



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET

# State of Delaware

## PACKAGED FOOD

### Invitation to Bid Contract No. GSS13490-PACK\_FOOD

October 23, 2012

**- *Deadline to Respond* -  
*November 20, 2012*  
*1:00 p.m. EDT***

**CONTRACT NO. GSS13490-PACK\_FOOD**

**ALL BIDDERS:**

The enclosed packet contains an "INVITATION TO BID" for Packaged Food. The invitation consists of the following documents:

**INVITATION TO BID - CONTRACT NO. GSS13490-PACK\_FOOD**

- 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 November 20, 2012 at 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 19904-8202**

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 call 302-857-4553.

STATE OF DELAWARE  
Office of Management and Budget  
Government Support Services

**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.

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Government Support Services

**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.

**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.

**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.

**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 the bidder.

**BOND**: The approved form of security furnished by the Vendors and its surety as a guaranty of good faith on the part of the Vendor to execute the work in accordance with the terms of the contract.

**CENTRAL CONTRACT**: A contract intended to be managed by Government Support Services (GSS) on behalf of multiple agencies procuring the same (or similar) material or non-professional service.

**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.

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

**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.

**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.

**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.

**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 its acceptable performance of the work for which it has contracted.

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

## 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 its 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, any 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 itself 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.

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Government Support Services

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. **NUMBER OF COPIES OF PROPOSAL SUBMISSION**

The State reserves the right to reject any non-responsive or non-conforming proposals. Each proposal must be submitted with two paper copies and one electronic copy on CD or DVD media disk. 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. CD or DVD media disk must also contain the completed Appendix A Excel sheets, in Excel format.

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 19904-8202**

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 its proposal unopened after it has been deposited, if such a request is made prior to the time set for the opening of the proposal.

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**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 its 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, interlineations, 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.

**16. ADDENDA TO THE ITB:**

If it becomes necessary to revise any part of this ITB, revisions will be posted at <http://bids.delaware.gov/>. By submitting an offer to the State, vendors have acknowledged receipt, understanding and commitment to comply with all materials, revisions, and addenda related to the Invitation to Bid.

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**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. CONTRACT AWARD:**

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, its 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.

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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 its 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.

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**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 itself or by its 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 its 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.

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- 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 its exemption into account in calculating its bid for its 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. **BID EVALUATION AND 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.

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**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.

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CONTRACT NO. GSS13490-PACK\_FOOD  
Packaged Food  
SPECIAL PROVISIONS

1. **CONTRACT REQUIREMENTS:**

This contract will be issued to cover the Insert Contract Name 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, 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 one (1) year from January 1, 2012 through December 31, 2013. Each contract may be renewed for a one (1) year period 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.

Vendors who have been awarded similar contracts through a competitive bidding process with a cooperative are welcome to submit the cooperative pricing for this solicitation.

5. **PRICE ADJUSTMENT:**

Price adjustments will be calculated as follows: Quoted prices shall be adjusted on a quarterly basis for the contract term (April 1, July 1, and October 1, 2013) based on the change in value of the U.S. Department of Labor; Bureau of Labor Statistics; Producer Price Index (PPI) (series id: WPUso3110) for Finished Consumer Foods.

The method of price adjustment will be to review the most recent non-preliminary index available on the first day of the month immediately preceding the quarterly adjustment date. The change in the index rate will determine the change in prices for the contract quarterly period.

The website for the Producer Price Index (PPI) is <http://data.bls.gov/cgi-bin/srgate> .

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The vendor must submit a written request for price increases during the time frame as outlined below for their effectiveness date to the Government Support Services, Attn: Shelly Alioa, State Contract Procurement Officer.

For price changes effective April 1, 2013 through June 30, 2013 requests must be submitted between March 1, 2013 through March 15, 2013.

For price changes effective July 1, 2013 through September 30, 2013 requests must be submitted between June 1, 2013 through June 15, 2013.

For price changes effective October 1, 2013 through December 31, 2013 requests must be submitted between September 1, 2013 through September 15, 2013.

Request for price increases **must be accompanied by documentation**, regardless of the vendors overall increase, price increases will not exceed the PPI stated above. NO price increases are to be billed to the State facilities without prior written approval by Government Support Services. Price increases become effective with all orders placed on or after the effective date. The State of Delaware shall receive full proportionate benefits of price decreases immediately upon their effective date.

