




**MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES
SUMMER FOOD SERVICE PROGRAM AND AT-RISK AFTERSCHOOL
PROGRAM SITE INSPECTIONS**

1. This participation agreement is entered into by the State of Missouri, Department of Health and Senior Services (Department/state agency) and the below named entity/individual (Contractor). This agreement shall consist of: (1) this participation agreement, (2) Attachment A – Certification, (3) Exhibit 1 - Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization and (4) the Terms and Conditions, attached hereto. By signing below the Contractor and Department agree to all the terms and conditions set forth in this agreement.
2. The purpose of this agreement is to conduct food safety inspections and enforce expeditious correction of priority violations in food preparation and service at Summer Food Service Program (SFSP) and At-Risk Afterschool Program (At-Risk) meal production and meal service sites.
3. This agreement shall be effective May 31, 2023 or the date of the Department's authorized representative signature, whichever is later through September 30, 2023.

TRACKING NUMBER		AGREEMENT NUMBER		AMENDMENT NUMBER	
CONTRACTOR NAME (PLEASE PRINT/TYPE) Jackson County Public Works Planning Environmental Health			DOING BUSINESS AS (DBA) NAME		
NAME OF AUTHORIZED REPRESENTATIVE			PAYMENT MAILING ADDRESS		
MissouriBUYS SYSTEM ID			CITY, STATE, ZIP		
TELEPHONE NUMBER			E-MAIL ADDRESS		
SIGNATURE OF CONTRACTOR OR REPRESENTATIVE				DATE	
TYPE OF CONTRACTOR <input type="checkbox"/> Hospital <input type="checkbox"/> Pharmacy <input type="checkbox"/> Dentist <input type="checkbox"/> Therapist <input checked="" type="checkbox"/> Physician (M.D./D.O.) <input type="checkbox"/> Other				STATE LICENSE NO. (IF APPLICABLE)	
MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES, DIVISION OF ADMINISTRATION DIRECTOR OR DESIGNEE 				DATE	

4. To the extent that this agreement involves the use, in whole or in part, of federal funds, the signature of the Contractor's authorized representative on the agreement signature page indicates compliance with the Certifications contained in Attachment A as attached hereto and incorporated by reference as if fully set forth herein.
5. The Contractor must be in compliance with the laws regarding conducting business in the State of Missouri. The Contractor shall provide documentation of compliance upon request by the Department. The compliance to conduct business in the state shall include, but not necessarily be limited to:
 - 5.1 Registration of business name (if applicable) with the Secretary of State at <https://www.sos.mo.gov/business/startBusiness.asp>
 - 5.2 Certificate of authority to transact business/certificate of good standing (if applicable)
 - 5.3 Taxes (e.g., city/county/state/federal)
 - 5.4 State and local certifications (e.g., professions/occupations/activities)
 - 5.5 Licenses and permits (e.g., city/county license, sales permits)
 - 5.6 Insurance (e.g., worker's compensation/unemployment compensation)
6. Unless otherwise stated in this contract, the Contractor shall use the below information for any correspondence regarding this contract:

Program Name: Summer Food/At-Risk Afterschool Meal Programs
Program Contact: Paige Anderson, Retail Food Program Manager
Address: 930 Wildwood, PO Box 570, Jefferson City, MO 65102
Phone: 573-751-6095
Email: BEHS.SUMMERFOOD@health.mo.gov
7. If the Contractor provides any "personal information" as defined in §105.1500, RSMo concerning an entity exempt from federal income tax under Section 501(c) of the Internal Revenue Code of 1986, as amended, the Contractor understands and agrees that it is voluntarily choosing to seek a state contract and providing such information for that purpose. The state will treat such personal information in accord with §105.1500, RSMo.
8. TRAINING
 - 8.1 The Department will provide training prior to the start of this agreement. The training will present the agreement and its deliverables, inspection requirements and reimbursement requirements.

