

State of Delaware

#2 Fuel Oil and Low Sulfur Diesel

Invitation to Bid

Contract No. GSS-MU-08-01B-15-RP

July 21, 2008

***- Deadline to Respond -
August 12, 2008
1:00 p.m. EDT***

CONTRACT NO. GSS-MU-08-01B-15-RP

ALL BIDDERS:

The enclosed packet contains an "INVITATION TO BID" for #2 Fuel Oil and Low Sulfur Diesel. The invitation consists of the following documents:

INVITATION TO BID - CONTRACT NO. GSS-MU-08-01B-15-RP

- 1 DEFINITIONS and GENERAL PROVISIONS
- 2 SPECIAL PROVISIONS and SPECIFICATIONS
- 3 BID QUOTATION REPLY SECTION
 - A - NO BID REPLY FORM
 - B - BID BOND
 - C - NON-COLLUSION STATEMENT AND ACCEPTANCE
 - D - QUOTATION SUMMARY
 - E - OFFICE OF MINORITY AND WOMEN BUSINESS ENTERPRISE (OMWBE) APPLICATION

In order for your bid to be considered, the bid quotation reply section shall be executed completely and correctly and returned in a sealed envelope clearly displaying the contract number, by Tuesday, August 12, 2008, 1:00 p.m. EDT.

Bids shall be submitted to:

**STATE OF DELAWARE
GOVERNMENT SUPPORT SERVICES
CONTRACTING SECTION
100 ENTERPRISE PLACE - SUITE 4
DOVER, DE 19904.**

Please review and follow the information and instructions contained in the general and special provisions section of the invitation. Should you need additional information, please contact Roxann Parker at Roxann.Paker@state.de.us or at 302-857-4555.

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GOVERNMENT SUPPORT SERVICES

DEFINITIONS AND GENERAL PROVISIONS

The attached Definitions and General Provisions apply to all contracts and are part of each invitation to bid. The requirement to furnish a bid bond and performance bond is applicable unless waived in the Special Provisions. Should the General Provisions conflict with the Special Provisions, the Special Provisions shall prevail. Bidders or their authorized representatives are required to fully acquaint themselves as to State procurement laws and regulations prior to submitting bid.

DEFINITIONS

Whenever the following terms are used, their intent and meaning shall be interpreted as follows:

STATE: The State of Delaware

AGENCY: State Agency as noted on cover sheet.

DESIGNATED OFFICIAL: The agent authorized to act for the Agency.

BID INVITATION: The "bid invitation" or "invitation to bid" is a packet of material sent to vendors and consists of General Provisions, Special Provisions, specifications, and enclosures.

GENERAL PROVISIONS: General Provisions are instructions pertaining to contracts in general. They contain, in summary, requirements of laws of the State, policies of the Agency, and instructions to vendors.

SPECIAL PROVISIONS: Special Provisions are specific conditions or requirements peculiar to the contract under consideration and are supplemental to the General Provisions. Should the Special Provisions conflict with the General Provisions, the Special Provisions shall prevail.

BIDDER OR VENDOR: Any individual, firm, or corporation formally submitting a proposal for the material or work contemplated, acting directly or through a duly authorized representative.

PROPOSAL: The offer of the bidder submitted on the approved form and setting forth the bidder's prices for performing the work or supplying the material or equipment described in the specifications.

SURETY: The corporate body which is bound with and for the contract, or which is liable, and which engages to be responsible for the contractor's payments of all debts pertaining to and for their acceptable performance of the work for which they have contracted.

BIDDER'S DEPOSIT: The security designated in the proposal to be furnished by the bidder as a guaranty of good faith to enter into a contract with the Agency if the work to be performed or the material or equipment to be furnished is awarded to them.

CONTRACT: The written agreement covering the furnishing and delivery of material or work to be performed.

CONTRACTOR: Any individual, firm, or corporation with whom a contract is made by the Agency.

CONTRACT BOND: The approved form of security furnished by the contractors and their surety as a guaranty of good faith on the part of the contractor to execute the work in accordance with the terms of the contract.

SECTION A - GENERAL PROVISIONS

1. **BID INVITATION:**

See "Definitions".

2. **PROPOSAL FORMS:**

The invitation to bid shall contain pre-printed forms for use by the vendor in submitting their bid. The forms shall contain basic information such as description of the item and the estimated quantities and shall have blank spaces for use by the vendor for entering information such as unit bid price, total bid price, etc.

3. **INTERPRETATION OF ESTIMATES:**

a. The attention of bidders is called to the fact that, unless stated otherwise, the quantities given in the proposal form are to be considered to be approximate only and are given as a basis for the comparison of bids. The Agency may increase or decrease the amount of any item as may be deemed necessary or expedient, during the period of the contract.

b. An increase or decrease in the quantity for any item is not sufficient ground for an increase or decrease in the unit price.

4. **SILENCE OF SPECIFICATIONS:**

The apparent silence of the specifications as to any detail, or the apparent omission from it of detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and only material and workmanship of the first quality are to be used. Proof of specifications compliance will be the responsibility of the vendor.

5. **EXAMINATION OF SPECIFICATIONS AND PROVISIONS:**

The bidder shall examine carefully the proposal and the contract forms for the material contemplated. The bidder shall investigate and satisfy themselves as to the conditions to be encountered, quality and quantities of the material to be furnished, and the requirements of the Special Provisions and the contract. The submission of a proposal shall be conclusive evidence that the bidder has made examination of the aforementioned conditions.

6. **PREPARATION OF PROPOSAL:**

a. The bidder's proposal shall be written in ink or typewritten on the form provided.

b. If items are listed with a zero quantity, bidder shall state unit price **ONLY** (intended for open end purchases where estimated requirements are not known). The proposal shall show a total bid price for each item bid and the total bid price of the proposal excluding zero quantity items.

7. **PRICES QUOTED:**

The prices quoted are those for which the material will be furnished F.O.B. Ordering Agency and include all charges that may be imposed during the period of the contract.

8. **DISCOUNT:**

No qualifying letter or statements in or attached to the proposal, or separate discounts will be considered in determining the low bid except as may be otherwise herein noted. Cash or separate discounts should be computed and incorporated into unit bid price(s).

9. **SAMPLES OR BROCHURES:**

Samples or brochures may be required by the agency for evaluation purposes. They shall be such as to permit the Agency to compare and determine if the item offered complies with the intent of the specifications.

10. **PROPOSAL GUARANTY; BID BOND:**

- a. Each bidder shall submit with their proposal a guaranty in sum equal to at least 10% of the total value of their bid, according to Delaware Code Title 29, Section 6927(a).
- b. This bid bond shall be submitted in the form of good and sufficient bond drawn upon an insurance or bonding company authorized to do business in the State of Delaware, to the State of Delaware for the benefit of the Agency, or a certified check drawn on a reputable banking institution and made payable to the Agency in the requirement amount. If Agency bond form is not utilized, the substituted bond forms must conform to the minimum of conditions specified in the Agency bond form.

11. **DELIVERY OF PROPOSALS:**

Proposals shall be delivered in sealed envelopes, and shall bear on the outside the name and address of the bidder as well as the designation of the contract. Proposals forwarded by U.S. Mail shall be sent first class to the address listed below. Proposals forwarded by delivery service other than the U.S. Mail or hand delivered must be delivered to the address listed below. All bids must clearly display the bid number on the envelope.

**STATE OF DELAWARE
Office of Management and Budget
Government Support Services, Contracting Section
100 Enterprise Place – Suite 4
Dover, DE 19904**

All proposals will be accepted at the time and place set in the advertisement. Bidder bears the risk of delays in delivery. Proposals received after the time set for public opening will be returned unopened.

12. **WITHDRAWAL OF PROPOSALS:**

A bidder may withdraw their proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.

13. **PUBLIC OPENING OF PROPOSALS:**

The bids shall be publicly opened at the time and place specified by the Agency. Bidders or their authorized representatives are invited to be present.

