

**Solicitation Number: RFP #040522****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Ben E. Keith Company, dba Ben E. Keith Foods, 7600 Will Rogers Blvd., Fort Worth, TX 76140 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Food Products and Distribution (other than School Food Authorities) with Related Supplies, Technology, and Services from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires June 3, 2026, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above.

Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities.

Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcwell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. SALES TAX. Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcwell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcwell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcwell Price and Product Change Request Form to the assigned Sourcwell Supplier Development Administrator. This approved form is available from the assigned Sourcwell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcwell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and

- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Change Request Form will become an amendment to this Contract and will be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity

payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. **ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be negotiated directly between the Participating Entity and the Supplier. To the extent that a Participating Entity accepts and receives federal and/or state funds, Supplier may require the Participating Entity to enter into supplemental transaction documentation to satisfy Supplier's and/or Participating Entity's respective obligations arising out of applicable anti-kickback or discount safe harbor legislative or regulatory requirements. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

E. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcwell and Participating Entity inquiries; and
- Business reviews to Sourcwell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcwell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcwell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcwell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcwell, the Supplier will pay an administrative fee to Sourcwell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the

circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. INDEMNITY AND HOLD HARMLESS

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any intentional and/or negligent act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

12. GOVERNMENT DATA PRACTICES

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Supplier under this Contract.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:

- a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.
- b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.

2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers, resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. As applicable, Supplier agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Supplier in violation of applicable patent or copyright laws of a third party.

5. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms

no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is

primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

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

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names

of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation

and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. FEDERAL SEAL(S), LOGOS, AND FLAGS. The Supplier not use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. NO OBLIGATION BY FEDERAL GOVERNMENT. The U.S. federal government is not a party to this Contract or any purchase by an Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. FEDERAL DEBT. The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. CONFLICTS OF INTEREST. The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. U.S. EXECUTIVE ORDER 13224. The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

22. CANCELLATION

Sourcwell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcwell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcwell

Ben E. Keith Company,
dba Ben E. Keith Foods

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...

DocuSigned by:
Marc Mosley
E71B70398675423...

By: _____
Jeremy Schwartz
Title: Chief Procurement Officer
6/29/2022 | 12:30 PM CDT
Date: _____

By: _____
Marc Mosley
Title: Vice President
6/29/2022 | 12:49 PM PDT
Date: _____

Approved:

DocuSigned by:
Chad Coauette
7E42B8F817A64CC...

By: _____
Chad Coauette
Title: Executive Director/CEO
6/29/2022 | 2:51 PM CDT
Date: _____

RFP 040522 - Food Products and Distribution (other than School Food Authorities) with Related Supplies, Technology, and Services

Vendor Details

Company Name: Ben E. Keith Company
7600 Will Rogers Blvd
Address: Fort Worth, Texas 76140-6022
Contact: Janice Barnard
Email: jdbarnard@benekeith.com
Phone: 817-759-6867
HST#: 75-0372230

Submission Details

Created On: Tuesday February 15, 2022 10:33:09
Submitted On: Tuesday April 05, 2022 15:52:53
Submitted By: Janice Barnard
Email: jdbarnard@benekeith.com
Transaction #: f852be79-b83c-4f9c-986a-2d530fa2b7ee
Submitter's IP Address: 24.178.29.124

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Ben E. Keith Company
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	N/A
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Ben E. Keith Foods
4	Provide your CAGE code or Unique Entity Identifier (SAM):	CAGE - 7P750 SAM - WMLLAHLQX7L1
5	Proposer Physical Address:	Ben E. Keith Foods General Office 7600 Will Rogers Blvd. Fort Worth, TX 76140
6	Proposer website address (or addresses):	www.benekeith.com
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Marc Mosley Vice President 7600 Will Rogers Blvd. Fort Worth, TX 76140 mkmosley@benekeith.com 817-759-6893"
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Janice Barnard Dir. Non-Commercial Business Development 7600 Will Rogers Blvd. Fort Worth, TX 76140 jdbarnard@benekeith.com 817-759-6867"
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	N/A