- 8.2 The Contractor shall ensure staff responsible for conducting inspections attend one of the training opportunities.
- 8.3 The Contractor shall ensure staff responsible for conducting inspections are trained to conduct retail food inspections and meet the qualifications for *Public Health Associate, Officer, Specialist, Supervisor, or Manager* job classes as posted on the Office of Administration's website at <https://pers.oa.mo.gov/careers/public-health-services/environmental-public-health>.
- 8.4 The Contractor will be the point of contact for Summer Food and At-Risk Site staff concerning food safety. The Contractor will provide education and technical assistance to site staff to promote food safety.
9. **SFSP SITE IDENTIFICATION**
- 9.1 The Contractor is responsible for identifying all SFSP meal production and meal service sites operating in their jurisdiction. Information regarding identification of SFSP meal production and meal service sites can be found in 9.3.
- 9.2 The Contractor is responsible for researching operational details of all SFSP meal production and meal service sites operating in their jurisdiction. This includes but is not limited to location, hours of operation, menu, and central kitchens.
- 9.3 The Department will provide an interactive web site at <https://health.mo.gov/living/wellness/nutrition/foodprograms/sfsp/> to assist the Contractor in their research.
- 9.4 The Contractor shall print the site information from the website stated in 9.3. The inspection must be completed within ten (10) business days of date the information was printed. This information page shall be supplied with each inspection report when submitting for review.
- 9.5 To further assist the Contractor with site identification and operational details, the Department will offer virtual office hours at least once per month in June, July, August, and September via webex. Webex meetings will be scheduled and information for the meetings will be distributed by BEHS staff via listserv emails.
10. **AT-RISK SITE IDENTIFICATION**
- 10.1 At-Risk site information will be delivered to the Contractor by the Department via email as it is received from the Bureau of Community Food and Nutrition Assistance (CFNA).
- 10.2 The Contractor is responsible for gathering additional operational details of all At-Risk meal production and meal service sites operating in their jurisdiction. This includes, but is not limited to location, hours of operation, and menu.

- 10.3 The inspection must be completed within ten (10) business days of the date the Department sends the At-Risk site information email to the Contractor. The email notification that is provided by the Department shall be supplied with each inspection report when submitting for review.
- 10.4 To further assist the Contractor with site information and operational details, the Department will offer virtual office hours at least once per month in June, July, August, and September via webex. Webex meetings will be scheduled and information for the meetings will be distributed by BEHS staff via listserv

11. INSPECTION OF SITES

- 11.1 The Contractor shall perform food safety inspections at SFSP sites, At-Risk sites, and associated food service management companies, including schools that prepare food for off-site service locations.
- 11.2 The Contractor is not required to perform food safety inspections at schools already under inspection that sponsor SFSP and At-Risk sites under this agreement, unless the personnel preparing the food is different from those preparing food during the school year.
- 11.3 The Contractor shall conduct food safety inspections as outlined in Section 2.0 Food Safety of the Environmental Health Operational Guidelines (EHOG), available at: <http://health.mo.gov/atoz/ehog/index.php>.
- 11.4 When conducting inspections, the Contractor shall utilize and apply 19 CSR 20-1.025, the Missouri Food Code, or an equivalent local food code.
- 11.5 The Contractor shall ensure adulterated and misbranded foods are removed from commerce in accordance with Chapter 196 RSMo.

12. INSPECTION TIME REQUIREMENTS

- 12.1 The Contractor shall conduct food safety inspections within the time frames listed below.
- 12.2 The start time of the inspection for a central kitchen site (a site where the food is prepared, not serving food to children) must be within two (2) hours prior to service start time listed on the initial notification;
- 12.3 The start time of the inspection for a self-prep site (a site where the food is prepared and served at the same location) must be within two (2) hours prior to service or during service hours;
- 12.4 The start time of the inspection for a vended (a site where the food is served to children, no preparation/cooking of food) site must not exceed thirty (30) minutes prior to the start of service;

12.5 The time spent conducting an inspection of a central kitchen or self-prep sites must be a minimum of thirty (30) minutes.

12.6 There is no minimum time requirement for vended sites.

13. INSPECTION REPORTS

13.1 The Contractor shall use the inspection report form E6.39, "Food Safety Inspection Report Form for Summer Food And At-Risk Sites," provided by the Department, for inspections and follow-up inspections. The Contractor shall use the E6.07 sanitation observation form or the E6.39 inspection report form for attempted inspections.

13.2 The Contractor shall complete the E6.39 inspection report form in its entirety. A completed report includes information provided in all fields on the form, the evaluation of all food safety measures, the review of any Time as a Public Health Control plans and records, including the time and temperature when food arrived at the site and explanation of approval when food is out of temperature, and shall list the menu items and the temperatures of these foods. Attempt inspections documented on the E6.39 inspection report form or the E6.07 sanitation observation form shall have site information, date of attempt, and time in/time out. Incomplete inspection reports may not be reimbursable.

13.3 The Contractor can obtain the E6.39 inspection report form and the E6.07 sanitation observation form through the DHSS warehouse at <http://health.mo.gov/warehouse>.

