

New Hampshire Buying Group

# Beverages for Schools

## Invitation for Bids



IFB #NHBG 2022 Beverages

Solicited on behalf of the following school districts: Berlin Public Schools SAU3, Concord School District, Derry Cooperative School District, Franklin School District, Gov. Wentworth Regional School District, Hillsboro-Deering School District, Hooksett School District, Hopkinton School District, Hudson School District, John Stark Regional High School, Laconia School District, Litchfield School District, Merrimack Valley School District, Milford School District, Nashua School District, Pelham School District, Raymond School District, Salem School District, Shaker Regional School District, White Mountain Regional School District, and any other school districts within the State of New Hampshire.

*New Hampshire Buying Group*

[www.thebuyinggroup.org](http://www.thebuyinggroup.org)

(603) 630-7322

[info@food4schools.com](mailto:info@food4schools.com)

## Legal Notice

**The New Hampshire Buying Group (NHBG) invites bids for the supply of Beverages** to be provided F.O.B. the participating school districts listed below. An agreement will be awarded to the responsible bidder offering the lowest aggregate price for the specified goods. The term of the agreement will be from July 1, 2022 to June 30, 2024.

Solicited on behalf of the following school districts: Berlin Public Schools SAU3, Concord School District, Derry Cooperative School District, Franklin School District, Gov. Wentworth Regional School District, Hillsboro-Deering School District, Hooksett School District, Hopkinton School District, Hudson School District, John Stark Regional High School, Laconia School District, Litchfield School District, Merrimack Valley School District, Milford School District, Nashua School District, Pelham School District, Raymond School District, Salem School District, Shaker Regional School District, White Mountain Regional School District, and any other school districts within the State of New Hampshire.

The Invitation for Bids (IFB) may be obtained from our website, [www.thebuyinggroup.org](http://www.thebuyinggroup.org) or by contacting Tim Goossens by email at [tgoossens@food4schools.com](mailto:tgoossens@food4schools.com) beginning Friday, April 8, 2022. NHBG reserves the right to cancel this bid, waive informalities, and to reject any or all bids.

Advertisements placed as follows:

NH Union Leader:

Friday, April 8, 2022

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## Section 1 - General Information

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### 1. OVERVIEW

The New Hampshire Buying Group seeks bids for the purchase of Beverage Products to be provided F.O.B. to the participating school districts listed on the front page of this bid document. The participating school districts have joined together as the New Hampshire Buying Group (NHBG) for the purposes of securing the products highlighted in this IFB. A listing of the participating school districts is provided as part of this solicitation as **Attachment 2**, and each participating school is included in **Attachment 3**.

Participation in the Beverage bid is at the sole discretion of the Food Service Director in each district.

### 2. TIMETABLE AND KEY DATES

The dates provided below are important to understand. The deadlines must be followed, both in responding to this IFB and in meeting the contract terms.

Union Leader Posted:	Friday, April 8, 2022
Bid Documents Available on NHBG website	Friday, April 8, 2022
Last day to submit formal questions to NHBG	Friday, May 27, 2022
Final formal addenda and question responses provided by NHBG	Tuesday, May 31, 2022
Bids are due via email to NHBG	4:00 PM Monday, June 6, 2022
Bid opening via zoom	10:30 AM Tuesday, June 7, 2022
Delivery times and arrangements between vendor and districts set:	Monday, August 1, 2022
Bid items in stock and ready for delivery:	Monday, August 15, 2022

### 3. BID DOCUMENTS AVAILABLE

Bid documents will be made available by Friday, April 8, 2022 on the NHBG website at [www.thebuyinggroup.org](http://www.thebuyinggroup.org), by e-mail to [tgoossens@food4schools.com](mailto:tgoossens@food4schools.com), or by phone to Tim Goossens at (603) 630-7322.

IFB documents will be emailed unless delivery via U.S. Mail is specified by the Requester.

## Section 2 – Bid Submission

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### 4. BID SUBMITTAL

Bid must be submitted electronically by email to [tgoossens@food4schools.com](mailto:tgoossens@food4schools.com) by 4:00 PM on Monday, June 6, 2022. No proposals will be accepted after this day and time.

