



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET

May 9, 2017

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

FROM: PRISCILA ZHININ
STATE CONTRACT PROCUREMENT OFFICER I
302-857-4556

SUBJECT: **AWARD NOTICE**
CONTRACT NO. GSS17728-FOOD_PROD
FOOD PRODUCTS AND SERVICES

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KEY CONTRACT INFORMATION

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GOVERNMENT SUPPORT SERVICES – CONTRACTING
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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, 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 a two (2) year period from June 1, 2017 through May 31, 2019. Each contract may be renewed for three (3) one (1) year periods through negotiation between the Vendor and Government Support Services. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

3. VENDORS

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GSS17728-FOOD_PROD V01 Dori Foods, Inc. 3410 Norfolk Street Richmond, VA 23230 POC: Becky Dunn PH: 804-355-1600 EM: bdunn@dorifoods.com FSF: 0000055132	GSS17728-FOOD_PROD V02 H. Schrier & Co., Inc. 4901 Glenwood Road Brooklyn, NY 11234 POC: David Libertoff PH: 718-258-7500 EM: dlibertoff@schrierfoodservice.com FSF: 0000002187
GSS17728-FOOD_PROD V03 Karetas Food LLC 1012 Tuckerton Court Reading, PA 19605 POC: Corey Zerbe PH: 610-926-3663, ext 3021 EM: corey@karetasfoods.com FSF:	GSS17728-FOOD_PROD V04 Sysco Eastern Maryland 33239 Costen Road Pocomoke, MD 21851 POC: Mike Tull PH: 410-677-5527 EM: tull.mike@emd.sysco.com FSF: 0000033811

4. SHIPPING TERMS

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

5. DELIVERY

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Locations will expect weekly order delivery.

Product is expected to be in stock and available for delivery within a five (5) business day lead time.

In case of unforeseen circumstances, one 'Emergency Need' delivery per month must be permitted. 'Emergency Need' deliveries are to be made within 72 hours of original order.

Deliveries are to be made in a climate-controlled truck for refrigerated or frozen foods.

Vendor delivery personnel must assist in unloading.

Total poundage per item delivered must be within a five percent (5%) tolerance of the specified amount ordered.

6. PRICING

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Prices will remain firm for the term of the contract year. Refer to Pricing Sheet associated with this award or eMarketplace for current pricing and offerings.

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. 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.

10. PURCHASE ORDERS

Agencies that are part of the First State Financial (FSF) system are required to identify the contract number GSS17728-FOOD_PROD on all Purchase Orders (P.O.) and shall complete the same when entering P.O. information in the state's financial reporting system.

11. HOLD HARMLESS

The contractor agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the contractor, its employees, and invitees on or about the premises and which arise out of the contractor's performance, or failure to perform as specified in the Agreement.

12. NON-PERFORMANCE

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

13. FORCE MAJEURE

Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

14. AGENCY'S RESPONSIBILITIES

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.
- c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.
- d. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.
- e. If there is a performance deficiency, a Corrective Action Report (CAR) may be used. Complete this form to report concerns with vendors or commodities. Be sure to furnish as much detail as possible. <http://gss.omb.delaware.gov/divisionwide/forms.shtml>.

SCOPE OF WORK

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I. **PURPOSE**

Food delivered under this contract is used to feed school children as well as residents in State hospitals and prisons. It is our intent with this procurement to consider multiple vendors who can meet the food product needs of the many different food service settings throughout the state to include, schools, hospitals, long term care facilities and prisons.

It is important to be aware that delivery needs, warehousing capabilities and product requirements may vary greatly from setting to setting and vendors may be awarded and utilized according to their capabilities presented for the best possible competitive pricing and level of service as required.

II. **SERVICES**

A. **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.

B. **ONLINE ORDERING**

Vendor shall be required to load their catalog offerings into the State's eMarketplace Solution and accept orders through the solution.

1. **INTENT TO LOAD CATALOGS IN STATE ePROCUREMENT SOLUTION**

Bidders will be required to provide catalog(s) and the corresponding price list(s) for all awarded goods that are being offered to the State for purchase, and shall include all applicable and awarded price tiers available for each product in the pricing format required of this of this solicitation. These documents may be required and supplied by the vendor in an electronic format as determined by the State over the life of the contract. The prices listed therein will be the prices paid by the State for purchases during the contract term.

At the discretion of the State, all awarded items will need to be provided in an electronic format for use in a hosted catalog offering which will be presented in the State's eProcurement solution. All single items listed must reflect one (1) price, at the discounted rate as offered by the vendor in their proposal and as accepted by the State. Volume discounts offered for multiple units or multi-unit packaging shall be listed as a separate line item(s) in any catalog submitted for posting to the State's eProcurement solution.

The awarded vendor(s) will be directed to supply the catalog file to an identified state representative and/or the State's designated eProcurement vendor at any time after execution of the contract, but no later than 45 days after the contract execution.

