

**CONTRACT BETWEEN STATE OF LOUISIANA  
LOUISIANA DEPARTMENT OF HEALTH**

LaGov # 2000837289

OPH

Office of Public Health

Agency # 326

Bureau of Nutrition Services

AND

Feeding Louisiana

FOR

Personal Service ☐ Professional Service ☐ Consulting Services ☐ Social Services ☒ Governmental (State/Agency) ☐ Governmental (Local) ☐  
RFP NUMBER (if applicable)  Emergency ☐ Sole Source ☐

1) Contractor (Registered Legal Name)	Feeding Louisiana	5) Vendor Supplier #	310066624	5a) State LDR Account #(if applicable)	To Be Collected ASAP
2) Street Address	7909 Wrenwood Blvd., Suite C				
City	Baton Rouge	State	LA	Zip Code	70809
3) Telephone Number	225 310 0091				
4) Mailing Address (if different)	SAME				
City		State		Zip Code	
6) Parish(es) Served	Statewide <small>(List all that apply)</small>				
7) License or Certification #					
8) Contractor Status					
Subrecipient:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No			
Corporation:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No			
For Profit:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No			
Publicly Traded:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No			
8a) CFDA#(Federal Grant#)	10.565				

## 9) Brief Description Of Services To Be Provided:

The contractor will provide social service support for the Commodity Supplemental Food Program (CSFP) Bureau of Nutrition Services (BONS).

10) Effective Date 06/01/2024

11) Termination Date 06/30/2024

12) Maximum Contract Amount \$ 71,330.16

13) Estimated Amounts by Fiscal Year SFY24: \$71,330.16

## 14) Terms of Payment

If progress and/or completion of services are provided to the satisfaction of the initiating Office/Facility, payments are to be made as follows:

This is a cost reimbursement contract in accordance with the attached budget. The contractor will submit an invoice for the month of the duration of the contract. Requests for reimbursements will include invoices, receipts, and other justifications relative to the completion of the deliverables listed in the Statement of Work. All travel must be in accordance with PPM-49.

Contractor obligated to submit final invoices to Agency within fifteen (15) days after termination of contract.

## 14a) PAYMENT WILL BE MADE

ONLY UPON APPROVAL OF:

First Name

Jennifer

Last Name

Nicklas

Title

Director - Program Manager 4-DHH

Phone Number

225 342 7988

## 15) Special or Additional Provisions which are incorporated herein, if any (IF NECESSARY, ATTACH SEPARATE SHEET AND REFERENCE):

List all required Attachments

Attachment A: Statement of Work  
Attachment B: Budget  
Attachment C: Diversity and Inclusion Statement  
Attachment D: OIG Addendum  
Attachment E: Liquidated Damages Addendum

List all required Exhibits

Exhibit A: Board Resolution

Types of Attachments and Exhibits

**ATTACHMENTS**

- Statement of work
- Fee Schedule/Budget
- Special Provisions
- Standard Provisions
- Diversity and Inclusion Statement
- OIG Addendum

**EXHIBITS**

- Board Resolution/Signature Authority
- Resume
- License

**During the performance of this contract, the Contractor hereby agrees to the following terms and conditions:**

1. **Discrimination Clause:** Contractor hereby agrees to abide by the requirements of the following, as applicable: Section 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. §18116); Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d, et seq.); Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e, et seq.); Title IX of the Education Amendments of 1972 (20 U.S.C. §1681, et seq.); the Age Discrimination Act of 1975 (42 U.S.C. §6101, et seq.); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794); Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. §794d); the Americans with Disabilities Act of 1990 (42 U.S.C. §12101, et seq.); the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. §4212); the Fair Housing Act of 1968 (42 U.S.C. §3601, et seq.); and Federal Executive Order 11246; and all applicable requirements imposed by or pursuant to the regulations of the U. S. Department of Health and Human Services.

Contractor agrees not to discriminate in the rendering of services to and/or employment of individuals because of race, color, religion, sex, sexual orientation, age, national origin, disability, political affiliation, veteran status, or any other non-merit factor. Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable, shall be grounds for termination of this Contract.

2. **Confidentiality:** Contractor shall abide by the laws and regulations concerning confidentiality which safeguard information and patient/client confidentiality. Information obtained under this Contract shall not be used in any manner except as necessary for the proper discharge of Contractor's obligations. (Contractor shall establish, subject to review and approval of the Department, confidentiality rules and facility access procedures.)
3. **Right to Audit:** The Louisiana Legislative Auditor, Office of the Governor, Division of Administration, and Department auditors or those designated by the Department shall have the option of auditing all accounts pertaining to this Contract during the Contract and for a period of five (5) years following final payment. Contractor grants to the State of Louisiana, through the Office of the Louisiana Legislative Auditor, Louisiana Department of Health, and State Inspector General's Office, Federal Government and/or other such officially designated body the right to inspect and review all books and records pertaining to services rendered under this contract, and further agrees to guidelines for fiscal administration as may be promulgated by the Department. Records will be made available during normal working hours.

Contractor shall comply with federal and state laws and/or Department policy requiring an audit of Contractor's operation as a whole or of specific program activities. Audit reports shall be sent within thirty (30) days after the completion of the audit, but no later than six (6) months after the end of the audit period. If an audit is performed within the term of this contract, for any period, four (4) copies of the audit report shall be sent to the Louisiana Department of Health, Attention: Division of Fiscal Management, P.O. Box 91117, Baton Rouge, LA 70821-3797 and one (1) copy of the audit shall be sent to the originating office within the Department.

4. **Record Retention:** Contractor agrees to retain all books, records, and other documents relevant to the Contract and funds expended thereunder for at least four (4) years after final payment or as prescribed in 45 CFR 75.361, whichever is longer.

Contractor shall make available to the Department such records within thirty (30) days of the Department's written request and shall deliver such records to the Department's central office in Baton Rouge, Louisiana, all without expense to the Department. Contractor shall allow the Department to inspect, audit, or copy records at Contractor's site, without expense to the Department.