14. **PUBLIC INSPECTION OF PROPOSALS:**

If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions. The bidder shall include with this designation a statement that explains and supports the firm's claim that the bid items identified as confidential contain trade secrets or other proprietary data.

15. **DISQUALIFICATION OF BIDDERS:**

Any one or more of the following causes may be considered as sufficient for the disqualification of a bidder and the rejection of their proposal or proposals:

- a. More than one proposal for the same contract from an individual, firm, or corporation under the same or different names.
- b. Evidence of collusion among bidders.
- c. Unsatisfactory performance record as evidenced by past experience.
- d. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.
- e. If there are any unauthorized additions, interlineation, conditional or alternate bids or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- f. Non-attendance of mandatory pre-bid meetings may be cause of disqualification.

SECTION B - AWARD AND EXECUTION OF CONTRACT

1. CONSIDERATION OF BIDS:

- a. After the proposals have been opened, the bids will be tabulated and the results will be made available to the public. Tabulations of the bids will be based on the correct summation of items at the unit price bid.
- b. The right is reserved to waive technicalities, to reject any or all bids, or any portion thereof, to advertise for new proposals, to proceed to do the work otherwise, or to abandon the work, if in the judgment of the Agency or its agent, the best interest of the State will be promoted thereby.

2. MATERIAL GUARANTY:

Before any contract is awarded, the successful bidder may be required to furnish a complete statement of the origin, composition and manufacture of any or all of the material to be used in the contract together with such samples as may be requested for the purpose of testing.

3. AWARD OF CONTRACT:

Within thirty days from the date of opening proposals, the contract will be awarded or the proposals rejected.

4. EXECUTION OF CONTRACT:

- a. The bidder to whom the award is made shall execute a formal contract and bond within twenty days after date of official notice of the award of the contract.
- b. If the successful bidder fails to execute the required contract and bond, as aforesaid, within twenty days after the date of official notice of the award of the contract, their proposal guaranty shall immediately become forfeited as liquidated damages. Award will then be made to the next lowest qualified bidder of the work or re-advertised, as the Agency may decide.

5. REQUIREMENT OF CONTRACT BOND:

- a. Successful bidders shall furnish bond, simultaneously with the execution of the formal contract, to the State of Delaware for the benefit of the Agency with surety in the amount of 100% of the total contract award or as otherwise provided in the Special Provisions. Said bonds shall be conditioned upon the faithful performance of the contract.
- b. The bond forms shall be provided by the Agency and the surety shall be acceptable to the Agency.

6. **WARRANTY:**

The successful bidder(s) shall be required to extend any policy guarantee usually offered to the general public, FEDERAL, STATE, COUNTY, or MUNICIPAL governments, on material in this contract against defective material, workmanship, and performance.

7. **THE CONTRACT(S):**

The contract(s) with the successful bidder(s) will be executed with the Office of Management and Budget, Government Support Services acting for all participating agencies.

8. **RETURN OF BIDDER'S DEPOSIT:**

The deposits shall be returned to the successful bidder upon the execution of the formal contract. The deposits of unsuccessful bidders shall be returned to them immediately upon the awarding of the contract or rejection of their bids.

9. **INFORMATION REQUIREMENT:**

The successful bidder's shall be required to advise the Office of Management and Budget, Government Support Services of the gross amount of purchases made as a result of the contract.

10. **CONTRACT EXTENSION:**

The State reserves the right to extend this contract on a month-to-month basis for a period of up to three months.

11. **TERMINATION FOR CONVENIENCE:**

Contracts shall remain in effect for the time period and quantity specified unless the contract is terminated by the State. The State may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of termination.

12. **TERMINATION FOR CAUSE:**

If, for any reasons, or through any cause, the Contractor fails to fulfill in timely and proper manner their obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least 5 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this Contract shall, at the option of the State, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.

SECTION C - GENERAL

1. AUTHORITY OF AGENCY:

On all questions concerning the interpretation of specifications, the acceptability and quality of material furnished and/or work performed, the classification of material, the execution of the work, and the determination of payment due or to become due, the decision of the Agency shall be final and binding.

2. LAWS TO BE OBSERVED:

The contractor is presumed to know and shall strictly comply with all National, State, or County laws, and City or Town ordinances and regulations in any manner affecting the conduct of the work. The contractor shall indemnify and save harmless the State of Delaware, the Agency, and all Officers, Agency and Servants thereof against any claim or liability arising from or based upon the violation of any such laws, ordinances, regulations, orders, or decrees whether by themselves or by their employees.

3. PERMITS AND LICENSES:

All necessary permits, licenses, insurance policies, etc. required by local, State or Federal laws, shall be provided by the contractor at their own expense.

4. PATENTED DEVICES, MATERIAL AND PROCESSES:

- a. The contractor shall provide for the use of any patented design, device, material, or process to be used or furnished under this contract by suitable legal agreement with the patentee or owner, and shall file a copy of this agreement with the Agency.
- b. The contractor and the surety shall hold and save harmless the State of Delaware, the Agency, the Director, their Officers or Agents from any and all claims because of the use of such patented design, device, material, or process in connection with the work agreed to be performed under this contract.

5. EMERGENCY TERMINATION OF CONTRACT:

- a. Due to restrictions which may be established by the United States Government on material, or work, a contract may be terminated by the cancellation of all or portions of the contract.
- b. In the event the contractor is unable to obtain the material required to complete the items of work included in the contract because of restrictions established by the United States Government and if, in the opinion of the Agency, it is impractical to substitute other available material, or the work cannot be completed within a reasonable time, the incomplete portions of the work may be cancelled, or the contract may be terminated.

6. **TAX EXEMPTION:**

- a. Material covered by this proposal is exempt from all FEDERAL and STATE TAXES. Such taxes shall not be included in prices quoted.
- b. Any material which is to be incorporated in the work or any equipment required for the work contemplated in the proposal may be consigned to the Agency. If the shipping papers show clearly that any such material is so consigned, the shipment will be exempt from the tax on the transportation of property under provisions of Section 3475 (b) of the Internal Revenue Code, as amended by Public Law 180 (78th Congress). All transportation charges shall be paid by the contractor. Each bidder shall take their exemption into account in calculating their bid for their work.

7. **OR EQUAL (PRODUCTS BY NAME):**

Specifications of products by name are intended to be descriptive of quality or workmanship, finish and performance. Desirable characteristics are not intended to be restrictive. Substitutions of products for those named will be considered provided the vendor certifies that the function, characteristics, performance and endurance qualities of the material offered is equal or superior to that specified.

8. **BASIS OF AWARD:**

The Office of Management and Budget, Government Support Services will award this contract to the lowest responsible bidder(s) which in their judgment best serves the interest of the State of Delaware in accordance with Delaware Code Title 29, Section 6923(k). Personnel with experience and technical background may be utilized by the Office of Management and Budget, Government Support Services in making judgment. In case of error in price extension, the unit price(s) shall prevail.

9. **INVOICING:**

After the awards are made, the agencies participating in the bid may forward their purchase orders to the successful bidder(s) in accordance with State Purchasing Procedures. The State will generate a payment voucher upon receipt of an invoice from the vendor.

SECTION D - EQUAL OPPORTUNITY

1. EQUALITY OF EMPLOYMENT OPPORTUNITY ON PUBLIC WORKS:

During the performance of any contract for public works financed in whole or in part by appropriation of the State of Delaware, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated equally during employment without regard to their race, creed, color, sex, age, or national origin. Such action shall include, but not be limited to the following: advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training including apprenticeships. The contractor agrees to post in conspicuous places, notices to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, age, or national origin.
- c. The term "contractor for public works" means construction, reconstruction, demolition, alteration, and/or repair work, maintenance work, and paid for in whole or in part out of the funds of a public body except work performed under a vocational rehabilitation program. The manufacture or furnishing of materials, articles, supplies or equipment is not a public work within the meaning of this subsection unless conducted in connection with and at the site of the public work.