When submitting requests for price changes, vendor shall be required to list the State Item Number and Complete identification of items requesting change. Vendor shall not delay or stop deliveries pending a price change. Failure to submit required information may result in denial for a price change.

6. **COOPERATIVES:**

Vendors, who have been awarded similar contracts through a competitive bidding process with a cooperative, are welcome to submit the cooperative pricing for this solicitation.

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.

If available, prior contract utilization may be viewed at <http://contracts.delaware.gov/>.

9. **FUNDING OUT:**

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

10. **BID BOND REQUIREMENT:**

Bid Bond Waived.

11. **PERFORMANCE BOND REQUIREMENT:**

Revised: 6/29/2012 jms

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Government Support Services

Performance Bond Waived

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. GSS13490-PACK\_FOOD  
State of Delaware  
100 Enterprise Place, Suite 4  
Dover, DE 19904-8202**

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

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.

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Government Support Services

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 19899-8750 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. OWNERSHIP OF INTELLECTUAL PROPERTY:**

All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the State of Delaware. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the State to evidence the State's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.

**17. 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.

**18. 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.

**19. CONTRACTOR NON-ENTITLEMENT:**

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Government Support Services

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.

**20. 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.

**21. 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 Monthly Usage Report (first report shown immediately following this section) shall be furnished on the 15<sup>th</sup> (or next business day after the 15<sup>th</sup> day) of each month by the successful Vendor **Electronically in Excel format** detailing the purchasing of all items on this contract. The Monthly Usage Reports shall be submitted electronically in EXCEL and sent as an attachment to [vendorusage@state.de.us](mailto:vendorusage@state.de.us) . It shall contain the six-digit department and organization code. 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, Vendors 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.

In accordance with Executive Order 14 and 29 – Increasing Supplier Diversity Initiatives within State Government and Ensuring Representation of Veteran-Owned Businesses..., the State of Delaware is committed to supporting its diverse business industry and population. The successful Vendor will be required to report on the participation by a minority, woman, or veteran owned business (Diversity Supplier) under this awarded contract. The reported data elements shall include but not be limited to; name of state contract/project, the name of the Diversity Supplier, Diversity Supplier contact information (phone, email), type of product or service provided by the Diversity Supplier and any minority, women, or veteran certifications for the subcontractor (State OSD certification, Minority Supplier Development Council, Women's Business Enterprise Council). The format used for this Subcontracting 2<sup>nd</sup> Tier report is found below (and shown as the second report immediately following this section).

Subcontracting 2nd tier reports shall be submitted to the contracting Agency's OSD at [vendorusage@state.de.us](mailto:vendorusage@state.de.us) on the 15<sup>th</sup> (or next business day) of the month following each quarterly period. For consistency quarters shall be considered to end the last day of March, June, September and December of each calendar year. Contract spend during the covered periods shall result in a report even if the contract has expired by the report due date.



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State of Delaware																			
Subcontracting (2nd tier) Quarterly Report																			
<b>Prime Name:</b>							<b>Report Start Date:</b>												
<b>Contract Name/Number</b>							<b>Report End Date:</b>												
<b>Contact Name:</b>							<b>Today's Date:</b>												
<b>Contact Phone:</b>							*Minimum Required			Requested detail									
Vendor Name*	Vendor TaxID*	Contract Name/Number*	Vendor Contact Name*	Vendor Contact Phone*	Report Start Date*	Report End Date*	Amount Paid to Subcontractor*	Work Performed by Subcontractor UNSPSC	M/WBE Certifying Agency	Veteran/Service Disabled Veteran Certifying Agency	2nd tier Supplier Name	2nd tier Supplier Address	2nd tier Supplier Phone Number	2nd tier Supplier email	Description of Work Performed	2nd tier Supplier Tax Id	Date Paid		

**Note:** A copy of the Subcontracting Quarterly Report will be sent by electronic mail to the Awarded Vendor.

Completed reports shall be saved in an Excel format, and submitted to the following email address: [contracting@state.de.us](mailto:contracting@state.de.us).

**22. BUSINESS REFERENCES:**

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.