5. **Record Ownership:** All records, reports, documents, and other material delivered or transmitted to Contractor by the Department shall remain the property of the Department, and shall be returned by Contractor to the Department, at Contractor's expense, at termination or expiration of this contract. All records, reports, documents, or other material related to this Contract and/or obtained or prepared by Contractor in connection with the performance of the services contracted for herein shall become the property of the Department, and shall, upon request, be returned by Contractor to the Department, at Contractor's expense, at termination or expiration of this contract.
6. **Nonassignability:** Contractor shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or novation), without written consent of the Department thereto, provided, however, that claims for money due or to become due to Contractor from the Department under this Contract may be assigned to a bank, trust company, or other financial institution without advanced approval. Notice of any such assignment or transfer shall be promptly furnished to the Department and the Division of Administration, Office of State Procurement.
7. **Taxes:** Contractor hereby agrees that the responsibility for payment of taxes from the funds received under this Contract shall be Contractor's. Contractor assumes responsibility for its personnel providing services hereunder and shall make all deductions for withholding taxes, and contributions for unemployment compensation funds.
8. **Insurance:** Contractor shall obtain and maintain during the term of this Contract all necessary insurance including automobile insurance, workers' compensation insurance, and general liability insurance. The required insurances shall protect Contractor, the Louisiana Department of Health, and the State of Louisiana from all claims related to Contractor's performance of this contract. Certificates of Insurance shall be filed with the Department for approval. Said policies shall not be canceled, permitted to expire, or be changed without thirty (30) days advance written notice to the Department. Commercial General Liability Insurance shall provide protection during the performance of work covered by the Contract from claims or damages for personal injury, including accidental death, as well as claims for property damages, with combined single limits prescribed by the Department.
9. **Travel:** In cases where travel and related expenses are required to be identified separate from the fee for services, such costs shall be in accordance with State Travel Regulations. The Contract contains a maximum compensation that shall be inclusive of all charges including fees and travel expenses.
10. **Political Activities:** No funds provided herein shall be used to urge any elector to vote for or against any candidate or proposition on an election ballot nor shall such funds be used to lobby for or against any proposition or matter having the effect of law being considered by the Legislature or any local governing authority. This provision shall not prevent the normal dissemination of factual information relative to a proposition or any election ballot or a proposition or matter having the effect of law being considered by the Legislature or any local governing authority. Contracts with individuals shall be exempt from this provision.
11. **State Employment:** Should Contractor become an employee of the classified or unclassified service of the State of Louisiana during the term of the contract, Contractor must notify his/her appointing authority of any existing Contract with the State of Louisiana and notify the contracting office with the Department of any additional State employment. This is applicable only to contracts with individuals.
12. **Ownership of Proprietary Data:** All non-third party software and source code, records, reports, documents, and other material delivered or transmitted to Contractor by the State shall remain the property of the State, and shall be returned by Contractor to the State, at Contractor's expense, at termination or expiration of this contract. All non-third party software and source code, records, reports, documents, or other material related to this Contract and/or obtained or prepared by Contractor in connection with the performance of the services contracted for herein shall become the property of the State, and shall be returned by Contractor to the State, at Contractor's expense, at termination or expiration of this contract.

- 13. Subcontracting:** Contractor shall not enter into any subcontract for work or services contemplated under this Contract without obtaining prior written approval of the Department. Any subcontracts approved by the Department shall be subject to conditions and provisions as the Department may deem necessary; provided, however, that notwithstanding the foregoing, unless otherwise provided in this contract, such prior written approval shall not be required for the purchase by Contractor of items and services that are incidental but necessary for the performance of the work required under this contract.

No subcontract shall relieve Contractor of the responsibility for the performance of contractual obligations described herein.

- 14. Conflict of Interest:** Contractor acknowledges that the Code of Governmental Ethics, La. R.S. 42:1101, et seq., applies to Contractor in the performance of services under this contract. Contractor warrants that no person and no entity providing services pursuant to this Contract on behalf of Contractor or any subcontractor is prohibited from providing such services by the provisions of La. R.S. 42:1113. Contractor agrees to immediately notify the Department if potential violations of the Code of Governmental Ethics arise at any time during the term of the contract.

- 15. Unauthorized Services:** No claim for services furnished or requested for reimbursement by Contractor, not provided for in this contract, shall be allowed by the Department. In the event the Department determines that certain costs that have been reimbursed to Contractor pursuant to this or previous contracts are not allowable, the Department shall have the right to offset and withhold said amounts from any amount due to Contractor under this Contract for costs that are allowable.

- 16. Fiscal Funding:** This Contract is subject to and conditioned upon the availability and appropriation of federal and/or state funds; and no liability or obligation for payment will develop between the parties until the Contract has been approved by required authorities of the Department; and, if Contract exceeds \$2,000, the Division of Administration, Office of State Procurement.

The continuation of this Contract is contingent upon the appropriation of funds from the Legislature to fulfill the requirements of the contract. If the Legislature fails to appropriate sufficient monies to provide for the continuation of the contract, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act to prevent the total appropriation for the year from exceeding revenues for that year, or for any other lawful purpose, and the effect of such reduction is to provide insufficient monies for the continuation of the contract, the Contract shall terminate on the date of the beginning of the first fiscal year for which funds are not appropriated.

- 17. State and Federal Funding Requirements:** Contractor shall comply with all applicable requirements of state or federal laws or regulations relating to Contractor's receipt of state or federal funds under this contract.

If Contractor is a "subrecipient" of federal funds under this contract, as defined in 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), Contractor shall comply with all applicable requirements of 2 CFR Part 200, including but not limited to the following:

- Contractor must disclose any potential conflict of interest to the Department and the federal awarding agency as required by 2 CFR §200.112.
- Contractor must disclose to the Department and the federal awarding agency, timely and in writing, all violations of federal criminal laws that may affect the federal award, as required by 2 CFR §200.113.
- Contractor must safeguard protected personally identifiable information and other sensitive information, as required by 2 CFR §200.303.
- Contractor must have and follow written procurement standards and procedures in compliance with federally approved methods of procurement, as required by 2 CFR §§200.317 - 200.326.
- Contractor must comply with the audit requirements set forth in 2 CFR §§200.501 - 200.521, as applicable, including but not limited to:
  - Electronic submission of data and reports to the Federal Audit Clearinghouse (FAC) (2 CFR §200.512(d)).
  - Ensuring that reports do not include protected personally identifiable information (2 CFR §200.512(a)(2)).

Notwithstanding the provisions of paragraph 3 (Auditors) of these Terms and Conditions, copies of audit reports for audits conducted pursuant to 2 CFR Part 200 shall not be required to be sent to the Department.

- 18. Amendments:** Any alteration, variation, modification, or waiver of provisions of this Contract shall be valid only when reduced to writing, as an amendment duly signed, and approved by required authorities of the Department; and, if the Contract exceeds \$5,000, by the Division of Administration, Office of State Procurement. Budget revisions approved by both parties in cost reimbursement contracts do not require an amendment if the revision only involves the realignment of monies between originally approved cost categories.

- 19. Non-Infringement:** Contractor will warrant all materials, products, and/or services produced hereunder will not infringe upon or violate any patent, copyright, trade secret, or other proprietary right of any third party. In the event of any such claim by any third party against the Department, the Department shall promptly notify Contractor in writing and Contractor shall defend such claim in the Department's name, but at Contractor's expense and shall indemnify and hold the Department harmless against any loss, expense, or liability arising out of such claim, whether or not such claim is successful. This provision is not applicable to contracts with physicians, psychiatrists, psychologists, or other allied health providers solely for medical services.

- 20. Purchased Equipment:** Any equipment purchased under this Contract remains the property of Contractor for the period this Contract and future continuing contracts for the provision of the same services. Contractor must submit a vendor invoice with the reimbursement request. For the purpose of this contract, equipment is defined as any tangible, durable property having a useful life of at least (1) year and acquisition cost of one thousand dollars (\$1,000.00) or more. Contractor has the responsibility to submit to the Contract Monitor an inventory list of equipment items when acquired under the Contract and any additions to the listing as they occur. Contractor will submit an updated, complete inventory list on a quarterly basis to the Contract Monitor. Contractor agrees that upon termination of the contracted services, the equipment purchased under this Contract reverts to the Department. Contractor agrees to deliver any such equipment to the Department within thirty (30) days of termination of services.

- 21. Indemnity:** Contractor agrees to protect, indemnify, and hold harmless the State of Louisiana and the Department from all claims for damages, costs, expenses, and attorney fees arising in Contract or tort from this Contract or from any acts or omissions of Contractor's agents, subcontractors, employees, officers, or clients, including, but not limited to, premises liability and any claim based on any theory of strict liability. This provision does not apply to actions or omissions for which La. R.S. 40:1237.1, et seq. provides malpractice coverage to Contractor, nor claims related to treatment and performance of evaluations of persons when such persons cause harm to third parties (La. R.S. 13:5108.1(E)). Further, it does not apply to premises liability when the services are being performed on premises owned and operated by the Department.