Revised 01/16/07

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

SPECIAL PROVISIONS

1. **CONTRACT REQUIREMENTS:**

This contract will be issued to cover the #2 Fuel Oil and Low Sulfur Diesel requirements for all State Agencies and shall be accessible to any School District, Political Subdivision, or Volunteer Fire Company.

2. **MANDATORY USE CONTRACT:**

REF: Title 29, Chapter 6911(d) Delaware Code. Every state department and agency within the Executive Branch and Judicial Branch of the state government shall procure all material, equipment and nonprofessional services through the statewide contracts administered by Government Support Services, Office of Management and Budget. Delaware State University, Delaware Technical and Community College, the operations funded by Public School Districts, Delaware Transit Corporation, Department of Elections, the Legislative Branch and the Board of Pension Trustees and their consultants are specifically exempted from the requirements of this subsection.

3. **CONTRACT PERIOD:**

Each vendor's contract shall be valid for a one (1) year period from November 1, 2008 through October 31, 2009. Each contract may be renewed for two (2) one (1) year extension periods, through negotiation between the contractor and Government Support Services. Negotiation must be initiated no later than ninety (90) days prior to the termination of the current agreement.

4. **PRICES:**

Prices shall remain firm for the term of the contract.

A. **Floating Price:**

Prices quoted shall be on a per gallon basis for each type of fuel. The price shall correspond to the OPIS closing Unbranded Rack Average referenced under the Gross No. 2 Distillate Prices for the Philadelphia harbor.

Added to the daily index shall be the delivery charge per gallon for each particular zone. **The delivery charge shall remain firm for the duration of the contract.**

After award, Government Support Services reserves the right to switch to fixed-price by mutual agreement.

The invoiced price shall be the price in effect on the date of delivery based on the OPIS closing Unbranded Rack Average. In the event that a delivery is late at the fault of the vendor, the ordering agency at its option may request that the invoice reflect the daily index price for the promised delivery date rather than the actual delivery date had the index gone up during that time period.

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A. Floating Price: (continued)

NOTE: If delivery is made on a weekend, and the weekend is a holiday, the price per gallon shall be based on the previous day.

The quotation response shall reflect the closing rack prices for each type of fuel based on the OPIS Unbranded Rack Average for **Friday, August 1, 2008**.

Your invoiced prices SHALL be exclusive of all Federal and State taxes, with the exception of the following:

1. The National Oilheat Research Alliance (NORA) Tax. This tax is on the No. 2 Fuel Oil **ONLY**. The fee is due on sales to consumers who use the No. 2 Fuel to heat space, whether by forced air or boilers, or water. The tax is on the per gallon price. The tax shall be billed as a separate line item on all invoices. The current rate is \$.002 (2/10 of a cent or twenty points). (.002 x per gal. price)
2. The Delaware Hazardous Substance Clean-up Tax. This tax is on the Low Sulfur Diesel Fuel **ONLY**. The current rate is .009. The tax is on the dollar amount of the invoice, not on the per gallon price. (.009 X amount of invoice).
3. The Federal LUST Tax shall also be billed as a separate line item on all invoices. This tax is on the per gallon price and not the total dollar amount of the invoice. (.001 x per gallon price).

B. Fixed Price:

Government Support Services shall consider the option of awarding the contract based on a Fixed Price. Prices quoted shall be effective **November 1, 2008**. Delivery charges for each particular zone shall be added. Delivery charges shall remain firm for the duration of the contract.

The conditions by which a fixed price contract can be entered into must be clearly stated in your proposal. Failure to offer a fixed price alternative will not preclude your bid based on a daily index from being considered. However, if Government Support Services decides to enter into a fixed price contract, your bid would then be considered to be Non-Responsive.

C. Delivery Price:

The delivery prices quoted regardless of quantity and method shall be on a per gallon basis and will include delivery to the locations shown on the spreadsheets referenced as **Exhibit A** and shall remain firm for the duration of the contract. It should be understood that there might be tanks to be serviced which do not appear on the list. The State reserves the right to add or delete locations as deemed necessary.

5. MOST-FAVORED CUSTOMER:

The contractor shall not offer to others prices lower than those provided in the contract, or if lower prices are offered they must also apply to the subject contract.

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Office of Management and Budget
Government Support Services

6. **PRICE ADJUSTMENT:**

If agreement is reached to extend this contract for the second, optional year, the Division of Government Support Services shall have the option of offering a determined price adjustment and shall not exceed the current Philadelphia All Urban Consumers Price Index (CPI-U), U.S. City Average. If the CPI-U is used, any increase/decrease shall reflect the change during the previous published twelve (12) month period at the time of renegotiation.

7. **SHIPPING TERMS:**

F.O.B. destination; freight pre-paid.

8. **QUANTITIES:**

The attention of bidders is called to the fact that, unless stated otherwise, the quantities given in the proposal are best estimates and are given as a basis for the comparison of bids. Quantities ordered may be increased or decreased by any eligible agency as deemed necessary during the period of the contract.

9. **FUNDING OUT:**

The continuation of this contract is contingent upon funding appropriated by the legislature.

10. **BID BOND REQUIREMENT:**

A. Bid Bond Waived.

11. **PERFORMANCE BOND REQUIREMENT:**

A. Performance Bond Waived

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

12. **MANDATORY INSURANCE REQUIREMENTS:**

A. Certificate of Insurance and/or copies of insurance policies for the following:

1. As a part of the contract requirements, the contractor must obtain at its own cost and expense and keep in force and effect during the term of this contract, including all extensions, the minimum coverage limits specified below with a carrier satisfactory to the State. All contractors must carry Comprehensive General Liability and at least one of the other coverages depending on the type of service or product being delivered.
 - a. Comprehensive General Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.

and

 - b. Medical/Professional Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.

or

 - c. Miscellaneous Errors and Omissions - \$1,000,000.00 per person/\$3,000,000 per occurrence.

or

 - d. Product Liability - \$1,000,000.00 per person/\$3,000,000 per occurrence.
2. Automotive Liability Insurance covering all automotive units used in the work with limits of not less than \$100,000 each person and \$300,000 each accident as to bodily injury and \$25,000 as to property damage to others.
3. Forty-five (45) days written notice of cancellation or material change of any policies is required.

**Administrator, Government Support Services
Contract No. GSS-MU-08-01B-15-RP
State of Delaware
100 Enterprise Place, Suite 4
Dover, DE 19904**

Note: The State of Delaware shall not be named as an additional insured.

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

I. INTRODUCTION

Contract Users' spending encompasses #2 Fuel Oil and Low Sulfur Diesel during a one year period. The contract award will be determined by the Office of Management and Budget, Government Support Services, in accordance with Title 29, Section 6924.

II. FORMAT FOR INVITATION TO BID:

A. NUMBER OF COPIES WITH MAILING OF PROPOSAL:

Two (2) copies of the Proposal will be submitted in a sealed envelope clearly marked with the name of the offeror and labeled GSS-MU-08-01B-15-RP, #2 Fuel Oil and Low Sulfur Diesel. One of the copies shall be marked "Master Copy" and will contain original signatures in all locations requiring an offeror signature. The remaining copy does not require original signatures. (Two (2) hard copies of your response with two (2) CD's or Diskettes with the completed Excel and Word files must be received).

The State reserves the right to reject any proposals that are not received by this date and time.

The State reserves the right to award the proposed contract to multiple suppliers if the Head of the Agency determines that such an award is in the best interest of the State.

B. DETAILED REQUIREMENTS:

The requirements of this ITB are shown in Appendix A, attached, and made a part of the contract.

