



**PURCHASING DEPARTMENT, ROOM 137
1126 RUSSELL CAVE ROAD
LEXINGTON, KY 40505
859.381.3885
www.fcps.net/bids**

Agreement for Catered Food Purchases	Department All Schools and Departments
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Firm Name _____

Address _____

City/State/Zip _____

Telephone/Fax _____

Email _____

_____/_____/_____ or _____/_____
Social Security Number Employer Identification Number

AGREEMENT DOCUMENTS AND AN OFFEROR'S RESPONSE CONSTITUTE THE FINAL CONTRACT/AGREEMENT BETWEEN FCPS AND OFFEROR. NO CONTRACT/ AGREEMENT TERMS REQUIRED BY OFFEROR WILL BE CONSIDERED BY FCPS THAT ARE NOT SUBMITTED WITHIN THE RESPONSE. A SUCCESSFUL OFFEROR UNDERSTANDS AND ACCEPTS THIS AS ESSENTIAL TO THE AWARD OF THE RFP. A SUCCESSFUL OFFEROR WHO SUBMITS ANY SUBSEQUENT DOCUMENT FOR FCPS TO ACCEPT/SIGN UNDERSTANDS AND AGREES THAT THIS WILL NOT BE CONSIDERED OR ACCEPTED BY FCPS.

FOLLOWING THE SUBMISSION OF A RESPONSE AND THE AWARD OF THE RFP SHOULD A SUCCESSFUL OFFEROR TAKE THE POSITION THAT AN ADDITIONAL DOCUMENT WITH ADDITIONAL TERMS IS REQUIRED FOR A SUCCESSFUL OFFEROR TO COMPLY WITH TERMS OF THE RFP, THE RFP AWARD SHALL BE CONSIDERED VOID AND OFFEROR MAY BE DEBARRED FROM FUTURE WORK WITH FCPS.

CERTIFICATE MUST BE EXECUTED BY OFFEROR

In compliance with this agreement, in consideration of the detailed description attached hereto and subject to all conditions thereof, the undersigned agrees, if this agreement is accepted, to furnish any or all of the items upon which prices or discounts are quoted in accordance with the specifications.

Offeror agrees to furnish and deliver all items set forth or otherwise identified in document and on any additional sheets subject to the terms and conditions herein.

Date _____

Company Name: _____

Name _____ Title _____

Signature _____

General Conditions

1. Offerors are advised that any contract resulting from this RFP must comply with all applicable provisions of KRS 45A and other statutes and policies noted in this RFP.
2. Model Procurement Regulations adopted by the Fayette County Board of Education shall be deemed incorporated by reference in these specifications as though quoted fully herein.
3. The Fayette County Board of Education (Board) is implementing revised procedures as of July 1, 2016 for the submittal of bids and proposals. In all Fayette County Public School (FCPS) bidding procedures, all potential offerors are to engage in specifically defined efforts with the Department of Economic Development to include minority-owned, women-owned and veteran-owned business contractors, subcontractors, vendors and suppliers.
4. FCPS Department of Economic Development and Purchasing Department are available to assist and provide a listing, upon request, of certified minority-owned, women-owned and veteran-owned business enterprises (MWVBE). Offerors may consult the list for inclusion of subcontractors currently participating with the offeror. The list is not all-inclusive and may contain only the names of businesses that have [self registered](#) with the Board and have become approved contractors or vendors by contacting either [Department of Economic Development, Division of Physical Support and Purchasing Department](#) and are MBE certified. The contact person for the Department of Economic Development is [Marilyn Clark](#), 859-381-4000. Offerors may use other properly certified MWVBE subcontractors as long as proper certification is provided.
5. An officer or member of the bidding firm authorized to legally bind the firm must sign the bid/proposal.
6. The Board reserves the right to waive defects and informalities in proposals, reject any or all proposals, and award by item, combination of items or lot.
7. If awarded an order or contract, offeror agrees to protect, defend and save harmless The Board from suits or demands for payment that may be brought against it for the use of any patented materials, process, article or device that may enter into the manufacture, construction or form a part of the work covered by either order or contract. Offeror further agrees to indemnify and save harmless The Board from suits or actions of every nature and description brought against it for, or on account of injuries or damages received or sustained by any party or parties by, or for any acts of the offeror, his servants or agents.
8. **The Board is not required to pay federal excise taxes or Kentucky Sales and Use Taxes.** Proposals must be priced accordingly and reflect no sales tax to FCPS.
9. Parties to this agreement are solely responsible for costs incurred in fulfilling obligations under this agreement unless otherwise provided in this agreement. No party shall have any claim against the other party for reimbursement of such costs, unless said costs are attributable to enforcing compliance under this agreement or seeking redress from the other party's default under this agreement.