13.4 The Contractor shall provide a printed information page with their SFSP inspection report that contains the site information. The information page can be printed from the website <https://health.mo.gov/living/wellness/nutrition/foodprograms/sfsp/>. The inspection report must be completed within ten (10) business days of when the information was printed.

13.5 The Contractor shall provide the email that is sent by the Department for each At-Risk site. The inspection must be completed within ten (10) business days of the date the Department sends the At-Risk site information email to the Contractor.

14. FOLLOW-UP INSPECTIONS

14.1 The Contractor shall conduct follow-up inspections to verify correction of priority violations that were not corrected during the initial inspection.

14.2 The Contractor shall conduct the follow-up inspections according to the EHOG or to the local public health agency's written plan.

15. ATTEMPTED INSPECTIONS

15.1 If the Contractor attempts to inspect facilities or vended sites that are either no longer operating or have changed their hours of operation, the Contractor shall document their inspection attempt(s) on an E6.07 sanitation observation form or an E6.39 inspection report form.

- 15.2 Attempted inspection documentation must clearly record the date, time, and location of attempted the site visit.
- 15.3 Site visits that match the Department's records regarding a facility or vended site's location and hours of operation will be credited as an attempted inspection.
- 15.4 The Contractor can obtain the E6.39 inspection report form and the E6.07 sanitation observation form through the DHSS warehouse at <http://health.mo.gov/warehouse>.
- 15.5 If the Contractor is having difficulty locating sites, contacting site operators, or other general site questions, the Contractor may contact the Bureau of Community Food and Nutrition Assistance (CFNA) at SFSP@health.mo.gov.
16. **REIMBURSEMENT AMOUNT**
- 16.1 The Department will reimburse the Contractor a maximum amount of \$ **2,150.00** for their successful participation in food safety inspections and priority violation correction in food preparation and service at SFSP and At-Risk meal production and meal service sites.
- 16.2 The maximum reimbursement amount is determined by the Department using a formula that considers availability of funds, population of the Contractor's jurisdiction, and the predicted number of facilities and sites in the Contractor's jurisdiction. Schools already under inspection that sponsor SFSP and At-Risk sites will be excluded from this calculation, unless the personnel preparing the food is different from those preparing food during the school year.
- 16.2.1 To receive the maximum reimbursement amount the Contractor shall provide inspection coverage and meet quality assurance goals as stated below.
- 16.2.2 The Contractor shall inspect or attempt to inspect a minimum of 90% of the SFSP and At-Risk facilities or sites in the Contractor's jurisdiction.
- 16.2.3 The Department will perform a desk inspection report audit of completed work and assign an overall inspection report audit rating of 0-100%. The Contractor shall achieve an overall inspection report audit rating of at least 80% to receive the maximum reimbursement amount. The Department shall share a copy of the desk inspection report audit ratings tool with the Contractor as a part of the Department administered training under 8.1.
- 16.3 If the Contractor fails to meet inspection coverage and quality assurance goals stated in 16.2, but still provides substantial public health services in the execution of its inspections and priority violation correction efforts as determined by the Department, the Department may, at the Department sole discretion, elect to reimburse the Contractor one-half the maximum reimbursement total stated in 16.1.

- 16.4 If the Contractor fails to meet inspection coverage and fails to provide substantial public health services, they will not be reimbursed the amount stated in 16.1.

17. **INVOICES**

- 17.1 The State of Missouri shall submit contract payments to the Contractor at the remittance address listed in the contractor's MissouriBUYs vendor registration. However, the Contractor shall understand and agree the state reserves the right to make payments to the Contractor through electronic funds transfer (EFT). Therefore, prior to any payments becoming due under the contract, the Contractor must verify and update, if applicable, their vendor registration with their current remittance address and ACHEFT payment information at <https://MissouriBUYs.mo.gov>.

- 17.2 The Contractor shall submit a single invoice for all work performed and reported during the contract period no later than October 16, 2023.

- 17.2.1 The Contractor may not submit more than one invoice, or submit an invoice later than October 16, 2023, unless the Contractor obtained prior written approval from the Department.

- 17.2.2 The Contractor may submit its request for an extension to BEHS.SUMMERFOOD@health.mo.gov. Extensions are granted at sole discretion of the Department. An extension may not exceed the date of October 31, 2023.

- 17.3 The Contractor shall submit the invoice to the Department on the standard DH-38 billing form and shall include the agreement number and invoice number of "SFSP23ALL".

- 17.3.1 The invoice shall be accompanied by all completed E6.39 inspection report forms and E6.07 sanitation observation forms, as well as the site information for each inspection report as stated in 9.4 and 10.3.