C. ATTACHMENTS:

**Appendix A (Pricing Grid in Excel Format).
Exhibit A Excel Spreadsheet (Tank locations and quantities used)**

SCOPE OF WORK DETAILS

III. The completed proposal includes:

- Completed Appendix A comprises the first portion regarding pricing. **Two (2)** hard copies of your response, **the completed excel and Word files.**
- Bid Quotation Reply Section – Appendix A in Excel format
- Delaware Minority and Women Business Enterprise Certification Form and Guidelines (if appropriate)

IV. Additional Guidelines:

- No service fees or additional costs will be invoiced to Contract Users by the Supplier during the term of this agreement (except as described in this ITB or mutually agreed upon in writing)

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

Additional Guidelines (continued)

- Write your company name on the label of the CD or diskettes
- **Do not make any changes to the electronic Excel file formats, including adding rows or columns, changing column headers, and inputting text in numeric fields. Comments made on the spreadsheets will be ignored. The excel grids will be locked so that data can be input but format changes can not be made**
- Save your changes under the same filename. Print hard copies of each spreadsheet to accompany your bid.
- If your company would like to include additional information that would be useful in the evaluation process, you may do so as separate, clearly labeled attachments.
- Enter all information directly into the relevant Excel spreadsheet cells in “number” (two-place decimal), not “currency” or other format unless otherwise stated. That is, omit dollar signs, commas, and any other non-essential symbols. (e.g., \$7.90 should be entered as “7.90”.) Prices must be: In US Dollars.
- Enter “n/a” to indicate not available or “0” if there is no charge. Cells left blank will be interpreted as “no bid”.

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

13. **BASIS OF AWARD:**

Government Support Services shall award this contract to the lowest responsible and responsive bidder(s) who best meets the terms and conditions of the bid. The award will be made on basis of price, product evaluation, and prior history of service and capability.

Government Support Services reserves the right to reject any or all bids in whole or in part, to make multiple awards, partial awards, award by types, item by item, or lump sum total, whichever may be most advantageous to the State of Delaware.

14. **STATE OF DELAWARE BUSINESS LICENSE:**

Prior to receiving an award, the successful vendor shall either furnish Government Support Services with proof of State of Delaware Business Licensure or initiate the process of application where required. An application may be requested in writing to: Division of Revenue, Carvel State Building, P.O. Box 8750, 820 N. French Street, Wilmington, DE 19899 or by telephone to one of the following numbers: (302) 577-8201 - Public Service, (302) 577-8205 - Licensing Department.

Information regarding the award of this contract will be given to the Division of Revenue. Failure to comply with the State of Delaware licensing requirements may subject your organization to applicable fines and/or interest penalties.

15. **HOLD HARMLESS:**

The successful bidder agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the successful bidder, its employees, and invitees on or about the premises and which arise out of the successful bidder's performance, or failure to perform as specified in the Agreement.

16. **NON-PERFORMANCE:**

In the event the vendor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the vendor. Under no circumstances shall monies be due the vendor in the event open market products can be obtained below contract cost. Any monies charged to the vendor may be deducted from an open invoice.

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17. **FORCE MAJEURE:**

Neither the vendor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

18. **CONTRACTOR NON-ENTITLEMENT:**

State of Delaware Contractors for Materiel and for Services shall not have legal entitlement to, nor seek business from another Contractors' Central Contract. Additionally, they shall not utilize other Central Contracts to fulfill the requirements of their respective contract as they are not a "Covered Agency" as defined by Title 29 Chapter 69 of the State Procurement Code.

19. **EXCEPTIONS:**

Bidders may elect to take minor exception to the terms and conditions of this ITB. Government Support Services shall evaluate each exception according to the intent of the terms and conditions contained herein, but Government Support Services must reject exceptions that do not conform to State bid law and/or create inequality in the treatment of bidders. Exceptions shall be considered only if they are submitted with the bid or before the date and time of the bid opening.

20. **MANDATORY USAGE REPORT:**

One of the primary goals in administering this contract is to keep accurate records regarding its actual value. This information is essential in order to update the contents of the contract and to establish proper bonding levels if they are required. The integrity of future contracts revolves around our ability to convey accurate and realistic information to all interested bidders.

A report shall be furnished by the successful contractor **MONTHLY Electronically in Excel format** detailing the purchasing of all items on this contract. The format to be followed is described herein and shall be filed within fifteen (15) days after the end of each reporting period. Any exception to this mandatory requirement may result in cancellation of the award. Failure to provide the report with the minimum required information may also negate any contract extension clauses. Additionally, contractors who are determined to be in default of this mandatory report requirement may have such conduct considered against them, in assessment of responsibility, in the evaluation of future proposals. Vendors not having activity during a specific month, shall reply with a "no activity" if there is no activity during the reporting period.

The report shall be submitted electronically in EXCEL and sent as an attachment to insert email. It shall contain the six-digit department and organization code and the UNSPSC codes.

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

21. **BUSINESS REFERENCES:** (Incumbent's Excluded)

In order to have your bid considered, please supply three (3) business references consisting of current or previous customers with your reply. Please include name, address, telephone number, and a contact person.

22. **ORDERING PROCEDURE:**

Successful contractors are required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Each agency is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

23. **BILLING:**

The successful vendor is required to "Bill as Shipped" to the respective ordering agency(s). Ordering agencies shall provide contract number, ship to and bill to address, contact name and phone number.

24. **PAYMENT:**

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt of a correct invoice. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

25. **PRODUCT SUBSTITUTION:**

All items delivered during the life of the contract shall be of the same type and manufacture as specified or accepted as part of the bid proposal unless specific approval is given by Government Support Services to do otherwise. However, awarded vendors are highly encouraged to offer any like substitute product (s); either generic or brand name, at any time during the subsequent contract term, especially if an opportunity for cost savings to the state exists. In such cases, the state may require the submission of written specifications and/or product samples for evaluation prior to any approvals being granted.

26. **BID/CONTRACT EXECUTION:**

Both the non-collusion statement that is enclosed with this Invitation to Bid/Request for Proposal and the contract form delivered to the successful bidder for signature **MUST** be executed by a representative who has the legal capacity to enter the organization into a formal contract with the State of Delaware, Government Support Services.

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

27. **CONTRACTOR RESPONSIBILITY:**

The State will enter into a contract with the successful contractor. The successful contractor shall be responsible for all products and services as required by this ITB. Subcontractors, if any, shall be clearly identified in the financial proposal.

28. **PERSONNEL:**

- a. The Contractor represents that they have, or will secure at their own expense, all personnel required to perform the services required under this contract.
- b. All of the services required hereunder shall be performed by the Contractor or under their direct supervision, and all personnel, including subcontractors, engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
- c. None of the work or services covered by this contract shall be subcontracted without the prior written approval of the State.

29. **LIFE CYCLE COSTING:**

If applicable, the specifications contained within this ITB have been developed through Life Cycle Cost Analysis that will allow the State to realize the lowest total cost of ownership and operation over the useful life of the equipment.

30. **ENERGY STAR PRODUCTS:**

The contractor **must** provide products that earn the ENERGY STAR rating and meet the ENERGY STAR specifications for energy efficiency. The offeror is encouraged to visit www.energystar.gov for complete product specifications and updated lists of qualifying products.

31. **TERMINATION FOR CONVENIENCE:**

Contracts shall remain in effect for the time period and quantity specified unless the contract is terminated by the State. The State may terminate the contract at any time by giving written notice of such termination and specifying the effective date thereof, at least sixty (60) days before the effective date of termination.

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

32. **TERMINATION FOR CAUSE:**

If, for any reasons, or through any cause, the Contractor fails to fulfill in timely and proper manner their obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least 5 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this Contract shall, at the option of the State, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.

33. **VENDOR EMERGENCY RESPONSE POINT OF CONTACT:**

The awarded vendor(s) shall provide the name(s), telephone, or cell phone number(s) of those individuals who can be contacted twenty four (24) hours a day, seven (7) days a week where there is a critical need for commodities or services when the Governor of the State of Delaware declares a state of emergency under the current Delaware Emergency Operations Plan. Failure to provide this information could render the bid as non-responsive.

34. **ELECTRONIC CATALOG:**

The successful vendor(s) may be required to submit their items list in electronic format designated by the State.