- 22. Severability:** Any provision of this Contract is severable if that provision is in violation of the laws of the State of Louisiana or the United States, or becomes inoperative due to changes in state or federal law, or applicable state or federal regulations.
- 23. Entire Agreement:** Contractor agrees that the current Contract supersedes all previous contracts, negotiations, and all other communications between the parties with respect to the subject matter of this contract.
- 24. E-Verify:** Contractor acknowledges and agrees to comply with the provision of La. R.S. 38:2212.10 and federal law pertaining to E-Verify in the performance of services under this contract.
- 25. Remedies for Default:** Any claim or controversy arising out of this Contract shall be resolved by the provisions of La. R.S. 39:1672.2-1672.4.  
**Other Remedies:** If the Contractor fails to perform in accordance with the terms and conditions of this Contract, or if any lien or claim for damages, penalties, cost and the like is asserted by or against the State, then, upon notice to the Contractor, the State may pursue all remedies available to it at law or equity, including retaining monies from amounts due the Contractor and proceeding against any surety of the Contractor.
- 26. Governing Law:** This Contract shall be governed by and interpreted in accordance with the laws of the State of Louisiana, including but not limited to La. R.S. 39:1551-1736; rules and regulations; executive orders; standard terms and conditions, and specifications listed in the Request for Proposals (RFP), if applicable; and this contract.
- 27. Contractor's Cooperation:** Contractor has the duty to fully cooperate with the State and provide any and all requested information, documentation, etc. to the State, when requested. This applies even if this Contract is terminated and/or a lawsuit is filed. Specifically, Contractor shall not limit or impede the State's right to audit or shall not withhold State-owned documents.
- 28. Continuing Obligation:** Contractor has a continuing obligation to disclose to the Department any suspension or debarment by any government entity, including, but not limited to, the General Services Administration (GSA). Failure to disclose may constitute grounds for suspension and/or termination of the Contract and debarment from future contracts.
- 29. Eligibility Status:** Contractor and each tier of subcontractors, shall certify that it is not excluded, disqualified, disbarred, or suspended from contracting with or receiving Federal funds or grants from the Federal Government. Contractor and each tier of subcontractors shall certify that it is not on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs promulgated in accordance with Executive Orders 12549 and 12689, and "NonProcurement Debarment and Suspension" set forth at 2 CFR Part 376.
- 30. Act 211 Taxes Clause:** In accordance with La. R.S. 39:1624(A)(10), the Louisiana Department of Revenue must determine that Contractor is current in the filing of all applicable tax returns and reports and in payment of all taxes, interest, penalties, and fees owed to the State and collected by the Louisiana Department of Revenue prior to the approval of this Contract by the Office of State Procurement. Contractor hereby attests to its current and/or prospective compliance, and agrees to provide its seven-digit LDR Account Number to the Department so that Contractor's tax payment compliance status may be verified. Contractor further acknowledges understanding that issuance of a tax clearance certificate by the Louisiana Department of Revenue is a necessary precondition to the approval and effectiveness of this Contract by the Office of State Procurement. The Department reserves the right to withdraw its consent to this Contract without penalty and proceed with alternate arrangements should Contractor fail to resolve any identified apparent outstanding tax compliance discrepancies with the Louisiana Department of Revenue within seven (7) business days of such notification.
- 31. Termination for Cause:** The Department may terminate this Contract for cause based upon the failure of Contractor to comply with the terms and/or conditions of the contract; provided that the Department shall give Contractor written notice specifying Contractor's failure. If within thirty (30) days after receipt of such notice, Contractor shall not have either corrected such failure or, in the case of failure which cannot be corrected in thirty (30) days, begun in good faith to correct said failure and thereafter proceeded diligently to complete such correction, then the Department may, at its option, place Contractor in default and the Contract shall terminate on the date specified in such notice. Contractor may exercise any rights available to it under Louisiana law to terminate for cause upon the failure of the Department to comply with the terms and conditions of this contract; provided that Contractor shall give the Department written notice specifying the Department's failure and a reasonable opportunity for the State to cure the defect.
- 32. Termination for Convenience:** The Department may terminate this Contract at any time by giving thirty (30) days written notice to Contractor. Contractor shall be entitled to payment for deliverables in progress, to the extent work has been performed satisfactorily.
- 33. Confidentiality:** Contractor shall protect from unauthorized use and disclosure all information relating to the State's operations and data (e.g. financial, statistical, personal, technical, etc.) that becomes available to the Contractor in carrying out this Contract. Contractor shall use protecting measures that are the same or more effective than those used by the State. Contractor is not required to protect information or data that is publicly available outside the scope of this Contract; already rightfully in the Contractor's possession; independently developed by the Contractor outside the scope of this Contract; or rightfully obtained from third parties. Under no circumstance shall the Contractor discuss and/or release information to the media concerning this project without prior express written approval of the State.
- 34. Prohibition of Discriminatory Boycotts of Israel:** In accordance with La. R.S. 39:1602.1, any Contract for \$100,000 or more and for any contractor with five (5) or more employees, Contractor, and any subcontractor, shall certify it is not engaging in a boycott of Israel, and shall, for the duration of this Contract, refrain from a boycott of Israel. The State reserves the right to terminate this Contract if Contractor, or any subcontractor, engages in a boycott of Israel during the term of the contract.
- 35. Cybersecurity Training:** In accordance with La. R.S. 42: 1267 (B)(3) and the State of Louisiana's Information Security Policy, if the Contractor, any of its employees, agents, or subcontractors will have access to State government information technology assets, the Contractor's employees, agents, or subcontractors with such access must complete cybersecurity training annually, and the Contractor must present evidence of such compliance annually and upon request. The Contractor may use the cybersecurity training course offered by the Louisiana Department of State Civil Service without additional cost.

For purposes of this Section, "access to State government information technology assets" means the possession of credentials, equipment, or authorization to access the internal workings of State information technology systems or networks. Examples would include but not be limited to State-issued laptops, VPN credentials to credentials to access the State network, badging to access the State's telecommunications closets or systems, or permissions to maintain or modify IT systems used by the State. Final determination of scope inclusions or exclusions relative to access to State government information technology assets will be made by the Office of Technology Services.