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
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10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	<p>Ben E. Keith Foods is the fifth largest regional food service distributors in the United States and has been in business for over 115 years. Ben E. Keith Foods began as a produce only distributor in 1906 and evolved to a full line foodservice distribution company in 1982. Ben E. Keith Food's senior management not only serves on industry boards and committees but has held leadership roles in these organizations as well. These include organizations such as IFDA International Foodservice Distributors Association and PMA Produce Marketing Association. Ben E. Keith is a co-owner of Markon Produce Cooperative, one of the leading brands in fresh and frozen produce. Ben E. Keith is also one of the largest members of the purchasing cooperative UniPro Foodservice which provides us competitive national pricing opportunities. With Ben E. Keith Company you are more than a customer, you're a partner and we're with you every step of the way.</p> <p>We believe our actions must always be rooted in honesty and integrity; and we should always foster trust, faith in others, fairness, and respect. Celebrating and embracing insights and experiences through people's diverse backgrounds, abilities, and contributions reinforce our ability to create next-generation leaders.</p> <p>These principles expand beyond our offices to the world in which we live. Our continued commitment to be a strong corporate citizen, in reducing our impact on environmental and natural resources, guides our strategies for growth and service.</p>	*
11	What are your company's expectations in the event of an award?	We view an award as opportunity to market and offer this program to the municipalities and non-profit location in our service area. This program will allow those locations to remain compliant with any nutritional requirements while remaining within budget and meet any competitive bid or quote needs. The success of this program will be 100% due to Ben E. Keith Sales force marketing the program to their prospects and our marketing within our public purchasing and education exhibit booths.	*
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Ben E. Keith Company (BEK) is a privately owned company and owns its land, distribution centers, and transportation equipment with minimal long term debt. We currently operate nine distribution centers that provide service to customers within fifteen states. BEK company information is as follows: Ben E. Keith Company dba Ben E. Keith Foods 601 E 7th St. Ft. Worth, TX 76102-5501 DUNS 007929748. Ben E. Keith Foods has over 41 years' experience as a full line foodservice distribution company, and annual sales for Ben E. Keith Foods Company are projected more than \$5 billion for FY2022.	*
13	What is your US market share for the solutions that you are proposing?	We currently service all of Texas, Oklahoma, Louisiana, Arkansas, New Mexico, Kansas, Alabama, and the majority of Colorado, Missouri, Tennessee, Mississippi, Georgia, Florida, Nebraska, and Illinois.	*
14	What is your Canadian market share for the solutions that you are proposing?	BEK does not service Canada.	*
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No, Ben E. Keith has never petitioned for bankruptcy protection.	*
16	<p>How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.</p> <p>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?</p> <p>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?</p>	Ben E. Keith Foods is best described as a distributor. We currently purchase food from over 2,000 manufacturers. All services proposed in this response is owned or controlled by Ben E. Keith Company.	*
17	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Ben E. Keith holds all licenses and certifications to operate as a food distributor in all states that we currently operate in, including food safety certifications. We also receive annual audits from Merieux NutriSciences on our warehouses results of which are available upon request.	*

18	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	Ben E. Keith has had no suspensions or debarments.	*
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Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	
19	Describe any relevant industry awards or recognition that your company has received in the past five years	Here are some of the awards we have won in the past 5 years - 2017 IFMA Distributor & Marketing Performance Award, 2019 - Fort Worth Chamber of Commerce Chairman's' Spirit of Enterprise, 2019-2021 Best Places to Work Award for San Antonio, New Mexico, Oklahoma and Houston, 2019-2021 Distributor Market Alliance Distributor of the Year	*
20	What percentage of your sales are to the governmental sector in the past three years	Our sales in the government sector over the past three years have been 1-2%. This has not been a focus of our company in the past; but is a primary focus now. We have a dedicated team focused on Non-Commercial sales and are actively prospecting and researching Co-ops, which is how we found Sourcewell and we believe it to be a good fit to our company.	*
21	What percentage of your sales are to the education sector in the past three years	Our sales in the education sector over the past three years have been 3-5%. This has not been a focus of our company in the past; but is a primary focus now. We have a dedicated team focused on Non-Commercial sales and are actively prospecting and researching Co-ops, which is how we found Sourcewell and we believe it to be a good fit to our company.	*
22	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	We do not currently participate with any Co-op in our service area. We do have contracts with multiple Group Purchasing Organization (GPO) primarily in the Healthcare segment, so we have experience in contract management and reporting. Our annual GPO sales have been in excess of \$1.8 Billion for the past three years.	*
23	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	N/A	*

