

February 13, 2009

TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER
FIRE COMPANIES AND POLITICAL SUBDIVISIONS

FROM: VICKI L. MACKLIN
STATE CONTRACT PROCUREMENT OFFICER
302-857-4553

SUBJECT: **AWARD NOTICE**
CONTRACT NO. GSS017-HVAC FILTERS
HVAC FILTERS

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KEY CONTRACT INFORMATION

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KEY CONTRACT INFORMATION

1. MANDATORY USE CONTRACT:

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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 the Division of Support Services, Department of Administrative Services. 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.

2. CONTRACT PERIOD:

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Each Vendors contract shall be valid for a one (1) year period from March 1, 2009 through February 28, 2010. Each contract may be renewed for two (2) additional one (1) year periods through negotiation between the contractor and the Division of Support Services. Negotiation must be initiated no later than ninety (90) days prior to the termination of the current agreement.

3. VENDORS:

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<u>VENDOR A</u>
TRI-DIM FILTER COMPANY 6370 Hedgewood Drive, Suite 100 Allentown, PA 18106 PHONE: 800-260-4070 x 5789 FAX: 540-967-2835 CUSTOMER SERVICE: Robyn Dunivan EMAIL: r.dunivan@tridim.com FILTER QUESTIONS: Jeff Cross PHONE: 800-260-4070 x 3803 CELL: 856-912-8222

4. SHIPPING TERMS:

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F.O.B. destination.

5. PACKAGING:

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Packaging for shipment shall be such as to protect the product adequately to insure safe shipment. All products are to be packaged in sizes as specified in the proposal and shall be packaged in such a manner as to insure delivery in first class condition and properly marked for identification.

Shipping, cases shall be marked to show the name of the supplier, name and address of receiving agency and state purchase order number. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton.

Itemized packing list to accompany all shipments.

Deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection at the contractor's expense.

6. DELIVERY:

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If the contractor fails to deliver by the specified delivery date, the ordering agency reserves the right to cancel the portion of the order which the contractor has failed to deliver within the specified time and to purchase that item or items elsewhere, charging the increase in price and cost of handling, if any, to the contractor. In the event of a contract cancellation for cause, the state reserves the right to cancel all outstanding orders.

7. FILTER REPLACEMENT:

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In the event that the merchandise supplied, in the opinion of the using agency, is not performing satisfactory the contractor will be notified of such, either by fax or written notification. The contractor must then remove and replace the defective item(s) within ten (10) days from date of notification, at no additional cost to the state. Failure to comply with these directions may result in the decision of the director, division of purchase and property to cancel the said item from the contract and authorize the agency to procure the same from any other available source. All associated costs in this circumstance will be borne by the defaulting contractor.

8. PRICING:

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Prices will remain firm for the term of the contract year. See Excel Spreadsheet

DISCOUNT OFF MOST RECENT MANUFACTURERS PRICE LIST FOR SIZES NOT LISTED is 51%

9. QUANTITIES:

There is a minimum quantity order requirement of at least one full box of each size of product ordered.

ADDITIONAL TERMS AND CONDITIONS

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10. BILLING:

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

11. PAYMENT:

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt.

12. PRODUCT SUBSTITUTION:

All items delivered during the life of the contract shall be of the same type and manufacture as specified unless specific approval is given by the Division of Support Services to do otherwise. Substitutions may require the submission of written specifications and product evaluation prior to any approvals being granted.

13. 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 State makes payments for goods and services using procurement (credit) cards, electronic funds transfer and/or conventional checks. The contractor or vendor must accept full payment by procurement card and/or conventional check at the State's option, without imposing any additional fees, costs or conditions.

14. REQUIREMENTS:

The awarded vendor must stock all items in this contract. The Government Support Services reserves the right to audit stock levels at any time. In addition, the non stocked items must be obtainable from the Vendor's Catalog within 20 days ARO.

15. HOLD HARMLESS:

The contractor 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 contractor, its employees, and invitees on or about the premises and which arise out of the contractor's performance, or failure to perform as specified in the Agreement.

16. NON-PERFORMANCE:

In the event the contractor 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 contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

17. FORCE MAJEURE:

Neither the contractor 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. AGENCY'S RESPONSIBILITIES:

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.

19. 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.

20. REPLACEMENT OF UNSATISFACTORY MATERIAL SUPPLIED:

In the event that the merchandise supplied, in the opinion of the using agency, is not performing satisfactory the contractor will be notified of such, either by fax or written notification. The contractor must then remove and replace the defective item(s) within ten (10) days from date of notification, at no additional cost to the state. Failure to comply with these directions may result in the decision of the director, division of purchase and property to cancel the said item from the contract and authorize the agency to procure the same from any other available source. All associated costs in this circumstance will be borne by the defaulting contractor.

21. FILTER REPLACEMENT:

The state reserves the right to test the delivered product during the contract term to ensure that it meets the contract requirements. If the product fails to meet contract requirements, the delivery shall be rejected and must be replaced within seven (7) days from date of either verbal or written notification. If said replacement is not made within this time frame , the state reserves the right to purchase product elsewhere, charging any increase in price and handling charges to the contractor.

22. CATALOGS:

The vendor shall provide catalog(s) and price list(s) for all of the HVAC products that they sell that include all of the different price tiers available for each product. An electronic copy of such is preferred. The prices listed therein will be the prices that the state will use for off-contract purchases during the term of the contract.