**DO NOT USE STATE OF DELAWARE PERSONNEL AS REFERENCES.**

**23. 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.

**24. 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.**

**25. 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.

**26. 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.

**27. OPPORTUNITY BUYS:**

The Director for the State of Delaware, Office of Management and Budget, Government Support Section can waive use of a central contract pursuant to 29 Del. C. §6911(e). A process has been developed to permit any vendor the opportunity to submit an Opportunity Buy offer to the State for goods and/or services for consideration despite the existence of a central contract. See [http://gss.omb.delaware.gov/contracting/documents/agencyboilers/opportunity\\_buy\\_flowchart.pdf](http://gss.omb.delaware.gov/contracting/documents/agencyboilers/opportunity_buy_flowchart.pdf). The Director will afford any vendor on an existing central contract an opportunity to match or to beat the Opportunity Buy offer made by a non-contracted vendor prior to a waiver being granted.

**28. I FOUND IT CHEAPER:**

Director for the State of Delaware, Office of Management and Budget, Government Support Section can waive use of a central contract pursuant to 29 Del. C. §6911(e). A process has been developed to permit any State employee or Vendor to identify a lower price for material and or services for consideration despite the existence of a central contract. See

[http://gss.omb.delaware.gov/contracting/documents/agencyboilers/opportunity\\_buy\\_found\\_cheaper\\_flow\\_chart.pdf](http://gss.omb.delaware.gov/contracting/documents/agencyboilers/opportunity_buy_found_cheaper_flow_chart.pdf). The Director will afford any Vendor on an existing central contact an opportunity to match or to beat the I Found It Cheaper suggestion and if not matched or beaten, approve the purchase via a waiver.

**29. BID/CONTRACT EXECUTION:**

Both the non-collusion statement that is enclosed with this Invitation to Bid and the contract form delivered to the successful bidder for signature **shall** 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. The awarded vendor(s) will be required to complete the new W-9 Form by visiting the Division of Accounting's Website: <http://accounting.delaware.gov/w9.shtml>.

**30. 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.

**31. 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 its 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.

**32. 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.

**33. ENVIRONMENTAL PROCUREMENT REQUIREMENTS:**

- a. Energy Star - If applicable, the Contractor must provide products that earn the ENERGY STAR rating and meet the ENERGY STAR specifications for energy efficiency in order to keep overall event costs to a minimum. The Contractor is encouraged to visit [www.energystar.gov](http://www.energystar.gov) for complete product specifications and updated lists of qualifying products.
- b. Green Products – third party certification of green products accepted from GSS w/approved green certification shall be offered wherever available in addition to or as a substitute for non-green products.
- c. Contractors shall report all green items procured during the monthly reporting period using the Usage Report that will be provided to the awarded Vendor(s).
- d. Environmental Procurement Policies of the State shall determine acceptable consideration and credit

for environmentally preferred products and services in the performance of this award. The State Environmental Procurement Policies may be found:

<http://gss.omb.delaware.gov/contracting/documents/agencyboilers/espp.pdf>.

**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.

**32. TERMINATION FOR CAUSE:**

If, for any reasons, or through any cause, the Contractor fails to fulfill in timely and proper manner its 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. AUDIT ACCESS TO RECORDS:**

The Vendor shall maintain books, records, documents, and other evidence pertaining to this Contract to the extent and in such detail as shall adequately reflect performance hereunder. The Vendor agrees to preserve and make available to the State, upon request, such records for a period of five (5) years from the date services were rendered by the Vendor. Records involving matters in litigation shall be retained for one (1) year following the termination of such litigation. The Vendor agrees to make such records available for inspection, audit, or reproduction to any official State representative in the performance of their duties under the Contract. Upon notice given to the Vendor, representatives of the State or other duly authorized State or Federal agency may inspect, monitor, and/or evaluate the cost and billing records or other material relative to this Contract. The cost of any Contract audit disallowances resulting from the examination of the Vendor's financial records will be borne by the Vendor. Reimbursement to the State for disallowances shall be drawn from the Vendor's own resources and not charged to Contract cost or cost pools indirectly charging Contract costs.

**34. 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 to meet 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.

**35. 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.

### 36. **SUBCONTRACTS:**

Subcontracting is permitted under this ITB and contract. However, every subcontractor shall be identified in the Proposal (Attachment E) and agreed to in writing by the State or as are specifically authorized in writing by the Agency during the performance of the contract. Any substitutions in or additions to such subcontractors, associates, or consultants will be subject to the prior written approval of the State.

The Vendor(s) shall be responsible for compliance by the subcontractor with all terms, conditions and requirements of the ITB and with all local, State and Federal Laws. The Vendor shall be liable for any noncompliance by any subcontractor. Further, nothing contained herein or in any subcontractor agreement shall be construed as creating any contractual relationship between the subcontractor and the State.

