



Request for Proposal 14-X-23355

For: Foods: Puddings & Gelatins, Individual, Canned & Powdered - DSS

Event	Date	Time
Bidder's Electronic Question Due Date (Refer to RFP Section 1.3.1 for more information.)	02/27/2014	5:00 PM
Mandatory/Optional Pre-Proposal Conference	N/A	N/A
Mandatory/Optional Site Visit	N/A	N/A
Proposal Submission Date (Refer to RFP Section 1.3.2 for more information.)	03/19/2014	2:00 PM

Dates are subject to change. All changes will be reflected in Addenda to the RFP posted on the Division of Purchase and Property website.

Small Business Set-Aside	☒ Not Applicable	Category ☐ I ☐ II ☐ III
	☐ Entire Contract	
	☐ Partial Contract	
	☐ Subcontracting Only	

RFP Issued By

State of New Jersey
Department of the Treasury
Division of Purchase & Property
Trenton, New Jersey 08625-0230

Using Agency/Agencies

State of New Jersey
Distribution & Support Services
1620 Stuyvesant Ave.
W. Trenton, NJ 08625

Date: 01/14/2014

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1.0 INFORMATION FOR BIDDERS

1.1 PURPOSE AND INTENT

This Request for Proposal (RFP) is issued by the Procurement Bureau, Division of Purchase and Property, Department of the Treasury on behalf of the State of New Jersey. The purpose of this RFP is to solicit proposals for various puddings and powdered gelatins, which will be made available and delivered by the Contractor to Distribution & Support Services (DSS).

The intent of this RFP is to award (a) contract(s) to that (those) responsible bidder(s) whose proposals, conforming to this RFP is (are) most advantageous to the State, price and other factors considered. The State, however, reserves the right to separately procure individual requirements that are the subject of the contract during the contract term, when deemed by the Director to be in the State's best interest.

The State of NJ Standard Terms and Conditions will apply to all contracts or purchase agreements made with the State of New Jersey. These terms are in addition to the terms and conditions set forth in this RFP and should be read in conjunction with them unless the RFP specifically indicates otherwise.

1.2 BACKGROUND

This is a reprourement of the Foods: Puddings & Gelatins, Individual, Canned & Powdered – DSS term contract, presently due to expire on 05/17/2014. Bidders interested in the current contract specifications and pricing information may review the current contract T # 0586 at <http://www.state.nj.us/treasury/purchase/pricelists.shtml>.

1.3 KEY EVENTS

1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD

The Division will electronically accept questions and inquiries from all potential bidders via the web at <http://ebid.nj.gov/QA.aspx>.

Questions should be directly tied to the RFP and asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP page number and section number to which it relates.

Bidders must not contact the Using Agency directly, in person, by telephone or by e-mail, concerning this RFP.

The cut-off date for electronic questions and inquiries relating to this RFP is indicated on the cover sheet. Addenda to this RFP, if any, will be posted on the Division's website after the cut-off date. (See RFP Section 1.4.1 for further information.)

1.3.2 SUBMISSION OF PROPOSAL

In order to be considered for award, the proposal must be received by the Procurement Bureau of the Division of Purchase and Property at the appropriate location by the required time. **ANY PROPOSAL NOT RECEIVED ON TIME AT THE LOCATION INDICATED BELOW WILL BE REJECTED. THE DATE AND TIME ARE INDICATED ON THE COVER SHEET. THE LOCATION IS AS FOLLOWS:**

PROPOSAL RECEIVING ROOM – 9TH FLOOR
PROCUREMENT BUREAU

DIVISION OF PURCHASE AND PROPERTY
DEPARTMENT OF THE TREASURY
33 WEST STATE STREET, P.O. BOX 230
TRENTON, NJ 08625-0230

Directions to the Division are available on the web at <http://www.state.nj.us/treasury/purchase/directions.shtml>.

Note: Bidders using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Procurement Bureau.

Procedural inquiries concerning this RFP may be directed to RFP.procedures@treas.state.nj.us. This e-mail address also may be used to submit requests to review proposal documents. The State will not respond to substantive questions related to the RFP or any other contract via this e-mail address.

To submit an RFP or contract related question, go to the Current Bidding Opportunities webpage or to <http://eBid.nj.gov/QA.aspx>.

1.3.3 ELECTRONIC BIDDING (EBID)

The Division is pleased to announce its electronic procurement modernization process. This RFP provides to the bidder the opportunity to electronically submit its proposal. A new electronic bidding – “eBid” – application is being made available to vendors to promote an easier, more efficient method to submit proposals.

On-line Electronic Proposal Training Sessions:

Online electronic proposal training for the eBid process is available on the web at <https://wwwnet1.state.nj.us/treasury/dpp/ebid/>. The bidder is strongly encouraged to utilize the on-line training session before attempting to submit an eBid. It will be the bidder's responsibility to ensure that the eBid has been properly submitted.

1.3.4 ELECTRONIC SIGNATURES

Bidders submitting proposals through the eBid system may sign the following forms electronically by typing the name of the authorized signatory in the “Signature” block as an alternative to downloading, physically signing the form, scanning the form and uploading the form to the eBid system:

- Ownership Disclosure Form;
- Disclosure of Investigations and Other Actions Involving Bidder Form; and
- Disclosure of Investment Activities in Iran Form

This practice applies only to proposals submitted through the eBid system and the forms listed above. Both electronic signatures and scanned physical signatures will be accepted, provided that the forms are otherwise properly completed.

1.4 ADDITIONAL INFORMATION

1.4.1 ADDENDA: REVISIONS TO THIS RFP

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Any addendum to this RFP will become part of this RFP and part of any contract awarded as a result of this RFP.

ALL RFP ADDENDA WILL BE ISSUED ON THE DIVISION OF PURCHASE AND PROPERTY WEB SITE. TO ACCESS ADDENDA, THE BIDDER MUST SELECT THE PROPOSAL NUMBER ON THE WEB PAGE AT <http://www.state.nj.us/treasury/purchase/bid/summary/bid.shtml>.

There are no designated dates for release of addenda. Therefore interested bidders should check the Division's "Bidding Opportunities" website on a daily basis from time of RFP issuance through the proposal submission opening.

It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this procurement.

1.4.2 BIDDER RESPONSIBILITY

The bidder assumes sole responsibility for the complete effort required in submitting a proposal in response to this RFP. No special consideration will be given after proposals are opened because of a bidder's failure to be knowledgeable as to all of the requirements of this RFP.

1.4.3 COST LIABILITY

The State assumes no responsibility and bears no liability for costs incurred by a bidder in the preparation and submittal of a proposal in response to this RFP.