- 36. Code of Ethics:** The Contractor acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the Contracting Party in the performance of services called for in this Contract. The Contractor agrees to immediately notify the state if potential violations of the Code of Governmental Ethics arise at any time during the term of this Contract.
- 37. Countersignature:** This Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.
- 38. No Employment Relationship:** Nothing in this Contract shall be construed to create an employment or agency relationship, partnership, or joint venture between the employees, agents, or subcontractors of Contractor and the State of Louisiana.
- 39. Venue:** Venue for any action brought with regard to this Contract shall be in the Nineteenth Judicial District Court, Parish of East Baton Rouge, State of Louisiana.
- 40. Commissioner's Statements:** Statements, acts, and omissions made by or on behalf of the Commissioner of Administration regarding the RFP or RFP process, this contract, Contractor, and/or any subcontractor of Contractor shall not be deemed a conflict of interest when the Commissioner is discharging his duties and responsibilities under law, including, but not limited, to the Commissioner of Administration's authority in procurement matters.
- 41. Order of Precedence Clause:** In the event of any inconsistent or incompatible provisions in a Contract which resulted from an RFP, this signed Contract (excluding the RFP and Contractor's proposal) shall take precedence, followed by the provisions of the RFP, and then by the terms of Contractor's proposal. *This Order of Precedence Clause applies only to contracts that resulted from an RFP.*
- 42. Contractor must comply with the Office of Technology Services (OTS) Information Security Policy,** <https://www.doa.la.gov/Pages/ots/InformationSecurity.aspx>.
- a. Contractor must report to the State any known breach of security no later than forty-eight (48) hours after confirmation of the event. Notify the Information Security Team ("IST") by calling the Information Security Hotline at 1-844-692-8019 and emailing the security team at [infosecteam@la.gov](mailto:infosecteam@la.gov).
  - b. Contractor must follow OTS Information Security Policy for Data Sanitization requirements for any equipment replaced during the Contract and at the end of the contract, for all equipment which house confidential/restricted data provided by the State.
  - c. Contractor must ensure appropriate protections of data is in accordance with HIPAA Rules and HITECH Acts.
  - d. If Contractor will have access to data originating from the Centers for Medicare and Medicaid Services (CMS), then Contractor must ensure their computer system is in compliance with CMS latest version of the Minimum Acceptable Risk Standards for Exchanges (MARS-E) Document Suite, currently MARS-E 2.0. The CMS MARS-E 2.0 requirements include but are not limited to the below listed requirements:
    - Multi-factor authentication is a CMS requirement for all remote users, privileged accounts and non-privileged accounts. In this context, a "remote user" is referencing staff accessing the network from offsite, normally with a client virtual private network with the ability to access CMS data.
    - Perform criminal history check for all staff prior to granting access to CMS data. All employees and contractors requiring access to Patient Protection and Affordable Care Act (PL 111-148) sensitive information must meet personnel suitability standards. These suitability standards are based on a valid need-to-know, which cannot be assumed from position or title, and favorable results from a background check. The background checks for prospective and existing employees (if not previously completed) should include, at a minimum, contacting references provided by the employee as well as the local law enforcement agency or agencies.
- 43. HIPAA Business Associate Provisions**
- If Contractor is a Business Associate of the Department, as that term is defined herein, because Contractor either: (a) creates, receives, maintains, or transmits protected health information (PHI) for or on behalf of the Department; or (b) provides legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation, or financial services for the Department involving the disclosure of PHI, the following provisions will apply:
- a. Definitions: As used in these provisions -
    - i. The term "HIPAA Rules" refers to the federal regulations known as the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules, found at 45 CFR Parts 160 and 164, which were originally promulgated by the U. S. Department of Health and Human Services (DHHS) pursuant to the Health Insurance Portability and Accountability Act ("HIPAA") of 1996 and were subsequently amended pursuant to the Health Information Technology for Economic and Clinical Health ("HITECH") Act of the American Recovery and Reinvestment Act of 2009.
    - ii. The terms "Business Associate", "Covered Entity", "disclosure", "electronic protected health information" ("electronic PHI"), "health care provider", "health information", "health plan", "protected health information" ("PHI"), "subcontractor", and "use" have the same meaning as set forth in 45 CFR §160.103.
    - iii. The term "security incident" has the same meaning as set forth in 45 CFR §164.304.
    - iv. The terms "breach" and "unsecured protected health information" ("unsecured PHI") have the same meaning as set forth in 45 CFR §164.402.
  - b. Contractor and its agents, employees and subcontractors shall comply with all applicable requirements of the HIPAA Rules and shall maintain the confidentiality of all PHI obtained by them pursuant to this Contract as required by the HIPAA Rules and by this Contract.
  - c. Contractor shall use or disclose PHI solely: (a) for meeting its obligations under the contract; or (b) as required by law, rule, regulation (including the HIPAA Rules), or as otherwise required or permitted by this Contract.
  - d. Contractor shall implement and utilize all appropriate safeguards to prevent any use or disclosure of PHI not required or permitted by this Contract, including administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Department.
  - e. In accordance with 45 CFR §164.502(e)(1)(ii) and (if applicable) §164.308(b)(2), Contractor shall ensure that any agents, employees, subcontractors, or others that create, receive, maintain, or transmit PHI on behalf of Contractor agree to the same restrictions, conditions, and requirements that apply to Contractor with respect to such information, and it shall



ensure that they implement reasonable and appropriate safeguards to protect such information. Contractor shall take all reasonable steps to ensure that its agents', employees', or subcontractors' actions or omissions do not cause Contractor to violate this Contract.

- f. Contractor shall, within three (3) days of becoming aware of any use or disclosure of PHI, other than as permitted by this Contract, report such disclosure in writing to the person(s) named in Terms of Payment on page 1 of this document. Disclosures which must be reported by Contractor include, but are not limited to, any security incident, any breach of unsecured PHI, and any "breach of the security system" as defined in the Louisiana Database Security Breach Notification Law, La. R.S. 51:3071 *et seq.* At the option of the Department, any harm or damage resulting from any use or disclosure which violates this Contract shall be mitigated, to the extent practicable, either: (a) by Contractor at its own expense; or (b) by the Department, in which case Contractor shall reimburse the Department for all expenses that the Department is required to incur in undertaking such mitigation activities.
- g. To the extent that Contractor is to carry out one or more of the Department's obligations under 45 CFR Part 164, Subpart E, Contractor shall comply with the requirements of Subpart E that apply to the Department in the performance of such obligation(s).
- h. Contractor shall make available such information in its possession which is required for the Department to provide an accounting of disclosures in accordance with 45 CFR §164.528. In the event that a request for accounting is made directly to Contractor, Contractor shall forward such request to the Department within two (2) days of such receipt. Contractor shall implement an appropriate record keeping process to enable it to comply with the requirements of this provision. Contractor shall maintain data on all disclosures of PHI for which accounting is required by 45 CFR §164.528 for at least six (6) years after the date of the last such disclosure.
- i. Contractor shall make PHI available to the Department upon request in accordance with 45 CFR §164.524.
- j. Contractor shall make PHI available to the Department upon request for amendment and shall incorporate any amendments to PHI in accordance with 45 CFR §164.526.
- k. Contractor shall make its internal practices, books, and records relating to the use and disclosure of PHI received from or created or received by Contractor on behalf of the Department available to the Secretary of the DHHS for purposes of determining the Department's compliance with the HIPAA Rules.
- l. Contractor shall indemnify and hold the Department harmless from and against any and all liabilities, claims for damages, costs, expenses and attorneys' fees resulting from any violation of this provision by Contractor or by its agents, employees or subcontractors, without regard to any limitation or exclusion of damages provision otherwise set forth in the contract.
- m. The parties agree that the legal relationship between the Department and Contractor is strictly an independent contractor relationship. Nothing in this Contract shall be deemed to create a joint venture, agency, partnership, or employer- employee relationship between the Department and Contractor.
- n. Notwithstanding any other provision of the contract, the Department shall have the right to terminate the Contract immediately if the Department determines that Contractor has violated any provision of the HIPAA Rules or any material term of this contract.
- o. At the termination of the contract, or upon request of the Department, whichever occurs first, Contractor shall return or destroy (at the option of the Department) all PHI received or created by Contractor that Contractor still maintains in any form and retain no copies of such information; or if such return or destruction is not feasible, Contractor shall extend the confidentiality protections of the Contract to the information and limit further uses and disclosure to those purposes that make the return or destruction of the information infeasible.