Note: The State of Delaware is in the process of implementing a new financials system, which will require the use of:

- Electronic catalogs
- Commodity/classification code: United Nations Standard Products and Services Code (UNSPSC).
- A unique item ID for all items in our system

The state has made the determination to include the requirement in this contract for two reasons:

1. To find out what vendors can offer.
2. To give the agencies and school districts a level of comfort in using electronic catalogs.

TECHNICAL SPECIFICATIONS

1. **DELIVERY REQUIREMENTS/RESTRICTIONS:**

Delivery of product shall be made by metered truck, be accompanied with a printed meter slip, which clearly indicates the quantity delivery, and be free from residues or contaminates from previous loads. Each agency shall make its own arrangement with the supplier with regard to how delivery tickets shall be handled.

The following information shall be supplied at the time of each delivery of product:

1. Name of supplier.
2. The type of fuel being delivered.
3. Percent of sulfur in fuel.
4. Method used to determine sulfur content.

All tanks, 5,000 gallon and over shall be filled by the submerged fill method and the contractor shall provide written certification at the time of delivery. Failure to provide the certification may result in the termination of the contract.

Submerged Filling: Filling of a tank truck or stationary tank through a pipe or hose whose discharge opening is entirely submerged when the liquid level is six inches above the bottom of the tank.

Deliveries to all Department of Transportation locations in New Castle, Kent and Sussex Counties will be made between the hours of 8:00 a.m., and 3:00 p.m., Monday through Friday, unless otherwise requested for emergencies.

Deliveries to the Division of Facilities Management buildings in New Castle, Kent and Sussex Counties will be made between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Delivery hours for ordering schools and agencies shall be from 7:00 a.m., to 5:00 p.m., Monday through Friday.

NOTE: If delivery is made on a weekday, and the weekday is a holiday, the price per gallon shall be based on the previous day.

2. **ORDERING PROCEDURE:**

Each agency is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. Successful contractors are required to have either a local telephone number within the (302) area code, a toll free 800 number, or agree to accept collect calls. During the heating season contractors must make provisions for accepting orders on a 7 day per week/24 hour basis.

Order for product may be on a "will call" basis or an "automatic delivery" system may be set up. Automatic deliveries shall be established between the contractor and the ordering agency only after specific information regarding the account has been realized.

TECHNICAL SPECIFICATIONS

3. **MINIMUM DELIVERY:**

Minimum delivery shall not be less than 100 gallons into one (1) tank on tank wagon deliveries. The minimum order for Motor Transport Deliveries shall be 5,000 gallons. Purchasing of less than minimums qualify for contract pricing at the vendor's discretion, including tank top-offs for tank testing. However, in no case shall pricing exceed the contractor's normal retail pricing for purchasing of less than 100 gallons, regardless of delivery circumstances.

4. **DELIVERY RESPONSE REQUIREMENT:**

A. Normal Delivery - All deliveries shall be completed by the end of the day following the date of the verbally given order or the day after receiving a written purchase order. "End of the day" is defined as 5:00 p.m. **Agencies are responsible for obtaining samples of product from each tank prior to delivery into the facilities tank.**

B. Emergency Delivery - If an agency determines itself to be out of fuel or in an impending out of fuel condition, the ordering agency may "DECLARE AN EMERGENCY". Under those extreme conditions delivery must be made within eight (8) hours of the "DECLARATION".

C. Automatic Delivery - Keeping the tank filled shall be the responsibility of the contractor. It is expected that these accounts shall have the highest priority for service should they be allowed to reach an emergency situation.

Contractor(s) who repeatedly allow a tank on Automatic Delivery to run out of fuel shall be liable for all cost incurred for the repair of the tank and associated equipment. It may also result in the termination of their contract.

5. **LATE DELIVERY/VENDOR-AGENCY RESPONSIBILITIES:**

During the peak of the heating season situations arise that make it difficult to comply with the delivery response requirements. As soon as the contractor determines that the delivery will be late the following steps shall be taken:

A. Contractor shall contact the ordering agency and confirm a realistic delivery time. The agency must then determine if that is acceptable. If the projected delivery time is unacceptable then:

B. Contractor may select another distributor who is able to make the delivery on time. The ordering agency must then give permission to the contractor for this alternative. Contracted pricing and invoicing shall be the responsibility of our contracted vendor.

C. If the contractor fails to contact the ordering agency regarding a late delivery or if another distributor cannot be mutually secured in order to make an on time delivery, then the ordering agency may after it determines that a critical situation exists, place an order on the open market. In that situation the contractor shall pay the consequences as stated on page 19, paragraph No. 16 - Non-Performance.

TECHNICAL SPECIFICATIONS

LATE DELIVERY/VENDOR-AGENCY RESPONSIBILITIES: (Continued)

D. It shall be the responsibility of both the contractor and the ordering agency to establish a contact person and telephone number in order to handle late delivery situations.

These requirements are designed to help open communications between the agencies and the contractor. They are not designed to open the door for SUB-CONTRACTING deliveries.

6. **SPILLAGE:**

All spillages must be corrected on an immediate basis to the satisfaction of the ordering agency. All associated cost including materials and labor shall be borne by the contractor. Damage resulting from a spillage shall be the responsibility of the contractor. The contractor shall immediately notify the below listed office of all spillages:

Division of Air and Waste Management
24 hour Hotline
In State Phone No.: 800-662-8802
In/Out of State Phone No.: (302) 739-5072

7. **FUEL QUALITY:**

The quality of the Fuel Oils offered, by the bidder(s) for this Contract shall comply with the current ASTM Standard Specifications for Fuel Oils; Designation D396-92, or the most current edition thereof.

The No. 2 Fuel Oil and the Low Sulfur Diesel fuel supplied must also meet the EPA Testing Standard by using one (1) of the following ASTM methods: D129, D1552, D2622, or D4294 or the most current editions thereof. These standards are used to determine the percent of Sulfur in the Fuel.

The fuel supplied under contract shall consist of petroleum-derived products. Suppliers and their sources are prohibited from adulterating the fuel with waste crankcase lubricants or similar products. Blending of various compatible grades of fuel oil is permitted; however, the product formed by the blending shall comply with all requirements and specifications of ASTM designation.

The sulfur content shall not exceed 0.3% maximum for the No. 2 Fuel Oil and 0.05% maximum for Low Sulfur Diesel. The sulfur content shall be based on fuel oil certifications from either the fuel supplier or an independent testing firm.

8. **PRODUCT QUALITY/TESTING/LIABILITY:**

A. Product sold to Agencies, School Districts and other facilities purchasing under the terms and conditions of this contract shall be tested according to the procedures and specifications outlined by ASTM designation D396-92, or any subsequent revision. Additionally, ASTM D2622 will be used as the basis for enforcement of any Sulfur content violations.

STATE OF DELAWARE
Office of Management and Budget
Government Support Services

TECHNICAL SPECIFICATIONS

PRODUCT QUALITY/TESTING/LIABILITY: (Continued)

B. The purchasing facility shall obtain a sample of product from each tank truck prior to delivery into the facility's storage tank. Samples will be obtained and stored in a manner that precludes contamination by foreign substances.

C. Periodically, retained product samples shall be submitted to an independent laboratory for testing according to the noted procedures and specifications. Samples will also be tested if changes in, or problems with, burner or boiler operation or performance point to a specific need for confirmation of product quality.

D. From time to time, at the direction of the Division of Facilities Management Energy Office, samples of product shall be obtained from Contractor's tank trucks. The samples obtained for the Energy Office will be subject to the tests and specifications noted in paragraph A. If product tested for the Energy Office fails to meet specifications, the contractor shall be subject to the same liabilities associated with the outcome of test performed for the purchasing agencies.

E. The contractor shall be liable if product fails to meet specification. Liability shall include, but is not limited to, the cost of burner or boiler service, materials, parts replacement, labor, the cost of property damage such as broken water lines and/or steam lines resulting from burner shut down and time lost due to building closure. Liability shall also include the cost of product remaining in the tank, storage tank.