### 5. BEVERAGE BID WORKSHEET

The Beverage Bid Worksheet is **Attachment 1**. Vendors must provide pricing on ALL line items included on the Beverage Price Sheet. Only the items listed on the Beverage Price Sheet tab will be evaluated for the award. However, the group is also requesting pricing for all other beverages that comply with USDA's Smart Snack in Schools Beverage Options. Enter these items on the Supplemental Item tab. The PDF Document "Smart Snack Beverages" is included with this solicitation as a reference as **Attachment 4**.

All projections are the best aggregate estimates of the individual districts, however there is no guarantee made those districts will actually purchase exactly these amounts. Variations may occur due to cost, student preference, menu changes and other factors.

Please enter your company name on both tabs in the yellow cell provided.

For each item on the Beverage Price Sheet, please enter following (yellow columns):

- **Brand and item to be provided** - enter the brand and item code in this cell.
- **Actual Case Size** – the number of units in the case, i.e., "200". If this is the same as the "Base Case Size" you may leave it blank. This will adjust the projection based on differences in pack size. This cell accepts numerical entries only.
- **Price per Case** - enter the price per case, not the unit cost.
- **Comment** – any notes or comments about the item.

Please enter any supplemental items on the Supplemental Items tab.

When the sheet is completed, please save it, and include it with your electronic submission.

The bid sheet data is not to be copied to a new sheet or altered in any way.

### 6. BUY AMERICAN PROCEDURE

Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the U.S. and a food product that is processed in the U.S. substantially using agricultural commodities produced in the U.S. Report language accompanying the legislation noted that "substantially means over 51% from American products." Therefore, over 51% of the final processed product (by weight or volume) must consist of agricultural commodities that were grown domestically. Thus, for foods that are unprocessed, agricultural commodities must be domestic, and for foods that are processed, they must be processed domestically using domestic agricultural food components that are comprised of over 51% domestically grown items, by weight or volume as determined by the SFA.

Compliance with and enforcement of the Buy American Provision in the National School Lunch Program requires school food authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodity or products. There are limited exceptions to the Buy American provision which allow for the purchase of products not meeting the “domestic” standard (“non-domestic”) in circumstances when use of domestic products is truly not practicable. These exceptions should be used as a last resort:

- The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and or
- Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product. **For this IFB, significant is defined as 10% or more expensive than a like non-domestic item.**

The participating school districts will accept non-domestic items only if they meet one of the two criteria above. The decision to consider other countries of origin is at the sole discretion of the purchasing district.

The vendor certifies with the submission of the **Buy American Attestation** that all items included in this proposal comply with the above definition of “domestic” at the time of the submission.

## 7. REQUIRED BID DOCUMENTS

All bids are required to contain the following forms fully completed and signed (see relevant forms in the Appendices at the end of this document):

1. Bid Price Sheet (**Attachment 1**)
2. General Bid Form
3. Statement of Competency
4. Certificate of Non-Collusion
5. Certificate of Tax Compliance
6. Certificate of Compliance for Federally Funded Procurement
7. Conflict of Interest Certification
8. Certificate of Non-Debarment
9. Lobbying Activities
10. Equal Opportunity Requirements
11. HUB Certification
12. Acknowledgement of Specifications

13. Buy American Attestation
14. List of Subcontractors (if necessary)
15. HACCP Plan

## **8. MODIFICATIONS TO BIDS**

A Bidder may correct, modify, or withdraw a bid by emailed written notice received by NHBG, prior to the time and date set for the bid opening. bid modifications must be submitted by email with a "Modification No. \_\_\_\_ included in the subject."

After the bid opening, a bidder may not change any provision of the bid in a manner prejudicial to the interests of NHBG, and the participating Cities, Towns and School Districts.

## **9. PROVIDING A HACCP PLAN**

The vendor must submit written documentation accompanying their submission stating and defining their HACCP food safety program – sending their full HACCP plan is the best way to satisfy this requirement. Submission of this information is a minimum requirement and failure to do so may result in the bid's disqualification.