***SIGNATURES TO FOLLOW ON THE NEXT PAGE***

THIS CONTRACT CONTAINS OR HAS ATTACHED HERETO ALL THE TERMS AND CONDITIONS AGREED UPON BY THE CONTRACTING PARTIES. IN WITNESS THEREOF, THIS CONTRACT IS SIGNED ON THE DATE INDICATED BELOW.

CONTRACTOR

STATE OF LOUISIANA, LOUISIANA  
DEPARTMENT OF HEALTH

DocuSigned by:  
*Pat Van Burkleo*  
2C8966163F0548D...

5/13/2024

SIGNATURE

DATE

Pat Van Burkleo

NAME

Executive Director

TITLE

SIGNATURE

DATE

NAME

Secretary, Louisiana Department of Health or Designee

TITLE

Office of Public Health

SIGNATURE

DATE

NAME

TITLE

DocuSigned by:  
*Tonya Joiner*  
DEDF09B24C84401...

5/15/2024

SIGNATURE

DATE

Tonya Joiner, JD

NAME

Assistant Secretary

TITLE

## **STATEMENT OF WORK/SERVICES**

### **I. Overview**

The Contractor will administer the Commodity Supplemental Food Program (CSFP) on behalf of the Bureau of Nutrition Services (BONS), in accordance with Federal and State regulations.

The core activities of CSFP include participant certification and eligibility management, nutrition education, outreach, management of equipment and food inventory, safe food storage, packing and distribution, and continual reporting to BONS.

Louisiana Department of Health (LDH) will pay Contractor(s) a fixed rate per participant served per month. The fixed rate is calculated based on the federal grant award amount less withholdings for State agency administration. Contractor will be paid at a flat rate of \$8.75 per participant to whom a food package is distributed per month. The payment rate of \$8.75 per participant shall be utilized to cover all expenses which arise under the terms of the Contract. The fixed fee shall not be subject to negotiation or dispute resolution. Payment of invoices will be based on approval of Bureau of Nutrition Services Director or designee. Caseload maximum per federal fiscal year 2024 is 39,015/month. The annual caseload distribution as well as per participant monthly reimbursement rate will be adjusted annually upon receipt of the federal grant award, but overall contract payments will not exceed maximum amount of contract

#### **A. Goals and Objectives**

LDH desires to increase access to the Louisiana CSFP Program, to increase participation in the Program, and to meet the minimum of 95% caseload utilization set by the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) for Louisiana that permits the Program in Louisiana to be eligible for caseload expansion. The goal of Louisiana CSFP is to improve the health of low-income seniors through the direct distribution of healthy supplemental USDA donated foods, the provision of nutrition education, and referrals to other programs.

Louisiana's CSFP is one of the largest in the country, but participation has declined over the last several years. BONS aims to increase program participation by ensuring the development of robust community partnerships and conduct targeted and effective outreach.

### **II. Background**

The Commodity Supplemental Food Program (CSFP) improves food access, food environments, and food security for eligible participants through the direct distribution of healthy supplemental United States Department of Agriculture (USDA) donated foods, the provision of nutrition education, and referrals to other programs. BONS seeks to partner with Contractors that can provide high quality services for the flat rate per participant fee.

Louisiana CSFP currently operates statewide. To be eligible for CSFP in Louisiana, individuals must be at least 60 years of age and have a household income at or below 130% of the Federal Poverty Income Guidelines.

The USDA's Food and Nutrition Service (FNS) provides information about CSFP online, including these webpages:

- <https://www.fns.usda.gov/csfp/commodity-supplemental-food-program>



- <https://www.fns.usda.gov/csfp/state-local-agency>

The Code of Federal Regulations (CFR) contains the permanent rules that govern CSFP. The sections of the CFR that most apply to CSFP are **7 CFR Part 247 - Commodity Supplemental Food Program** (7 CFR 247), **7 CFR Part 250 - Donation of Foods for Use in the United States, Its Territories and Possessions and Areas Under Its Jurisdiction** (7 CFR 250), and all **Civil Rights Regulations** (see 7 CFR 1752.7), the texts of which are available on these webpages:

- **7 CFR 247:** <https://www.ecfr.gov/current/title-7/part-247>
- **7 CFR 250:** <https://www.ecfr.gov/current/title-7/part-250>
- **7 CFR 1752.7:** [https://www.ecfr.gov/current/title-7/subtitle-B/chapterXVII/part1752/section-1752.7#p-1752.7\(a\)](https://www.ecfr.gov/current/title-7/subtitle-B/chapterXVII/part1752/section-1752.7#p-1752.7(a))

CSFP in Louisiana is entirely funded by USDA FNS and is subject to the oversight of USDA FNS and the USDA FNS Southwest Regional Office (SWRO). The annual funding cycle for CSFP therefore falls within the Federal Fiscal Year (FFY), which begins each year October 1<sup>st</sup> and ends the following September 30<sup>th</sup>.

The State agency that administers CSFP in Louisiana is the Bureau of Nutrition Services (BONS). BONS is situated in the Office of Public Health (OPH), and OPH is situated in the Louisiana Department of Health (LDH). Therefore, CSFP in Louisiana is also subject as applicable to the rules that govern, or the policies set by, BONS, OPH, and LDH, as well as applicable Louisiana State legislation.

USDA assigns states annual CSFP caseloads, defining caseload as the number of persons a state agency may serve on an average monthly basis over the course of the caseload cycle. The caseload cycle begins each year January 1<sup>st</sup> and ends the following December 31<sup>st</sup>. USDA also instructs states to maintain Program participation between 95% and 100% of the assigned caseload.

Refer to 2 CFR 200 for additional information on federal grant requirements.

### **III. Tasks and Deliverables**

Contractor shall perform all of the following. Failure to perform any of the following may be grounds for immediate termination of the Contract, at the sole discretion of BONS.

#### **A. Implementation**

Contractor shall work with the current Contractor to transfer inventory in anticipation of the actual Contract initiation date to avoid delays in service to recipients. Contractor must provide a plan to accommodate the transfer of food supplies for the total number of individuals to whom they receive assignment (up to 45,000 individuals statewide) for three months upon acceptance of the Contract. This should include food-safe warehousing, transportation, and staffing needed to accomplish this task.

#### **B. Caseload Management and Service Area**

1. Operate at least one distribution site within every parish or similar distribution site plan approved by BONS;
2. Manage caseload quantities that BONS may designate

3. Meet or exceed 95% of the assigned caseload calculated against maximum caseload as determined by BONS upon Contract start date;
4. When 100% utilization of the assigned caseload has been reached, notify BONS within 10 days, and if so directed by BONS, maintain a waiting list in accordance with 7 CFR 247.11; and
5. Coordinate efforts, including data sharing, with BONS and/or other CSFP Contractors sufficient timely detect and conduct adverse action against dual participation.

