



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
333 MARKET STREET
HARRISBURG, PA 17126-0333
www.education.pa.gov

**Agreement to Sell or Purchase Meals
From Sponsor to Sponsor
(PDE-3086)**

Between

Warren Forest Counties EOC Head Start

300-62-914-0

(Purchaser)

and

Warren County School District

105-62-830-2

(Seller)

July 1, 2018 to June 30, 2019

Any Sponsor selecting to purchase meals from another Sponsor must prepare an agreement utilizing this document which may not be re-typed or changed in any way. Addendums to the original agreement are not permitted.

Agreement Page

This agreement is made between the Sponsor purchasing meals, hereafter referred to as the Purchaser, and the Sponsor selling the meals, hereafter referred to as the Seller. A Sponsor is a sponsor in any of the Child Nutrition Programs (CNPs), such as the National School Lunch Program (NSLP), Child and Adult Care Food Program (CACFP), and Summer Food Service Program (SFSP). This agreement shall not be used between a Sponsor and a Food Service Management Company (FSMC).

All parties certify that he/she shall operate in accordance with all applicable State and Federal regulations governing the CNPs.

This agreement shall be in effect from **July 1, 2018** through **June 30, 2019**. This agreement may only be for a one-year period and cannot contain guaranteed renewal clauses.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be signed by their duly authorized representative the day and year.

Warren Forest Counties EOC Head Start

Name of Purchaser

Signature (**in blue ink only**) of Authorized
Representative for Purchaser

Robert A. Raible

Printed Name of Authorized Representative for
Purchaser

Executive Director

Title

Date Signed by Purchaser

Witness Signature (**in blue ink only**)

Printed Name of Witness

Warren County School District

Name of Seller

Signature (**in blue ink only**) of Authorized
Representative for Seller

Donna L. Zariczny

Printed Name of Authorized Representative for
Seller

Warren County School Board President

Title

Date Signed by Seller

Witness Signature (**in blue ink only**)

Printed Name of Witness

Terms and Conditions

A. General Information

1. This agreement is entered into for the purpose of purchasing meals for the operation of a nonprofit food service program for **Warren Forest Counties EOC Head Start** that will be supplied by **Warren County School District** according to the terms of this agreement.
2. This agreement is used for the Seller that prepares, cooks, and packages unitized or bulk-form meals, with or without milk, at their own facilities. Seller delivers meals ready-to-eat or heat to the site(s) determined by the Purchaser or the Purchaser picks meals up from the Seller. The Seller shall not provide the Purchaser with on-site staff or provide assistance with other administrative aspects of the CNPs.
3. If the Seller contracts with a FSMC, the Purchaser and their sites must have been included in the Request for Proposal (RFP). If added after the RFP was awarded (initial year contract), the Division of Food and Nutrition (DFN) must evaluate if adding the Purchaser/site will constitute a material change to the contract between the FSMC and the Seller. The Seller's FSMC shall not provide the Purchaser with on-site staff or provide assistance with other administrative aspects of the CNPs.
4. The Seller shall procure all products and services used to prepare meals in accordance with all applicable Federal and State regulations.
5. It is agreed by the parties hereto that there are no other considerations, favors, promises, or interests passing between the parties other than what is expressly stated in this agreement.
6. All parties certify that all terms and conditions within this agreement shall be considered a part of the agreement as is incorporated therein.

B. Meal Requirements

1. The Seller will provide meals/snacks, inclusive or exclusive of milk, in accordance with this agreement and the Federal regulations and policies applicable to the USDA CNPs.
2. It is agreed that the Purchaser and the Seller will utilize the same meal pattern in accordance with the applicable CNPs.
3. The meals/snacks, inclusive or exclusive of milk, will conform to the meal pattern or milk in accordance with the requirements for the following CNPs (check all that apply):
 - ☐ School Breakfast Program (SBP) (Title 7 CFR Part 220)
 - ☐ National School Lunch Program (NSLP) (Title 7 CFR Part 210)
 - ☐ Afterschool Snack Program (ASP) (Title 7 CFR Part 210)
 - ☐ Special Milk Program (SMP) (Title 7 CFR Part 215)
 - ☒ Child and Adult Care Food Program (CACFP) (Title 7 CFR Part 226)
 - ☐ Summer Food Service Program (SFSP) (Title 7 CFR Part 225)
4. Meals will be **Choose One** of milk.
5. Meals will be provided to the Purchaser in the following manner: (check one)
 - ☐ Unitized (individual) meals.
 - ☒ In bulk quantities. Seller to provide written instructions listing the planned portion size to be served of each food component to meet the meal pattern requirements and any heating or cooling instructions.

