



**DEPARTMENT OF HEALTH
AND SOCIAL SERVICES**

Division of Management Services

January 1, 2014

ISSUED BY: Annette Opalczynski
Purchasing Services Coordinator
302-255-9295

SUBJECT: **AWARD NOTICE**
HSS-13-054
Nutritionally Complete Foods

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KEY CONTRACT INFORMATION

1. CONTRACT PERIOD

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Each contractor’s contract shall be valid for a one (1) year period from January 1, 2014 through December 31, 2014. Each contract may be renewed for three (3) additional one (1) year period(s) through negotiation between the contractor and Delaware Health and Social Services, Division of Management Services. . Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

2. VENDORS

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Applied Nutrition Corp 10 Saddle Road Cedar Knolls, NJ 07927 Contact: Jessica Ahrens Jessica@Medicalfood.com Phone: 800-605-0410 Ext. 23 Fax: 973-734-0023 FSF #:0000016977 (Contract Vendor 01)	Cambrooke Foods 4 Copeland Drive Ayer, MA 01432 Contact: Cindy Coffin ccoffin@cambrookefoods.com Phone: 866-456-9776, Ext. 1917 Fax: 978-443-1318 FSF#: 0000102845 (Contract Vendor 02)	Nutricia North America 9900 Belward Campus Drive Rockville, MD 20850 Contact: Pat Dotson patricia.dotson@nutricia.com Phone: 301-309-1145 Fax# : 301-795-2301 FSF#0000026013 (Contract Vendor 03)
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3. SHIPPING TERMS

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

4. DELIVERY AND PICKUP

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Applied Nutrition 5 days ARO	Cambrooke Foods 4 days ARO	Nutricia North America 5 days ARO
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5. PRICING

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

See accompanying Excel spreadsheet for prices.

ADDITIONAL TERMS AND CONDITIONS

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6. BILLING

The successful vendor is required to **"Bill as Shipped" to the respective ordering agency(s).** Ordering agencies shall provide at a minimum the contract number, ship to and bill to address, contract name and phone number.

7. PAYMENT

The Agency 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.

8. PRODUCT SUBSTITUTION

All items delivered during the life of the contract shall be of the same type and manufacture as specified unless specific approval is given by Delaware Health and Social Services, Division of Management

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

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. The ordering agency will place their orders 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. REQUIREMENTS

This contract is issued to cover Nutritionally Complete Foods for various Delaware Health & Social Service Agencies.

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 must then formally contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.