Table 4: References/Testimonials

Line Item 24. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *	
University of North Texas	Peter Balabach, Executive Director Dining Services	940-231-4613	*
San Jacinto College	Mary Johnson, District Foodservice Operations Manager	281-669-4715	*
Deployed Resources LLC	Shawn Corrales, Buyer	208-776-0815	*

Table 5: Top Five Government or Education Customers

Line Item 25. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
University of North Texas	Education	Texas - TX	Purchase and Distribution of all Commercial Food Categories including local sourced & specialty products	Average Drop size per location \$3,000	Average annual sales of \$5 Million+
Salvation Army	Non-Profit	Texas - TX	Purchase and Distribution of all Commercial Food Categories	Average Drop size per location \$2,000	Average annual sales of \$2-3 Million
Canteen	Education	New Mexico - NM	Purchase and Distribution of all Commercial Food Categories including USDA, Child Nutrition & specialty products	Average Drop size per location \$2,500	Average annual sales of \$2 Million
OPAA	Education	Oklahoma - OK	Purchase and Distribution of all Commercial Food Categories including USDA, Child Nutrition & specialty products	Average Drop size per location \$2,000	Average annual sales of \$15 Million
Deployed Resources LLC	Government	Texas - TX	Purchase and Distribution of all Commercial Food Categories including regional & specialty products	Average Drop size per location \$1,500	Average annual sales of \$6 Million

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
26	Sales force.	We currently have over 600 District Sales Representatives as well 100+ District Sales Managers and Business Development Managers and Specialists. All of these would have access to the Sourcewell program to promote to their prospects and customers.
27	Dealer network or other distribution methods.	Ben E. Keith owns it own fleet and will be distributing all orders to the customers. The exception would be large orders from a single manufacturer which may be drop shipped from manufacturer direct
28	Service force.	Ben E. Keith distributes foodservice products, as such there is no need for a service force on our products.
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	All orders shall be placed through the Ben E. Keith e-commerce platform Entree® or PO submission only. Through the Entrée® platform locations will have the ability to place orders, pay invoices, track their order, and view our wide array of products. There will also be a designated sales team member assigned to the locations that will be available to assist with product selections, special orders, and answer any questions that the location may have on their invoices, products or other services not addressed in the Entrée® system. For orders placed online by 3:00pm, next day delivery (normal delivery days) will be available for in-stock items.
30	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Ben E. Keith is a customer orientated, sales driven company and because of that you should understand that service is what makes us a desirable business partner. We are a privately owned and financially stable company that has been around for over 115 years because customer service is our driving force. We understand that for us to succeed, our customers must succeed, and we will work with them to find the custom solution that best fits their needs to remain in budget with the highest quality products and services we can provide. We have sales representative and customer service representatives that are assigned to each account, so they will have a direct point of contact for all of their needs.
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	All participating Sourcewell members who elect to source and purchase foodservice products through Ben E. Keith Foods must qualify and meet the terms and conditions outlined in this proposal through any awarded contract. This includes, but not limited to, be geographically situated within our service area, meet financial responsibility requirements and meet minimum orders. We reserve the right to reject a member that does not meet the criteria set within our proposal. Please see attached document labeled Customer Application Revised for credit information required.
32	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	Ben E. Keith Company does not service Canada.
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	We currently only service locations with in the following areas of the contiguous United States: all of Texas, Oklahoma, Louisiana, Arkansas, New Mexico, Kansas, Alabama, and the majority of Colorado, Missouri, Tennessee, Mississippi, Georgia, Florida, Nebraska, and Illinois. We will not be serving locations outside of our regional service area.
34	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	We currently only service locations with in the following areas of the contiguous United States: all of Texas, Oklahoma, Louisiana, Arkansas, New Mexico, Kansas, Alabama, and the majority of Colorado, Missouri, Tennessee, Mississippi, Georgia, Florida, Nebraska, and Illinois. We do not have any other cooperative purchasing contracts that would limit our ability to promote Sourcewell to the eligible segments.
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	Ben E. Keith does not service Hawaii or Alaska.