6. Seller will provide (check all that apply):

- | | |
|---|---|
| <input checked="" type="checkbox"/> Trays | <input checked="" type="checkbox"/> Safe Transportation Containers |
| <input checked="" type="checkbox"/> Serving Utensils, i.e. Spoons,
Tongs, Ladles | <input checked="" type="checkbox"/> Cleaning of Safe Transportation
Containers |
| <input checked="" type="checkbox"/> Eating Utensils | <input checked="" type="checkbox"/> Cooler(s) |
| <input checked="" type="checkbox"/> Condiments | <input checked="" type="checkbox"/> Cleaning of Cooler(s) |
| <input checked="" type="checkbox"/> Disposable Paper Supplies,
including but not limited to paper
plates, napkins, and cups | |
| <input type="checkbox"/> Other: Specify | |

7. Meals must be delivered in food-grade containers approved by the local or state health departments that maintain the proper temperatures of food.
8. Seller will provide Purchaser with menus at a minimum of **one** weeks in advance of the first date listed on the menu. The menus must meet requirements established in Title 7 CFR Part 210, 215, 220, 225, and 226, as appropriate. Purchaser reserves the right to periodically suggest menu changes within the Seller's suggested food cost range throughout the agreement period.
9. Meals/snacks will be delivered or made available daily or other mutually agreed upon period in accordance with the appropriate menu cycle (21-day menus for NSLP, SBP, and ASP; 11-day menu for SFSP). Menu changes may be made only when agreed upon by both parties. When an emergency situation exists, which might prevent the Seller from delivering or offering a specified meal/snack component, the Seller shall notify the Purchaser immediately so substitutions can be agreed upon.
10. No payment will be made to the Seller for meals that are spoiled or unwholesome at the time of delivery or pick up, do not meet detailed specifications as developed by the Purchaser for each food component in the meal pattern, or do not otherwise meet the requirements of this agreement.
11. The Seller shall not deliver nor bill for incomplete, damaged, or spoiled meals/snacks. The Seller will provide adequate refrigeration or heating to ensure the wholesomeness of food in accordance with state and/or local health codes. Upon delivery or pick up it is the Purchaser's responsibility to maintain adequate refrigeration or heating.
12. The Seller shall deliver the meals/snack(s) to site(s) at the specified site location(s) at the delivery time(s) listed on Attachment A, Site Information, unless there is a schedule change agreed to by both parties. If the Purchaser is picking up, then the meals/snack(s) shall be ready at the time specified on Attachment A, unless there is a schedule change agreed to by both parties.
13. The Seller shall provide a delivery slip with the date and number of meals/snack(s) delivered or picked up. The Purchaser's authorized representative or his/her designee must sign the delivery slip and verify the condition of the meals. The Seller shall only bill the Purchaser for these meals/snacks.
14. The Purchaser shall notify the Seller of any modifications and substitutions in meals for students/children whose disabilities restrict their diet. Meal modifications and substitutions shall be made on a case-by-case basis and must be supported by a medical statement with the required information when the modification or substitution cannot be made within the Program meal pattern. Meal substitutions or modifications may result in a different price, to which both parties must agree. There will be no additional charge to the student/child for such substitutions or modifications.
15. The Purchaser will order meals/snacks inclusive or exclusive of milk on a weekly basis notifying the Seller **7** days preceding the week of delivery or pick up. Orders will include totals for each site and each type of meal/snack inclusive or exclusive of milk.
16. The Purchaser reserves the right to increase or decrease the number of meals/snacks ordered with a minimum notice of **24** hours of delivery or pick up time.