**If a company elects to be a subcontractor for another vendor, the subcontractor may not independently bid on this solicitation.**

### 37. **CONFIDENTIALITY:**

All documents submitted as part of the vendor's proposal will be deemed confidential during the evaluation process. Vendor proposals will not be available for review by anyone other than the State of Delaware/Proposal Evaluation Committee or its designated agents. There shall be no disclosure of any vendor's information to a competing vendor prior to award of the contract.

The State of Delaware is a public agency as defined by state law, and as such, it is subject to the Delaware Freedom of Information Act, 29 *Del. C.* Ch. 100. Under the law, all the State of Delaware's records are public records (unless otherwise declared by law to be confidential) and are subject to inspection and copying by any person. Vendor(s) are advised that once a proposal is received by the State of Delaware and a decision on contract award is made, its contents will become public record and nothing contained in the proposal will be deemed to be confidential except proprietary information.

Vendor(s) shall not include any information in their proposal that is proprietary in nature or that they would not want to be released to the public. Proposals must contain sufficient information to be evaluated and a contract written without reference to any proprietary information. If a Vendor feels that they cannot submit their proposal without including proprietary information, they must adhere to the following procedure or their proposal may be deemed unresponsive and will not be recommended for selection. Vendor(s) must submit such information in a separate, sealed envelope labeled "Proprietary Information" with the ITB number. The envelope must contain Attachment H describing the documents in the envelope, representing in good faith that the information in each document is not "public record" as defined by 29 *Del. C.* § 10002(d), and briefly stating the reasons that each document meets the said definitions.

Upon receipt of a proposal accompanied by such a separate, sealed envelope, the State of Delaware will open the envelope to determine whether the procedure described above has been followed.

If the Vendor does not have any documents it declares confidential or proprietary, Attachment H should be completed by checking the appropriate box found at the top of the attachment.

## **TECHNICAL SPECIFICATIONS**

Food delivered under this contract is used to feed school children as well as residents in State hospitals and prisons. Due to this fact, delivery requirements included in this solicitation are of major importance. Vendors who are habitually unable to meet the delivery requirements of this solicitation are subject to penalty and possible contract termination. Also vendors who deliver unauthorized substitutions and/or expired items are subject to penalty and possible contract termination.

Since some utilizing agencies may be required to meet State and/or Federal nutritional guidelines, the decisions by the State and Government Support Services to accept or reject alternative products will be final and binding.

### **1. GENERAL REQUIREMENTS**

- No service fees or additional cost 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).
- There will be no “small order”, “minimum order”, or “special order” charges or surcharges.
- There will be no return fees for inaccuracies or other errors on the part of the supplier.
- Any rush delivery that occurs as a result of Supplier’s error (e.g. stock-outs, delivery of wrong product, etc.) will be free of charge. No handling surcharges will be added or discounts lost for any rush or expedited orders.
- You may also provide catalog(s) and price list(s) for all of the food products that you sell that include all of the different price tiers available for each product. An electronic copy is preferred. The price listed therein will be the prices that the state will use for off-contract purchases during the term of the contract. Please note that as a high volume purchaser of contracted items, the state expects to receive the lowest price offered on off-contract items.

### **2. APPENDIX A**

Appendix A is an Excel workbook to be completed electronically by the bidding vendor. The purpose of the workbook is to submit contract pricing as well as other relevant information that will be used to evaluate each vendor’s ability to fulfill the contract. Any information that is required in the ITB response and hasn’t been addressed in this workbook shall be submitted in hardcopy form. Refer to General Provisions #11 “Number of Copies with Mailing of Proposals” for submission requirements. Instructions for completing the Excel workbook can be found on the first tab of the workbook (Labeled: Instructions).

The requirements for this contract, contained in Appendix A, have been broken down into three sections: Department of Correction (DOC), Department of Health and Social Services (DHSS), and School Districts (EDU). Ordering agencies may request additional items required during the term of the contract. Additionally requested items are to be noted on the monthly usage reports and are covered by the Terms & Conditions found in this solicitation

### **3. CUSTOMER SERVICE**

The Supplier(s) should provide each of the State and the Contract Users a single, local point of contact (and a backup) to handle questions or problems that may arise. At least one Customer Service Representative must be available during Supplier’s operating hours. All service representatives must have on-line access to information to provide immediate response to inquiries concerning the status of orders (shipped or pending), delivery information, back-order information, State contract pricing, contracted product offerings/exclusions, contract compliance requirements, and general product information. Representatives should be available by phone, fax, or email (local or 800 number preferred).