- 16.3.2 The Contractor shall remit all forms to:

Department of Health and Senior Services
Bureau of Environmental Health Services
Attention: Paige Anderson
930 Wildwood Drive
P.O. Box 570
Jefferson City, MO 65102

- 17.4 If the Department denies a Contractor's request for payment, the Department shall provide the Contractor with written notice of the reason(s) for the denial.

- 17.5 The Department will not reimburse the Contractor based on any invoice that the Contractor does not submit in accordance with the requirements as set out in this

agreement. The Contractor may also not be reimbursed if the Contractor does not comply with the requirements listed in section 16 Reimbursement Rate.

18. AMENDMENTS

- 18.1 Any changes to this agreement shall be made only through execution of a written amendment signed and approved by an authorized signatory of each party.

19. MONITORING

- 19.1 The Department reserves the right to monitor the Contractor during the contract period to ensure financial and contractual compliance. The Contractors will comply with any requests related to the monitoring on the contract, including but not limited to document production and on-site visits with the Contractor.
- 19.2 If the Department deems a Contractor to be high-risk, the Department may impose special conditions or restrictions on the Contractor, including but not limited to the following: withholding authority to proceed to the next phase of the project until the Department receives evidence of acceptable performance within a given contract period; requiring additional, more detailed financial reports or other documentation; additional project monitoring; requiring the Contractor to obtain technical or management assistance; or establishing additional prior approvals from the Department. The Department may impose special conditions or restrictions at the time of the contract award or at any time after the contract award. The Department will provide written notification to the Contractor prior to the effective date of the high-risk status.
- 19.3 The Department reserves the right to excluded specific individual/s who are employed by the Contractor.

20. DOCUMENT RETENTION

- 20.1 The Contractor shall retain all books, records, and other documents relevant to this contract for a period of three (3) years after final payment or the completion of an audit, whichever is later, or as otherwise designated by the federal funding agency and stated in the contract.
- 20.2 The Contractor shall allow authorized representatives of the Department, State, and Federal Government to inspect these records upon request.
- 20.3 If the Contractor is subject to any litigation, claim, negotiation, audit or other action involving the records before the expiration of the three (3) year period, the Contractor shall retain the records until completion of the action and resolution of all issues which arise from it, or until the end of the regular three (3) year period, whichever is later.

- 20.4 If the Department is subject to any litigation, claim, negotiation, audit or other action involving the records, the Department will notify the Contractor in writing to extend the Contractor's retention period.
- 20.5 The Department may recover any payment it has made to the Contractor if the Contractor fails to retain adequate documentation or fails to retain documents as requested by the Department.

21. CONFIDENTIALITY

- 21.1 The Contractor shall safeguard Protected Personally Identifiable Information (PII) as defined in 2 CFR § 200.1. The Contractor agrees it will assume liability for all disclosures of Protected PII and breaches by the Contractor and/or the Contractor's subcontractors and employees.
- 21.2 The Contractor shall maintain strict confidentiality of all patient and client information, or records supplied to it by the Department or that the Contractor creates as a result of contract activities. Unless disclosure is required by law, the Contractor shall not disclose the contents of such records to anyone other than the Department, the patient/client, or the patient's/client's parent or legal guardian. The Contractor agrees it will assume liability for all disclosures of confidential information and breaches by the Contractor and/or the Contractor's subcontractors and employees. If disclosure is required by law, the Contractor must notify the Department of the required disclosure before releasing information. The Contractor agrees to comply with all applicable confidentiality and information security laws, including but not limited to sections 192.067 and 192.667, RSMo.

22. LIABILITY

- 22.1 The Contractor shall understand and agree that the Department cannot save and hold harmless and/or indemnify the Contractor or employees against any liability incurred or arising as a result of any activity of the Contractor or any activity of the Contractor's employees related to the Contractor's performance under the contract.
- 22.2 The relationship of the Contractor to the Department shall be that of an independent contractor. The Contractor shall have no authority to represent itself as an agent of the Department. Nothing in this contract is intended to, nor shall be construed in any manner as creating or establishing an agency relationship or the relationship of employer/employee between the parties. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, or any other applicable employee related obligation or expense, and shall assume all costs, attorney fees, losses, judgments, and legal or equitable imposed remedies associated with the matters outlined in this paragraph in regards to the Contractor's subcontractors, employees and agents. The Contractor shall have no authority to bind the Department for

any obligation or expense not specifically stated in this contract. This provision is not intended to waive any claim of sovereign immunity to which a public entity would otherwise be entitled to under Missouri law.

