



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET

8/29/2013

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

FROM: SHELLY K. ALIOA  
STATE CONTRACT PROCUREMENT OFFICER

SUBJECT: **AWARD NOTICE, Effective September 1, 2013**  
**CONTRACT NO. GSS13036A-MILK**  
**Milk and Milk Products**

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**TABLE OF CONTENTS  
OF  
KEY CONTRACT INFORMATION**

1. **MANDATORY USE CONTRACT** ..... 2

2. **CONTRACT PERIOD** ..... 2

3. **VENDORS** ..... 2

4. **SHIPPING TERMS**..... 2

5. **DELIVERY AND PICKUP** ..... 2

6. **PRICING** ..... 3

**ADDITIONAL TERMS AND CONDITIONS**..... 4



**KEY CONTRACT INFORMATION**

**1. MANDATORY USE CONTRACT**

[\(Return to Table of Contents\)](#)

**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, the Legislative Branch and the Board of Pension Trustees and their consultants are specifically exempted from the requirements of this subsection.

**2. CONTRACT PERIOD**

[\(Return to Table of Contents\)](#)

Each contractor's contract shall be valid for a one (1) year period from September 1, 2013 through August 31, 2014. Each contract may be renewed for one (1) 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**

[\(Return to Table of Contents\)](#)

<p><b>Hy-Point Dairy Farms</b> 425 Beaver Valley Road Wilmington, DE 19803</p> <p>Contact: W. Jay Meany Phone: 302-478-1414 Fax: 302-477-0353 <a href="mailto:DEorders@hy-pointfarms.com">DEorders@hy-pointfarms.com</a></p> <p>FSF #: 0000024514 GSS13036A-MILK_PROD V01</p>	<p><b>Cloverland Farms Dairy</b> 2701 Loch Raven Road Baltimore, MD 21218</p> <p>Contact: Tom McDonough Phone: 410-235-4477, ext 1280 Fax: 410-467-6413 <a href="mailto:tmcdonough@cloverlanddairy.com">tmcdonough@cloverlanddairy.com</a></p> <p>FSF #: 0000030470 GSS13036A-MILK_PROD V02</p>
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**4. SHIPPING TERMS**

[\(Return to Table of Contents\)](#)

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

**5. DELIVERY AND PICKUP**

[\(Return to Table of Contents\)](#)

Milk shall be delivered to schools and other agencies no later than 8:30 a.m. unless otherwise arranged by the food service manager. Milk shall be delivered in crates at a maximum temperature of 41 degrees, as established by the State of Delaware Food Code, Section 3-202. The interior and the exterior of the crate shall be clean and sanitary. Cases, crates, and cartons must be packed, layered, and or stacked so as to prevent soiling or damage to each layer of cartons/containers. Milk shall be placed in milk coolers or a refrigerated area designated by the food service manager. If coolers are inoperable at the time of delivery, the vendor shall make appropriate arrangements (such as providing sufficient ice and containers) to hold the milk at 41 degrees Fahrenheit temperature until coolers can be repaired or replaced. Milk and ice shall be placed as designated by the food service manager.

Award Notice

Contract No. GSS13036A-MILK, Milk and Milk Products

- The successful vendor shall provide reasonable service for emergencies.
- Route schedules shall be furnished to Food Service Supervisors of each District by August 15, 2013.
- Vendor will be notified within forty-eight (48) hours of any changes in school calendars.