17. The Purchaser reserves the right to add or delete sites and provide one (1) week's written notice to the Seller. If a site is added, the Seller would need to agree to the change. Either party reserves the right to cancel the agreement and provide 30 days notice.
18. The Seller agrees to supply meals/snacks, inclusive or exclusive of milk, to the Purchaser for the prices as described in Attachment B, Price Per Meal Rates.
19. Any costs incurred under this agreement that does not meet the requirement of regulations are unallowable costs.

C. Certifications

1. If the Purchaser is a sponsor of the NSLP, then the Seller shall comply with the Buy American provision for agreements involving the purchase of food, Title 7 CFR §210.21 (d). The Seller shall purchase, to the maximum extent practicable, domestic commodities or products which are either an agricultural commodity produced in the United States (U.S.) or a food product processed in the U.S. substantially using agricultural commodities produced in the U.S. The Seller shall certify the percentage of U.S. content in the products supplied to the Purchaser. The Purchaser reserves the right to review Seller purchase records to ensure compliance with the Buy American provision.
2. The Seller shall comply with the mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163).
3. The Seller shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations, Title 41 CFR Part 60.
4. For agreements in excess of \$100,000, the Seller shall comply with Sections 3702 of the Contract Work Hours and Safety Standards Act (Act), 40 U.S.C. §3701-3708, as supplemented by the Department of Labor Regulations, Title 29 CFR Part 5. Under Section 3702 of the Act, the Seller shall be required to compute the wages of every laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible, provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of forty hours in any work week.
5. The Seller agrees that state and/or local health and sanitation requirements will be met at all times. All food will be properly stored, prepared, packaged, and transported free of contamination and at appropriate temperatures following Hazard Analysis Critical Control Point (HACCP) guidelines.
6. The Seller shall maintain state and/or local health certifications for any facility in which it prepares meals and shall maintain their health certification for the duration of the contract.
7. The Purchaser shall be legally and financially responsible for the conduct of the food service and shall ensure compliance with the rules and regulations of the Pennsylvania Department of Education (PDE), DFN and the USDA regarding CNPs.

D. Records

1. The Seller will maintain full and accurate records pursuant to the provisions of Federal regulations that the Purchaser requires to meet record keeping responsibilities on a calendar month basis (supported by invoices, receipts, or other records), and shall promptly submit itemized monthly invoices and daily delivery receipts to the Purchaser. These records are to be kept at the Purchaser's site.
2. The Seller shall provide meal allergen information and standardized recipes upon request by the Purchaser.
3. The Seller shall maintain production records for the School Nutrition Programs (SNP). The records must show how the meals provided contribute to the required food components in order to be creditable. Records and supporting documentation (recipes, manufacturer formulation statement, Child Nutrition label, etc.) shall be provided to the Purchaser. The Seller may maintain this

information for the Purchaser, under the Purchaser's name, in the PrimeroEdge Menu Planning system.

4. The Seller agrees to retain the records required by the Purchaser for a period of three (3) years after the end of the fiscal year to which they pertain (or longer if an audit is in progress). Upon request, the Seller shall make available all accounts and records pertaining to the program to representatives of PDE, USDA and/or the Office of the Inspector General and General Accounting Office for audit and/or administrative review purposes at a reasonable time and place.
5. This agreement shall be construed under the laws of the Commonwealth of Pennsylvania. Any action or proceeding arising out of this contract shall be heard in the appropriate courts of the Commonwealth of Pennsylvania.
6. No waiver of any default shall be construed to be or constitute a waiver of any subsequent claim.
7. The Seller and Purchaser shall regard any silence, absence, or omission from agreement specifications concerning any point as meaning that only the best commercial practices prevail. The Seller shall use materials (e.g., food, supplies, etc.) and workmanship of a quality normally specified by the Purchaser.
8. In the event of the Seller's nonperformance under this agreement and/or the violation or breach of the agreement terms, the Purchaser shall have the right to pursue administrative, contractual, and legal remedies against the Seller and shall have the right to seek appropriate sanctions and penalties.