- 22.3 The Contractor shall be responsible for all claims, actions, liability, and loss (including court costs and attorney's fees) for any and all injury or damage (including death) occurring as a result of the Contractor's performance or the performance of any subcontractor, involving any equipment used or service provided, under the terms and conditions of this contract or any subcontract, or any condition created thereby, or based upon any violation of any state or federal statute, ordinance, building code, or regulation by Contractor. However, the Contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the Department, including its officers, employees, and assigns. This provision is not intended to waive any claim of sovereign immunity to which a public entity would otherwise be entitled to under Missouri law.

23. PUBLICATIONS, COPYRIGHTS, AND RIGHTS IN DATA AND REPORTS

- 23.1 If the Contractor issues any press releases mentioning contract activities, the Contractor shall reference in the release both the contract number and the Department. If the Contractor creates any publications, including audiovisual items, produced with contract funds, the Contractor shall give credit to both the contract and the Department in the publication. The Contractor shall obtain approval from the Department prior to the release of such press releases or publications.
- 23.2 If the Contractor develops any copyrighted material as a result of this contract, the Department shall have a royalty-free, nonexclusive and irrevocable right to publish or use, and to authorize others to use, the work for Department purposes or the purpose of the State of Missouri.

24. AUTHORIZED PERSONNEL

- 24.1 The Contractor shall be responsible for assuring that all personnel are appropriately qualified and licensed or certified, as required by state, federal or local law, statute or regulation, respective to the services to be provided through this contract; and documentation of such licensure or certification shall be made available upon request.
- 24.2 The Contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Immigration Reform and Control Act of 1986 as codified at 8 U.S.C. § 1324a, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and Section 274A of the Immigration and Nationality Act. If the Contractor is found to be in violation of these requirements or the applicable laws of the state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the Contractor has knowingly employed individuals who are not eligible to work in the United States, the

state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the Contractor from doing business with the state. The state may also withhold up to twenty-five percent of the total amount due to the Contractor. The Contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.

- 24.3 Affidavit of Work Authorization and Documentation: Pursuant to section 285.530, RSMo, if the Contractor meets the section 285.525, RSMo definition of a “business entity” (<https://revisor.mo.gov/main/OneSection.aspx?section=285.530>), the Contractor must affirm the Contractor’s enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services requested herein. The Contractor should complete applicable portions of Exhibit 1, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization, as attached hereto and is incorporated by reference as if fully set forth herein. The applicable portions of Exhibit 1 must be submitted prior to an award of a contract.
- 24.4 If the Contractor meets the definition of a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo the Contractor shall maintain enrollment and participation in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the contracted services included herein. If the Contractor’s business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo pertaining to section 285.530, RSMo then the Contractor shall, prior to the performance of any services as a business entity under the contract:
- 23.4.1 Enroll and participate in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- 23.4.2 Provide to the Missouri Department of Health and Senior Services the documentation required in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization affirming said company’s/individual’s enrollment and participation in the E-Verify federal work authorization program; AND
- 23.4.3 Submit to the Missouri Department of Health and Senior Services a completed, notarized Affidavit of Work Authorization provided in the exhibit titled, Business Entity Certification, Enrollment Documentation, and Affidavit of Work Authorization.
- 6.2 In accordance with subsection 2 of section 285.530 RSMo, the Contractor should renew their Affidavit of Work Authorization annually. A valid Affidavit of Work Authorization is necessary to award any new contracts.

7. **TERMINATION**

7.1 The Department, in its sole discretion, may terminate the obligations of each party under this contract, in whole or in part, effective immediately upon providing written notification to the Contractor if:

24.1.1 State and/or federal funds are not appropriated, continued, or available at a sufficient level to fund this contract; or

24.1.2 A change in federal or state law relevant to this contract occurs; or

24.1.3 A material change of the parties to the contract occurs; or

24.1.4 By request of the Contractor.

7.2 Each party under this contract may terminate the contract, in whole or in part, at any time, for its convenience without penalty or recourse by providing the following written notice.

24.2.1 The Department will provide written notice to the Contractor at least thirty (30) calendar days prior to the effective date of such termination.

24.2.2 The Contractor shall provide written notice to the Department at least sixty (60) calendar days prior to the effective date of such termination.

CERTIFICATIONS AND SPECIAL PROVISIONS

1. GENERAL

- 1.1 To the extent that this contract involves the use, in whole or in part, federal funds, the signature of the Contractor's authorized representative on the contract signature page indicates compliance with the following Certifications and special provisions.

