



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET

December 31, 2012

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

FROM: SHELLY K. ALIOA  
STATE CONTRACT PROCUREMENT OFFICER  
302-857-4553

SUBJECT: **AWARD NOTICE, Addendum #3, Effective March 1, 2014**  
**CONTRACT NO. GSS13490-PACK\_FOOD,**  
**PACKAGED FOOD**

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OF  
KEY CONTRACT INFORMATION

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**GOVERNMENT SUPPORT SERVICES – CONTRACTING**  
100 ENTERPRISE PLACE – SUITE 4 – DOVER, DE 19904-8202  
PHONE: (302) 857-4550 – FAX: (302) 739-3779 – GSS.OMB.DELAWARE.GOV

## **KEY CONTRACT INFORMATION**

### **1. MANDATORY USE CONTRACT**

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

### **2. CONTRACT PERIOD**

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Each vendor's contract shall be valid for one (1) year from January 1, 2013 through December 31, 2013. Each contract may be renewed for one (1) additional one (1) year period through negotiation between the contractor and Government Support Services. Negotiation must be initiated no later than sixty (60) days prior to the termination of the current agreement.

This contract has been extended for thirty (30) days until January 31, 2014. All contract pricing will be held.

**Addendum #2 extends the contract for thirty (30) days until February 28, 2014. All contract pricing will be held.**

**Addendum #3 extends the contract for thirty (30) days until March 31, 2014. All contract pricing will be held.**

### **3. VENDORS**

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<b>Atlantic Beverage Company</b> 3775 Park Ave, Unit 12 Edison, NJ 08820 POC: Elliot Braun PH: 732-548-5800 x231 Email: <a href="mailto:elliot.braun@atlanticbeverageco.com">elliot.braun@atlanticbeverageco.com</a> FSF # 0000162126	<b>Bernard Food Industries, Inc.</b> P.O. Box 1497 Evanston, IL 60204 POC: Ron Lynn PH: 800-323-3663 Email: <a href="mailto:ron@bernardfoods.com">ron@bernardfoods.com</a> FSF # 0000022036
<b>Food Pro Corporation</b> 321 East 5 <sup>th</sup> Street Frederick, MD 21705 POC: Diane Isaac PH: 301-663-3171 x245 Email: <a href="mailto:bids@foodprocorp.com">bids@foodprocorp.com</a> FSF # 0000094068	<b>Good Source Solutions, Inc.</b> 1525 Faraday Ave., Suite 200 Carlsbad, CA 92008 POC: Gil Hines PH: 800-735-4319 Email: <a href="mailto:gil@goodsource.com">gil@goodsource.com</a> FSF # 0000046037
<b>The Great Gourmet</b> 5115 Clark Canning House Road Federalsburg, MD 21632 POC: Lauren Chamberlain PH: 410-754-8800 Email: <a href="mailto:lauren@thegreatgourmet.com">lauren@thegreatgourmet.com</a>	<b>H. Schrier &amp; Co., Inc.</b> 4901 Glenwood Rd Brooklyn, NY 11234 POC: Maria Mascellino PH: 718-258-7550 Email: <a href="mailto:schrierfoods@aol.com">schrierfoods@aol.com</a>

FSF # 0000069245	FSF # 0000002187
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### 3. VENDORS (continued)

<b>Kast Distributors, Inc.</b> 541 Harding Hwy Carneys Point, NJ 08069 POC: Tania Michailidou PH: 800-550-9735 Email: <a href="mailto:Tania@kastdistributors.com">Tania@kastdistributors.com</a> FSF # 0000017009	<b>Karetas Foods</b> 1012 Tuckerton Court Reading, PA 19605 POC: Vicky Friedmann PH: 610-926-3663 Email: <a href="mailto:Vicky@karetasfoods.com">Vicky@karetasfoods.com</a> FSF#: 0000017971
<b>Sysco Eastern Maryland LLC</b> 33239 Costen Road Pocomoke City, MD 21851-0477 POC: Nancy Linck PH: 410-677-5527 Email: <a href="mailto:linck.nancy@lsfs.sysco.com">linck.nancy@lsfs.sysco.com</a> FSF#: 0000033811	<b>Upstate Nutritionals</b> 175 Wofford Road Taylors, SC 29687 POC: Ben Oliver PH: 407-257-9829 Email: <a href="mailto:bigben0027@att.net">bigben0027@att.net</a> FSF#: 0000061240

### 4. SHIPPING TERMS

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

### 5. DELIVERY

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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.

**6. PRICING**

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Prices will remain firm for the stated term of the contract.

Awarded pricing can be found in Excel document – Pricing Spreadsheet.

**ADDITIONAL TERMS AND CONDITIONS**

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**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. REQUIREMENTS**

This contract will be issued to cover the Packaged Food requirements for all State Agencies and shall be accessible to any School District, Political Subdivision, or Volunteer Fire Company.

#### **12. 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.

#### **13. 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.

#### **14. 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.

#### **15. 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>.

## **16. 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.

## **17. 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.

## **18. 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.

## **19. EXPIRED ITEMS**

**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.

## **20. 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.

## **21. 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.

## **22. 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.

### **23. 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.

### **24. 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.

### **25. PLASTIC CONTAINERS**

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

### **26. 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.

### **27. 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.



## **28. 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 item bid.**

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

Upon request by the Agency, the Vendor must comply within one week after the request for samples. The samples must be furnished free of charge, marked and labeled appropriately and delivered to the designated agency. The state agencies, in accordance with FDA and State of Delaware Food Codes, 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.

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.**

## **30. PENALTIES**

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

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

## **31. ON LINE ORDERING**

➤ **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. This online ordering system shall have all the current items in this ITB 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.

Offeror 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.

**32. 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.