Table 7: Marketing Plan

Line Item	Question	Response *
36	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Ben E. Keith services all segments of the foodservice industry. In the Non-Commercial segments we offer all of the available programs to our customers to assist them in finding the solution that best fits their needs. With the award of this contract we will have a tool that can be utilized to help them remain in budget and work with a distributor that has the product choices they know and prefer with a dedicated sales representative that can work with them on a one-on-one basis to customize the program for them. We exhibit at 20+ industry shows a year with 15 local Ben E. Keith Foodshows a year; we will promote being a Sourcewell vendor within our booth at the shows that include the qualifying segments.
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Ben E. Keith Company utilizes Youtube, Twitter, Facebook and Instagram to market to our customers and provide them with industry news and tips through emailed digital newsletters. When applicable, we can include Sourcewell information to the local segments as needed.
38	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	Sourcewell's role in promoting a Ben E. Keith contract would be to include us on the vendor page of your website and when allowed share member lists with us. Upon award Sourcewell will be added to our list of purchasing partners and the Contract Manager and Non-Commercial Business Development Director will work with each distributor location to train and share information on the contract, eligible segments and then the sales representatives will go to market with this new program tool for prospecting.
39	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Ben E. Keith has the capability to interface with third party e-procurement platforms and will consider this on a case-by-case basis.

Table 8: Value-Added Attributes

Line Item	Question	Response *
40	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcwell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Ben E. Keith has category specialists as well as chefs and corporate dietitians on staff along with our manufacturer partners representatives all of which are available for any product demos or training for our customers upon request. Each distributor location has annual foodshows that our customers can attend for ideas on new products and equipment and in some locations Continued Education Hours are available. For Serv Safe training we have trainers and proctors available for a small fee to cover test and books as required for certifications.
41	Describe any technological advances that your proposed products or services offer.	Locations can use our proprietary eCommerce platform Entrée® for electronic order entries, invoice viewing, as well as payment and billing information can be updated through a single sign-in. This platform is web based and can be accessed by almost any type of computer, tablet or mobile device. A demonstration of the software can be arranged, if needed. Additional reporting information may be available through our KBIT (Business Intelligence) system which is available to customers upon request. If a location needs any tracking reports for any reason that cannot be accessed online through the Entrée® eCommerce platform or Kbit system, special reporting can be requested from their sales representative spontaneously, if required. Ben E. Keith personnel will work with each location to ensure that they have a strong understanding of our Entrée ordering system and will work directly with them on each order until they are comfortable using the system on their own.
42	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Please see attached document labeled: Ben E Keith Sustainability
43	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	All of our new facilities since 2013 are LEED Certified which include our Mid South, Gulf Coast, New Mexico and Southeast locations.
44	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	As a large \$5B company Ben E. Keith does not qualify as a WMBE or SBE, but we have completed HUB Mentor/Protégé programs with Texas companies and partner with several HUB/WMBE/SBE manufacturers and providers.
45	What unique attributes does your company, your products, or your services offer to Sourcwell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcwell participating entities?	Ben E. Keith is a customer orientated, sales driven company and in a time of "investment firm long distance ownership" we remain privately owned and financially stable company. That is largely because customer service is our driving force. We are not a "box mover" that only cares about the next sale and bottom dollar; we are a partner to our customers. We have sales representative and customer service representatives that are assigned to each account, so our customers have a point of contact that is local and understands their pain points and works with them for a solution.