2. CONTRACTOR'S CERTIFICATION REGARDING SUSPENSION AND DEBARMENT

- 2.1 The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency pursuant to 2 CFR Part 180.
- 2.2 The Contractor shall include these certification requirements regarding debarment, suspension, ineligibility, and voluntary exclusion in all lower tier covered transactions.
- 2.3 If the Contractor enters into a covered transaction with another person at the next lower tier, the Contractor must verify that the person with whom it intends to do business is not excluded or disqualified by:
- 2.3.1 Checking the System of Award Management (SAM) <https://www.sam.gov>; or
- 2.3.2 Collecting a certification from that person; or
- 2.3.3 Adding a clause or condition to the covered transaction with that person.

3. CONTRACTOR'S CERTIFICATION REGARDING LOBBYING

- 3.1 The Contractor certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, 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 Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

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- 3.2 The Contractor certifies that no funds under this contract shall be used to pay for any activity to support or defeat the enactment of legislation before the Congress, or any State or local legislature or legislative body. The Contractor shall not use any funds under this contract to pay for any activity to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
- 3.3 The Contractor certifies that no funds under this contract shall be used to pay the salary or expenses of the Contractor, or an agent acting for the Contractor who engages in any activity designed to influence the enactment of legislation or appropriations proposed or pending before the Congress, or any State, local legislature or legislative body, or any regulation, administrative action, or Executive Order issued by the executive branch of any State or local government.
- 3.4 The above prohibitions include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
- 3.5 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 any Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
- 3.6 The Contractor shall require that the language of this section be included in the award documents for all subawards at all levels (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 3.7 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 31 U.S.C. § 1352. 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.

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4. CONTRACTOR'S CERTIFICATION REGARDING A DRUG FREE WORKPLACE

- 4.1 The Contractor certifies it shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988, 41 U.S.C. Chapter 81, and all applicable regulations. The Contractor is required to report any conviction of employees providing services under this contract under a criminal drug statute for violations occurring on the Contractor's premises or off the Contractor's premises while conducting official business. The Contractor shall report any conviction to the Department within five (5) working days after the conviction. Submit reports to:

Missouri Department of Health and Senior Services
Division of Administration, Grants Accounting Unit
P.O. Box 570
920 Wildwood Drive
Jefferson City, Missouri 65102-0570

5. CONTRACTOR'S CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

- 5.1 The Pro-Children Act of 1994, (Public Law 103-227, 20 U.S.C. §§ 6081-6084), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The Pro-Children Act also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The ProChildren Act does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable Federal funds is Medicare or Medicaid; or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the Pro-Children Act may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

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- 5.2 The Contractor certifies that it will comply with the requirements of the Pro-Children Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act. .
- 5.3 The Contractor agrees that it will require that the language of this certification be included in any subcontract or subaward that contains provisions for children's services and that all subrecipients shall certify accordingly. Failure to comply with the provisions of the Pro-Children Act law may result in the imposition of a civil monetary penalty of up to \$1,000 per day.

6. CONTRACTOR'S CERTIFICATION REGARDING NON-DISCRIMINATION

- 6.1 The contractor shall comply with all federal and state statutes, regulations and executive orders relating to nondiscrimination and equal employment opportunity to the extent applicable to the contract. These include but are not limited to:
- 6.1.1 Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. § 2000d *et seq.*) which prohibits discrimination on the basis of race, color, or national origin (this includes individuals with limited English proficiency) in programs and activities receiving federal financial assistance and Title VII of the Act which prohibits discrimination on the basis of race, color, national origin, sex, or religion in all employment activities;
- 6.1.2 Equal Pay Act of 1963 (P.L. 88 -38, as amended, 29 U.S.C. § 206 (d));
- 6.1.3 Title IX of the Education Amendments of 1972, as amended (20 U.S.C §§ 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;
- 6.1.4 Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and the Americans with Disabilities Act of 1990, as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12101 *et seq.*) as implemented by all applicable regulations;
- 6.1.5 The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107) which prohibits discrimination on the basis of age;
- 6.1.6 Equal Employment Opportunity – E.O. 11246, as amended;
- 6.1.7 Missouri State Regulation, 19 CSR 10-2.010, Civil Rights Compliance Requirements;

CERTIFICATIONS AND SPECIAL PROVISIONS

- 6.1.8 Missouri Governor's E.O. #05-30 (excluding paragraph 1, which was superseded by E.O. #10-24);
- 6.1.9 Missouri Governor's E.O. #10-24; and
- 6.1.10 The requirements of any other nondiscrimination federal and state statutes, regulations and executive orders which may apply to the services provided via the contract.