1.4.4 CONTENTS OF PROPOSAL

Your proposal can be released to the public during the protest period established pursuant to N.J.A.C. 17:12-3.3, or under the New Jersey Open Public Records Act, N.J.S.A. 47:1A-1 et seq., (OPRA) or the common law right to know. As provided in N.J.A.C. 17:12-1.2(b):

Subsequent to the proposal submission opening, all information submitted by bidders in response to a solicitation is considered public information, notwithstanding any disclaimers to the contrary submitted by a bidder, except as may be exempted from public disclosure by OPRA and the common law.

Any proprietary and/or confidential information in your proposal will be redacted by the State. A bidder may designate specific information as not subject to disclosure pursuant to the exceptions to OPRA found at N.J.S.A. 47:1A-1.1, when the bidder has a good faith legal and or factual basis for such assertion. The State reserves the right to make the determination as to what is proprietary or confidential, and will advise the bidder accordingly. The location in the proposal of any such designation should be clearly stated in a cover letter. **The State will not honor any attempt by a bidder to designate its entire proposal as proprietary, confidential and/or to claim copyright protection for its entire proposal.** In the event of any challenge to the bidder's assertion of confidentiality with which the State does not concur, the bidder shall be solely responsible for defending its designation.

By signing the cover sheet of this RFP, the bidder waives any claims of copyright protection set forth within the manufacturer's price list and/or catalogs. The price lists and/or catalogs must be accessible to State using agencies and cooperative purchasing partners and thus have to be made public to allow all eligible purchasing entities access to the pricing information.

1.4.5 PROPOSAL SUBMISSION

On the date and time proposals are due under the RFP, all information concerning the proposals submitted may be publicly announced and those proposals, except for information appropriately designated as proprietary and/or confidential, shall be available for inspection and copying. In

those cases where negotiation is contemplated, only the names and addresses of the bidders submitting proposals will be announced and the contents of the proposals shall remain proprietary and/or confidential until the Notice of Intent to Award is issued by the Director.

1.4.6 PRICE ALTERATION IN HARD COPY PROPOSALS

Proposal prices must be typed or written in ink. Any price change (including "white-outs") must be initialed. Failure to initial price changes shall preclude a contract award from being made to the bidder.

1.4.7 PROPOSAL ERRORS

In accordance with N.J.A.C. 17:12-2.11, "Proposal Errors," a bidder may withdraw its proposal as described below.

A bidder may request that its proposal be withdrawn prior to the proposal submission opening. Such request must be made, in writing, to the Supervisor of the Proposal Review Unit. If the request is granted, the bidder may submit a revised proposal as long as the proposal is received prior to the announced date and time for proposal submission and at the place specified.

If, after the proposal submission opening but before contract award, a bidder discovers an error in its proposal, the bidder may make a written request to the Supervisor of the Proposal Review Unit for authorization to withdraw its proposal from consideration for award. Evidence of the bidder's good faith in making this request shall be used in making the determination. The factors that will be considered are that the mistake is so significant that to enforce the contract resulting from the proposal would be unconscionable; that the mistake relates to a material feature of the contract; that the mistake occurred notwithstanding the bidder's exercise of reasonable care; and that the State will not be significantly prejudiced by granting the withdrawal of the proposal. After the proposal submission opening, while pursuant to the provisions of this section, you may request to withdraw your proposal and the Director may, in her discretion allow you to withdraw it, the Division also may take notice of repeated or unusual requests to withdraw by a bidder and take those prior requests to withdraw into consideration when evaluating the bidder's future bids or proposals.

All proposal withdrawal requests must include the proposal identification number and the final proposal submission date and be sent to the following address:

Department of the Treasury
Procurement Bureau
PO Box 230
33 West State Street – 9th Floor
Trenton, New Jersey 08625-0230
Attention: Supervisor, Proposal Review Unit

If during a proposal evaluation process, an obvious pricing error made by a potential contract awardee is found, the Director shall issue written notice to the bidder. The bidder will have five (5) days after receipt of the notice to confirm its pricing. If the vendor fails to respond, its proposal shall be considered withdrawn, and no further consideration shall be given it.

If it is discovered that there is an arithmetic disparity between the unit price and the total extended price, the unit price shall prevail. If there is any other ambiguity in the pricing other than a disparity between the unit price and extended price and the bidder's intention is not readily discernible from other parts of the proposal, the Director may seek clarification from the bidder to ascertain the true intent of the proposal.

1.4.8 JOINT VENTURE

If a joint venture is submitting a proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's proposal. Authorized signatories from each party comprising the joint venture must sign the proposal. A separate Ownership Disclosure Form, Disclosure of Investigations and Actions Involving Bidder form, Disclosure of Investment Activities in Iran form, and Affirmative Action Employee Information Report must be supplied for each party to a joint venture. NOTE: Each party comprising the joint venture must also possess a valid Business Registration Certificate ("BRC") issued by the Department of the Treasury, Division of Revenue prior to the award of a contract. Refer to Section 4.4.2.1 of this RFP.

1.4.9 RECIPROCITY FOR JURISDICTIONAL BIDDER PREFERENCE

In accordance with N.J.S.A. 52:32-1.4 and N.J.A.C. 17:12-2.13, the State of New Jersey will invoke reciprocal action against an out-of-State bidder whose state or locality maintains a preference practice for its bidders. For states having preference laws, regulations, or practices, New Jersey will use the annual surveys compiled by the Council of State Governments, National Association of State Purchasing Officials, or the National Institute of Governmental Purchasing to invoke reciprocal actions. The State may obtain additional information as it deems appropriate to supplement the stated survey information.

The bidder may submit information related to preference practices enacted for a local entity outside the State of New Jersey. This information may be submitted in writing as part of the proposal response, including name of the locality having the preference practice, as well as identification of the county and state, and should include a copy of the appropriate documentation, i.e., resolution, regulation, law, notice to bidder, etc. It is the responsibility of the bidder to provide documentation with the proposal or submit it to the Director, Division of Purchase and Property within five (5) working days of the public proposal submission date. Written evidence for a specific procurement that is not provided to the Director within five (5) working days of the public proposal submission date will not be considered in the evaluation of that procurement, but will be retained and considered in the evaluation of subsequent procurements.

1.4.10 PROPOSAL ACCEPTANCES AND REJECTIONS

The Director's right to waive minor elements of non-compliance with specifications and N.J.A.C. 17:12-2.2 which defines causes for automatic proposal rejection, apply to all proposals. In addition, pursuant to N.J.S.A. 52:34-12(a) and N.J.S.A. 52:18A-19 the Director retains the right to reject all bids if it is in the public interest.

2.0 DEFINITIONS

2.1 GENERAL DEFINITIONS

The following definitions will be part of any contract awarded or order placed as result of this RFP.

Addendum – Written clarification or revision to this RFP issued by the Division of Purchase and Property.

Amendment – An alteration or modification of the terms of a contract between the State and the Contractor(s). An amendment is not effective until it is signed by the Director or Deputy Director, Division of Purchase and Property.

Bidder – An individual or business entity submitting a proposal in response to this RFP.