## **10. ESTIMATED QUANTITIES**

Estimates of purchases are indicated on the Beverage Bid Worksheet, providing information from each participating school district based on projected usages. Actual quantities may be adjusted due to government regulations, delivery of federal commodities including, but not limited to Net off Invoice allocations and brown box commodities, student preference changes, or meal program participation changes.

This IFB recites estimated quantities to be supplied by the vendor, which may or may not be purchased during the Contract period. Neither the participating school districts nor NHBG guarantees a minimum or maximum number of purchases through this IFB. No enforceable obligation exists under any resulting Contract beyond an individual Member's appropriated funds.

The Bid Coordinator is not responsible for membership changes that might take place during the bid award or deviations in purchase amounts from the projected volume/estimated quantities.

## **11. COMPLIANCE WITH IFB**

Bidders must comply with all requirements of this IFB in order to be eligible for award.

Minor informalities will be waived, or the bidder will be allowed to correct them.

Conditional bids will not be accepted. A conditional bid is one that imposes any condition or conditions on a bid or changes the price or any other provision of a bid in a manner prejudicial to the interests of the jurisdiction or fair competition.



## 12. QUESTIONS

Bidders are requested to immediately and thoroughly review the IFB and specifications and promptly notify NHBG of any ambiguity, inconsistency, or error which they may discover. Direct all inquiries or questions to Tim Goossens via email at [tgoossens@food4schools.com](mailto:tgoossens@food4schools.com). No substantive inquiries will be accepted after Friday, May 27, 2022, beyond those that seek simple clarifications about the bid. Responses to inquiries that affect all bidders will be issued as addenda. NHBG will not provide, authorize, or honor any alleged oral interpretations.

If questions are received after Friday, May 27, 2022, NHBG, in its sole discretion, will determine if additional addenda are required and whether to alter the bid due date. NHBG will advise all prospective bidders of such activity.

NHBG reserves the right to disqualify any bidder that it believes to be interfering with this procurement by raising irrelevant, nuisance, or diversionary issues in order to delay or render the procurement invalid, whether timely or not.

Failure of any bidders to read and become familiar with any portion of this IFB will not relieve them from any of the obligations described herein, whether they may be required during review of the bids, or performance required under a contract.

## 13. ADDENDA

Responses to inquiries regarding interpretation or clarification that affect all bidders and corrections or changes to the IFB will be issued as Addenda. Addenda will be distributed via email to all parties that NHBG is aware have obtained the IFB and will be posted on the NHBG website. Bidders should contact Tim Goossens via e-mail or phone if they believe an addendum has not been received. The last addend is expected to be provided no later than Tuesday, May 31, 2022, if necessary.

A copy of all addenda that are issued should be included in the bid package and each addendum should be initialed in the bottom left corner of the first page of the document by the bidder.

## 14. BID OPENING

Electronic submissions will be accepted until 4:00 PM on Monday, June 6, 2022. They will be publicly opened and read aloud via Zoom at 10:30 AM on Tuesday, June 7, 2022. The public opening is expected to end 30 minutes after start time.

Time: June 7, 2022, 10:00 AM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/9326257653?pwd=Yk9wTm1TdS9KZjRGOENxTIFRVXZQdz09>

Meeting ID: 932 625 7653

Passcode: NHBG

**Unforeseen Deterrents** - If at the time of the scheduled bid opening, the designated site is unavailable due to circumstance beyond the control of NHBG, the bid opening will be automatically postponed (with or without notice to potential bidders) until 10:30 AM at the same location on the next normal business day. In the event the same location cannot be used to accommodate a postponement, the bid opening will be formally postponed with notification to all parties provided the bid documents by NHBG. Bids will be accepted until any postponement time.

## Section 3 - Bidder Qualification Requirements

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### 15. PERFORMANCE CAPABILITIES

Bidders must be capable of providing the specified goods and/or services on schedule, in working order, in an intact and undamaged condition, and providing any support services in a professional and workmanlike manner.

### 16. EXPERIENCE

Bidders must demonstrate competency in the business of providing the goods and/or services specified in this IFB by conformance with the following criteria:

- a. Bidders must be authorized sellers of Beverages.
- b. In business for a minimum of 1 year.
- c. Provision of the specified goods and/or services is consistent with normal lines of business.
- d. Bidders that do not meet these minimum qualifications will not be considered.

