall conform to the highest professional standards. The Contractor shall conform to all applicable laws, regulations and ordinances promulgated by legally instituted authorities of the government of the country in which the services are performed. Further, the Contractor agrees to utilize any information and/or documents obtained from or provided by GCSN for the purpose of the Contract exclusively for the activities agreed upon.

34. GCSN Official Not To Benefit

The Contractor warrants that no GCSN staff member shall be allowed any share or any part of the Contract, or to any benefits that may arise there from.

35. Clean Air Act

The Contractor and GCSN mutually agree to comply with all applicable standards, orders or requirements issued pursuant to Section 306 of the Clean Air Act (42 USC 1857 {h}), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 117389 and Environmental Protection Agency regulations (40 CFR Part 15). Any violations thereof shall be reported to the Administrator for Enforcement or other appropriate authority. Each party shall not be responsible to the other for acts beyond its control or acts caused by the negligence of the other party.

36. Energy Conservation Plan

The Contractor agrees to comply with all mandatory standards and policies relating to energy efficiency as cited in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94 * 163).

37. Equal Employment

The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 12, 1967, and as supplemented in Department of Labor regulations, 41 CFR Part 60.

38. Civil Rights Act

The Contractor shall comply with the following civil rights laws as amended: Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-6, "Civil Rights Compliance and Enforcement in School Nutrition Programs."

39. Consumer Product Safety Act

The Contractor shall comply with the provisions of the Consumer Product Safety Act.

40. Lunsford Act

Bidders acknowledge that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. This prohibition applies to persons required to register under Article 27A who have committed any offense in Article 7A of Chapter 14 or any offense where the victim of the offense was under the age of 16 years at the time of the offense.

41. Criminal Background Checks

The Contractor shall conduct criminal background checks on each of its employees who, pursuant to this Agreement, engage in any services on Gaston County Schools property or at Gaston County Schools events. The Contractor shall provide documentation that criminal background checks were conducted on each of its employees prior to hiring, and shall refuse employment to any person convicted of a felony or any other crime, whether misdemeanor or felony, that indicates the person poses a threat to the physical safety of students, school personnel or others. Such check shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. Contractor shall not assign any employee or agent to provide services pursuant to this contract if (1) said worker appears on any of the listed registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence, or drugs; or (4) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of student or school personnel. Gaston County Schools reserves the right to prohibit any individual employee of Contractor from providing services on Gaston County Schools property or at Gaston County Schools events if Gaston county Schools determines, in its sole discretion, that such employee poses a threat to the safety or well-being of students, school personnel or others.

42. Forms

The Contractor shall complete and sign the Certification of Independent Price Determination form; Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion form; and Disclosure Form to Report Lobbying and shall include these documents as part of the Agreement.

43. Department of Labor Regulations

Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).

44. Access

Access by the GCSN, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

45. Retention of Records

Retention of all required records for three years after GCSN makes final payments and all other pending matters are closed.

46. Protest Procedure

Protests of awards exceeding \$10,000 in value must be submitted to the issuing Agency at the address given on Page 1 of this document. Protests must be received in this office within 15 calendar days from the date of the Contract award and provide specific reasons and any supporting documentation for the protest.

APPENDIX A – Quote Sheet
(Attachment)

Bidder References

1. Customer Name _____
Contact Person _____ Telephone No. _____
Address _____
Installation Date _____
Number of Years Servicing Account _____
Services Provided _____

2. Customer Name _____
Contact Person _____ Telephone No. _____
Address _____
Installation Date _____
Number of Years Servicing Account _____
Services Provided _____

3. Customer Name _____
Contact Person _____ Telephone No. _____
Address _____
Installation Date _____
Number of Years Servicing Account _____
Services Provided _____

4. Customer Name _____
Contact Person _____ Telephone No. _____
Address _____
Installation Date _____
Number of Years Servicing Account _____
Services Provided _____

Form of Proposal and Authorization

To the Gaston County School Nutrition Department, 500 Reid Street, Lowell, NC, 28098

Gentlemen:

The undersigned, having familiarized itself with the IFB 04132015P for Gaston County Schools, is submitting the following authorized proposal as a response to the IFB 04132015P. The undersigned agrees that this proposal cannot be withdrawn for thirty (30) days after the proposal due date. The undersigned also agrees that if the proposal or any part thereof is accepted, it will furnish all of the goods and services upon which prices are quoted at the price set forth opposite each of the goods and services on the Proposal Price Summary Sheet and according to all specifications, terms and conditions contained in the Request for Proposal. The undersigned acknowledges and agrees that if and until a contract is awarded to the undersigned and fully executed by the Gaston County Board of Education nothing contained in this response shall bind or obligate the Gaston County Board of Education in any manner whatsoever.

The undersigned also certifies that:

1. It is fully informed regarding the preparation and contents of the attached proposal and of all pertinent circumstances regarding such proposal;
2. Such proposal is genuine and not a collusive or sham proposal; and
3. The price and prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the bidder submitting a proposal or any of its agents, representatives, owners, employees or parties.

Corporate Seal
Name of Firm

By	_____	_____	_____
	Officer (Authorized Rep)	Date	Corporate Secretary (if Applicable) Date
Title	_____	_____	
		Above Name Typed	
Address	_____	Federal ID # _____	
Contact Person	_____	Phone Number _____	

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

(a) The Contractor certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Contractor or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the Contractor, directly or indirectly, to any other Contractor or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the Contractor to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the Contractor's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above. [insert full name of person(s) in the Contractor's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the Contractor's organization].

Name: _____

Title: _____

Name: _____

Title: _____

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the Contractor deletes or modifies subparagraph (a)(2) above, the Contractor must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

RETURN THIS DOCUMENT IN SEALED BID PACKET

Gaston County Schools

**Certification Regarding Debarment, Suspension, and Other
Responsibility Matters - Primary Covered Transactions**

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
 - (d) have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State or Local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid.

Company Name (Please Print)

Signature of Authorized Representative

Date

RETURN THIS DOCUMENT IN SEALED BID PACKET

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by
0348-0046

(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:		5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency: Congressional District, if known: ^{4c} _____		7. Federal Program Name/Description: CFDA Number, if applicable: _____
8. Federal Action Number, if known:		9. Award Amount, if known: \$ _____
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-9)

PRINT

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub award recipient. Identify the tier of the sub awardee, e.g., the first sub awardee of the prime is the 1st tier. Sub awards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.