F. If, during testing, it is determined that moisture and sediment and/or ash content exceed specifications limits (as a % of Weight), the contractor will credit the purchasing facility according to the following calculation.

$$\% \text{ Ash}^* + \% \text{ Moisture \& Sediment}^{**} \times \text{Purchase Quantity} \times \$ * \% \text{ Ash} = \text{Measured Ash} \\ (\% \text{Weight}) - \text{Maximum Allowable Ash} (\% \text{Weight})$$

$$\% \text{ Moisture \& Sediment} = \text{Measured Moisture \& Sediment} (\% \text{ Volume}) - \text{Maximum} \\ \text{Allowable Moisture \& Sediment} (\% \text{ Volume})$$

G. The contractor will bear the cost of laboratory testing if samples fail to meet specifications.

H. In the event liabilities are assessed against the contractor, the purchasing agency may deduct the amount assessed from unpaid invoices prior to payment.

I. The diesel fuel must contain the non-taxable red dye as required by Internal Revenue Service (IRS) regulations.

BID QUOTATION REPLY SECTION

CONTRACT NO. GSS-MU-08-01B-15-RP

#2 Fuel Oil and Low Sulfur Diesel

Please fill out the attached forms fully and completely and return with your bid in a sealed envelope clearly displaying the contract number to Government Support Services by Tuesday, August 12, 2008 at 1:00 p.m. EDT at which time bids will be opened.

Bids shall be submitted to:

**STATE OF DELAWARE
GOVERNMENT SUPPORT SERVICES
CONTRACTING SECTION
100 ENTERPRISE PLACE - SUITE 4
DOVER DE 19904**

PUBLIC BID OPENINGS

The public bid opening insures the citizens of Delaware that contracts are being bid fairly on a competitive basis and comply with Delaware procurement laws. The agency conducting the opening is required by law to publicly open the bids at the time and place specified and the contract shall be awarded within thirty (30) days thereafter. The main purpose of the bid opening is to reveal the name(s) of the bidders(s), not to serve as a forum for determining the apparent low bidders. The disclosure of additional information, including prices, shall be at the discretion of the contracting agency until such time that the responsiveness of each bid has been determined.

After receipt of a fully executed contract(s), the Delaware public and all bidders are invited to make an appointment with the contracting officer in order to review pricing and other non-confidential information.

NOTE: ONLY THE BIDDER'S NAME WILL BE READ AT THE BID OPENING

STATE OF DELAWARE
OFFICE OF MANAGEMENT AND BUDGET
GOVERNMENT SUPPORT SERVICES
CONTRACTING SECTION
100 ENTERPRISE PLACE – SUITE 4
DOVER, DELAWARE 19904

NO BID REPLY FORM

BID #GSS-MU-08-01B-15-RP

BID TITLE: #2 Fuel Oil and Low Sulfur Diesel

To assist us in obtaining good competition on our Request for Bids, we ask that each firm that has received an invitation, but does not wish to bid, state their reason(s) below and return in a clearly marked envelope displaying the contract number. This information will not preclude receipt of future invitations unless you request removal from the Bidder's List by so indicating below, or do not return this form or bona fide bid.

Unfortunately, we must offer a "No Bid" at this time because:

- 1. We do not wish to participate in the bid process.
- 2. We do not wish to bid under the terms and conditions of the Request for Bid document. Our objections are:

- 3. We do not feel we can be competitive.
- 4. We cannot submit a Bid because of the marketing or franchising policies of the manufacturing company.
- 5. We do not wish to sell to the State. Our objections are: _____

- 6. We do not sell the items/services on which Bids are requested.
- 7. Other: _____

FIRM NAME

SIGNATURE

- We wish to remain on the Bidder's List **for these goods or services.**
- We wish to be deleted from the Bidder's List **for these goods or services.**

CONTRACT NO.: GSS-MU-08-01B-15-RP
TITLE: #2 Fuel Oil and Low Sulfur Diesel
OPENING DATE: Tue., August 12, 2008 1:00 p.m. EDT

NON-COLLUSION STATEMENT

This is to certify that the undersigned bidder has neither directly nor indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this bid submitted this date to Government Support Services.

It is agreed by the undersigned bidder that the signed delivery of this bid represents the bidder's acceptance of the terms and conditions of this Invitation to Bid including all specifications and special provisions.

NOTE: Signature of the authorized representative **MUST** be of an individual who legally may enter his/her organization into a formal contract with the State of Delaware, Government Support Services.

COMPANY NAME _____

Check one)	
<input type="checkbox"/>	Corporation
<input type="checkbox"/>	Partnership
<input type="checkbox"/>	Individual

NAME OF AUTHORIZED REPRESENTATIVE
(Please type or print) _____

SIGNATURE _____ TITLE _____

COMPANY ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

FEDERAL E.I. NUMBER _____ STATE OF DELAWARE LICENSE NUMBER _____

	(circle one)		(circle one)		(circle one)				
COMPANY CLASSIFICATIONS: CERT. NO. _____	<u>Women Business Enterprise (WBE)</u>	Yes	No	<u>Minority Business Enterprise (MBE)</u>	Yes	No	<u>Disadvantaged Business Enterprise (DBE)</u>	Yes	No

[The above table is for information and statistical use only.]

PURCHASE ORDERS SHOULD BE SENT TO:
(COMPANY NAME) _____

ADDRESS _____

CONTACT _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

AFFIRMATION: Within the past five years, has your firm, any affiliate, any predecessor company or entity, owner, Director, officer, partner or proprietor been the subject of a Federal, State, Local government suspension or debarment?

YES _____ NO _____ if yes, please explain _____

THIS PAGE SHALL BE SIGNED, NOTARIZED AND RETURNED FOR YOUR BID TO BE CONSIDERED

SWORN TO AND SUBSCRIBED BEFORE ME this _____ day of _____, 20 _____

Notary Public _____ My commission expires _____

City of _____ County of _____ State of _____



State of Delaware

Office of Minority and Women Business Enterprise Certification Application



Complete application and mail to:

Office of Minority and Women Business Enterprise (OMWBE)
Haslet Armory
122 William Penn Street
Dover, DE 19901
Telephone: (302)739-4206 Fax: (302)739-1965
Email: deomwbe@state.de.us
Website: www.state.de.us/omwbe

Important Information Please Read!

Is my firm eligible?

A minority and/or women owned business (sole-proprietorship, partnership, corporation or joint venture) must meet the following criteria:

- a) Minority groups include: African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans.
 - b) At least 51 percent owned, controlled and actively managed by minority group members or by women.
 - c) Serving a for profit business with “useful business functions.”
- An out-of-state company must first **be certified in its home state** before it can be considered for certification in Delaware. This must be a state-level certification, if available.
 - There is no fee for processing your application. In addition, free assistance is available. If you have questions about the application or your company’s qualifications, call (302)739-4206.
 - If your business is certified by **Delaware Department of Transportation (DelDOT) City of Wilmington, Minority Supplier Development Council (MSDC), Women Business Enterprise National Council (WBENC) and located in Delaware**, there is a specialized shortened application. You must also attach a copy of your certification and mail all documents to the OMWBE.
 - Also, please note that it is extremely important to provide other certifying agency documentation. This can expedite the certification process.