### 17. SUBCONTRACTORS

The use of subcontractors is acceptable. If the bidder intends to perform any or all work related to this contract through subcontractor(s), said subcontractor(s) names, business affiliations, and addresses must be attached with the bid and referenced to the appropriate work to be performed. Bidders agree to be responsible to ensure the legal and contractual compliance of named subcontractor(s). Use of subcontractor(s) not named in the bidder's bid is prohibited.

### 18. INSURANCE

The selected vendor shall at all times during the term of the contract maintain insurance in full force and effect acceptable to the participating school districts. The selected vendor agrees to furnish NHBG with certificates of insurance or other evidence satisfactory to NHBG if requested.

## Section 4 - Award and Contract

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### 19. RULE OF AWARD

The Beverage Bid will be awarded to a single responsive and responsible vendor for the 2022-2023 and 2023-2024 school years based on the aggregate bottom line total of the bid worksheet. NHBG, in consultation with participating school districts, reserves the right to reject any bid in part or in whole based on past performance of the vendor and/or the best interests of any or all of the members of the group.

### 20. TIMEFRAME FOR AWARD

The bid award will generally take place no later than a week after the bid opening date at which time all parties will be notified. All bid prices submitted in response to this IFB must remain firm for the entire period.

### 21. RESERVED RIGHTS

NHBG reserves the right to:

1. Cancel this IFB at any time, with or without notice to prospective bidders. Reasonable efforts will be made to give timely notice.
2. Accept or reject, in whole or in part, any and all bids as permitted by law.
3. Award agreements as it deems best serves the interest of NHBG and/or the Cities, Towns and School Districts.
4. Act as its own reference and make such investigation as it deems necessary to determine the ability of the bidder to perform prior to execution of the award.
5. Waive or adjust non-statutory bid requirements before or after bids are opened in whatever ways it deems best serves the interests of the participating school districts.

### 22. AWARD TERM AND PRICING

This solicitation is seeking fixed pricing for the 2022-2023 and 2023-2024 school years, beginning July 1, 2022, and ending June 30, 2024. A signed agreement with NHBG will result from this IFB. The agreement will be in effect from July 1, 2022, until June 30, 2024.

This award may be extended for the 2024-2025 school year at terms mutually agreeable to all parties.

If the award is extended beyond the 2023-2024 school year, the winning vendor may adjust pricing. This may be a price increase or a price decrease, based on market conditions.

All price entries and calculations submitted on this bid are considered by NHBG and the participating school districts to represent the intent of the bidder. The group WILL NOT allow changes to any entry due to an error on the part of the bidder at the time of the bid opening. If an error is discovered by the vendor awarded the bid subsequent to the bid opening, the bid in question may be withdrawn in its entirety or the bid price must be honored regardless of profit or loss to the distributor.

There shall be no additional charges levied to any school or district for fuel surcharge.

### **23. FORCE MAJEURE**

In the event of market conditions that drastically impact the price, quality, and or availability of an item, the NHBG may grant temporary relief to the winning vendor in terms of a price escalation or surcharge until conditions moderate. The amount and duration of such relief will be at the discretion of the members of the NHBG being serviced by each vendor and will be considered on a case-by-case basis. The vendor may be asked to submit objective documentation to substantiate any request for relief.

### **24. AWARD CONDITIONS**

A sample copy of NHBG's standard award can be found in Appendix B. Bidders must be willing to sign NHBG's award. NHBG will not accept a bidder's own terms & conditions.

If during the vendor's time of performance, the group requires revisions or other changes to be made in the scope or character of the work to be performed, the group will promptly notify vendor in writing. For any changes to the scope of work, the vendor shall provide the group with a written quote of change in price and/or change in time of performance and shall proceed with such changes only upon written consent of the group.

Eligible parties will be the buyers under contract(s) awarded through this IFB. All transactions between eligible parties and contracted vendor(s) will be solely between those parties. Neither NHBG, the participating municipalities nor any other eligible party will be held liable by the vendor(s) or another eligible party for any loss or liability, other than payment for delivered products as may be limited herein, incurred as a result of this procurement.