Contract – This RFP, any addendum to this RFP, and the bidder's proposal submitted in response to this RFP, as accepted by the State.

Contractor – The bidder awarded a contract resulting from this RFP.

Director – Director, Division of Purchase and Property, Department of the Treasury. By statutory authority, the Director is the chief contracting officer for the State of New Jersey.

Division – The Division of Purchase and Property

Evaluation Committee – A committee established by the Director to review and evaluate proposals submitted in response to this RFP and to recommend a contract award to the Director.

Joint Venture – A business undertaking by two or more entities to share risk and responsibility for a specific project.

May – Denotes that which is permissible, not mandatory.

Project – The undertaking or services that are the subject of this RFP.

Request for Proposal (RFP) – This document which establishes the bidding and contract requirements and solicits proposals to meet the purchase needs of the using Agencies as identified herein.

Shall or Must – Denotes that which is a mandatory requirement. Failure to meet a mandatory requirement will result in the rejection of a proposal as materially non-responsive.

Should – Denotes that which is recommended, not mandatory.

Small business – Pursuant to N.J.A.C. 17:13-1.2, “small business” means a business that meets the requirements and definitions of “small business” and has applied for and been approved by the New Jersey Division of Revenue, Small Business Enterprise Unit as (i) independently owned and operated, (ii) incorporated or registered in and has its principal place of business in the State of New Jersey; (iii) has 100 or fewer full-time employees; and has gross revenues falling in one of the three following categories: (A) 0 to \$500,000 (Category I); (B) \$500,001 to \$5,000,000 (Category II); and (C) \$5,000,001 to \$12,000,000, or the applicable federal revenue standards established at 13 CFR 121.201, whichever is higher (Category III).

State – State of New Jersey.

State Contract Manager – The individual responsible for the approval of all deliverables, i.e., tasks, sub-tasks or other work elements in the Scope of Work, as set forth in Sections 8.1, 8.1.1 and 8.1.2.

Subcontractor – An entity having an arrangement with a State contractor, where by the State contractor uses the products and/or services of that entity to fulfill some of its obligations under its State contract, while retaining full responsibility for the performance of all of its [the contractor's] obligations under the contract, including payment to the subcontractor. The subcontractor has no legal relationship with the State, only with the contractor.

Transaction - The payment or remuneration to the contractor for services rendered or products provided to the State pursuant to the terms of the contract, including but not limited to the following: purchase orders, invoices, hourly rates, firm fixed price, commission payments, progress payments and contingency payments.

Using Agency[ies] – A State department or agency, a quasi-State governmental entity, or a Cooperative Purchasing Program participant, authorized to purchase products and/or services under a contract procured by the Division.

2.2 CONTRACT SPECIFIC DEFINITIONS

ARO – After receipt of purchase order

DSS – Distribution & Support Services

QAL – Quality Assurance Lab at DSS

ACCEPTABLE EQUIVALENT – Brand/Model submitted by bidder representative of the product bid that meets the specification requirements set forth in the RFP.

QPL- Qualified Product List: QPL is a list of products that, (because of the length of time required for analysis and evaluation), have been researched and/or tested in advance of procurement to determine which suppliers, model number or brand names [of goods or products] comply with the specification needs.

Conversely:

If a manufacturer's previously approved brand and item is found to not meet technical specifications during the course of the contract, that manufacturer's brand may be removed from the approved brands list of the next RFP and the contract may be cancelled if another acceptable brand cannot be supplied. Also, as per section 4 under (Samples/Sample Testing) of the RFP, approved brands may be tested to determine compliance with technical specifications. If an approved brand is tested and found to not (no longer) meet technical specifications, the bid proposal for the affected item will be rejected.

3.0 COMMODITY DESCRIPTION/SCOPE OF WORK

3.1 GENERAL INFORMATION:

This section provides information for contractors to deliver various puddings and gelatins in estimated quantities as specified on the attached pricing sheet directly to DSS at the following address:

Department of the Treasury
Distribution & Support Services
1620 Stuyvesant Avenue
West Trenton, New Jersey 08625-0234

The price sheet may be accessed and printed out by clicking on the appropriate link on the Purchase Bureau webpage for this RFP.

For the purposes of this RFP, some grading and/or technical specifications for each item are also found on the RFP price sheet line items. These “line item” specifications are part of the entire RFP document which constitutes the contract to be entered into with the successful bidder.

The RFP line items listed on the price sheet of this RFP consist of various puddings and gelatins.

Bidders are strongly advised to read and understand the method of bidding/price sheet instructions found in section 4 of this RFP text and the contract award language found in section 7 of this RFP text.

The items listed on the price sheets of this RFP are in estimated quantities based upon previous sales and as projected for the period of this contract (one year).

***The estimated quantities are based on prior purchases and are to be used for information purposes only. The estimated quantities shall not be construed as either the maximum or minimum amount which the State shall be obliged to order as the result of this Request for Proposal or any contract entered into as a result of this Request for Proposal.**

See Section 4 for Method of Bidding and Price Sheet Instructions.

3.2 DELIVERY REQUIREMENTS

Delivery times greater than 30 days ARO (after receipt of order) will not be considered.

3.3 DELIVERIES AND INVOICING

Orders from any contract awarded as a result of this solicitation will be placed in the described order quantities listed on the price sheets and in accordance with special instructions, if any, in the technical specifications. Purchase orders will be faxed to contractors in advance. Original purchase orders including payment vouchers will be mailed to contractors. Payment vouchers must be submitted to DSS Accounts Payable for payment.

The contractor will not substitute the product brands awarded under its contract with any other product brand, during the term of this contract, without prior approval from DSS.

3.4 USDA CERTIFICATION

The bidder must refer to product specifications contained in this section and/or in the price line item description for any USDA requirements.

3.5 ADDITIONAL REQUIREMENTS

- 3.5.1 Items must be stacked on 48" x 40" four-(4) way grocery pallets before delivery will be accepted at DSS.
- 3.5.2 Items that are floor loaded upon delivery must be transferred to 48" x 40" four-(4) way grocery pallet by the carrier truck driver before delivery will be accepted.
- 3.5.3 Items that are delivered on other than 48" x 40" four-(4) way grocery pallets must be transferred to acceptable pallets by carrier truck driver before delivery is accepted.
- 3.5.4 Pallet exchange is available.
- 3.5.5 Segregation of product is required (when applicable).
- 3.5.6 Palletization or re-palletization shall be the sole responsibility of the delivering carrier, and no additional charges will be paid by DSS for this procedure.
- 3.5.7 Full pallets must be broken down to a maximum height of 51" for frozen products and 65" for non-frozen products in height by the carrier driver.
- 3.5.8 The contractor must deliver quantities awarded and ordered. The contractor cannot change quantities. Overages will be refused at the contractor's expense and shortages will be cause for formal complaint to the Contract Compliance and Audit Unit of the Division.
- 3.5.9 Prices submitted shall be net, FOB Destination for platform (dock) delivery to DSS only in the minimum quantity indicated in each line item description.