Both the State and the Supplier(s) will commit to quarterly reviews of internal customer satisfaction and will make consistent efforts to improve customer satisfaction.

#### **4. DELIVERY REQUIREMENTS**

**The state reserves the right to add locations or delete locations as needed.**

The following agencies are known users of the contract. It should be understood that additional agencies and/or school districts not listed may require service. Route schedules shall be furnished to Food Service Supervisors of each agency within 30 days of contract award.

- ***DEPARTMENT OF HEALTH & SOCIAL SERVICES FACILITIES: Delivery made to DHSS/DSCYF locations should be guaranteed within 72 hours of original order.***

GOVERNOR BACON HEALTH CENTER: P.O. Box 599, Delaware City, Delaware, 19706. Monday through Friday, 7:00am to 2:00pm, excluding holidays.

DELAWARE HOSPITAL FOR THE CHRONICALLY ILL: 100 Sunnyside Road, Smyrna, DE 19977. Monday through Friday, 8:00am to 2:00pm, excluding holidays.

DELAWARE PSYCHIATRIC CENTER: 1901 North DuPont Hwy. New Castle, DE 19720. Monday through Friday, 8:00am to 2:00pm, excluding holidays. **Deliveries must be during the first week of each month in addition to other times that may be required.**

STOCKLEY CENTER: 26351 Patriots Way, Georgetown, DE 19947. Monday through Friday, 8:00am to 4:00pm, excluding holidays.

FERRIS SCHOOL: 959 Centre Road, Wilmington, DE 19805. Monday through Friday, during daylight hours, excluding holidays.

NEW CASTLE COUNTY DETENTION CENTER: 963 Centre Road, Wilmington, DE 19805. Monday through Friday, during daylight hours, excluding holidays.

STEVENSON HOUSE: 700 N. DuPont Blvd., Milford, DE 19963. Monday through Friday, during daylight hours, excluding holidays.

- ***DEPARTMENT OF CORRECTION:***

JAMES T VAUGHN CORRECTIONAL: Smyrna Landing Road, Smyrna, DE 19977. Deliveries shall be made to the Central Warehouse, Monday-Friday, 6:30 a.m. to 11:00 a.m., and 11:30 a.m. to Noon and shall be accepted by the Correctional Officer Warehouse Supervisor or their designee only. Deliveries will not be accepted on State holidays and weekends.

#### **5. SHIPPING**

A packing label must be on each box and include the following items, visible on the outside of the box:

- Contract User's Name
- Address
- Department and floor
- Contact

- Telephone number

A packing slip must also be included which will include information such as:

- Line item description
- Quantity ordered
- Quantity included in shipment
- Any back order items
- Unit Price
- PO number

## **6. PRODUCT GUARANTEES**

VENDOR guarantees against denting, swells and can detinning for a period of 12 months from date of delivery. All products specified herein, shall be processed, packaged and delivered in accordance with any and all applicable regulations, including those of the State of Delaware and Federal Food & Drug Administration Food Codes.

## **7. QUALITY ASSURANCE GUARANTEES**

The Supplier(s) is to guarantee its products to be free from defects in materials and workmanship, given normal use and care, over the period of the manufacturer warranty. The terms of this contract will supersede any language to the contrary on purchase orders, invoices or other documents produced by the supplier(s). The Supplier(s) is to agree to repair and/or replace within 48 hours, without charge to Contract Users, any product or part thereof which proves to be defective or fails within the warranty period as specified. Agencies are required to notify the awarded vendor of rejection in writing through facsimile or email notification to the vendor point of contact, and shall retain copies of notices in their files.

If the rejected product cannot, or will not, be replaced by the awarded vendor with identical, approved and usable product within 48 hours, the agency may procure the product elsewhere, and chargeback any cost differences, including cost of handling, if any, to the awarded vendor

## **8. EXPIRED PRODUCT**

**At no time will the state agencies be expected to accept expired product nor should any awarded vendor make attempt to deliver product that has passed its identified product life.**

If it is determined that a vendor has delivered expired product, the product shall immediately be rejected by the receiving agency. If expired product is discovered while a shipment(s) is being unpacked, the agency shall notify the vendor within 24 hours and reject the product. Agencies shall notify the vendor in writing through facsimile or electronic correspondence that an expired product has been received, and shall retain copies of such correspondence in their records.