This award will be administered by NHBG on behalf of the participating school districts. Any eligible party that purchases the goods of a selected vendor under any resulting contracts will be responsible for managing and directing the work of the selected vendor for all purchase orders and work orders initiated by the municipality. If for some reason, a participating municipality/school district finds that any provisions of the signed contract are not being observed by the selected vendor, they can seek remedy directly from said vendor and notify NHBG of any issue relating to non-performance under the signed contract.

### **25. WITHDRAWAL AFTER AWARD**

If an agreement has been awarded and the awarded vendor, for any reason seeks to withdraw from the award, a 30-day written notice of intent must be submitted to NHBG. The 30-day notice will begin on the date of receipt of the notice, and during this 30-day period all bid prices and specifications must be honored by the distributor. If a vendor, after having been awarded the bid, chooses to

withdraw their bid, the vendor acknowledges that all their bids may be eliminated from consideration for the next bid cycle.

## **26. TERMINATION OF AGREEMENT**

Either NHBG or the Vendor may terminate this agreement for cause upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and satisfactory manner.

NHBG shall have the right to terminate this agreement for its convenience upon fourteen (14) calendar days of written notice.

## Section 5 - Product and Performance Terms

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### 27. QUALITY REQUIREMENTS AND PERFORMANCE STANDARDS

Beverages of high quality are required to be furnished and delivered inside the cafeteria storerooms.

All items offered shall be of the required specification in this IFB and shall be subject to all federal and state regulations applicable thereto.

The winning vendor shall provide beverage coolers or vending machines, as requested by the individual districts. The numbers and type of cooler or machine will be determined by each district individually after the award.

There shall be no additional charge, either direct or indirect for the use of the coolers.

Coolers and vending machine shall be in good repair and sanitary when delivered.

The right is reserved to request samples of any or all items for which a bid is submitted for testing in determining awards; samples to fully represent the items proposed. The brand and grade offered and accepted shall be supplied during the entire award period, and no substitution shall be made except upon written approval of the NHBG coordinator.

Quantities of items are estimated and not guaranteed to be purchased in full during the award period.

Pricing shall include delivery charges, prepaid by the vendor.

Bidders shall utilize only properly insulated, mechanically or thermostatically temperature controlled refrigerated transport equipment. Such equipment must be capable of maintaining temperature to protect products. Districts reserve the right to reject the use of any trucking equipment by a carrier if it is not in a clean, sanitary condition and suitable for the hauling of all goods. All delivery personnel must demonstrate good customer service and should be neat and clean with good grooming practices.

Vendors must have a Hazard Analysis Critical Control Point Program (HACCP) for all areas of service and products including but not limited to purchasing, temperature control, receiving, holding, storage, transportation and delivery. All HACCP records must be documented and available for review.

If the awarded vendor fails to comply with the requirements of this section, "Performance Standards", the Participating municipality or school district shall have the right to cancel its purchase without recourse by the vendor, provided the municipality/school district serves the vendor with a written demand to perform, citing its intent to cancel its purchase order and invoke this IFB provision if performance does not occur within three full business days of delivery of the demand. Such notice may be conveyed by e-mail, fax or other method that verifies delivery by electronic or witnessed means.

Additionally, failure on the part of the vendor awarded the proposal to comply with any of the above terms contained in this IFB and the resulting award could result in:

- A letter of nonperformance documenting the specific issues involved and the actions necessary to resolve the situation(s);
- Voiding the proposal award in whole or in part; and/or;
- Eliminating the vendor from future award consideration

## **28. PRODUCT INFORMATION**

The winning vendor shall assist the Bid Coordinator in securing all required nutritional, ingredient and CN information as requested, in a timely manner

## **29. WARRANTY**

Vendors warrant (1) that the goods they sell are merchantable, (2) that they are fit for the purpose for which they are being purchased, (3) that they are absent any latent defects, and (4) that they are in conformity with any sample that may have been presented to the Participating municipalities/school districts.