- 3.5.10 All products are subject to final acceptance at point of delivery. Any shipments arriving at DSS whereby the block patterns / cases are considered to be unstable, unsafe, or completely outside of the industry standard for that item, are subject to rejection and subsequent replacement. Rejected shipments are the responsibility of the contractor and must be removed from the DSS premises at contractor expense.
- 3.5.11 If circumstances beyond the control of the contractor may possibly result in a late delivery, it is the responsibility of the contractor to immediately make the details known to DSS in writing. DSS reserves the right to cancel all or part of any such order and purchase the item or items elsewhere.
- 3.5.12 If the contractor fails to deliver by the specified delivery date, DSS reserves the right to cancel the portion of the order which the contractor has failed to deliver within the specified time and to purchase that item or items elsewhere, charging the increase in price and cost of handling, if any, to the contractor. In the event of a contract cancellation for cause, the State reserves the right to cancel all outstanding orders.
- 3.5.13 The State reserves the right to test the delivered product during the contract term to ensure that it meets the contract requirements. If the product fails to meet contract requirements, the delivery shall be rejected and must be replaced within a period of time considered reasonable by DSS. If said replacement is not made, DSS reserves the right to purchase product elsewhere, charging any increase in price or handling to the contractor.
- 3.5.14 The cargo section of the delivery vehicle must be totally free of garbage, refuse, trash and other matter that may be involved in the development of pathogenic or toxigenic micro organisms that could possibly cause undesirable deterioration of the product. The cargo section of any delivery vehicle must be free of all obnoxious odors that may immigrate into the product or the product packaging rendering the product unacceptable for use. Presence of any of these conditions will be cause for complete rejection of the delivery. All frozen products shall be in a wholesome and sanitary condition with all cartons sealed at top and bottom and in sound condition at the time of delivery. Packaging must be in accordance with good commercial practices in order to protect the quality of the product and prevent freezer burn or dehydration. Shipments shall be made in mechanically refrigerated trucks with refrigeration unit operational and interior of the unit at 0 degrees Fahrenheit or below.
- 3.5.15 Damaged Goods Upon Delivery: Shipments containing damaged goods may be either partially accepted by DSS (with damaged goods rejected) or totally rejected by DSS depending on the severity of the damage. The carrier truck driver will bear sole responsibility for any "re-working" of palletized goods for the removal of any damaged goods from acceptable goods. DSS will not be responsible for any additional costs associated with this procedure. This will apply to all carriers and all deliveries. It is the responsibility of the contractor to communicate these requirements to the carriers it employs for deliveries to DSS.
- 3.5.16 Unloading Time Limit: Once started, the unloading process may not extend beyond a three (3) hour time period due to palletization, re-palletization or re-working of pallets for removal of damaged goods. Partial acceptance or partial rejection may result after this three (3) hour unloading period has expired.
- 3.5.17 Delivery due dates are indicated for each item ordered on each PO issued and will take vendors ARO delivery requirement into account. Delivery may be made from Monday through Friday (excluding state holidays) from 7:30 AM on but must arrive in time for delivery to be completed by no later than 3:00 PM. No delivery appointments, trucks will be unloaded on a first come, first serve basis.

- 3.5.18 Packing Slip Requirement: All deliveries must be accompanied by a packing slip indicating the name of the contractor and valid DSS purchase order number. Deliveries not properly identified may be rejected and returned at the contractor's expense.

The contractor shall provide, for each delivery, a receipt showing the items being delivered and DSS purchase order number. When a contractor delivers to DSS, it shall obtain proof of delivery signed by an authorized employee of the receiving unit or location. This proof of delivery must accompany the contractor's invoice submitted for payment.

- 3.5.19 Special Instructions: From time to time DSS may issue special shipping instruction to the contractor, which will supersede the requirements set forth herein. These special instructions will be communicated to the contractor at the time that order is placed and may affect block patterns or carton marking. The contractor shall make adjustments as appropriate.

- 3.5.20 Carton (Case) Marking Requirement: All shipping cartons shall be marked in accordance with Federal Standard No. 123 H as amended, and as modified by these terms and conditions. All cartons must be plainly marked on any two sides so that palletized cartons may be easily identified. Adjacent sides are preferable, however, opposite sides are acceptable. In addition to bid proposal specification requirements, the following must be included:

Contents (industry standard item description)

Either the State contract number, Purchase Order number or Pack Date

Cartons not complying with all marking requirements at time of delivery may be refused and returned at contractor's expense. No marking of post delivery cartons will be permitted at DSS.

- 3.5.21 Combined Deliveries: The contractor must not combine deliveries of items with various scheduled delivery dates, unless authorized by DSS.

- 3.5.22 Required Block Patterns:

3.5.22.1 Cases of 6/#10 cans must be palletized in 8 block, 7 high configuration before delivery can be accepted.

3.5.22.2 Cases other than 6/#10 cans must be configured with an interlocking block pattern, which must be consistent throughout the load for like items. Stretch wrapping or taping is required for all palletized loads.

3.5.22.3 Palletized loads should be built to a maximum height of 51" for frozen products and 65" for non-frozen products.

3.5.22.4 Standards for height and block patterns can be obtained by calling DSS prior to delivery.

- 3.5.23 USDA Requirements (If required in this RFP and specified in Section 3.0 Scope of Work):

3.5.23.1 Product offered shall be of the latest season's pack available as of the effective (start) date of the contract. References for determining latest season's pack and shelf life are:

3.5.23.1.1 USDA Seasonal Marketing Guide for Fresh Fruits and Vegetables (Latest Edition).

3.5.23.1.2 USDA Handbook-Usual Planting and Harvesting Date in Principal Producing Areas (Latest Edition).

3.5.23.1.3 USDA Handbook-Fruits and Tree Nuts: Blooming, Harvesting and Harvesting Dates (Latest Edition).

3.5.23.1.4 USDA File Code:145-A-3: Requirements for "Latest Season Pack".

3.5.23.1.5 Department of Defense (DOD) Publication - DOD 4145.19-R-1 Storage and Materials Handling.

Contractor/packers will be required to make such records available to the USDA inspector/grader as may be necessary to document and confirm the month and year of pack. General statements, such as a letter from the contractor/packer indicating that the product is of "latest season pack", will not be acceptable unless the month and year of the pack is included in such letter or statement.

3.5.23.2 The bidders awarded contracts for items which require USDA inspection and certification must forward copies of all specifications, terms and conditions and item descriptions from the original specifications to the entity which is preparing the item for inspection, certification and delivery. Failure to forward this information may delay USDA certification and in turn delay delivery to DSS. Failure to comply with this requirement may result in the filing of a formal complaint against the contractor which then becomes part of the Division's performance database.