10. If any section, paragraph or clause of this contract is held invalid by any court of competent jurisdiction, the invalidity of said section, paragraph or clause shall not affect any remaining provisions herein.
11. This contract is made under, governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
12. Venue for any legal action filed concerning this contract is Fayette County, Kentucky.
13. Parties shall not discriminate in any of the services performed in connection with this contract on the basis of race, color, national origin, sex, genetic information, disability, religion, age, political affiliation, sexual orientation or gender identity.
14. **K45A.455 PROHIBITS CONFLICTS OF INTEREST, GRATUITIES AND KICKBACKS TO EMPLOYEES OF THE BOARD IN CONNECTION WITH CONTRACTS FOR SUPPLIES OR SERVICES WHETHER DIRECT OR INDIRECT.**
15. **KRS 45A.990 PROVIDES SEVERE PENALTIES FOR VIOLATIONS OF LAWS RELATING TO GRATUITIES OR KICKBACKS TO EMPLOYEES DESIGNED TO SECURE A PUBLIC CONTRACT FOR SUPPLIES OR SERVICES.**
16. This writing, along with the responsive proposal, reflects the entire agreement between the parties. Changes or modifications of this Agreement shall be invalid or nonbinding upon the parties hereto. Nor shall any waiver of any terms or conditions hereof be deemed a waiver of such terms or conditions in the future, unless such change, modification or waiver is in writing and signed by the parties hereto.
17. **To be eligible for a contract consideration with FCPS, all companies with nexus in Lexington, Kentucky must be current on all filings and payments of Occupational License and Net Profits Tax for Schools. If it is determined that you are not current on all filings and payments, your bid may be rejected or your contract canceled for noncompliance. For additional information regarding the Occupational License Tax, please visit www.fcps.net/tax.**
18. All responses to this RFP become the exclusive property of FCPS. All proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the exception of, as required by KRS 61.878(1)(c)(1), those elements in each bid which are defined by the offeror as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary." FCPS shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under Kentucky Revised Statutes Chapter 61. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" may be regarded as non-responsive. Although KRS 61.878(1)(c)(1) recognizes that certain confidential trade secret information may be protected from disclosure, FCPS may not accept or approve that the information that a offeror submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," and FCPS does not

believe that the information is a trade secret, FCPS shall provide the proposer who submitted the information with reasonable notice to allow the proposer to seek protection from disclosure by a court of competent jurisdiction.

19. The offeror agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. The Offeror agrees to report each violation to the USDA and the appropriate EPA Regional Office.

20. The Offeror agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq. The Offeror agrees to report each violation to the USDA and the appropriate EPA Regional Office.

21. Suspension and Debarment

The Offeror understands that a contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension."

By signing and submitting its bid or proposal, the offeror or proposer certifies as follows:

The certification in this clause is a material of fact relied upon by FCPS. If it is later determined that the offeror or proposer knowingly rendered an erroneous certification, in addition to remedies available to FCPS, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The offeror or proposer agrees to comply with the requirements of 2 CFR 180.220 while this offer is valid and throughout the period of any contract that may arise from this offer. The offeror or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

22. Purchases by other Kentucky Government Entities:

Any government entity in Kentucky shall have the option of making purchases from a contract executed under this bid when such actions are agreed to by the awarded vendor(s). FCPS will not be responsible for payment of any purchases by another government entity.

23. State law requires a contractor that works with students on a routine basis to submit to a state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating the individual is clear to hire based on no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

Prior to the provision of services by any contractor/sub-contractor that works with students, contractor agrees to obtain and submit a current KY State Police and FBI background check and a have a letter provided by the Cabinet for Health and Family Services Child Abuse and Neglect per KRS160.380. The provider will contact the FCPS Human Resources Department Application Center to initiate this process or submit these documents if obtained

elsewhere. A fee of \$40 for the State/FBI check and \$10 for the Child Abuse and Neglect letter will apply and the cost will be the responsibility of the contractor when having FCPS run the reports. This fee can be paid via check or money order made out to Fayette County Public Schools. Existing background checks within one year will be accepted, with the approval from FCPS Human Resources department. If there is a break in service, a new background check must be completed.