#### **C. Certification and Eligibility**

1. Determine eligibility of applicants in accordance with eligibility criteria established by 7 CFR 247.9 Eligibility Requirements;
2. Notify applicants of their eligibility or ineligibility for CSFP benefits, or their placement on a waiting list, within 10 days from the date of application.
  - a) The notification of eligibility:
    - (1) Must include the time, location, and means of food distribution assigned to the eligible participant;
    - (2) Must include the length of the eligibility certification period;
    - (3) If not in writing to the participant, i.e. in cases of verbal notification over the telephone, must be maintained by the Contractor as a written record detailing the date, method of contact, and name of staff person who delivered the notification.
  - b) The notification of ineligibility:
    - (1) Must be in writing;
    - (2) Must include the justification for the determination of ineligibility;
    - (3) Must include a statement of the individual's right to a fair hearing to appeal the determination and a form to request the fair hearing with instructions to address the form for mailing to:  
Louisiana Commodity Supplemental Food Program  
628 4th Street  
3rd Floor, Bin #4  
Baton Rouge, LA 70802
    - (4) Must include a statement that informs the applicant that program standards are applied without discrimination by race, color, national origin, age, sex (including gender identity and sexual orientation), or disability.
3. Inform participants of their rights and responsibilities in the Program at all instances of certification, recertification, or adverse action;
4. Enforce participant identification requirements per 7 CFR 247.8(a)(1) & 7 CFR 247.10(b); and
5. Enforce participant dual participation and program violations per 7 CFR 247.19 and 7 CFR 247.20.

#### **D. Compliance**

1. Accommodate a management review once every two years, and any ad hoc visits to distribution sites or storage facilities, from BONS or USDA to monitor

any item within the scope of the Contract, including food storage, participant certification, nutrition education, Civil Rights practices, inventory control, and financial management;

2. Accept full liability for any misuse of program funds;
3. Conduct an annual audit in accordance with [LDH Policy 13.3](#);
4. Complete appropriate and timely corrective action for any and all audit findings; and
5. Implement timely and adhere to any rules or requirements pursuant to CSFP in any memos or manuals produced by BONS or USDA during the duration of the Contract.

#### **E. Food Distribution**

1. Distribute a package of USDA donated foods to eligible participants each month, or two packages every other month, in accordance with the guide rates established in 7 CFR 247.10;
2. In conjunction with BONS, demonstrate efforts to accommodate distribution to homebound participants, including, but not limited to, home delivery of food package in accordance with 7 CFR 247.6(c) & Policy Memo FD-79;
3. Demonstrate efforts to accommodate distribution in rural areas;
4. Transport cheese unrefrigerated only less than two hours within any 24 hour period;
5. Ensure all distribution sites:
  - a) Comply with applicable sanitary, safety, and fire codes;
  - b) Afford adequate space for staff and volunteers to serve participants with privacy and confidentiality;
  - c) Provide adequate shelter from weather conditions to ensure limited impacts to USDA donated foods, Program documents, or participant vehicles or other participant property.
6. Cancel distributions wholly or partially only in cases of imminent or present emergencies as declared by local or State authorities;
7. Notify BONS Project Manager in writing of canceled distributions within 24 hours of cancelation;
8. Rescheduled distributions
  - a) To the extent practical, should occur within one week of a cancelation;
  - b) When rescheduled during the following calendar month, will be considered retroactive, which:
    - (1) Should be avoided to the extent practical;
    - (2) Requires immediate notification to BONS and prior approval from USDA FNS SWRO
9. Changes to Distribution Services:

Submit a request for approval to BONS for any changes, including site location or service days/dates, no less than 30 days prior to change. The request shall include, a binding task and time-specific plan for communication to impacted program participants.

#### **F. Food Ordering**

Manage ordering of USDA donated foods as, and only if, directed by BONS or USDA.

**G. Food Storage and Handling**

1. Provide adequate warehouse space for receiving and storing USDA donated foods in accordance with 7 CFR §250.14;
2. Provide and maintain storage facilities that are:
  - a) Adequate to directly receive and store a three month supply of USDA donated foods for the designated caseload share;
  - b) With dry and cooler storage (temperature lower than 70 degrees F);
  - c) With refrigerated storage areas capable of continuously maintaining temperatures between 32 and 40 degrees Fahrenheit; and
  - d) Compliant with federal and state requirements and any applicable sanitary, safety, health, and fire codes.
3. Keep a daily log of temperatures in dry, refrigerated, and cooler storage spaces;
4. Maintain accurate records of best-if-used-by (BIUB) dates and lot information for all USDA foods;
5. Comply with all requirements applicable to food safety and health, including protocols during food recalls, food damage/losses, and health inspections;
6. Accept any loss resulting from improper storage, care, or handling of USDA donated foods;
7. Provide and maintain a fleet of vehicles, such as vans and bobtail trucks, sufficient to transport goods throughout the designated service area 52 weeks per year on business days; and
8. Transport and/ or transfer USDA donated foods across warehouses, distribution sites, storage facilities or to another Contractor as directed by BONS.

**H. Inventory**

1. Perform physical inventory of all USDA donated foods monthly, the counts of which may be performed by staff or volunteers but must be supervised by staff; and
2. Perform annual physical inventory of all USDA donated foods in the presence of BONS.

**I. Invoicing**

Submit detailed monthly invoices with appropriate documentation by the 10<sup>th</sup> of the following month.

**J. Language Access**

Make any participant document specified by BONS available in Spanish and Vietnamese or any other language as specified by BONS or for which a need has been determined by the Contractor.

**K. Nutrition Education**

1. Provide all Program participants within Contractor's designated service

area with written nutrition education material, such as brochures or fliers, at the time of food distribution, ensuring the nutrition education provided is effective, easily understood, culturally appropriate, and related to participants' nutritional needs and household situations. This will be provided by BONS.

2. Written nutrition education material must include the following:
  - a) The nutritional value of CSFP foods, and their relationship to the overall dietary needs of the population groups served;
  - b) Nutritious ways to use CSFP foods;
  - c) Special nutritional needs of participants and how these needs may be met;
  - d) The importance of health care, and the role nutrition plays in maintaining good health;
  - e) The importance of the use of the foods by the participant to whom they are distributed, and not by another person.

#### **L. Outreach**

1. Conduct at least one outreach activity per month, making and documenting no less than 30 person-to-person contacts per month, to directly recruit eligible applicants or promote such recruitment to the Program via stakeholder or community partnerships.
2. Outreach activities must occur across no less than 10% of the parishes in the Contractor's designated service area within a given service year;
3. Outreach activities must strategically target populations underserved due to geographic location, religion, sexual orientation, gender identity, racial or ethnic characteristics, or special needs, such as language barriers, disabilities, or alienage status;
4. Outreach activities may be coordinated with other outreach activities under the purview of BONS;
5. Outreach activities must be aligned and synergistic with outreach activities under the purview of the BONS.; and
6. Outreach activities should develop and/or leverage partnerships with national, state, and local organizations to maximize impact.

#### **M. Participant Experience**

1. Conduct a participant satisfaction survey to be provided by BONS every two years among all participants in the assigned caseload, provide response data to BONS, make recommendations to BONS for improvements based on the responses, and devise a work plan to implement improvements, coordinated with BONS.
  - a) The survey must be conducted in the even years of the Contract.
  - b) The draft survey must be submitted to BONS no later than June 1<sup>st</sup> of even years for review and approval.
  - c) The survey must be conducted no later than July 15<sup>th</sup> of even years.
2. Maintain webpages on CSFP services that clearly present the following:
  - a) Up-to-date distribution schedule;
  - b) Contractor Program mailing address and phone number;
  - c) Application and application procedure;

- d) Eligibility guidelines;
  - e) Complaints procedure;
  - f) Appeals procedure;
  - g) Program feedback procedure;
  - h) BONS-preapproved Program fact sheet for participants in English and Spanish.
3. Provide signage for participant wayfinding at distribution sites when sites are not clearly visible from the roadway.