3.5.23.3 For all shipments (canned, dried or frozen) requiring certificates of grading (USDA –USDC) the certificate must accompany each delivery to DSS. Goods delivered without required certification may be rejected at vendor's expense.

Official USDA roll stamping on each case is also required for all shipments that require a USDA grading certificate. If shipment arrives with case stamping but no certification it will be placed on hold for a maximum of three (3) working days pending fax receipt of appropriate certificate. Failure to provide acceptable certification within 3 working days will result in this conditional acceptance being revoked and storage charges being assessed commencing on the fourth (4th) day and continuing until the shipment is removed from DSS premises. Cash discount terms will be predicated on the date that the delayed certification is received. All costs of inspection and certification will be paid by the vendor.

3.5.23.4 The bidder's signature on the front page of this solicitation will verify and acknowledge that the bidder has ready access to and will provide USDA grading, certification and case stamping as required in each line item description.

3.5.24 Nutritional Data Sheets

The contractor must furnish nutritional data sheets of awarded items to DSS within five (5) days of contract award. Failure to do so may result in a formal complaint being filed for nonconformance. The contractor is to fax the nutritional data sheets to the attention of:

Mr. Kevin Ryan, Chief of Quality Assurance at DSS
Fax #609-530-3586

3.5.25 #10 Can Requirements

The State of New Jersey will adhere to specification requirements of all canned goods regarding the dimensions of standard # 10 cans. The dimensional specification requirements for # 10 cans recognized by the National Institute of Standards and

Technology (NIST), the Food and Drug Administration (FDA), United States Department of Agriculture (USDA), and National Canners Associations, are listed as 603x700 (6 3/16 inches in diameter by 7 inches in height). The State of New Jersey will not accept any alternate sized can that is not within the standard tolerance established by FDA for a standard # 10 can. The recognized tolerance accepted by FDA for a standard # 10 size can is +/- 1/16 inch in both the diameter and height measurements. It is important that the tolerance stated above is not exceeded. Waivers will not be issued for containers not meeting this specification.

3.6 TECHNICAL SPECIFICATIONS FOR PUDDING (LINE ITEMS #00007 THROUGH #00013)

Specifications:

Products offered for ready to serve pudding must be in accordance with the latest edition of FEDERAL CID #A-A-20051 E as amended by this solicitation.

Ready to serve pudding shall be prepared from clean wholesome materials free from objectionable odor and foreign matter. The pudding shall have a good flavor and odor characteristic of the applicable flavor, possess a smooth consistency, contain no free liquid and shall not be watery nor weep upon standing. Unopened cans shall not require refrigeration. The puddings shall not be canned, processed, or packaged more than ninety (90) days prior to delivery to DSS.

The pudding shall conform to the following analytical requirements:

Flavors	Soluble Solids 1/	Ph 2/
Vanilla	26.0 - 31.0	6.2 - 6.7
Chocolate	25.5 - 33.0	6.2 - 6.9
Tapioca	23.5 - 29.5	6.2 - 6.7
Butterscotch	24.0 - 34.4	6.2 - 6.9
Lemon	24.2 - 31.5	2.7 - 3.7

This table applies to ready to serve 6/#10 cans of pudding.

Since analytical requirements for banana flavor and rice pudding are not available the following is a list of acceptable ingredients:

Banana: skim milk, water, sugar, modified food starch, partially hydrogenated soybean oil, mono and diglycerides, salt, natural and artificial flavoring, sodium phosphate and artificial coloring (including FDC yellow #5)

Rice pudding: rice, skim milk, sugar, modified food starch, partially hydrogenated soybean oil, mono and diglycerides, salt, natural and artificial flavoring, sodium phosphate and artificial coloring (including FDC yellow #5)

3.7 SPECIFICATIONS FOR POWDERED GELATINS (LINE ITEMS 00001 THROUGH 00006)

This section contains a specification for various powdered gelatins.

Specifications:

Products offered for dessert powder (gelatin) must be in accordance with the latest edition of FEDERAL CID #AA-20170A as amended by this solicitation.

Dessert powder (gelatin) must be Type I (dessert powder, gelatin) in the following classes:

Cherry Flavor
Orange Flavor
Lime Flavor
Strawberry Flavor

Type I dessert powder (gelatin) shall be uniformly blended dry mixtures prepared from food grade materials and compounded using good manufacturing practices. The ingredients shall include gelatin, sweetener, acidulate, salt, buffers, FDC certified color, natural or artificial flavor or the combination thereof and other ingredients. The Type I dessert powder (gelatin) shall be free flowing, homogenous, free of lumps and contain no more than 3 percent moisture. The gelled dessert shall be firm and tender. It shall not be soft, runny, tough or rubbery. The prepared gelatin dessert shall have a color, flavor, and aroma characteristic of the flavor represented.

Dietetic dessert powder (gelatin) must be Type II in the following classes:

assorted red flavors (cherry, strawberry and raspberry)
assorted citrus flavors (lemon, lime and orange)

Type II dietetic dessert powders will be in accordance with CID A-A-20170A as amended by this specification.

No saccharin, pork or pork by-products are acceptable in these items.

Chemical analyses shall be made of the dietetic dessert powder as stated in Type II dessert powder above.

Type II gelatin dessert powder shall have a moisture content not more than 6.0 percent.

Chemical analyses shall be made of the dessert powder (gelatin) in accordance with the following methods in the most current edition of the office methods of analyses of the Association of the Official Analytical Chemists:

Test	Chapter & Section	Method
Jelly Strength	Chapter: Gelatin Dessert	Jelly
	Preparations and Mixes	Strength
	Section: Gelatin	
Moisture (Gelatin)	Chapter: Cereal Foods	Vacuum Oven
	Section: Wheat Flour	
Moisture (Dessert Powder)	Chapter: Sugars and Sugar Products	Vacuum Drying
	Section: Sugars and Syrups	

***Note: No pork or pork by-products are to be contained in the ingredients of any gelatin powder product.

4.0 PROPOSAL PREPARATION AND SUBMISSION

4.1 GENERAL

The bidder is advised to thoroughly read and follow all instructions contained in this RFP, including the instructions on the RFP's signatory page, in preparing and submitting its proposal.

Use of URLs in a proposal should be kept to a minimum and may not be used to satisfy any material term of an RFP. If a preprinted or other document included as part of the proposal contains a URL, a printed (or if a proposal is submitted electronically, electronic) copy of the URL page shall be provided and will be considered as part of the proposal. Additional URLs on the copy of the URL page shall not be considered as part of the proposal unless a copy of those URL pages are also provided.

The forms discussed herein and required for submission of a proposal in response to this RFP are available on the web at <http://www.state.nj.us/treasury/purchase/bid/summary/14x23355.shtml> unless noted otherwise.