Document Request checklist

- **Unless otherwise indicated, copies of documents are sufficient.**
- **Any deficiency may delay the certification process.**
- **Certification generally takes four to six weeks.**
- **An on-site visit.** *(The OMWBE office may schedule an on-site visit once the completed application and appropriate supporting documentation have been received).*

Documents to attach to your application	Sole Prop	Part/LLP	Corp/S-Corp	LLC	OMWBE Use
Notarized Minority and Women Business Enterprise Affidavit form	Yes	Yes	Yes	Yes	
Copy of birth certificate, permanent resident card, passport or tribal memberships	Yes	Yes	Yes	Yes	
Last two years of your firm's tax returns (gross receipts). If not available, last two years W2 and/or 1099 forms for all owners, directors, officers and senior management.	Yes	Yes	Yes	Yes	
Copy of MBE/WBE certification from home state, if company headquarters are not in Delaware. (must be a state level certification, if available)	Yes	Yes	Yes	Yes	
Copies of any relevant licenses, certificates of training and degrees held by the company or its owners/employees	Yes	Yes	Yes	Yes	
Partnership Agreement, including any amendments, buy-out rights as well as any profit sharing arrangements		Yes			
Articles of Incorporation with all amendments		Yes			
Minutes of the last annual shareholders meeting		Yes			
By-laws and By-law Amendments		Yes			
Copy of most recent Stock Ledger		Yes			
Copy of Certificate of Organization				Yes	
Copy of Operating Agreement				Yes	

Delaware Minority and/or Women Business Enterprise Certification

Certification Application

The following is the application for Minority and/or Women Business Enterprise (MWBE) certification with the State of Delaware. All questions must be answered. Please type or print clearly.

Questions that do not apply to your firm should be marked N/A in the space provided.

The Affidavit on page 14 must be signed and notarized by a Notary Public. Faxed copies of the Affidavit will only be accepted if the notary seal has the stamped seal with the expiration date visible. Otherwise, mail the original Affidavit with the raised seal to our office.

Please return the completed application with signature and required notarization to the address below:

**Office of Minority and Women
Business Enterprise
Haslet Armory
122 William Penn Street
Dover, DE 19901**

Phone: (302) 739-4206

Fax: (302) 739-1965

Web site: www.state.de.us/omwbe

Definitions

Minority and/or Women Business Enterprise

A Minority and Women Business Enterprise is a business that is at least 51 percent owned, controlled and actively managed by minority and/or women group members who are United States citizens or persons lawfully admitted to the United States for permanent residence.

The business must be a for-profit business and currently be performing a useful function.

Minorities – United States citizens or permanent residents who are African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, Subcontinent Asian Americans, or as defined herein:

African (Black) Americans. All persons having origins from any of the Black groups of Africa and all persons having origins in any of the original peoples of the Cape Verde Islands.

Asian/Pacific Americans. All persons having origins from any of the original peoples of the Far East, Asia, or the Pacific Islands, including China, Japan, Korea, Samoa, Philippine Islands, and Hawaii. Guam, the U.S. Trust Territories of the Pacific or the Northern Marinas.

Hispanic Americans. Persons having origins from any of the Spanish-speaking peoples of México, Puerto Rico, Cuba, Central or South America, or the Caribbean Islands.

Native Americans. All persons having origins from the original peoples of North America and who are recognized as Native Americans by a tribe or tribal organization.

Subcontinent Asian Americans. All persons whose ancestors originated in India, Pakistan or Bangladesh.

Certification - A determination by the OMWBE that a for-profit business entity is a Minority Business Enterprise (MBE) and/or Women Business Enterprise (WBE).

Definitions

Ownership

The minority or woman ownership interest in the firm must be real, substantial and continuing and shall go beyond the pro forma ownership of the business as reflected in its ownership documents. The minority and women owners shall enjoy the customary incidents of ownership and shall share in the risks and profits commensurate with their ownership interest as demonstrated both by an examination of the substance and form of arrangements.

Control

Control will be exemplified by possession of the requisite knowledge and expertise to run the particular business. Control includes the authority to determine the direction of a business, including but not limited to capital investments and all other financial transactions; property acquisitions; day-to-day decisions; contract negotiations; legal matters; selection and hiring of officers, directors, and employees; operating responsibility; cost-control; income and dividend matters; and the rights of other shareholders or partners.

The minority and/or women owners must hold the highest officer position in their companies, example chief executive officer or president.

The minority and/or women must demonstrate that they possess the experience, expertise and knowledge to operate their particular types of business.

Expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the company is insufficient to demonstrate control. Women and/or minority owners must also verify that they hold any licenses or certification required by the type of business in which they are engaged.

Definitions

Minority Business Enterprise (MBE) - A for profit business in which at least 51% of the beneficial ownership interest and control are held by a minority or minorities. In the case of a corporation, minorities must hold at least 51% of voting interest.

Minority & Women Business Enterprise (MWBE) - A for-profit business in which at least 51% of beneficial interest and control is held by minority women or by an equal combination of minorities and women. In the case of a corporation, women and minorities must also hold at least 51% of voting interest.

Women Business Enterprise (WBE) - A for-profit business in which at least 51% of beneficial interest and control is held by women. In the case of a corporation, women must also hold at least 51% of the voting interest.

Useful Business Function

A useful business function is one, which results in the provision of materials, supplies, equipment or services to consumers in the State. A business acting as a conduit to transfer funds to a non-minority business does not constitute a useful business function unless doing so is a normal industry practice.

Benefits of Certification

Current certified minority and/or women owned firms are eligible to be listed in the State of Delaware Directory of Minority and Women Owned Businesses which is circulated to all state and local government agencies.

Recertification

At the ends of three years from original certification date, firms must submit the recertification affidavit to remain actively visible in the State of Delaware's Minority and/or Women Business Enterprise database.

Eligibility

A minority and women owned business (sole-proprietorship, partnership, corporation or joint venture) must meet the following criteria:

- a) Belong to a minority group: African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans.
(Please reference above definitions)
- b) At least 51 percent owned, controlled and actively managed by minority group members or by women.
- c) Serving a for profit business with “useful business functions.”
(Please reference above definitions)

Reasons for denial *(please note the below may include but not be limited to)*

- a) A business located in a state other than Delaware must first obtain state-level certification in its home state, if such certification is available. “Home state” is defined as the state the company’s headquarters are located.
- b) All securities, which constitute ownership and/or control of a corporation for the purpose of establishing it as a MWBE, must be held directly by minorities or women. No securities held in trust, or by a guardian for a minor, shall be considered as held by a minority or women in determining the ownership or control of a corporation.
- c) If the business operations do not reflect the ownership shown on paper.

- d) Firm is not a for-profit business
- e) Firm has provided false or misleading information
- f) Control will not be deemed to exist in cases of simple majority or absentee ownership, or when a non-minority/non-female owner or employee of the firm is disproportionately responsible for its operation.
- g) The firm shall not be subject to any formal or informal restrictions through, for example through, by-laws provisions, partnership agreements, or charter requirements for cumulative voting rights or otherwise that prevents the minority and women owners, without the cooperation or vote of any owner who is not a minority or women for making a business decision of the firm.
- h) If the owners of the firm who are not minorities or women are disproportionately responsible for the operation of the firm, then the firm is not controlled by minorities and shall not be considered as MWBE within the meaning of the definition. Where the actual management of the firm is contracted out to individuals other than the owner, those person who have the ultimate power to hire and fire the managers, can, for the purpose of this
- i) The certification application was submitted incomplete.

How to Apply

- Applications and additional information are available by calling the Office of Minority and Women Business Enterprise at (302) 739-4206 or visiting the web site www.state.de.us/omwbe
- Complete an application for certification and provide required documentation (ethnic status of minority owner(s), financial records, on-going business activity, etc.)
- Provide access to its business facilities and key personnel for state certification on-site visit.

WHERE TO APPLY:

Submit completed applications to:
Office of Minority and Women Business Enterprise
Haslet Armory
122 William Penn Street
Dover, DE 19901

Frequently Asked Questions

Q: Does certification cost money?

A: No

Q: Are there any set asides for MWBEs?

A: No

Q: Does my certification expire?

A: At the end of three years from original certification date.

Q: Will I be notified of all procurement opportunities?

A: No, however, the OMWBE will continue to research bid opportunities and assist in your effort. We are consistently working on ways to improve communication but strongly encourage you to visit the respective resources.

Q: What is the best way to communicate with the OMWBE?