## **30. METHOD OF ACQUISITION**

At the discretion of each Participating municipality, commercial credit cards (e.g., American Express, MasterCard, etc.) may be used to make purchases. All pricing will remain in effect, as will the buyers' tax-exempt status.

## **31. ORDERING AND DELIVERY OF GOODS**

Delivery dates and times will be agreed upon by the district and the winning vendor, but shall normally take place Monday-Friday between 6:00 a.m. and 1:00 p.m.

Deliveries arriving outside times agreed upon may result in refusal of delivery or billing of distributor for excess labor charges.

The winning vendor shall communicate with the Food Service Director or other designee of each district for a contingency plan at the beginning of the year for instances of snow days or other unforeseen school cancellations and how deliveries will be made/adjusted to accommodate these circumstances.

The highest minimum amount for delivery will be no more than \$100.00 per location, including bid and off bid items.

Product must be delivered at the correct internal temperature (frozen 0 degrees, refrigerated 34-40 degrees, milk 34-45 degrees between cartons, and dry goods at room temperature). All products are to have a sufficient code date for normal usage.

All items will be delivered to an inside storage location acceptable to the receiver. No tailgate



delivery will be accepted. No products shall be left outside the building at any time or in any place other than within the school kitchens.

Districts are not required to accept any product that is visibly damaged or adulterated in any manner. The winning vendor shall replace any item received in unacceptable condition at no cost to the ordering facility in a timeframe acceptable to the district.

The vendor must provide full credit on and pickup of food incorrectly ordered or delivered by the next regular delivery. Full credit must be given, in a timely fashion, for foods that are discovered missing from the order, damaged, spoiled, adulterated, or expired.

### **32. RETURNS**

The awarded vendor will guarantee that upon inspection, any defective or inferior supplies shall be replaced without additional costs to the Participating municipality/school district. The vendor will assume any additional cost accrued by the Participating municipality/school district due to defective or inferior supplies.

### **33. PRODUCT RECALL**

The awarded vendor must, upon receipt of a recall notice from the manufacturer or government, notify NHBG and the bid coordinator immediately by e-mail. Appropriate credit must be given for all recalled products.

### **34. INVOICING/DELIVERY SLIPS**

A delivery slip must be left at each school upon delivery, complete with the unit price, extensions, and totals. Delivery slips must be signed by the Food Service manager or designee before responsibility will be accepted for payment of bills for these schools. If a delivery slip is not signed and the product delivered is in excess of what has been ordered, the participating municipality/school district will be required to only pay for the amount ordered.

### **35. PAYMENT BY ELIGIBLE PARTIES**

NHBG is not an eligible party under this IFB or any resulting contract(s). Neither is it a party to any resulting transactions, nor can it be held liable for false representations or non-payment by eligible parties.

Eligible parties are not obligated to make payment to vendors other than in a manner consistent with their normal payment schedules and as bound by normal commerce. Payments shall be made in U.S. dollars. Vendors may not require cash payment nor accept cash for any transaction associated with this IFB.

Payment terms vary by district policy and will be agreed upon by the vendor and individual district.

Purchases made by the school districts are exempt from payment of federal excise taxes and any such taxes must not be included. Federal excise tax exemption certificates, if required, will be

furnished by the school district on request. The school districts are further exempt from payment of Federal Transportation tax and any sales tax.

### 36. REBATE AND COUPON INFORMATION

The winning vendor assumes responsibility to pass on all rebate and coupon information to all members of the participating school districts.

### 37. AUDITING

The Group retains the right to audit distributor's invoices for any and all bid items. The audit may take place at any location suitable to the participating school districts, including at the offices of the distributor. The distributor will be given no less than 2 weeks' notice to assemble all relevant documents for review.

### 38. BID COORDINATION

The participating Cities, Towns and School Districts receive the support of a Bid Coordinator, Tim Goossens of Food for Schools, [tgoossens@food4schools.com](mailto:tgoossens@food4schools.com), to determine the products they seek to purchase through this IFB. The awarded vendor is required to work with the Bid Coordinator in managing product changes.

No bid item shall be deleted, changed, or discontinued by the distributor unless previously approved by the Bid Coordinator.