4.2 PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a proposal must arrive at the Division in accordance with the instructions on the RFP signatory page accompanying this RFP. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of proposals. **State regulation mandates that late proposals are ineligible for consideration. THE EXTERIOR OF ALL PROPOSAL PACKAGES ARE TO BE LABELED WITH THE PROPOSAL IDENTIFICATION NUMBER AND THE FINAL PROPOSAL SUBMISSION DATE OR RISK NOT BEING RECEIVED IN TIME.**

4.3 EBID VS. NON-EBID SUBMISSION INSTRUCTION

4.3.1 EBID SUBMISSION OF PROPOSAL

If the bidder is submitting an eBid proposal, hard copy submission is not required. Instructions detailing how to enroll in and submit an eBid are available on the web at <https://wwwnet1.state.nj.us/treasury/dpp/ebid/>. If the bidder submits both an eBid and a hard copy of the bidder's proposal, the eBid proposal will prevail in the event of a discrepancy between the electronic and paper versions. When submitting an eBid, do not use any symbols (i.e., #, @, \$, &, *) in the filename.

4.3.2 NON-EBID SUBMISSION

The bidder must submit the following proposal copies:

One (1) complete ORIGINAL proposal, clearly marked as the "ORIGINAL" proposal.

One (1) complete and exact copy, clearly marked "COPY".

Copies are necessary in the evaluation of the proposal and for record retention purposes. A bidder failing to provide the requested number of copies will be charged the cost incurred by the State in producing the requested number of copies. The bidder should make and retain a copy of its proposal.

4.4 PROPOSAL CONTENT

4.4.1 FORMS, REGISTRATIONS AND CERTIFICATIONS REQUIRED WITH PROPOSAL

4.4.1.1 SIGNATORY PAGE

The bidder shall complete, including signature of an authorized representative of the bidder, and submit the Signatory Page accompanying this RFP. If the bidder is a limited partnership, the Signatory Page must be signed by a general partner. If the bidder is a joint venture, the Signatory Page must be signed by a principal of each party to the joint venture. Failure to comply will result in rejection of the proposal.

Note: A bidder's written signature on the Signatory Page, or entry of a Personal Identification Number (PIN) if using the eBid system, shall not serve as a certifying signature on the forms comprising the NJ STANDARD RFP FORMS document. (See 4.4.1.2)

4.4.1.1.1 MACBRIDE PRINCIPLES CERTIFICATION

The bidder must certify pursuant to N.J.S.A. 52:34-12.2 that it is in compliance with the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5 and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles. Please refer to Section 2.5 of the State of NJ Standard Terms and Conditions and N.J.S.A. 52:34-12.2 for additional information about the McBride principles.

By signing the RFP Signatory Page, or by entering its PIN if submitting an eBid proposal, the bidder/offeror is automatically certifying that either:

- a. The bidder has no operations in Northern Ireland; or
- b. The bidder has business operations in Northern Ireland and is committed to compliance with the MacBride principles.

A bidder/offeror electing not to certify to the MacBride Principles must nonetheless sign the RFP Signatory Page AND must include, as part of its proposal, a statement indicating its refusal to comply with the provisions of this Act.

4.4.1.1.2 NO SUBCONTRACTOR CERTIFICATION

For a proposal that does NOT include the use of any subcontractors, by signing the RFP Signatory Page, or by entering a PIN if submitting an eBid proposal, the bidder is *automatically* certifying that:

1. In the event the award is granted to bidder's firm and the bidder later determines at any time during the term of the contract to engage subcontractors to provide certain goods and/or services, pursuant to Section 5.8 of the State of NJ Standard Terms and Conditions, the bidder will submit a Subcontractor Utilization Plan form for approval to the Division of Purchase and Property in advance of any such engagement of subcontractors.
2. If the contract is a small business subcontracting set-aside, the bidder certifies that in engaging subcontractors, it will make a good faith effort to achieve the subcontracting set-aside goals, and will attach to the Subcontractor Utilization Plan documentation of such efforts in accordance with N.J.A.C. 17:13-4 et seq.

4.4.1.1.3 NON-COLLUSION

By submitting a proposal, the bidder certifies as follows:

- a. The price(s) and amount of its proposal have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.

- b. Neither the price(s) nor the amount of its proposal, and neither the approximate price(s) nor approximate amount of this proposal, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before proposal submission.
- c. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- d. The proposal of the firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- e. The bidder, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four (4) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.

4.4.1.1.4 NEW JERSEY BUSINESS ETHICS GUIDE CERTIFICATION

The Treasurer has established a business ethics guide to be followed by State contractors in their dealings with the State. The guide provides further information about compliance with Section 2.8 of the State of New Jersey Standard Terms and Conditions. The guide can be found at:

http://www.state.nj.us/treasury/purchase/ethics_guide.shtml

By signing the RFP signatory page, or by entering a pin if submitting an e-bid proposal, the bidder is automatically certifying that it has read the guide, understands its provisions and is in compliance with its provisions.

4.4.1.2 NJ STANDARD RFP FORMS

One of the downloadable RFP documents is titled NJ STANDARD RFP FORMS. It is comprised of three separate forms, two of which (Ownership Disclosure and Disclosure of Investment Activities in Iran) discussed below, must be completed, signed and submitted with the bidder's proposal. **The bidder is cautioned that failure to complete, sign and submit either of these two forms will be cause to reject its proposal as non-responsive as noted below.** If the bidder submits a hard copy proposal, each of the two forms must be physically signed.

If the bidder is submitting an electronic proposal through the Division's eBid system, there are only two acceptable forms of signature for the two forms:

1. The bidder may download the document, physically complete and sign each form, scan the completed document and then upload it, or
2. The bidder may download the document, type the name of the signatory in the space designated for certification signature in each of the forms and then upload the document.

Note: A bidder's entry of a Personal Identification Number (PIN) shall not suffice as a certifying signature on the forms comprising the NJ STANDARD RFP FORMS document.

4.4.1.2.1 OWNERSHIP DISCLOSURE FORM

Pursuant to N.J.S.A. 52:25-24.2, in the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete and sign the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the submitted proposal. A bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a contract to said bidder unless the Division has on file a signed and accurate Ownership Disclosure Form

dated and received no more than six months prior to the proposal submission deadline for this procurement. If any ownership change has occurred within the last six months, a new Ownership Disclosure Form must be completed, signed and submitted with the proposal.

4.4.1.2.2 DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN FORM

Pursuant to N.J.S.A. 52:32-58, the bidder must utilize this Disclosure of Investment Activities in Iran form to certify that neither the bidder, nor one of its parents, subsidiaries, and/or affiliates (as defined in N.J.S.A. 52:32-56(e)(3)), is listed on the Department of the Treasury's List of Persons or Entities Engaging in Prohibited Investment Activities in Iran and that neither the bidder, nor one of its parents, subsidiaries, and/or affiliates, is involved in any of the investment activities set forth in N.J.S.A. 52:32-56(f). If the bidder is unable to so certify, the bidder shall provide a detailed and precise description of such activities as directed on the form. A bidder's failure to submit the completed and signed form with its proposal will result in the rejection of the proposal as non-responsive and preclude the award of a contract to said bidder.

