

SUBMITTED BY: William Decatur, Vice President, Finance and Business Operations

**UNIVERSITY CONTRACT WITH
AN ORGANIZATION IN WHICH
A University Staff Member has a Potential Pecuniary Interest**

RECOMMENDATION

The Administration recommends that the Board of Governors authorize the President or his designee to enter into a purchase order agreement with Variety Food Services, a catering services company located at 25235 Hoover Rd, Warren, MI 48089, to provide lunches and snacks for the University’s Early Childhood Centers.

BACKGROUND

The Early Childhood Centers at the College of Education and at the Merrill Palmer Skillman Institute historically enter into multi-year service agreements to provide the children enrolled into these programs with lunches and snacks. In June 2018, Procurement solicited proposals for these services, as the existing agreements from 2015 with Edible Rex, a local caterer, are expiring.

The University received proposals from the following vendors: Edibles Rex, Elite Catering, and Variety Food Services. The breakdown for meals per person/combined (includes lunches and snacks) is as follows:

Vendor	Edibles Rex	Elite	Variety Food Services
Price Per Person	\$5.75	\$4.77	\$5.65
Delivery per trip		\$15.00	

The evaluation of the bid included:

- Review of the Proposals,
- Review of additional questions and clarifications sought from the Vendors,
- Vendor Presentation by Variety Food Services to the evaluation committee.

Elite was not considered further as their proposal included a delivery charge (\$15 per day), which was not part of the other two proposals. More importantly, Elite’s menu did not have as many fresh fruit and vegetable offerings as the others, and they had a lot of “repeats”. For example, morning snack frequently included cereal as opposed to other kinds of food offerings.

Presentations were held with Edibles Rex and Variety Food Services, to gain a better idea of each company’s proposals and company strengths. After presentations, the committee was unanimous in its consensus that the proposal from Variety Food Services is superior to its competitors, for the following reasons:

1. Variety Foods Services offers both hot and cold boxes.
2. They have an emphasis on quality control, with three temperature readings taken throughout the entire process.
3. Their canned to fresh food in the ratio of about 40 – 60%.

4. They have a host of wholesalers they can rely on for food/product.
5. They have an on – line ordering/menu system.
6. They are a member of the Greener Fields Forever and draw foods from local farms when available.
7. They are held accountable thru their Food Tickets provided with deliveries. Upon delivery, they do not just drop off the food. They go through a delivery protocol with the designated staff person at the center which includes a food check-in process and the 3rd temperature check.
8. They are very familiar and serve a “no” pork, nut, fish entre and are able to accommodate special dietary needs. Their special dietary meals come fresh daily. Other vendors provide frozen meal options that the centers would need to store, defrost, and reheat for serving.
9. They are “Serve Safe Certified” and run a very sanitary and frequently inspected kitchen, loading and delivery system. Both their onsite staff and drivers are certified.
10. A dietician reviews the menus to ensure that they meet the CACFP guidelines for preschool-aged children.
11. They will support the center directors in our reporting and auditing process for the Child and Adult Care Food Program (CACFP) in which we participate.

The term of the agreement will be for 1 year with the option to renew for 2 additional 12 month periods. Variety Food Services will provide a modest savings to the University of \$1,250 per year or \$3,750 total, when compared to the quote from Edibles Rex, the current supplier.

Upon requesting new supplier documents from Variety Food Services, it was learned that it’s CEO, John Nowak, was the spouse of Cheri Nowak, a Director in Human Resources / Client Services. While this relationship was not disclosed during the Vendor presentations, Procurement is confident that Variety would have thought it inappropriate to mention, since it would have appeared as an attempt to influence the outcome in their favor.

Since Cheri was not involved in the bid process or evaluation of proposals in any manner, and her department will have no contact or involvement with the Early Childhood Center programs, it is Procurement’s recommendation that we go forward with Variety Food Services. By entering into an agreement, Variety Food Services will receive approximately \$70,000 per year for the combined two centers, or \$210,000 over the life of the contract.

Wayne State University does not have any ownership interest in Variety Food Services.

Michigan Conflict of interest law requires specific sunshine procedures in order for a University employee, or a company owned by a University employee, to contract directly or indirectly with the University:

- (A) The employee must disclose any pecuniary interest in the contract to the Board, and the disclosure must be made a matter of record in the Board's proceedings.
- (B) The contract must be approved by a vote of not less than two-thirds of the full membership of the Board in open session.
- (C) The Board's minutes must report:
 - (i) The name of each party involved in the contract.
 - (ii) The terms of the contract, including duration, financial consideration between parties, facilities or services of the public entity included in the contract, and the nature and degree of assignment of employees of the public entity for fulfillment of the contract.
 - (iii) The nature of any pecuniary interest.

If the board approves this recommendation, the minutes will report as follows: The Board of Governors authorizes the President or his designee to contract with Variety Food Services through a standard service provider agreement issued by the Procurement department.

- (i) The parties involved in the contract are Wayne State University and Variety Food Services.
- (ii) The contract will provide that:
 - (a) Scope: Variety Food Services will provide lunches and snacks for the University's Early Childhood Centers at the College of Education (COE) and at the Merrill Palmer Skillman Institute (MPSI).
 - (b) Duration: The term of the agreement will extend through September 30, 2019, with the University option to renew for up to two additional one-year periods of service, through September 30, 2021. The agreement may be terminated by the University in the event of an uncured breach of the agreement by Variety Food Services.
 - (c) Financial Consideration: The amount of the contract is approximately \$70,000 per year for the combined two centers, or \$210,000 over the life of the contract.
 - (d) University Facilities to be Utilized: Food will be served in the Early Childhood Centers at both the College of Education and at the Merrill Palmer Skillman Institute
 - (e) Wayne State University Employees Assigned to the Services: Anna Miller from the College of Education, will function as the primary contract administrator.
- (iii) Variety Food Services is a small, for-profit entity whose CEO is John Nowak, spouse of WSU employee Cheri Nowak in the Department of Human Resources. Because of this relationship, Cheri Nowak has the potential to financially benefit from this agreement.