Table 9A: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
46	Do your warranties cover all products, parts, and labor?	Products procured under this contract are manufactured by the supplier or provided by the grower. The supplier or grower provides the warranty which may differ by product and manufacturer. As the fulfillment distributor, Ben E. Keith Company shall be responsible for and agrees to handle and ship product according to local, state, and federal requirements for safe food handling to ensure product is received, warehoused, and delivered to Sourcewell members safely and that product integrity is maintained. Product liability and warranty remain the responsibility of the supplier or grower and Ben E. Keith shall pursue any such requests directly with the manufacturer or product supplier.
47	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	N/A
48	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	N/A
49	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	N/A Ben E. Keith does not service Hawaii, Alaska or Canada.
50	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	N/A
51	What are your proposed exchange and return programs and policies?	Please see attached document labeled: Customer Credit and Return Policy
52	Describe any service contract options for the items included in your proposal.	N/A

Table 9B: Performance Standards or Guarantees

Describe in detail your performance standards or guarantees, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your performance materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
53	Describe any performance standards or guarantees that apply to your services	Please see attached document labeled: Ben E Keith Quality Assurance 2022
54	Describe any service standards or guarantees that apply to your services (policies, metrics, KPIs, etc.)	Please see attached document labeled: Ben E Keith Quality Assurance 2022

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
55	Describe your payment terms and accepted payment methods.	Credit terms may be offered to locations upon completion of a Credit Application if one is not already on file, and full credit review by our Corporate Credit Administration. Terms may be offered, depending upon the locations credit worthiness. Terms may range from pre-payment up to Net 30 days from invoice date/receipt of product or 10th EOM. Extended credit terms are not offered as part of this proposal response. Ben E. Keith accepts check, EFT, ACH and in some circumstances credit card payments (with an additional fee).	*
56	Describe any leasing or financing options available for use by educational or governmental entities.	Ben E. Keith does not offer leasing or financing options.	*
57	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	Ben E. Keith requires a Credit Application for all customers. Each location or group would need to complete the application for Ben E. Keith to service them. A copy of the application is provided in the attachment section of the proposal. Ben E. Keith reserves the right to refuse service to customers that do not meet our minimum order size of \$750.	*
58	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Ben E. Keith does accept P-Card or Credit Card payments on a case-by-case basis, but there is an additional fee required at time of payment equal to the thrid party payment processor fee - currently 2.5% of the sale total.	*

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcwell Price and Product Change Request Form.

Line Item	Question	Response *
59	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcwell discounted price) on all of the items that you want Sourcwell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Please see attached document labeled: Sourcwell Distribution Program Metrics March 2022
60	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Ben E. Keith is not currently offering a discount for the scope of work offered in this contract. Should volume associated allow for a volume discount Ben E. Keith will reconsider at that time.
61	Describe any quantity or volume discounts or rebate programs that you offer.	Ben E. Keith is not currently offering a discount for the scope of work offered in this contract. Should volume associated allow for a volume discount Ben E. Keith will reconsider at that time.
62	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	All products outlined in our response are based on delivered cost. Please see attached document labeled: Sourcwell Distribution Program Metrics March 2022 for our pricing model.
63	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Ben E. Keith has a Fuel Surcharge Listing based on the current price of Diesel. Please see attached document labeled: Sourcwell Distribution Program Metrics March 2022.
64	If freight, delivery, or shipping is an additional cost to the Sourcwell participating entity, describe in detail the complete freight, shipping, and delivery program.	Please see attached document labeled: Sourcwell Distribution Program Metrics March 2022
65	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	N/A Ben E. Keith does not service Hawaii, Alaska or Canada.
66	Describe any unique distribution and/or delivery methods or options offered in your proposal.	<p>Delivery:</p> <p>Normal delivery days and hours are Monday thru Sat 6 AM - 3 PM. At Ben E. Keith we strive to deliver within the window of time assigned to each location, if an exception should occur the customer will be notified by phone as to the reason for the delay and the new delivery window available.</p> <p>Ben E. Keith Foods owns the tractors and trailers used for delivery. All trailers are inspected prior to loading and the pre-cooled trailer temperature is documented. All trailers have three (3) temperature zones maintained by moveable bulkheads. The established temperature zones, from front to back door are frozen (0 degrees F), refrigerated (35 degrees F) and ambient. Trailer temperatures are recorded at departure and each delivery stop, and there is an alarm that goes off in the cab if the temperature in the chill or freezer departments exceed the established parameter. To assure only the correct cases and quantities are offloaded and delivered to customers, BEK utilizes its automated, proprietary on-board delivery technology, we call KeithTrans. Using KeithTrans, the driver scans each case UPC as it is off-loaded to assure the case is being delivered correctly against the delivery order.</p>