Purchases by FCPS Food Service

24. Domestic Commodity or Product” are defined as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States.
25. “Substantial” means that over 51% of the final processed product consists of agricultural commodities that were grown domestically.
26. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.
27. The Buy American provision (7 CFR Part 210.21 (d)) is one of the procurement standards SFAs must comply with when purchasing commercial food products served in the school meals programs.
28. Buy American: Schools participating in the federal school meal programs are required to purchase domestic commodities and products for school meals to the maximum extent practicable. Domestic commodity or product means and agricultural commodity that is produced in the US and a food product that is processed in the US substantially (at least 51 percent) using agricultural commodities that are produced in the US.
29. Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when:
 30. The product is not produced or manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas or pineapple; and
 31. Competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.
 32. All products that are normally purchased by Distributor as non-domestic and proposed as part of this solicitation must be identified with the country of origin. Distributor shall outline their procedures to notify School when products are purchased as non-domestic.
 33. Any substitution of a non-domestic product for a domestic product (which was originally part of a solicitation), must be approved, in writing, by the Food Service Director, prior to the delivery of the product to the School. Any non-domestic product delivered to the School, without the prior, written approval of the Food Service Director, will be rejected.
34. Distributor must affirm their willingness to assert their best and reasonable efforts to ensure compliance with this federal rule.

Special Conditions

1. Proposals must be **submitted by emailing to [Matt Moore](#)**.
2. Caterer agrees to comply with all federal, state and local requirements governing the furnishing of food and beverage catering services and the operation of its food and beverage catering business.
3. This Agreement and any rights herein granted are personal to Caterer and shall not be assigned, sublicensed or encumbered without FCPS's prior written consent.
4. Caterer agrees that the purpose of this Agreement is to establish conditions under which Caterer may enter into agreements to provide food and beverage catering for events as district facilities, premises, and events and does not create, directly or indirectly, any obligation on the part of the district to hire or pay Caterer for any food and beverage catering it may conduct within district facilities, premises and events or any costs Caterer may incur therefore.
5. **Past Performance may be considered in the acceptance of agreement. Caterers with a record of poor performance with the school district may be found non-responsible and agreement not accepted.**
6. This agreement shall be with multiple vendors. Offeror agrees to this agreement by submitting a proposal. Offerors with agreements that are accepted shall be placed on an Approved Vendors list for schools and departments to order from. Types of food not available from accepted vendors may be ordered from other places.
7. Agreement shall automatically renew on an annual basis unless FCPS is notified by caterer to end agreement or FCPS notifies caterer of termination of agreement.
8. It shall be understood that the agreement shall not obligate FCPS or its schools and departments to purchase from the offeror.
9. Successful offeror shall make provision for supplying PO numbers as part of any invoice issued to FCPS as a result of RFP award.
10. Sole proprietors or partnerships must supply Taxpayer Identification Numbers with proposal. Corporations are excluded from this requirement.
11. Offeror agrees to abide by any reasonable request made by FCPS Administration regarding implementation of this agreement.
12. FCPS reserves the right to cancel agreement if in the staff's opinion the offeror's work is unsatisfactory, his ability to meet completion schedules is unsatisfactory or billing is found to be excessive for work performed. Offeror may terminate the agreement if FCPS fails to meet the specified payment terms.

13. Offeror Initiated Requirements

Requirements that the offeror has or shall need if awarded the contract must be provided as part of the proposal response.

14. Consumption of alcohol or drugs or being under the influence of alcohol or drugs, use of tobacco products or possession of firearms while on a job for FCPS by any worker is strictly prohibited. Any contractor, subcontractor or person working for the contractor or subcontractor who violates rules regarding alcohol, drugs, tobacco products or firearms is subject to immediate removal from the job site. Violation of rules is considered a breach of contract between the contractor and FCPS and may lead to the termination of said contract FOR CAUSE by FCPS.

15. FCPS does not discriminate on the basis of sex in the educational programs or activities that it operates, and is required by Title IX of the Education Amendments of 1972 (P.L. 92-318) to not discriminate in such a manner. Further, FCPS does not discriminate on the basis of disabling condition, in treatment, admission or access to, or employment in its programs or activities as required by the Rehabilitation Act of 1973 (P.L. 93-112), as amended, Section 504. Nor does FCPS discriminate on the basis of race, color, national origin, sex, genetic information, disability, religion, age, political affiliation, sexual orientation or gender identity in the education programs or activities it operates.

16. Offeror must furnish all necessary insurance such as:

**Workers' Compensation and Employer's Liability
Public Liability \$1,000,000.00 minimum
Property Damage \$1,000,000.00 minimum.**

A Certificate of Insurance should be included with proposal or filed with the Purchasing Department within 10 days after notification of award.