7. CONTRACTOR'S CERTIFICATION REGARDING EMPLOYEE WHISTLEBLOWER PROTECTIONS

- 7.1 The contractor shall comply with the provisions of 41 U.S.C. 4712 that states an employee of a contractor, subcontractor, grantee, or subgrantee may not be discharged, demoted or otherwise discriminated against as a reprisal for "whistleblowing". In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.
- 7.2 The contractor's employees are encouraged to report fraud, waste, and abuse. The contractor shall inform their employees in writing they are subject to federal whistleblower rights and remedies. This notification must be in the predominant native language of the workforce.
- 7.3 The contractor shall include this requirement in any agreement made with a subcontractor or subgrantee.

8. CLEAN AIR ACT AND WATER POLLUTION CONTROL ACT

- 8.1 The Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 *et seq.*).

**EXHIBIT 1 BUSINESS ENTITY CERTIFICATION, ENROLLMENT
DOCUMENTATION, AND AFFIDAVIT OF WORK AUTHORIZATION**

BUSINESS ENTITY CERTIFICATION:

The contractor must certify their current business status by completing either Box A or Box B or Box C on this Exhibit.

- BOX A:** To be completed by a non-business entity as defined below.
- BOX B:** To be completed by a business entity who has not yet completed and submitted documentation pertaining to the federal work authorization program as described at http://www.dhs.gov/files/programs/gc_1185221678150.shtm.
- BOX C:** To be completed by a business entity who has current work authorization documentation on file with a Missouri state agency including Division of Purchasing and Materials Management.

Business entity, as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, is any person or group of persons performing or engaging in any activity, enterprise, profession, or occupation for gain, benefit, advantage, or livelihood. The term “**business entity**” shall include but not be limited to self-employed individuals, partnerships, corporations, contractors, and subcontractors. The term “**business entity**” shall include any business entity that possesses a business permit, license, or tax certificate issued by the state, any business entity that is exempt by law from obtaining such a business permit, and any business entity that is operating unlawfully without such a business permit. The term “**business entity**” shall not include a self-employed individual with no employees or entities utilizing the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

Note: Regarding governmental entities, business entity includes Missouri schools, Missouri universities (other than stated in Box C), out of state agencies, out of state schools, out of state universities, and political subdivisions. A business entity does not include Missouri state agencies and federal government entities.

BOX A – CURRENTLY NOT A BUSINESS ENTITY

I certify that _____ (Company/Individual Name) **DOES NOT CURRENTLY MEET** the definition of a business entity, as defined in section 285.525, RSMo pertaining to section 285.530, RSMo as stated above, because: (check the applicable business status that applies below)

- ☐ I am a self-employed individual with no employees; **OR**
- ☐ The company that I represent employs the services of direct sellers as defined in subdivision (17) of subsection 12 of section 288.034, RSMo.

I certify that I am not an alien unlawfully present in the United States and if _____ (Company/Individual Name) is awarded a contract for the services requested herein under Food Safety Assurance for Summer Food Service Program and At-Risk AfterSchool Program Site Inspections (Contract Title) and if the business status changes during the life of the contract to become a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, then, prior to the performance of any services as a business entity, _____ (Company/Individual Name) agrees to complete Box B, comply with the requirements stated in Box B and provide the _____ (insert agency name) with all documentation required in Box B of this exhibit.

Authorized Representative's Name (Please Print)

Authorized Representative's Signature

Company Name (if applicable)

Date

EXHIBIT 1, continued

(Complete the following if you DO NOT have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box B, do not complete Box C.)

BOX B – CURRENT BUSINESS ENTITY STATUS

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530.

Authorized Business Entity Representative's
(Please Print) Representative's Signature

Authorized Business Entity Name

Business Entity Name

Date

E-Mail Address

As a business entity, the contractor must perform/provide each of the following. The contractor should check each to verify completion/submission of all of the following:

- ☐ Enroll and participate in the E-Verify federal work authorization program (Website: http://www.dhs.gov/files/programs/gc_1185221678150.shtm; Phone: 888-464-4218; Email: everify@dhs.gov) with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services required herein; AND
- ☐ Provide documentation affirming said company's/individual's enrollment and participation in the E-Verify federal work authorization program. Documentation shall include EITHER the E-Verify Employment Eligibility Verification page listing the contractor's name and company ID OR a page from the E-Verify Memorandum of Understanding (MOU) listing the contractor's name and the MOU signature page completed and signed, at minimum, by the contractor and the Department of Homeland Security – Verification Division. If the signature page of the MOU lists the contractor's name and company ID, then no additional pages of the MOU must be submitted; AND
- ☐ Submit a completed, notarized Affidavit of Work Authorization provided on the next page of this Exhibit.