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
67	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	Ben E. Keith is offering a specific pricing model to Sourcwell members based on the Scope of Work in this RFP and can be utilized by any Sourcwell member within our service area with an approved application. The Cost plus Margin pricing model is the primary pricing that will be used for the Sourcwell members; the Case Fee pricing will only be used where required by law. Please see attached document labeled: Sourcwell Distribution Program Metrics March 2022

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
68	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcwell. This process includes ensuring that Sourcwell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcwell. Provide sufficient detail to support your ability to report quarterly sales to Sourcwell as described in the Contract template.	Ben E. Keith has the ability to assign the Sourcwell members utilizing this contract as such, therefore all internal data and reporting can be tied to one source. There will be a contract manager assigned with the responsibility to monitor all customer attachment, pricing audits, monthly reporting and admin fee payments.
69	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Ben E. Keith assigns various KPIs to all new contracts and monthly internal reporting is conducted to monitor the status of the goals set and sales on the contract by the contract manager.
70	Identify a proposed administrative fee that you will pay to Sourcwell for facilitating, managing, and promoting the Sourcwell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	Ben E Keith offers a 1% Administrative Fee structure as detailed in this section payable to Sourcwell monthly, excluding agency billed items into our margin structure. Agency billed items are those such as Ecolab, Coca Cola, and Abbott Labs. The sell price on all agency billed items is set by the Manufacturer and the customer. Ben E Keith is directed to set a manual sell price based on those Agreements and does not make the margin indicated in the margin schedule for those specific items.

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *
71	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Ben E. Keith is a full service broadline distributor. We provide all categories of foodservice supplies to our customers and offer this full line to the Sourcwell members.
72	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	The product categories that best describe our product offerings are as below: Produce, Center of the Plate, Dairy, Non Foods, E&S, Grocery and Frozen

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments	
73	Food products: Grocery – Dry, Refrigerated, Frozen; Beverages; Dairy; Meat/Poultry; and, Fresh Produce	<input checked="" type="radio"/> Yes <input type="radio"/> No	We offer all of these categories of products.	*
74	Related supplies: Paper products and disposables; janitorial and chemical supplies, small wares, serving equipment and tabletop items; and, kitchen equipment	<input checked="" type="radio"/> Yes <input type="radio"/> No	We offer all of these categories of products.	*
75	Related technology and services: Food service-related software or technology solutions and services	<input checked="" type="radio"/> Yes <input type="radio"/> No	Ben E. Keith has cloud based menu and traycard software option (eMenuManage) that we offer our customers - some fees may be associated with this software based on customers need.	*