CHECKLIST OF ITEMS TO INCLUDE WITH CATERING AGREEMENT

- _____ Cover page completed
- _____ Name and signature on Page 2
- _____ Taxpayer Identification Number (if not a Corporation)
- _____ Certificate of Insurance
- _____ Pricing/Discount response

Thank you for providing this information:

- 1. Yes I am a minority owned business. Certified Not Certified
 No
- 2. Yes I am a woman owned business. Certified Not Certified
 No
- 3. Yes I am a veteran owned business. Certified Not Certified
 No

If “no” please submit signed “Pledge of Non-Discrimination” form included in bid packet.
If “yes” please submit a copy of certification.

SCOPE OF WORK

This is an agreement for catering food to schools and administrative offices of the Fayette County Public Schools for catering services. This agreement does not include pizzas or any other food items sold in school cafeterias, which are bid separately. Vendors that are awarded part of this agreement shall be placed on an Approved Vendors list for the school district. This agreement shall have multiple vendors throughout the contract period ending on June 30, 2021. Agreement shall be automatically renewed on an annual basis upon evaluation of the effectiveness of the agreement in meeting the goals set forth herein and funding availability.

Food purchases shall be in compliance with the FCPS Food Policy. A copy of the policy can be found at www.fcps.net. All food preparations are to be performed in a local Board of Health (FCBOH) certified location. All personnel involved in the preparation must have a food handler's certificate.

If the option for delivery is available and selected, deliveries are to be made at the time and location specified by the ordering party. Delivery prices must be included with price or discount.

Orders must be confirmed with the ordering party at least twenty-four (24) hours before pick-up or delivery.

Vendor must accept FCPS Purchase Orders and PO number **must be referenced** on invoices.

Food preparation and delivery must comply with 902 KAR 45:005, Retail Food Code.

Service items and equipment delivered by caterer must be picked up within twenty-four (24) hours after delivery unless other prior arrangements are made.

PRICING/ DISCOUNT

FOOD – Excluding Pizza

Quote pricing for any school group wishing to purchase food for extracurricular activities. The successful vendor and school group purchasing food shall handle billing for orders. Typically, orders shall be paid with a Purchase Order.

1. **Discount off menu pricing** _____ %

Please include with your proposal any other special pricing offered to the district.

Is Delivery Available? Yes _____ No _____

Food must be delivered ready to serve at the time(s) specified by each school. A vendor who is repeatedly late with deliveries shall be considered in default of this contract. By bidding, vendor agrees to deliver to ANY specified school requesting food. Failure by a vendor to deliver to all specified schools or groups requesting food from this bid shall be considered in default of this contract and may be barred from future bidding.

PIZZA

Quote pricing for any school group wishing to purchase pizza for extracurricular activities. The successful vendor and school group purchasing pizza shall handle billing for orders. Typically, orders shall be paid with a Purchase Order. Pizzas must be delivered hot, ready to serve at the time(s) specified by each school. A vendor who is repeatedly late with deliveries shall be considered in default of this contract. By submitting a proposal, vendor agrees to deliver to ANY specified school requesting pizza. Failure by a vendor to deliver to all specified schools or groups requesting pizza from this agreement shall be considered in default of this contract and agreement may be terminated.

1. **Discount off menu pricing** _____ %

2. **14” One Topping Pizza** **Each Additional Topping**

1-5 pizzas \$ _____ per pizza \$ _____

6 or more pizzas \$ _____ per pizza \$ _____

Is Delivery Available? Yes _____ No _____

FCPS Purchasing shall be notified of any pricing or discount changes during the agreement term.

ORDERING INSTRUCTIONS

Please include with your proposal instructions on how a school/department shall place orders for food.

LOCATIONS

Please list the addresses, phone numbers and any other contact information of participating locations:

DELIVERY

Please mark which schools and departments your company shall deliver to:
Addresses can be found at www.fcps.net.