### 39. RESPONSIBILITIES OF PARTICIPATING SCHOOL DISTRICTS

As per 7 CFR 210.21 Subpart E, participating school districts in their role as school food authorities are the party that must comply with the requirements of 7 CFR Part 3016 and 7 CFR Part 3019 as applicable, which implement the applicable Office of Management and Budget Circulars, concerning the procurement of all goods and services with school food service account funds. School food authorities remain responsible for settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the federal school lunch program. NHBG will support participating school districts in whatever way it can to satisfy such issues.

### 40. FEDERAL CONTRACTING REGULATIONS APPLICABLE TO VENDORS

**Debarment and Suspension (Executive Orders 12549 and 12689)** — 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 the 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." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** — Vendors may not use Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of

a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Vendors must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**Equal Employment Opportunity** – Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

**Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)** – Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**Buy American Provisions** - Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a provision, Section 12(n) to the NSLA (42 USC 1760(n)), requiring school food authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodity or product. Section 12(n) of the NSLA defines “domestic commodity or product” 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. “Substantial” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. 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. 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.

There are limited exceptions to the Buy American provision which allow for the purchase of products not meeting the “domestic” standard as described above (“non-domestic”) in circumstances when use of domestic products is truly not practicable. These exceptions should be used as a last resort:

- The product is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; and or
- Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product. **For our purposes, we are defining significant as 10% or more expensive**

**than a like non-domestic item.**

The group will accept non-domestic items only if they meet one of the two criteria above.

The vendor certifies with the submission of the **Buy American Attestation** that all items included in this proposal comply with the above definition of “domestic”.

## Appendix A – Required Forms

The following forms on the pages below are required for submitting a bid.

## General Bid Form

The accompanying Forms & Documentation are hereby submitted as a Bid in response to the subject IFB. All information, statements and prices are true, accurate, and binding representations of the Bidder's intentions and commitments in responding to this IFB.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Contact Person

\_\_\_\_\_  
Street

\_\_\_\_\_  
Phone

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Email

Bidder acknowledges receipt of the Invitation for Bids (IFB) and Addendum No(s).\_\_\_\_\_, dated \_\_\_\_\_, and submits the attached Bid for this Invitation for Bids to the New Hampshire Buying Group (NHBG), on the authority of the undersigned and as dated below who by signing confirms and pledges to abide by and be held to the requirements of this IFB and its resulting award.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Statement of Competency

I hereby certify that the Bidder meets or exceeds the competency criteria set out in this IFB.

I further attest to the following assertions:

- The Bidder has been in business for a minimum of 1 years.
- Provision of the items specified in this IFB is consistent with the Bidder's normal lines of business.
- The Bidder is incorporated, and if required licensed, to do business in New Hampshire.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Certificate of Non-Collusion

“The undersigned certifies under penalties of perjury that this Bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word person shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group or individuals.”

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



## Certificate of Tax Compliance

"I certify under the penalties of perjury that to my best knowledge and belief the undersigned has complied with all laws of the State relating to taxes, reporting of employees and contractors, and withholding and remitting child support."

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Certification of Compliance for Federally Funded Procurement

### Certification of Compliance for Federally Funded Procurement

The Contractor, if paid from federal funding sources, certifies that it complies with: E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor;" 18 U.S.C. 874 and 40 U.S.C. 276c (Copeland "Anti-Kickback" Act); 40 U.S.C. 276a to a-7 (Davis-Bacon Act, as Amended); 40 U.S.C. 327-333 (Contract Work Hours and Safety Standards Act); 37 CFR part 401 (Rights to Inventions Made Under a Contract or Agreement); 42 U.S.C. 6201 (Energy Policy and Conservation Act); 42 U.S.C. 7401 et seq., as amended (Clean Air Act); 33 U.S.C. 1251 et seq., as amended (Federal Water Pollution Control Act); 31 U.S.C. 1352, as implemented 34 CFR Part 82 (Byrd Anti-Lobbying Amendment); E.O.s 12549 and 12689 (Debarment and Suspension); Section 106 of "TVPA" (Trafficking Victims Protection Act of 2000); American Recovery and Reinvestment Act of 2009; Pub. L. 111-5 ("ARRA"), Section 1605 of ARRA; and 2 CFR part 176.140 (Buy American.)