The delivering vendor has 48 hours to remove and replace the expired product with identical or substitute product that has been previously approved by the State. **If the expired and rejected product cannot, or will not, be replaced by the awarded vendor with identical, approved and usable product within 48 hours, the agency may procure the product elsewhere, and chargeback any cost differences, including cost of handling, if any, to the awarded vendor.**

Additionally, if the vendor refuses to replace or pick up the expired product from the agency within the timeframe specified, the agency will not be held accountable for the billing nor the condition of the identified

product delivered. The agency's accountability will extend to the thawing of previously frozen material, and if an unhealthy situation is created, the disposal of the rejected product..

## **9. STOCK ITEMS**

All items bid will be considered stock items, unless otherwise noted on the bid. Please indicate on Appendix A whether the item is an in-stock item and if not the time in which the item can be expected to be in-stock.

## **10. BACK ORDER**

It is the responsibility of the contractor to notify the ordering agency **in writing** immediately upon notification that an item is on back order. The contractor shall state the reason for the back order and the date the agency can expect delivery. Agencies shall be required to accept back orders within 48 hours of the original delivery date. Agencies shall reserve the right to accept back orders scheduled to take longer than 48 hours to deliver at their discretion, and shall make their decision known to the awarded vendor.

If the time to deliver a back ordered item is longer than 48 hours after original delivery was scheduled, the agency shall retain the ability to cancel the back order product delivery without cost or penalty. The agency is required to inform the awarded vendor of the cancellation in writing through facsimile transmission or email notification to vendor point of contact. Agencies shall retain copies of cancellations in their records.

**If the back order is canceled under this back order condition, the agency reserves the right to purchase from an alternative vendor, charging the increase in price and cost of handling, if any, to the original awarded contractor.**

## **11. PRODUCT AVAILABILITY**

Suppliers must agree that there will be no cancellation of products used without an equal and acceptable replacement approved by a designated State of Delaware representative, as listed in the final contract, during the term of the agreement. Manufacturer's discontinuation of any products must be communicated to Contract Users by suppliers in writing within two (2) business days. In such instances, suppliers agree to work with Contract Users to identify and implement alternative options that maintain or reduce costs associated with the replacements.

Awarded vendor(s) shall provide alternative product samples to the appropriate agency personnel along with nutritional data information sheets to allow for an approval or rejection of an alternate product.

## **12. SUBSTITUTIONS**

**Substitutions of any products or quantity on any order are unacceptable unless the vendor has acquired written authorization from the designated buyer PRIOR to delivery.** Unauthorized substitutions may be subject to penalty.

The receiving agency shall reserve the right to immediately reject any product that has not been previously authorized by agency personnel. An agency's decision to accept delivery of a not previously authorized product is not a guarantee that future deliveries will be automatically accepted, or that the accepted product has become an authorized alternative. If a vendor seeks to include an alternative product as an authorized alternative, the awarded vendor must receive written authorization, or submit a sample and nutritional data information sheet to the agency for testing. **Only on acceptance of the substitution, and written identification from the agency that the product has been accepted,** shall the vendor consider the product an authorized substitution which will be automatically accepted for future deliveries.

If the agency opts not to accept the delivered product for any reason, the agency shall make note on the bill of lading provided at the time of delivery. Such identification will serve as official notice to the vendor of the rejection, and no further correspondence will be required. The awarded vendor shall be provided with 48 hours within which to provide an authorized product. **If the vendor is not willing or is unable to supply the appropriate product to the agency, the agency shall reserve the right to obtain the product from an alternative supplier, and to charge any increase in price and/or cost of handling, if any, to the original awarded contractor.**

Unauthorized substitutions are also subject to the RETURNS section below.

### 13. NUTRITIONAL DATA SHEETS

**The contractor must furnish nutritional data sheets for all items bid with your bid package. Nutritional data sheets are to be submitted electronically in PDF format on CD or DVD media disk. The electronic file shall contain one file for each section; and contain the data sheets in the same order as the bid. Data Sheets are to be labeled with Bidding Vendor's Name and Line Item #. Failure to do so may result in your bid being deemed non-responsive.**

### 14. RETURNS

Any materials delivered in poor condition, in excess of the amount authorized by the requisition form, unauthorized substitutions or not included on the requisition form or purchase order may, at the discretion of the Contract Users, be returned to the Supplier's warehouse at the Supplier's expense within 30 days. Return Authorizations (RA's) must be credited immediately once Supplier receives the returned goods. **If product was returned due to poor condition or unauthorized substitution the Supplier must make arrangement to have authorized product delivered within 48 hours if requested by ordering Agency at no additional charge.** No payments will be made for products that do not meet agreed upon pricing, quality, or other requirements to be specified in the ITB or the contract.