4.4.1.3 BID SECURITY

NOT APPLICABLE TO THIS PROCUREMENT.

4.4.1.4 PRICING

The bidder must submit its pricing on the State supplied Price Sheet/Schedule and supply any additional pricing information as directed in RFP Section 4.4.5.

4.4.2 FORMS REQUIRED BEFORE CONTRACT AWARD AND THAT SHOULD BE SUBMITTED WITH THE PROPOSAL

4.4.2.1 BUSINESS REGISTRATION

In accordance with N.J.S.A. 52:32-44(b), a bidder and its named subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of Treasury, Division of Revenue prior to the award of a contract. To facilitate the proposal evaluation and contract award process, the bidder should submit a copy of its valid BRC and those of any named subcontractors with its proposal. Refer to Section 2.1 of the State of NJ Standard Terms and Conditions.

Any bidder, inclusive of any named subcontractors, who does not have a valid business registration at the time of the proposal submission opening or whose BRC was revoked prior to the submission of the proposal should proceed immediately to register its business or seek re-instatement of a revoked BRC. Bidders are cautioned that it may require a significant amount of time to secure the re-instatement of a revoked BRC. The process can require actions by both the Division of Revenue and the Division of Taxation. For this reason, a bidder's early attention to this requirement is highly recommended. The bidder and its named subcontractors may register with the Division of Revenue, obtain a copy of an existing BRC or obtain information necessary to seek re-instatement of a revoked BRC online at <http://www.state.nj.us/treasury/revenue/busreqcert.shtml>.

A bidder otherwise identified by the Division as a responsive and responsible bidder, inclusive of any named subcontractors, but that was not business registered at the time of submission of its proposal must be so registered and in possession of a valid BRC by a deadline to be specified in writing by the Division. A bidder who fails to comply with this requirement by the deadline specified by the Division will be deemed ineligible for contract award. Under any circumstance, the Division will rely upon information available from computerized systems maintained by the State as a basis to verify independently compliance with the requirement for business registration.

A bidder receiving a contract award as a result of this procurement and any subcontractors named by that bidder will be required to maintain a valid business registration with the Division of Revenue for the duration of the executed contract, inclusive of any contract extensions.

4.4.2.2 DISCLOSURE OF INVESTIGATIONS AND ACTIONS INVOLVING BIDDER FORM

The bidder should submit the Disclosure of Investigations and Actions Involving Bidder Form, one of the three forms in the downloadable RFP documents titled NJ STANDARD RFP FORMS with its proposal, to provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years, including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, disposition. If a bidder does not submit the form with the proposal, the bidder must comply within seven (7) business days of the State's request or the State may deem the proposal non-responsive.

4.4.3 SUBMITTALS

4.4.3.1 BIDDER EXPERIENCE

The bidder should complete ALL the information requested on the Bidder Data Sheet Form attached to this RFP so that the State is able to make a sound business judgment regarding the bidder's experience and capability to perform the contract to the State's satisfaction.

The State may require a bidder to provide additional information or documentation within seven (7) days of request by the State.

4.4.3.2 SAMPLES/SAMPLE TESTING

The samples submitted must meet the specification requirements set forth in the RFP and must be representative of the product bid. Proposal samples for pricing lines #00001 thru #00017 for evaluation and testing purposes are to be made available at no charge and delivered to DSS, at the bidder's expense. The bidder must, within five (5) working days following a request from the State, submit proposal samples to DSS. Proposal samples will not be returned. QAL at DSS will conduct laboratory tests to assure that the proposal samples submitted for pricing lines #00001 thru #00017 conform to this RFP. The State reserves the right to perform any tests necessary to assure that the proposal samples conform to this RFP for pricing lines #00001 thru #00017. If the sample(s) of the brand/model/product offered by the bidder in its proposal fails, the State shall reject the proposal for the affected line item(s). The testing results of the State are final.

Palatability Testing

The State reserves the right to perform palatability testing of bid samples and products delivered by a test panel appointed by the Chief, DSS. Palatability testing will be supervised and conducted by DSS' Quality Assurance Unit. The Hedonic Scale Method of measuring food preferences will be used. Testing shall be conducted in an impartial atmosphere with a panel not informed of the brand names, vendors and manufacturers until the award recommendation is approved by the Director. If the testing involves a Qualified Product (QPL) and a proposed approved equal basis product, the QPL product will be used as the basis of comparison. In the event a product bid has been determined not to comply with the bid proposal specifications, that product shall not be eligible for contract award.

4.4.4 FINANCIAL CAPABILITY OF THE BIDDER

Upon request, in order to provide the State with the ability to judge the bidder's financial capacity and capabilities to undertake and successfully complete the contract, the bidder should

submit certified financial statements which include a balance sheet, income statement and statement of cash flow, and all applicable notes for the most recent calendar year or the bidder's most recent fiscal year. If certified financial statements are not available, the bidder should provide either a reviewed or compiled statement from an independent accountant setting forth the same information required for the certified financial statements, together with a certification from the Chief Executive Officer and the Chief Financial Officer, that the financial statements and other information included in the statements fairly present in all material respects the financial condition, results of operations and cash flows of the bidder as of, and for, the periods presented in the statements. In addition, the bidder should submit a bank reference.

If the information is not supplied with the proposal, the State may still require the bidder to submit it. If the bidder fails to comply with the request within seven (7) business days, the State may deem the proposal non-responsive.

A bidder may designate specific financial information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. A bidder may submit specific financial documents in a separate, sealed package clearly marked "Confidential-Financial Information" along with the proposal.

The State reserves the right to make the determination to accept the assertion and shall so advise the bidder.

4.4.5 PRICE SCHEDULE/SHEET

In order for the State to make sound business judgments regarding products and prices offered in response to this RFP, the bidder must supply, with its proposal, the information requested on the RFP's pricing lines in sufficient detail as to allow the State to determine the firm, fixed proposal pricing and the precise product or service being offered, i.e., with no possible misinterpretation of the price or product/service being offered by the bidder. A bidder's failure to provide, within its proposal, the information deemed by the State to be essential for product identification or price determination will result in rejection of that bidder's proposal. Notwithstanding the aforementioned material obligation, in order to support the State's decision-making process, the State may require a bidder to provide additional information or documentation that has been deemed not to be material to product identification or price determination, in which case, the bidder shall, within the time limit set forth in the written request, comply with said request.

Each bidder is required to hold its prices firm for a period of ninety (90) days. Every effort will be made to award the contract prior to the time period set forth above. However, upon the Director's request and by mutual consent, the State and the lowest first responsible Bidder and/or second lowest responsible Bidder and/or third lowest responsible Bidder may agree to extend the time the State may make an award.