A zero dollar catalog shall be submitted to the eProcurement solution vendor no later than 30 days prior to the end of the contract term, and shall be the final catalog update provided under the agreement. The State will approve this catalog, after the contract end date, to remove all items and pricing from the eProcurement Solution. The zero dollar catalog serves as a correcting entry to maintain system integrity of valid and currently awarded items. The failure by the Vendor to comply and submit this correcting entry will be viewed as a major performance deficiency, and may prevent the State from awarding the Vendor on a future contract opportunity.

At any time during the contract term, (1) the vendor shall remove individual or categories of items from the catalog offering if requested by the State; (2) consider expanding the catalog offering with additional items or categories if requested and accepted by the State; and/or (3) the State may take unilateral action on the items listed in the eProcurement solution to hide or otherwise make unauthorized any items the State believes is outside the scope of the awarded categories.

The failure and/or inability to comply with this hosted catalog requirement may subject the awarded vendor to corrective action, up to and possibly including termination of the contract.

A hosted catalog is defined as a vendor supplied electronic catalog of all awarded items, including item descriptions, attributes and the award prices, which will be stored and publically visible in the State's eProcurement solution. At the sole discretion of the State, the contract team will consider implementation and use of a punchout catalog solution in lieu of the hosted catalog option. A punchout catalog uses the eProcurement system to access to the Vendor's electronic catalog. Users can then shop, select and retrieve items back into the eProcurement system, allowing the original to execute an order.

III. 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.

IV. ORDERS

A. CUSTOMER SERVICE

The Vendor(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).

B. QUALITY ASSURANCE GUARANTEES

The Vendor(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 Vendor(s). The Vendor(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.

All product is expected to be received in a fresh, unaltered state as it was shipped direct from the original manufacturer.

All product, unless otherwise specifically stated shall be fresh stock, latest model, design, or pack.

C. 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.

D. BACK ORDER

It is the responsibility of the vendor to notify the ordering agency in writing immediately upon notification that an item is on back order. The vendor 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 vendor.

E. 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.

F. 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 (See J. Penalties).

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 vendor.

Unauthorized substitutions are also subject to the RETURNS section below.

G. 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.

H. DELIVERIES

Locations will expect weekly order delivery.

Product is expected to be in stock and available for delivery within a five (5) business day lead time.

In case of unforeseen circumstances, one 'Emergency Need' delivery per month must be permitted. 'Emergency Need' deliveries are to be made within 72 hours of original order.

Deliveries are to be made in a climate-controlled truck for refrigerated or frozen foods.

Vendor delivery personnel must assist in unloading.

Total poundage per item delivered must be within a five percent (5%) tolerance of the specified amount ordered.

I. DELIVERY LOCATIONS

The location listing below shows current known delivery locations. This list is not exclusive of all locations that are eligible to order through the contract.

- James T. Vaughn Correctional Center, 1181 Paddock Road, Smyrna, DE 19977
- Delaware Psychiatric Center, 1901 N. DuPont Hwy, Main Building, New Castle, DE 19720
- Delaware Hospital for the Chronically Ill, 100 Sunnyside Road, Smyrna, DE 19977
- Emily P. Bissell Hospital, 3000 Newport Gap Pike, Wilmington, DE 19808
- Governor Bacon Health Center, 1 Wilmington Ave, Delaware City, DE 19706
- Stockley Center, 26351 Patriots Way, Georgetown, DE 19947
- Ferris School, 959 Centre Road, Wilmington, DE 19805
- Delaware Veterans Home, 100 Delaware Veterans Blvd, Milford, DE 19963

J. PENALTIES

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:

- A penalty of \$25.00 per missed notification to agency within 48-hours of product Back Order or Product availability will be enforced. It will be deducted from either current or future invoice.
- Quarterly rate increases for the next quarter will be denied for any three (3) actionable non-performance occurrences.
- 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.

V. PRODUCTS

A. PLASTIC CONTAINERS

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

B. 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.

All exterior packaging shall be labeled with:

- Purchase Order Number
- Product name
- Product/Item code
- Brand/Packer's name
- USDA inspection stamp
- Unit/pack size
- Pack date
- Ingredients
- Nutritional values including Sodium and Fat content
- Safe handling instructions, to include storage and shelf life
- Thawing instructions, if applicable
- Cooking instructions, if applicable

All interior packaging with multi-package units that require interior labeling per product specifications, shall be labeled with:

- Product name
- Package weight

All meat products with grade specified must have:

- USDA Grade Stamp on item itself, i.e. Gooseneck bottom Round shall have a purple stamp reading "USDA Select."

C. 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.

D. ORGANOLEPTIC REQUIREMENTS

All meats for purpose of this contract shall be free from rancidity; free of fruity, sulfide-like, cardboardy, tallowy, oily, oxidized, metallic, chlorine and other off or foreign odors; free of foreign materials (e.g., glass, metal, paper, rubber); must show no evidence of mishandling or deterioration; and must have bright color with no evidence of dehydration or freezing and thawing. Any product that does not comply with the organoleptic requirements will be rejected for use under this contract.

E. 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.

F. 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.

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.

All samples submitted must have accompanying Manufacturer Product Specification Sheets inclusive of:

- Item name
- Brand name
- Product code
- Unit/pack size
- Ingredients
- Nutritional information including Sodium and Fat content