### 15. SAMPLES

Government Support Services, reserves the right to require a Bidder to furnish samples of any item on which a vendor submits a bid. Upon request by the Government Support Services or an Agency, the Bidder must comply within 48 hours after the request for samples. The samples must be furnished free of charge, marked with item number and Bidder's name, and delivered to the designated agency. **The state agencies, will evaluate these samples, all samples approved and non-approved are at the discretion of the State agencies.**

Samples must be delivered in the same container that will be used for delivery during the contract period. **Products previously submitted for taste testing, and are not approved, will not be re-evaluated or awarded as part of this contract.**

**Samples submitted will not be returned.**

### 16. PLASTIC CONTAINERS

Please utilize plastic jars in place of glass jars, when possible.

### 17. LABELING

All items shall be packaged and labeled in accordance with accepted trade practices in sufficiently sturdy and clean containers. Labels are to contain nutritional information as well as product contents.

## **18. FOOD LAWS AND STANDARDS**

All products specified herein shall be processed, packaged and delivered in accordance with any and all applicable regulations including those of the Delaware Health Department, U.S. Department of Agriculture, and requirements of the Federal Food, Drug and Cosmetic Act and regulations promulgated there under.

## **19. GRADES FOR CANNED AND FROZEN FRUITS**

All fruits must be of U.S. Grade A quality, they are the very best, with an excellent color and uniform size, weight, shape. They have the proper ripeness and few or no blemishes. This highest grade of fruits is the most flavorful and attractive. **If product bid is determined to be inferior quality, the State will not award that item bid.**

## **20. SAMPLES OF PRODUCTS AFTER THE AWARD**

In the event that the vendor is found to be habitually non-compliant with the requirements of this solicitation/contract they may be subject to the following corrective actions:

- Quarterly rate increases for the next quarter will be denied for any five (5) actionable non-performance occurrences per section – DOC, DHSS, EDU.
- Individual line item will be removed from vendor's award and offered to the next lowest, responsive bidder for the remaining contract term for any three (3) actionable non-performance occurrences per line.
- Contract Termination.

## **21. PENALTIES**

**Internet Ordering** – A quick and convenient way to order food items from the Web, as well as tracking shipments, orders, invoicing, and billing. Vendor shall have an online ordering capability for all using agencies. Bidding vendors shall identify in their bid submission the following capabilities, and answers to the following items listed below:

- Do you provide training for this?
- Is an account number required?
- How is the privacy protected?
- Explain your process and or procedure or ordering process. Please explain on separate sheet.
- Is there a minimum System Requirement? If so, please state.
- Is this service compatible with Windows and Macintosh operating?
- Does it have online reporting?
- Real time order confirmation and reservation?
- Customizable order guide?
- Online catalog and price inquiries?
- Instant feedback on order exceptions?
- List key benefits of your Internet online ordering.

**Vendor shall provide software at no cost.**

**Online Ordering Central Control System** – A service for Agencies that will maintain centralized control and visibility of all orders. Do you offer this service? If so, please explain and list the features and Benefits.

**Online Ordering Central Control System Training** – The vendor shall provide end user training when requested by the agency. This training may be on an individual, or group basis.

**22. MENU AND RECIPE SUPPORT (For DHSS/DSCYF locations only)**

Vendor will provide menu, recipe and nutrition data in both electronic and paper format. Recipes will be developed for 10, 50 and 100 servings. The nutrient analysis will be provided in an Excel spreadsheet format.

BID QUOTATION REPLY SECTION  
CONTRACT NO. GSS13490-PACK\_FOOD  
PACKAGED FOOD

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 November 20, 2012 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 19904-8202**

**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**

## Proposal Reply Requirements

The response should contain at a minimum the following information:

1. Brief Vendor Cover Letter including an Applicant's experience, if any, providing similar services.
2. One (1) paper copy of the **Appendix A** bid response paperwork.

The Appendix A – Pricing Spreadsheet is available at the following website:

[www.bids.delaware.gov](http://www.bids.delaware.gov)

Vendors MUST provide copies of all pricing spreadsheet tabs.