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Conflict of Interest Certification

The Bidder hereby certifies that:

1. The Bidder has not given, offered, or agreed to give any gift, contribution, or offer of employment as an inducement for, or in connection with, the award of a Contract pursuant to this IFB.
2. No consultant to, or subcontractor for, the Bidder has given, offered, or agreed to give any gift, contribution, or offer of employment to the Bidder, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a Contract by the Bidder.
3. No person, corporation, or other entity, other than a bona fide full-time employee of the Bidder has been retained or hired to solicit for or in any way assist the Bidder in obtaining a Contract pursuant to this IFB upon an agreement or understanding that such person, corporation or entity be paid a fee or other compensation contingent upon the award of a Contract to the Bidder.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

.

## Certificate of Non-Debarment

The Bidder hereby certifies that it is presently not debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, and that, should any proceeding arise in which it is debarred, suspended, or otherwise prohibited from practice by any federal, state, or local agency, the Bidder shall inform the NHBG and involved municipalities within one (1) business day of such debarment, suspension, or prohibition from practice.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Lobbying Activities

### Lobbying

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person 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 the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person 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 this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Equal Opportunity Requirements

I certify that all information, statements, and pricing made in my Bid are true, accurate, and binding representations of the Bidder's intentions and commitment in responding to this IFB. Any such representations that exceed the minimum requirements of the IFB constitute legal obligations on the part of the Bidder to perform as stated and that failure to so perform may be used by NHBG as grounds to terminate the award.

I certify that pursuant to 28 CFR Part 42.204 (d) my employment practices comply with Equal Opportunity Requirements and comply with 28 CFR Part 42.202.; that my organization complies with the Americans with Disabilities Act.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## HUB Certification

Vendors submitting bids that have been certified as Historically Underutilized Business (HUB) entities (Minority, Small Business, Woman Owned), are asked to indicate their HUB status when responding to this Invitation for Bid. I certify that my company has been certified as a Historically Underutilized Business (HUB). (Attach a copy of the HUB Certification to this form.)

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Acknowledgement of Specifications

The undersigned certifies that they have read the Bid Specifications and agree to abide by these specifications should they be the successful vendor.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



## Buy American Attestation

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Public Law 105-336) added a provision, Section 12(n) to the NSLA (42 USC 1760(n)), requiring school food authorities (SFAs) to purchase, to the maximum extent practicable, domestic commodity or product. Section 12(n) of the NSLA defines “domestic commodity or product” 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. “Substantial” means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. 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. 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.

I hereby certify that each item included in this submission meets the criteria for a domestic commodity or product as defined above. Documentation for specific items shall be provided upon request of the group.

Authorized Agent of the Bidder:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (as used for tax filing)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
SS# or Federal ID#

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Appendix B – Sample Award Agreement

### Award Agreement – Beverages for Schools IFB #NHBG 2022 Beverages

Date

#### 1. General

This agreement, made on behalf of New Hampshire Buying Group member districts and **Name of vendor** (Vendor), confirms the vendor's commitment to perform as detailed in IFB #NHBG 2022 Beverages. The IFB is included here and is part of this agreement.

#### 2. Timeframe of Award

This agreement is for fixed pricing for beverages for the 2022-2023 and 2023-2024 school years, beginning July 1, 2022, and ending June 30, 2024 as defined in the section Award Term and Pricing. The agreement may be extended for the 2024-2025 school year at terms mutually agreeable to all parties.

#### 3. Resulting contracts

Individual districts reserve the right to issue their own contracts with the vendor.

#### 4. Amendments

There shall be no amendments to this agreement without the written approval of the NHBG on behalf of its member districts.

\*\*\*\*\*

The undersigned hereby agree to the terms and conditions of this agreement for the term of July 1, 2022 through June 30, 2024.

**Vendor:**

\_\_\_\_\_  
Signee's Name

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

**New Hampshire Buying Group:**

\_\_\_\_\_  
Timothy Goossens, Bid Coordinator

\_\_\_\_\_  
Date