



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

March 1, 2011

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

FROM: W. PETER TEAGUE
STATE CONTRACT PROCUREMENT ADMINISTRATOR
302-857-4552

SUBJECT: **AWARD NOTICE**
CONTRACT NO. GSS11581CONTRACTREVIEW
CONTRACT REVIEW AND COST CONTAINMENT

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KEY CONTRACT INFORMATION**

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KEY CONTRACT INFORMATION

1. SCOPE OF SERVICES:

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The goal of this project is to ensure that the State of Delaware's vendors are properly managing their contracts and accounts, and that the negotiated prices are the actual prices charged. Additionally, the State intends to recover refunds from their vendors, if billing errors have occurred.

Any information provided by or obtained from agencies of the State of Delaware shall be used solely for the purposes herein contained and the awarded vendor(s) shall not disclose such information to any other party, without the written permission of the Director, Government Support Services.

2. CONTRACT PERIOD:

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Each contractor's contract shall be valid for a one (1) year period from March 1, 2011 through February 29, 2012. Each contract may be renewed for two (2) additional one (1) year period through negotiation between the contractor and Government Support Services. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

3. VENDORS:

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<p>Contract # GSS11581CONTRACTREVIEWV01 FSF Vendor ID: 0000030451 Cost Reduction Analysis Andrew Ledner 14001 Marian Drive Rockville, MD 20850-3445 Phone: (301) 738-9901 Fax: (301-738-99029 Email: alender@crasaves.com Website: http://costreductionanalysts.com/</p>
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4. REQUIREMENTS:

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During FY10, the State spent \$93,800 with the awarded vendor(s) for fasteners. The awarded vendor(s) shall:

- A. Conduct a detailed review of vendor invoices, both electronic and hardcopy. Invoices will be from a credit card database and direct billing.
- B. Identify and document any refunds or credits due for the State from the Fastener supply vendor no later than June 30, 2011.
- C. Actively pursue a refund or credit of overcharges found from vendors for the State.
- D. Participate in discussions with supply vendor(s) of findings, periodically.

The following contract(s) are subject to this review:

FASTENERS, CONTRACT NO. GSS11581CONTRACTREVIEW

Other contracts may be added, as opportunities present themselves.

5. PRICING:

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The vendor will provide the requested services on a contingency fee basis. Delaware's obligation to pay the awarded vendor for the performance of services will not exceed 25% of the funds recovered. The Awarded vendor will submit analysis of potential funds recovery and may negotiate on behalf of the State with the contract vendor with permission of the Director, Government Support Services.

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6. 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.

7. PAYMENT:

The awarded vendor(s) will be paid by the State of Delaware after verification of funds recovered and approval by the Director, Government support Services of the amount of funds recovered. It is expressly understood that the work must be completed by the awarded vendor(s) and it shall be the awarded vendor's responsibility to ensure that hours and tasks are properly budgeted so that all services are completed for the agreed upon contingent fee. Delaware's total liability for all charges for services that may become due under the Agreement is limited to the total maximum expenditure(s) authorized in Delaware's purchase order(s) to the awarded vendor(s).

8. 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 Government Support Services to do otherwise. Substitutions may require the submission of written specifications and product evaluation prior to any approvals being granted.

9. 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.

10. 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.

11. 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.

12. AGENCY'S RESPONSIBILITIES:

The Agency shall:

- a. In connection with the awarded vendor's provision of the Services, Delaware shall perform those tasks and fulfill those responsibilities specified in the appropriate Appendices.
- b. Delaware agrees that its officers, employees and legal counsel, as appropriate, will cooperate with the awarded vendor in the performance of services under this Agreement and will be available for consultation with the awarded vendor at such reasonable times with advance notice as to not conflict with their other responsibilities. To the extent Delaware determines to pursue legal means for recovery of refunds/overcharges identified by the awarded vendor, Delaware agrees that the awarded vendor shall not be responsible for the costs of related attorney's services and/or legal action.
- c. The services performed by the awarded vendor under this Agreement shall be subject to review for compliance with the terms of this Agreement by Delaware's designated representatives. Delaware representatives may delegate any or all responsibilities under the Agreement to appropriate staff members, and shall so inform the awarded vendor by written notice before the effective date of each such delegation.
- d. The review comments of Delaware's designated representatives may be reported in writing as needed to the awarded vendor. It is understood that Delaware's representatives' review comments do not relieve the awarded vendor from the responsibility for the professional and technical accuracy of all work delivered under this Agreement.
- e. Delaware shall, without charge, furnish to or make available for examination or use by The awarded vendor as it may request, any data which Delaware has available, including as examples only and not as a limitation:
 - 1) Copies of reports, surveys, records, and other pertinent documents;
 - 2) Copies of previously prepared reports, job specifications, surveys, records, ordinances, codes, and regulations, other document, and information related to the services specified by this Agreement.The awarded vendor shall return any original data provided by Delaware.
- f. Delaware shall assist The awarded vendor in obtaining data on documents from public officers or agencies and from private citizens and business firms whenever such material is necessary for the completion of the services specified by this Agreement.
- g. The awarded vendor will not be responsible for accuracy of information or data supplied by Delaware or other sources to the extent such information or data would be relied upon by a reasonably prudent contractor.
- h. Delaware agrees not to use the awarded vendor's name, either express or implied, in any of its advertising or sales materials. The awarded vendor reserves the right to reuse the nonproprietary data and the analysis of industry-related information in its continuing analysis of the industries covered.

- i. If, following consultation with the awarded vendor, Delaware determines, in its sole discretion, that litigation and/or legal measures are necessary in order to obtain the appropriate refund/overcharge/recovery from a vendor, Delaware agrees that it shall diligently pursue such legal measures and litigation and that The awarded vendor shall be entitled to its fee as a portion of the recovery after such recovery is made. If necessary and appropriate, the awarded vendor will continue to provide consultation and support throughout the litigation or legal process.
- j. 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.
- k. 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.
- l. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.
- m. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.
- n. If there is a performance deficiency, a Corrective Action Report (CAR) may be used. Complete this form to report concerns with vendors or commodities. Be sure to furnish as much detail as possible. <http://gss.omb.delaware.gov/divisionwide/forms.shtml>.

13. WORK PRODUCT:

- a. All materials, information, documents, and reports, whether finished, unfinished, or draft, developed, prepared, completed, or acquired by the vendor for Delaware relating to the services to be performed hereunder shall become the property of Delaware and shall be delivered to Delaware's designated representative upon completion or termination of this Agreement, whichever comes first. The vendor shall not be liable for damages, claims, and losses arising out of any reuse of any work products on any other project conducted by Delaware. Delaware shall have the right to reproduce all documentation supplied pursuant to this Agreement.
- b. The vendor retains all title and interest to the data it furnished and/or generated pursuant to this Agreement. Retention of such title and interest does not conflict with Delaware's rights to the materials, information and documents developed in performing the project. Upon final payment, Delaware shall have a perpetual, nontransferable, non-exclusive paid-up right and license to use,

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copy, modify and prepare derivative works of all materials in which the vendor retains title, whether individually by the vendor or jointly with Delaware. Any and all source code developed in connection with the services provided will be provided to Delaware, and the aforementioned right and license shall apply to source code. The parties will cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Section.

- c. In no event shall the vendor be precluded from developing for itself, or for others, materials that are competitive with the Deliverables, irrespective of their similarity to the Deliverables. In addition, the vendor shall be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques within the scope of its consulting practice that are used in the course of providing the services.
- d. Notwithstanding anything to the contrary contained herein or in any attachment hereto, any and all intellectual property or other proprietary data owned by the vendor prior to the effective date of this Agreement ("Preexisting Information") shall remain the exclusive property of the vendor even if such Preexisting Information is embedded or otherwise incorporated into materials or products first produced as a result of this Agreement or used to develop such materials or products. Delaware's rights under this section shall not apply to any Preexisting Information or any component thereof regardless of form or media.