**N. Recordkeeping**

- 1. Maintain records of all certified participants, including applications, proxy forms, and food package issuance;
- 2. Maintain accurate and complete records relating to:
  - a) The receipt, disposal and inventory of USDA donated foods;
  - b) The receipt and disbursement of administrative funds;
  - c) Eligibility determinations;
  - d) Fair hearings;
  - e) Nutrition education;
  - f) Liability for any improper distribution of, use of, loss of or damage to USDA donated foods, and the results obtained from the pursuit of claims arising in favor of the Contractor in accordance with 7 CFR 247.29 Reports and Recordkeeping;
  - g) Other program activities in accordance with 7 CFR 247.29 Reports and Recordkeeping.

**O. Referrals**

Provide each participant in the Contractor's designated service area written information on the Supplemental Nutrition Assistance Program, Supplemental Security Income, Medicare, and Medicaid at least once annually, and make referrals as requested.

**P. Reporting**

- 1. By the 10<sup>th</sup> calendar day of each month, Contractor shall provide to BONS monthly reports containing the following data from the preceding month:
  - a) Number of eligible participants served by distribution site (monthly participation report (FNS 153));
  - b) Number of homebound elderly participants served;
  - c) Detailed description of outreach activities conducted, including the method of activities and the number of person-to-person contacts made;
  - d) Detailed description of nutrition education activities conducted, attaching any written materials distributed and describing methods of distribution.
  - e) Daily temperature logs in both dry and cooler storage areas;
  - f) Physical inventory:
    - (1) Completed by the persons supervising the inventory count after monthly distributions have concluded but prior to the first of the



following month;

(2) Which may be compiled into one report so long as count sheets completed by staff or volunteers are attached.

(3) By total and by individual storage facility, that includes, per food item:

(a) Beginning and ending stock levels;

(b) Quantity received;

(c) Quantity issued;

(d) Quantity lost, damaged, or otherwise wasted, with detailed explanation;

(e) Quantity transported between storage facilities;

(f) Quantity transferred to outside entities; and

(g) Quantity utilized in nutrition education activities

g) Physical inventory adjustment:

(1) Completed after the physical inventory but prior to the first day of the following month; and

(2) Containing explanations for adjustments.

h) Any other measure as directed by BONS.

2. By the 10<sup>th</sup> calendar day of each month, Contractor shall provide to BONS monthly reports containing the complete distribution schedule(s) for the following month, including the following information for each scheduled distribution:

a) Name of site;

b) Date of distribution;

c) Times of distribution;

d) Physical address;

e) Name of at least one scheduled staff person or volunteer; and

f) Phone number for named staff person(s) or volunteer(s).

3. Provide to BONS annually by June 30<sup>th</sup> a report of racial and ethnic participation.

4. Provide to BONS annually by October 31<sup>st</sup> for the preceding Federal Fiscal Year:

a) Training certificates and sign-in sheets for all staff and volunteer training in-services;

b) Documentation of all effective insurance policies related to the Program;

c) Names and addresses of all certification, distribution, and storage facilities under the jurisdiction of the Contractor;

d) In even years, responses, data summary, and recommendations from customer satisfaction survey.

5. Provide any other reports, data, or information required by BONS and the CSFP State Plan by the specified deadline.

6. Provide to BONS annually by June 30<sup>th</sup> an annual budget detailing anticipated program expenditures to the State for approval.

#### **Q. Staffing**

1. Provide and maintain qualified and well-trained staff to administer the CSFP program, deliver USDA donated foods, and perform all tasks associated

with Program operation;

2. During distribution, provide at least one staff member or volunteer for administrative and clerical duties must be present on site for every 30 participants expected within one hour of distribution service.

3. During distribution, provide at least one staff member or volunteer for physical distribution of foods for every 60 participants expected within one hour of service.

**R. Staff Accommodations**

Ensure adequate and sanitary restroom facilities for staff or volunteers at distribution sites when distribution is scheduled to last more than one hour.

**S. Systems Enhancement**

Implement in a timely manner new or updated information technology systems, such a participant record management or inventory management software, as directed by BONS.

**T. Third Parties**

1. Adhere to guidance provided under 7 CFR 247.4(a)(3) when entering into agreements or Contracts with third parties for CSFP activities such as food distribution.

2. Pursue partnerships with third parties for CSFP activities as reasonable when so directed by BONS.

**U. Training**

1. Make available BONS-issued annual training for all staff and volunteers involved with CSFP on the following topics as outlined below by title. Volunteer training sessions may be waived by BONS, with the exception of Civil Rights.

a) Notification and Forms: All personnel

b) Certification - Forms, Eligibility, and required documents: Front line distribution sand eligibility determination staff

c) Dual Participation and Program Violations: Front line distribution and eligibility determination staff

d) Food Ordering and Inventory Management, including Out-of-Condition Foods, Food Recall, Allowable Uses of Food and Inventory Complaints: Inventory/Warehouse management and warehouse personnel

e) Civil rights: All personnel

f) ADA accommodations: All personnel

g) Nutrition education: Front line distribution staff and eligibility determination staff

h) Disaster planning and emergency response: All personnel

i) Defensive driving: Drivers only

j) Accident reporting: All personnel

k) Food Guide Rate and Distribution: Packaging, front line distribution and eligibility determination personnel

l) Reports and Recording Keeping: All personnel

m) Equipment Inventory Policy and Requirements: Inventory

- managers and warehouse management personnel
- n) Financial Management: Financial management staff
  - o) Audits: Financial management staff
  - p) Claims: Financial management staff
  - q) Other trainings required by BONS.

#### **V. Transition Plan: Termination of Services**

1. Provide to BONS for approval, within 180 days of the initiation of the Contract, a binding task-specific and time-limited transition plan detailing the transfer of Contractor activities upon termination of the Contract that provides for uninterrupted service to participants.
2. After submission of initial transition plan, immediately provide BONS any plan updates for approval; with no such updates permitted within 90 days of the termination of the Contract.

#### **IV. Personnel Qualifications**

The Contractor shall provide the name of the person who will be designated as the Executive Director responsible for the program and financial management of the Contract.

#### **V. Location**

The Contractor shall ensure that a program administrative office space includes a meeting room and an adequate space for records storage. Records must be maintained in accordance with 7 CFR 247.29.

#### **VI. Performance Requirements**

Contractor shall meet all aspects of the deliverables listed herein and maintain compliance with all applicable State and federal regulations.

#### **VII. Performance Measures**

The BONS Contract Monitor or designee will review monthly invoices and work in conjunction with the BONS Program Manager(s) to ensure all Contract deliverables are met. The BONS Program Manager(s), or designee(s), will meet with the Contractor via telephone, email, and/or in person each month to discuss Contract performance and to address any questions or concerns.

The BONS Contract Monitor or designee will:

- Conduct comprehensive management reviews every two years and may conduct other reviews as requested by USDA FNS or at its sole discretion for monitoring purposes to ensure that all deliverables of the Contract are met.;
- Review all documents submitted monthly and/or annually and provide feedback within a time period agreed upon between the parties;
- Establish meetings monthly or every two months with the Contractor to discuss Contract performance; and conduct, at a minimum, quarterly calls to discuss Contract performance and deliverables.

BONS and/or USDA may at any time conduct ad hoc visits to distribution sites or storage facilities, to monitor any item within the scope of the Contract, including food storage, participant certification, nutrition education, Civil Rights practices, inventory control, and financial management.