3. One (1) complete, signed and notarized copy of the non-collusion agreement (see Attachment C). **MUST HAVE ORIGINAL SIGNATURES AND NOTARY MARK**
4. One (1) complete OMWBE application (see link on Attachment D) – only provide if applicable
5. One (1) complete and signed copy of the Subcontractor Information Form (See Attachment E) for each subcontractor – only provide if applicable.
6. One (1) completed Business Reference form (See Attachment F) – please provide references other than State of Delaware contacts. Form must be included.
7. One (1) completed ITB Exception form (See Attachment G) – please check box if no information. Form must be included.
8. One (1) completed Confidential Information form (See Attachment H) – please check box if no information provided will be considered confidential or proprietary. Form must be included.

The items listed above provide the basis for evaluating each vendor's proposal. **Failure to provide all appropriate information may deem the submitting vendor as “non-responsive” and exclude the vendor from further consideration.** If an item listed above is not applicable to your company or proposal, please make note in your submission package.

**Attachment B**

STATE OF DELAWARE  
OFFICE OF MANAGEMENT AND BUDGET  
GOVERNMENT SUPPORT SERVICES  
CONTRACTING SECTION  
100 ENTERPRISE PLACE – SUITE 4  
DOVER, DELAWARE 19904-8202

NO BID REPLY FORM

**BID # GSS13490-PACK\_FOOD**

**BID TITLE: Packaged Food**

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.: GSS13490-PACK\_FOOD**  
**TITLE: Packaged Food**  
**OPENING DATE: November 20, 2012, 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 MANAGEMENT AND BUDGET  
 GOVERNMENT SUPPORT SERVICES

**Subcontractor Information Form**

CONTRACT NO. GSS13490-PACK\_FOOD

CONTRACT NAME: Packaged Food

<b>PART I – STATEMENT BY PROPOSING VENDOR</b>		
1. CONTRACT NO.  [INSERT CONTRACT NO.]	2. Proposing Vendor Name:	3. Mailing Address
4. SUBCONTRACTOR		
a. NAME	4c. Company OMWBE Classification: Certification Number: _____	
b. Mailing Address:	4d. Women Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4e. Minority Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4f. Disadvantaged Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No 4g. Veteran Owned Business Enterprise <input type="checkbox"/> Yes <input type="checkbox"/> No	
5. DESCRIPTION OF WORK BY SUBCONTRACTOR		
6a. NAME OF PERSON SIGNING	7. BY ( <i>Signature</i> )	8. DATE SIGNED
6b. TITLE OF PERSON SIGNING		
<b>PART II – ACKNOWLEDGEMENT BY SUBCONTRACTOR</b>		
9a. NAME OF PERSON SIGNING	10. BY ( <i>Signature</i> )	11. DATE SIGNED
9b. TITLE OF PERSON SIGNING		

## Business References

CONTRACT NO.      **GSS13490-PACK\_FOOD**  
Contract Name:      **Packaged Food**

List a minimum of three business references, including the following information:

- Business Name and Mailing address
- Contact Name and phone number
- Number of years doing business with
- Type of work performed

Please do not list any State Employee as a business reference. If you have held a State contract within the last 5 years, please list the contract.

1. Business Name/Mailing Address:  
Contact Name/Phone Number:  
Number of years doing business with :  
Describe type of work performed:
  
2. Business Name/Mailing Address:  
Contact Name/Phone Number:  
Number of years doing business with :  
Describe type of work performed:
  
3. Business Name/Mailing Address:  
Contact Name/Phone Number:  
Number of years doing business with :  
Describe type of work performed:

**PLEASE DO NOT INCLUDE STATE OF DELAWARE PERSONNEL AS REFERENCES.**







**State of Delaware**  
**Office of Supplier Diversity**  
**Certification Application**

The most recent application can be downloaded from the following site:  
[http://gss.omb.delaware.gov/osd/docs/certapp\\_022510.pdf](http://gss.omb.delaware.gov/osd/docs/certapp_022510.pdf)



**Complete application and mail, email or fax to:**

Office of Supplier Diversity (OSD)  
100 Enterprise Place, Suite 4  
Dover, DE 19904-8202  
Telephone: (302) 857-4554 Fax: (302) 677-7086  
Email: [osd@state.de.us](mailto:osd@state.de.us)  
Web site: <http://gss.omb.delaware.gov/osd/index.shtml>