Table 15: Industry Specific Questions

Line Item	Question	Response *
76	Describe your out-of-stock/backorder, special orders, and product substitution policies.	<p>Ben E. Keith currently stocks over 18,000 SKU's, and through a specialty product catalog (UNFI) customer may access additional specialty products such as Gluten Free, Vegan and Organic products; all of these are available to the locations through our Entrée® eCommerce platform at no additional fee.</p> <p>If a customer requests an item that we do not stock, Ben E. Keith will source and bring into stock or special order any products that are Proprietary to the location if the items are available to Ben E. Keith from the manufacturers. If an item is not available to Ben E. Keith by the manufacturer (which is rare but does occur on some private label products), the sales representative will work with the location to find an acceptable alternate product or source for the item. Each location can work with their sales contact to identify any products needed and they will communicate all stocking needs to the warehouse and Ben E. Keith purchasing and keep the location updated on the stocking status.</p> <p>If a special one-time item is needed the location can request the product and the sales representative will prepare a stocking agreement for them to sign. Once this form is signed it will be transmitted to Ben E. Keith purchasing and the item will be brought into the warehouse if available, for delivery to the customer. These items will not be stocked in the warehouse routinely and will need to be requested for each purchase.</p> <p>Ben E. Keith works with our customers and manufacturers to provide the best products available. If a sample or cutting of a product is needed the location will need to let their sales contact know, and they will at the request of the location, have the sample sent to the location for self-sampling, arrange a sampling at the facility, or arrange for a manufacturer representative to conduct a cutting at the location of choice. This process will be arranged at the convenience of the customer.</p> <p>Upon order entry in the Entrée® eCommerce platform, any items not reserved (in-stock) will show up in the system at order submission and the customer can select any substitute items at that time.</p> <p>Ben E. Keith routinely operates at a 95.5% and better fill rate. Substitutions are rare, but they do occur. If a designated substitution is sent to a customer, it will be clearly stated on the invoice and will read "substituted for item #####".</p> <p>Ben E. Keith routinely splits cases, but not all cases are available to split. On the Entrée® eCommerce platform, there is a check box below the product description that indicates which items may be split.</p>
77	Describe your product recall policies and processes.	<p>At time of account setup, Ben E. Keith will collect and assemble a Recall Contact list. In the event of a recall, our system will notify these contacts by a phone call and follow up with an e-mail that contains the details of the recall and process of return/disposal of product affected. A copy of our recall policy has been included in this proposal.</p>
78	Describe your company's capabilities with fresh produce. How are local produce sources identified?	<p>As a member of Markon Cooperative we are able to deliver unparalleled standards. Delivering the best fresh and frozen produce in the industry, backed by a 5-Star Food Safety Program, Markon offers field-to-fork menu inspiration to turn your ideas into culinary masterpieces and cultivate fresh cuisine. We also partner with local produce companies to provide our customers local produce as needed.</p>
79	Describe how your company will handle a participating entity that has manufacturer agreements in place.	<p>Ben E. Keith has the capability within our sales mainframe to attach manufacturer direct pricing programs and reports to customers if the manufacturer is an approved vendor with Ben E. Keith. Each customer will need to provide Ben E. Keith with the information from the manufacturer.</p>
80	Describe how participating entities will access nutritional and product information, inventory, and product ordering.	<p>Our Entrée® system has all product and nutritional information in a PDF format if the manufacturer has provided us with that information. If that information is not listed in the Entrée® system then the sales representative assigned to that location can request it from the manufacturer on behalf of the customer. An example of the PDFs available is included in the proposal.</p>
81	Describe your company's experience with multiple delivery locations for the same entity.	<p>Ben E. Keith delivers over \$1.5 Billion a year to National Chain, Regional chain and educational locations. We have systems in place to service multiple locations with the same pricing and product needs as well as manage proprietary product needs across the distribution locations. We have provided this service since the early 1980's and have an entire department at our Food Corporate Office dedicated to it.</p>

Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
 - [Pricing](#) - SOURCEWELL DISTRIBUTION PROGRAM METRICS March 2022 .xlsx - Tuesday April 05, 2022 15:52:01
 - Financial Strength and Stability (optional)
 - Marketing Plan/Samples (optional)
 - WM8E/M8E/S8E or Related Certificates (optional)
 - [Warranty Information](#) - 8en E eith Quality Assurance 2022.pdf - Tuesday April 05, 2022 13:00:07
 - Standard Transaction Document Samples (optional)
 - [Upload Additional Document](#) - Additional Documents.zip - Tuesday April 05, 2022 14:23:01

Addenda, Terms and Conditions

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
 2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
 3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Janice Barnard, Director Non-Commercial Business Development, Ben E. Keith Company

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

Yes No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_2_Food_Products_Distribution_(other than SFA)_RFP_040522 Fri February 18 2022 04:43 PM	<input checked="" type="checkbox"/>	1
Addendum_1_Food_Products_Distribution_(other than SFA)_RFP_040522 Tue February 15 2022 10:21 AM	<input checked="" type="checkbox"/>	2