- | | |
|--|--|
| <input type="checkbox"/> Arlington Elementary | <input type="checkbox"/> Beaumont Middle School |
| <input type="checkbox"/> Ashland Elementary | <input type="checkbox"/> Bryan Station Middle School |
| <input type="checkbox"/> Athens-Chilesburg Elementary | <input type="checkbox"/> Crawford Middle School |
| <input type="checkbox"/> Booker T. Washington Elementary | <input type="checkbox"/> Edythe J. Hayes Middle School |
| <input type="checkbox"/> Brenda Cowen Elementary | <input type="checkbox"/> Jessie Clark Middle School |
| <input type="checkbox"/> Breckinridge Elementary | <input type="checkbox"/> Leestown Middle School |
| <input type="checkbox"/> Cardinal Valley Elementary | <input type="checkbox"/> Lexington Traditional Middle School |
| <input type="checkbox"/> Cassidy Elementary | <input type="checkbox"/> Morton Middle School |
| <input type="checkbox"/> Clays Mill Elementary | <input type="checkbox"/> Southern Middle School |
| <input type="checkbox"/> Coventry Oak Elementary | <input type="checkbox"/> Tates Creek Middle School |
| <input type="checkbox"/> Deep Springs Elementary | <input type="checkbox"/> Winburn Middle School |
| <input type="checkbox"/> Dixie Elementary | <input type="checkbox"/> Carter G. Woodson Academy |
| <input type="checkbox"/> Garden Springs Elementary | <input type="checkbox"/> Success Academy |
| <input type="checkbox"/> Garrett Morgan Elementary | <input type="checkbox"/> SCAPA |
| <input type="checkbox"/> Glendover Elementary | <input type="checkbox"/> JA BizTown/JA Finance Park |
| <input type="checkbox"/> Harrison Elementary | <input type="checkbox"/> Girls STEM School |
| <input type="checkbox"/> James Lane Allen Elementary | <input type="checkbox"/> Bryan Station High School |
| <input type="checkbox"/> Julius Marks Elementary | <input type="checkbox"/> Henry Clay High School |
| <input type="checkbox"/> Lansdowne Elementary | <input type="checkbox"/> Lafayette High School |
| <input type="checkbox"/> Liberty Elementary | <input type="checkbox"/> Paul Laurence Dunbar High School |
| <input type="checkbox"/> Mary Todd Elementary | <input type="checkbox"/> Tates Creek High School |
| <input type="checkbox"/> Maxwell Elementary | <input type="checkbox"/> Frederick Douglass High School |
| <input type="checkbox"/> Meadowthorpe Elementary | <input type="checkbox"/> Eastside Technical Center |
| <input type="checkbox"/> Millcreek Elementary | <input type="checkbox"/> Southside Technical Center |
| <input type="checkbox"/> Northern Elementary | <input type="checkbox"/> Martin Luther King Jr. Academy |
| <input type="checkbox"/> Picadome Elementary | <input type="checkbox"/> Opportunity Middle College |
| <input type="checkbox"/> Rosa Parks Elementary | <input type="checkbox"/> The Learning Center |
| <input type="checkbox"/> Russell Cave Elementary | <input type="checkbox"/> Locust Trace Agri Science Farm |
| <input type="checkbox"/> Sandersville Elementary | <input type="checkbox"/> IAKSS, 701 East Main Street and 450
Park Place |
| <input type="checkbox"/> Southern Elementary | <input type="checkbox"/> FCPS Support Services, Springhill Dr. |
| <input type="checkbox"/> Squires Elementary | <input type="checkbox"/> FCPS Transportation Dept.
Liberty Road |
| <input type="checkbox"/> Stonewall Elementary | <input type="checkbox"/> FCPS Transportation Dept.
Miles Point Way |
| <input type="checkbox"/> Tates Creek Elementary | <input type="checkbox"/> Russell Cave Road Warehouse |
| <input type="checkbox"/> Veterans Park Elementary | <input type="checkbox"/> STEAM |
| <input type="checkbox"/> William Wells Brown Elementary | <input type="checkbox"/> Childhood Development Center |
| <input type="checkbox"/> Yates Elementary | |
| <input type="checkbox"/> Wellington Elementary | |

PLEDGE OF NON-DISCRIMINATION

_____, is responding to this catering agreement issued
Insert Name of Company (hereinafter "Company")

By the Board of Education of Fayette County, Kentucky, and hereby pledges:

(1) No person shall be excluded from participation in, denied the benefit of, or otherwise discriminated against on the basis of race, color, national origin sex, genetic information, disability, religion, age, political affiliation, sexual orientation or gender identity in connection with the performance of any contract award by the district on this RFP/BID.

(2) The Company shall provide equal opportunity to all business persons seeking to contract or otherwise interested in contracting with this Company, including various local small business enterprises;

(3) The Company has been made aware of, understands and agrees to make good faith efforts to solicit MBE/WBEs to do business with this Company in the performance of work on any contract awarded on this RFP/BID.

The Company acknowledges that failure to make a good faith effort may have a negative impact on future contract opportunities.

(Authorized Company Representative Signature)

Date

Print Name and Title