EXHIBIT 1, continued

AFFIDAVIT OF WORK AUTHORIZATION:

The contractor who meets the section 285.525, RSMo, definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now _____ (Name of Business Entity Authorized Representative) as _____ (Position/Title) first being duly sworn on my oath, affirm _____ (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that _____ (Business Entity Name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided under the contract(s) for the duration of the contract(s), if awarded.

In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)

Authorized Representative's Signature

Printed Name

Title

Date

E-Mail Address

E-Verify Company ID Number

Subscribed and sworn to before me this _____ of _____. I am
(DAY) (MONTH, YEAR)
commissioned as a notary public within the County of _____, State of
(NAME OF COUNTY)
_____, and my commission expires on _____.
(NAME OF STATE) (DATE)

Signature of Notary

Date

EXHIBIT 1, continued

(Complete the following if you have the E-Verify documentation and a current Affidavit of Work Authorization already on file with the State of Missouri. If completing Box C, do not complete Box B.)

BOX C – AFFIDAVIT ON FILE - CURRENT BUSINESS ENTITY STATUS

I certify that _____ (Business Entity Name) **MEETS** the definition of a business entity as defined in section 285.525, RSMo, pertaining to section 285.530, RSMo, and have enrolled and currently participates in the E-Verify federal work authorization program with respect to the employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the State of Missouri. We have previously provided documentation to a Missouri state agency or public university that affirms enrollment and participation in the E-Verify federal work authorization program. The documentation that was previously provided included the following.

- ✓ The E-Verify Employment Eligibility Verification page OR a page from the E-Verify Memorandum of Understanding (MOU) listing the contractor's name and the MOU signature page completed and signed by the contractor and the Department of Homeland Security – Verification Division
- ✓ A current, notarized Affidavit of Work Authorization (must be completed, signed, and notarized within the past twelve months).

Name of **Missouri State Agency** or **Public University*** to Which Previous E-Verify Documentation Submitted: _____

(*Public University includes the following five schools under chapter 34, RSMo: Harris-Stowe State University – St. Louis; Missouri Southern State University – Joplin; Missouri Western State University – St. Joseph; Northwest Missouri State University – Maryville; Southeast Missouri State University – Cape Girardeau.)

Date of Previous E-Verify Documentation Submission: _____

Previous **Bid/Contract Number** for Which Previous E-Verify Documentation Submitted: _____
(if known)

Authorized Business Entity Representative's
Print) Representative's Signature

Authorized Business Entity Name (Please

E-Verify MOU Company ID Number

E-Mail Address

Business Entity Name

Date

FOR STATE USE ONLY

Documentation Verification Completed By:

Buyer

Date

**STATE OF MISSOURI
DEPARTMENT OF HEALTH AND SENIOR SERVICES**

TERMS AND CONDITIONS

This contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained herein. Any change must be accomplished by a formal signed amendment prior to the effective date of such change.

1. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri (state). The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the state.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the contract shall be in the Circuit Court of Cole County, Missouri.
- f. The contractor shall only employ personnel authorized to work in the United States in accordance with applicable federal and state laws and Executive Order 07-13 for work performed in the United States.

2. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified herein.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. For each purchase order received, an invoice must be submitted that references the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the state.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the specific contract terms.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in section 34.055, RSMo.
- g. The State of Missouri reserves the right to purchase goods and services using the state purchasing card.

3. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

4. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

5. CONFLICT OF INTEREST

Elected or appointed officials or employees of the State of Missouri or any political subdivision thereof, serving in an executive or administrative capacity, must comply with sections 105.452 and 105.454, RSMo, regarding conflict of interest.

6. WARRANTY

The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the state, (2) be fit and sufficient for the purpose intended, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

7. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

8. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the state may cancel the contract. At its sole discretion, the state may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide the state within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the state will issue a notice of cancellation terminating the contract immediately. If it is determined the state improperly cancelled the contract, such cancellation shall be deemed a termination for convenience in accordance with the contract.
- c. If the state cancels the contract for breach, the state reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the state deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

9. BANKRUPTCY OR INSOLVENCY

Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the state immediately. Upon learning of any such actions, the state reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

10. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

11. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status unless otherwise provided by law. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the state shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the state until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

12. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

13. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise.

14. COMMUNICATIONS AND NOTICES

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.