### **VIII. Contract Non-Compliance**

When LDH identifies that the Contractor is not compliant with the terms of the Contract, LDH may pursue Administrative Actions, Corrective Action Plans, Monetary Penalties, Intermediate Sanctions, and/or Contract Termination.

At any time and at its sole discretion, LDH may impose or pursue one or more remedies for each item of noncompliance and will determine appropriate remedies on a case-by-case basis.

#### **A. Administrative Actions**

- LDH may pursue administrative actions including but are not limited to:
- A warning through written notice or consultation;
- Education requirement regarding program policies and procedures;
- Review of the Contractor's business processes;
- Referral for review by appropriate professional organizations; and/or
- Referral to the Office of the Attorney General for Fraud investigation.

#### **B. Corrective Action Plans**

LDH may require the Contractor to develop a Corrective Action Plan (CAP) that includes the steps to be taken by the Contractor to obtain compliance with the terms of the Contract. A CAP is not required before LDH may pursue the application of any other non-compliance action authorized in the Contract.

LDH shall approve and monitor implementation of the CAP through available reporting resources, on-site evaluations, or requested status reports.

The CAP shall include a timeframe for anticipated compliance and a date certain for the correction of the non-compliance.

#### **C. Monetary Penalties**

LDH may impose Monetary Penalties if the terms of the CAP are not met. Monetary Penalties shall continue until satisfactory correction of the noncompliance has been made as determined by LDH.

Failure to comply with the requirements and performance standards set forth in the Contract may result in the assessment of a Monetary Penalty per incident and/or per Calendar Day of non-compliance. Determinations of non-compliance may be based on findings from a review of deliverables, complaints, or any other reliable source at the sole discretion of LDH.

The purpose of establishing and imposing Monetary Penalties is to provide a means for LDH to obtain the services and level of performance required for successful operation of the Contract. LDH's failure to assess Monetary Penalties in one or more of the particular instances described herein shall not waive the right of LDH to assess Monetary Penalties or actual damages in the future.

For purposes of this section, violations involving individual, unrelated acts shall not be considered as arising out of the same action.

LDH may, at its sole discretion, make a claim against the performance bond to satisfy Monetary Penalties imposed after Contract termination.

LDH may first notify the Contractor of incidents of noncompliance and of LDH's authority to impose a Monetary Penalty via a Notice of Action (NOA). The NOA will include the basis and nature of the violation, the relevant Contract sections and/or provisions of law, the deadline to cure the violation, if applicable, and the methodology for calculation of any Monetary Penalty if the violation is not cured by the established deadline, if applicable.

Monetary Penalties may be assessed against the Contractor at the sole discretion of LDH, regardless of whether an NOA is issued. LDH will notify the Contractor of the assessment of Monetary Penalties via a Notice of Monetary Penalty (NOMP).

LDH may require the Contractor to provide a written response with a detailed explanation of the reasons for the violation, the Contractor's assessment or diagnosis of the cause, and Contractor's plan to address or cure the deficiency within the timeframe set forth in the NOA or NOMP.

Repeated deficiencies or the repeated failure to resolve any such deficiencies may entitle LDH to pursue any other remedy provided in the Contract or any other appropriate remedy LDH may have at law.

**D. Intermediate Sanctions**

LDH also may impose sanctions against the Contractor if it finds any of the following non-exclusive actions/occurrences:

The Contractor has failed to correct deficiencies in its delivery of service after having received written notice of these deficiencies from LDH;

The Contractor or any of its owners, officers or directors has been convicted of a criminal offense relating to performance of the Contract with LDH or of fraudulent billing practices or of negligent practice resulting in death or injury;

The Contractor has presented, or has caused to be presented, any false or fraudulent claim for services or has submitted, or has caused to be submitted, false information to be furnished to the State or the Secretary of the federal Department of Health and Human Services;

The Contractor has failed to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments;

The Contractor has failed to keep or make available for inspection, audit or copying, such records regarding payments claimed for providing services;

The Contractor has failed to furnish any information requested by LDH regarding payments for providing goods or services;

The Contractor has made, or caused to be made, any false statement or representation of a material fact to LDH or CMS in connection with the administration of the Contract; or

The Contractor has provided services to a caller which at the sole discretion of LDH, and based on competent medical judgment and evaluation are determined to be 1) insufficient for his or her needs, 2) harmful to the individual, or 3) of grossly inferior quality.

**E. Termination of Contract**

Nothing in this Section shall limit LDH's right to terminate the Contract or to pursue any other legal or equitable remedies.

The Contractor shall be paid for any outstanding monies due less any assessed Monetary Penalties or sanctions. If Monetary Penalties exceed monies due, collection may be made from the Contractor Fidelity Bond, Performance Bond, Retainage, Errors and Omissions Insurance, or any insurance policy or policies required under this Contract. The rights and remedies provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**F. Disputes and Appeals**

If LDH chooses to notify the Contractor of incidents of non-compliance and of LDH's authority to impose a Monetary Penalty or other administrative action via a NOA prior to assessing the penalty or action, the Contractor may dispute infractions contained within the NOA through the following process:

Within 14 Calendar Days after receipt of the NOA, the Contractor shall submit its dispute of the NOA directly to the Contract Monitor or his/her designee in writing via email; this submission shall include all arguments, materials, data, and information necessary to resolve the dispute.

The Contractor shall waive any dispute or argument not raised within 14 Calendar Days of receiving the NOA. The Contractor shall also waive the right to use any materials, data, and/or information not contained in or accompanying the Contractor's submission submitted within the 14 Calendar Days following its receipt of the NOA in any subsequent NOMP issued should the Contractor fail to demonstrate compliance as stated in the NOA.

The Contract Monitor or his/her designee will decide the dispute, reduce the decision to writing, and provide a copy to the Contractor. This written decision will be final.

To appeal the assessment of a Monetary Penalty or intermediate sanction:

Within seven Business Days of receipt of the NOMP, the Contractor shall submit its appeal in writing to the Contract Monitor or his/her designee. LDH will issue a written decision within 15 Business Days of the appeal.

Within five Business Days of receipt of LDH's written decision, the Contractor may request reconsideration of the decision in writing to the OBH Assistant Secretary.



The OBH Assistant Secretary shall issue a written opinion within 30 Calendar Days. No further appeals to LDH shall be allowed.

**G. Payment of Monetary Penalties and Intermediate Sanctions**

Monetary Penalties or intermediate sanctions assessed by LDH that cannot be collected through the payment deduction shall be due and payable to LDH within 30 Calendar Days after the Contractor's receipt of the notice of Monetary Penalties or sanctions.

The assessment of Monetary Penalties or intermediate sanctions shall not be halted by the disputes and appeals process. In the event an appeal by the Contractor results in a decision in favor of the Contractor, the penalty/sanction amount specified in the decision shall be returned to the Contractor.

LDH has the right to recovery of any amounts overpaid as the result of deceptive practices by the Contractor and/or its subcontractors, and may consider trebled damages, civil penalties, and/or other remedial measures.

A Monetary Penalty or sanction may be applied to all known Affiliates, subsidiaries and parents of the Contractor, provided that each decision to include an Affiliate is made on a case-by-case basis after giving due regard to all relevant facts and circumstances. The violation, failure, or inadequacy of performance may be imputed to a person with whom the Contractor is affiliated when such conduct was accomplished within the course of his official duty or was effectuated by him with the knowledge or approval of such person.