6. **PRICING**

[\(Return to Table of Contents\)](#)

Prices for milk shall be based on the Class I bulk milk price (per CWT) as announced by the Department of Agriculture under the terms of the Federal Milk Marketing Order Number (for the geographic area which includes Delaware) for the month of **February 2013**. If, during the term of this contract the Class I bulk milk price as determined by the USDA fluctuates above or below the **February 2013** price as announced by the Department of Agriculture, then the Vendor(s) shall be authorized to increase or decrease the price of milk covered by this contract in the exact amount of the change. For effective calculation the price per one half pint should be carried to five decimal places and rounded to four decimal places. The change in price shall become effective in accordance with the price change announcement. Government Support Services shall be given notice of the impending change not later than the twenty fifth (25th) day of the month before the effective date. Documentation of the change in Class I bulk milk price (per cwt) shall be made by the successful bidder to Government Support Services through a copy of the release from the USDA. Prices may not increase more than once per month. **Prices for items other than milk shall be firm for the duration of the contract including renewals.**

A separate Pricing Spreadsheet is incorporated with this contract award to provide specific pricing for each awarded vendor.

**ADDITIONAL TERMS AND CONDITIONS**

[\(Return to Table of Contents\)](#)

**7. 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.

**8. PAYMENT**

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

**9. 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.

**10. 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.

**11. 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.

**12. 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.

### **13. 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.

### **14. 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.
- c. 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.
- d. 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.
- e. 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>.

### **15. TECHNICAL SPECIFICATIONS**

This contract will be issued to cover the Milk, Milk Products & Juices requirements for all State Agencies and School Districts, and shall be accessible to any Political Subdivision, or Volunteer Fire Company

### **16. INSPECTION REPORTS**

Awarded vendor(s) must submit copies or reports from all subsequent state board of health plant inspections performed during contract period. These reports shall be sent to the Child Nutrition Programs Office.

**17. HACCP**

Each vendor is to send a letter to each buyer/purchasing agent to keep on file, this letter must state that they have a HACCP program or follow good manufacturing practices.

**18. QUALITY**

All products shall meet standards set by the Federal Food and Drug Administration 6 Del C, Chapter 51, § 5126. All products prepared and handled must meet State of Delaware Board of Health requirements and are subject to inspection by said department. All milk shall be fluid, Grade A, pasteurized, homogenized, in disposable cartons to meet State of Delaware Board of Health regulations. Flavored milk must contain no more than 150 calories per 8 oz. All milk when delivered shall be at a temperature not above or 41 degrees Fahrenheit as established by the State of Delaware Food Code, Section 3-202.

**19. ORDERS**

Orders shall be placed with vendor's driver (delivery person) as needed. Orders for one-half pints of milk shall be a standing order and shall be adjusted with a firm carton count seven (7) calendar days prior to the beginning of a vacation period or at the end of the school year. Orders for cottage cheese shall be placed as far as possible in advance of the date needed. The successful bidder shall have a local telephone exchange, toll free number, or agree to accept the charges for long distance calls.

**20. INSPECTION**

Upon delivery, all products shall be subject to inspection by an authorized representative of the Agency or School. If product is found defective or if it in any way fails to meet the specifications as indicated in this proposal, it may be rejected. The decision(s) of the Agency or School will be final.

**21. DELIVERY SLIPS AND INVOICES**

Delivery slips must be signed by authorized personnel. Acceptance of goods received shall not necessarily verify invoice accuracy. Separate invoices for each school or agency shall be sent to the district school food service office or other designated location no later than three (3) working days after the last delivery of the month. When schools close in June, invoices are to be sent to the Nutritional Office no later than three (3) days after the last milk delivery. In case of summer programs, billing arrangements and delivery time are to be made with the manager of each location.

**22. DATE CODING**

As part of the Bid Proposal Reply Section each bidder shall provide a "key" to decipher the date code on each carton. The "key" shall enable an agency to determine the last sale date, last day product can be used and packaging date.

**23. MILK COOLERS**

The awarded vendor(s) shall provide satisfactory milk coolers, in quantities which correspond to each School District's consumption, at no cost to the School District. The successful vendor will respond upon request for coolers within a reasonable period of time, not to exceed twenty-four (24) hours. Each cooler shall be equipped with locks and wheels where required. The vendor(s) shall be responsible for the maintenance and repair of all vendor supplied coolers. Coolers will be replaced within five (5) working days. The vendor(s) shall be required to replace all products which spoil due to failure of a milk cooler.