A: Email. Please check your email daily for procurement opportunities.

Q: Do I have to register with any other agency?

A: Yes. There are multiple agencies that have their own bidders list. Please check OMWBE's web site for each respective agency. For example, Government Support Services and the Department of Technology and Information have vendor registration processes.

State of Delaware Minority and/or Women Business Enterprise Application
All completed applications must be returned with the appropriate requested documents listed.

Please type or print clearly

OMWBE use only: Application Date:

Mail application to:
 Office of Women and Minority Business Enterprise
 Haslet Armory
 122 William Penn Street
 Dover, DE 19901

If you have any questions regarding the completion of this application, please contact us at (302) 739-4206.

**Note – This section must be filled out in its entirety for the application to be processed.
 Incomplete applications will not be processed.**

1. Business Name(s), Contact Information, Federal Employee Identification Number or Social Security Number(EIN/SSN)				
Legal Name of Firm:				
Doing Business As (If applicable):				
Federal E.IN or SSN:		E-Mail Address:		
Address line 1:				
Address line 2:				
City		State	Zip Code	Country
Telephone Number:		Extension:	Fax Number:	
Company Web Site Address:				
Corp <input type="checkbox"/>	LLC* <input type="checkbox"/>	S Corp <input type="checkbox"/>	Partnership <input type="checkbox"/>	LLP** <input type="checkbox"/>
Sole Proprietor <input type="checkbox"/>		Joint Venture <input type="checkbox"/>		
Date firm was established?				
Date firm began doing business (date of first contract or sale)				

* Limited Liability Corporation

** Limited Liability Partnership

2. Primary owner applicant information				
Name:		Title:		
Home Address:		City:	State:	Zip Code: Country:
Telephone Number:		Extension:	Fax Number:	
E-Mail Address:				
Date owner acquired controlling interest?				
Sex: <input type="checkbox"/> M <input type="checkbox"/> F		Ethnic Group:		
U.S. Citizen or Permanent Resident: <input type="checkbox"/> No <input type="checkbox"/> Yes				

3. Firm is applying as:			
Minority Business Enterprise		Women Business Enterprise	
<input type="checkbox"/> African American	<input type="checkbox"/> Asian American	<input type="checkbox"/> African American	<input type="checkbox"/> Asian American
<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Native American	<input type="checkbox"/> Hispanic American	<input type="checkbox"/> Native American
<input type="checkbox"/> Subcontinent Asian	<input type="checkbox"/> Other	<input type="checkbox"/> Subcontinent Asian	<input type="checkbox"/> White American
		<input type="checkbox"/> Other	

4. Describe, in detail, what product(s) and/or services your business provides. Attach additional pages and/or the company's catalog or inventory list, if needed.

5. Five digit North American Industry Classification System (NAICS) Code(s):
(To assist you in determining your NAICS Code(s) go to www.census.gov/naics)

1.	2.	3.	4.	5.	6.
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6. Type of Business

<input type="checkbox"/> Building trade	<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Other
<input type="checkbox"/> Consultant	<input type="checkbox"/> Supplier	
<input type="checkbox"/> Generalized service	<input type="checkbox"/> Highway Construction	
<input type="checkbox"/> Licensed professional services		

7. Provide the following information for: 1) all business owners, 2) corporate directors (if incorporated), 3) officers, and 4) senior management. If more space is needed, attach additional pages.

Name	Title	Date Appointed	Gender	Ethnicity
Officers of the Company				
Board of Directors				

8. Is any owner or board member of the business, an owner or former owner of another firm engaged in the same or similar type of enterprise?

No Yes (If yes, identity below)

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9. Are there any written, oral, or implied agreements between persons associated in any manner with the firm concerning its ownership and/or operation? (check one) No Yes

10. Please list the gross receipts of last two years

(A) Year Ending:	Gross Receipts:
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(B) Year Ending:	Gross Receipts:
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11. Number of employees

Full time:

Part time:

Seasonal (approximate):

12. List names and titles of persons who perform the following functions. If more than one, indicate what percent each person handles.

	Name	Ethnicity	Gender
Financial Decisions			
Estimating & Bidding			
Negotiating & Contract Execution			
Personnel Management			
Field/Production Operations Supervisor			
Office Management			
Marketing/Sales			
Purchasing of Major Equipment			
Authorized to Sign Company Checks (for any purpose)			

16. Has this firm or other firm(s) owned by any of its current owners or officers ever been denied certification by the OMWBE or any other certifying entity (check one)? No; Yes *(If yes, provide the name of the certifying organization and the reason(s) given for denial, below. Attach copies of any relevant documents (letters, appeal documents, etc.).*

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17. Debarment

Is this company, or any other company owned in full or part by any of this company's owners and/or officers, currently debarred from doing business with the State of Delaware? No; Yes.

18. Is the Business certified as a M/W/BE with any other certifying agency? If yes, provide the name(s) of the certifying organization(s), below, and attach letters or other documents verifying such certification.

No Yes

Name	Date Certified	Expiration Date
a.		
b.		
c.		
d.		
e.		
f.		

19. How did you hear about the Office of Minority and Women Business Enterprise:

- | | |
|--|---|
| <input type="checkbox"/> OMWBE staff speak at an event sponsored by another organization | <input type="checkbox"/> OMWBE staff at a trade show or expo |
| <input type="checkbox"/> OMWBE's web site | <input type="checkbox"/> Materials published by OMWBE |
| <input type="checkbox"/> Referred by another organization | <input type="checkbox"/> Referred by the owner of an MBE or WBE |
| <input type="checkbox"/> Delaware state employee | <input type="checkbox"/> Other, please explain briefly: |

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Optional Questions

You are not required to answer the following questions and the answers will not affect your company's eligibility for certification. However, the answers will help OMWBE to identify business opportunities that may be suited to your company. Answers may be estimated; exact figures aren't necessary.

For all companies
How many years has your company been conducting business with you as owner?
How many contracts, subcontracts, and/or sales has your company completed during the last 12 months?
What is the largest contract, subcontract, or sale your company completed in the past 24 months?
Has your company done any business with government? <input type="checkbox"/> No; <input type="checkbox"/> Yes
If yes, what level of government (check all that apply): <input type="checkbox"/> Federal; <input type="checkbox"/> State; <input type="checkbox"/> Local
Has your company done any business with government in the State of Delaware? <input type="checkbox"/> No; <input type="checkbox"/> Yes
Number of government contracts, subcontracts, or sales completed (estimate):
For Construction-Related Companies Only (not including suppliers of construction materials)
What is your company's bonding capacity? \$ _____ (indicate "unknown" if you do not know)
What % of your business is direct contracting?
What % of your business is subcontracting?

Updated 1/07

State of Delaware Minority and/or Women Business Enterprise Affidavit

Hereafter, "the Business" refers to

_____ Business Name

I understand the illegal nature of receiving public or private funds or other property as a consequence of false representation as to the minority status of the business and do herein certify under penalty imposed by Delaware statutes that the information provided is correct and said information herein may be used for the purposes of certifying the business as a Minority and/or Women Business Enterprise. Any false representation will be grounds for denying certification or initiating decertification in the future.

I agree to make available for inspection to the MWBE office any such materials that may be required to substantiate the degree of minority and women ownership and control of the business. I agree to arrange for on-site inspections of the business' facilities in order to verify information provided in this document.

I agree to provide written information relative to any future change in ownership and/or management of the business to the MWBE office within two weeks of the occurrence of the change. I acknowledge that failure to timely submit required change of status documentation might result in the decertification of the business.

I understand that the certification expiration is three years following the initial date of certification. I further understand that the business must apply for recertification prior to the expiration.

_____ Type or Print Name of Owner

_____ Signature of Owner _____ Date

_____ Title

Subscribed and sworn to before me this _____ day of _____ a.d.

Month, Year

Signed _____ NOTARY PUBLIC IN AND FOR THE

County of _____

State _____

My Commission Expires _____ Date