4.4.5.1 DELIVERY COSTS

Unless otherwise noted elsewhere in the RFP, all prices for items in proposals shall be submitted F.O.B. Destination. Proposals submitted other than F.O.B. Destination may not be considered. Regardless of the method of quoting shipments, the contractor shall assume all costs, liability and responsibility for the delivery of merchandise in good condition to the State's using agency or designated purchaser.

F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platform of the ordering agency at any destination in the State of New Jersey unless otherwise specified. No additional charges will be allowed for any additional transportation costs resulting from partial shipments made at contractor's convenience when a single shipment is ordered. The weights and measures of the State's using agency receiving the shipment shall govern.

4.4.5.2 C.O.D. TERMS

C.O.D. terms are not acceptable as part of a proposal and will be cause for rejection of a proposal.

4.4.5.3 CASH DISCOUNTS

Bidders are encouraged to offer cash discounts based on expedited payment by the State. The State will make efforts to take advantage of discounts, but discounts will not be considered in determining the lowest proposal.

- a. Discount periods shall be calculated starting from the next business day after the using agency has accepted the goods or services, received a properly signed and executed invoice and, when required, a properly executed performance security, whichever is latest.
- b. The date on the check issued by the State in payment of that invoice shall be deemed the date of the State's response to that invoice.

4.4.6 METHOD OF BIDDING/PRICE SHEET INSTRUCTIONS

4.4.6.1 Line items #00001 - #00004 are grouped as "all or none". Therefore, bidder must bid on all line items within this group to qualify for consideration for this grouping.

4.4.6.2 Line items #00005 - #00006 are grouped as "all or none". Therefore, bidder must bid on all line items within this group to qualify for consideration for this grouping.

4.4.6.3 Line items #00007 - #00013 are grouped as "all or none". Therefore, bidder must bid on all line items within this group to qualify for consideration for this grouping.

4.4.6.4 Line items #00014 - #00017 are grouped as "all or none". Therefore, bidder must bid on all line items within this group to qualify for consideration for this grouping.

4.4.6.5 A bidder is not required to bid on all "all or none" groupings, however, a bidder is required to bid on all line items within the selected group.

4.4.6.6 As stated in Section 4.4.5, the information requested on the RFP's pricing lines must be in sufficient detail. Phrases such as "various packers", "and others", "to be provided at time of purchase order", or names of countries are not acceptable and will be cause for bid proposal rejection.

4.4.6.7 The State requires delivery within 30 days after receipt of order (ARO). Bidders who offer less than 30 days ARO must specify their delivery lead time on Item #17 of the signatory page. Delivery times greater than 30 days ARO will not be considered.

5.0 SPECIAL CONTRACTUAL TERMS AND CONDITIONS

5.1 PRECEDENCE OF SPECIAL CONTRACTUAL TERMS AND CONDITIONS

The contract awarded as a result of this RFP shall consist of this RFP, addenda to this RFP, the contractor's proposal, any best and final offer and the Division's Notice of Award.

Unless specifically stated within this RFP, the Special Contractual Terms and Conditions of the RFP take precedence over the State of NJ Standard Terms and Conditions accompanying this RFP.

In the event of a conflict between the provisions of this RFP, including the Special Contractual Terms and Conditions and the State of NJ Standard Terms and Conditions, and any addendum to this RFP, the addendum shall govern.

In the event of a conflict between the provisions of this RFP, including any addendum to this RFP, and the bidder's proposal, the RFP and/or the addendum shall govern.

5.2 CONTRACT TERM AND EXTENSION OPTION

The term of the contract shall be for a period of one (1) year. The anticipated "Contract Effective Date" is provided on the signatory page accompanying this RFP. If delays in the procurement process result in a change to the anticipated Contract Effective Date, the bidder agrees to accept a contract for the full term of the contract.

The contract may be extended for all or part of two (2) one-year periods, by the mutual written consent of the contractor and the Director at the same terms, conditions, and pricing at the rates in effect in the last year of the contract or rates more favorable to the State.

Purchase orders may be placed against the contract up to and including the end of business on the last day of the contract, for delivery no more than forty-five (45) days after contract expiration.

5.3 CONTRACT TRANSITION

In the event that a new contract has not been awarded prior to the contract expiration date, as may be extended herein, it shall be incumbent upon the contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transition period extend more than ninety (90) days beyond the expiration date of the contract.

5.4 CONTRACT AMENDMENT

Any changes or modifications to the terms of the contract shall be valid only when they have been reduced to writing and signed by the contractor and the Director.

5.5 CONTRACTOR RESPONSIBILITIES

The contractor shall have sole responsibility for the complete effort specified in the contract. Payment will be made only to the contractor. The contractor shall have sole responsibility for all payments due any subcontractor.

The contractor is responsible for the professional quality, technical accuracy and timely completion and submission of all deliverables, services or commodities required to be provided under the contract. The contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its deliverables and other services. The approval of deliverables furnished under this contract shall not in any way relieve the contractor of responsibility for the technical adequacy of its work. The review, approval, acceptance or payment for any of the services shall not be construed as a waiver of any rights that the State may have arising out of the contractor's performance of this contract.

5.6 CLAIMS AND REMEDIES

5.6.1 CLAIMS

All claims asserted against the State by the contractor shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

5.6.2 REMEDIES

Nothing in the contract shall be construed to be a waiver by the State of any warranty, expressed or implied, of any remedy at law or equity, except as specifically and expressly stated in a writing executed by the Director.

5.6.3 REMEDIES FOR FAILURE TO COMPLY WITH MATERIAL CONTRACT REQUIREMENTS

In the event that the contractor fails to comply with any material contract requirements, the Director may take steps to terminate the contract in accordance with the State of NJ Standard Terms and Conditions, authorize the delivery of contract items by any available means, with the difference between the price paid and the defaulting contractor's price either being deducted from any monies due the defaulting contractor or being an obligation owed the State by the defaulting contractor as provided for in the State administrative code, or take any other action or seek any other remedies available at law or in equity.

5.7 ITEMS ORDERED AND DELIVERED

The contract involves items which are necessary for the continuation of ongoing critical State services. Any delay in delivery of these items would disrupt State services and would force the State to immediately seek alternative sources of supply on an emergency basis. Timely delivery is critical to meeting the State's ongoing needs. Refer to Section 6.3.a of the State of NJ Standard Terms and Conditions for additional information.

5.8 MANUFACTURING/PACKAGING REQUIREMENTS

All products must conform in every respect to the standards and regulations established by Federal and New Jersey State laws.

All products shall be manufactured and packaged under modern sanitary conditions in accordance with federal and state law and standard industry practice.

All products are to be packaged in sizes as specified in this RFP and shall be packaged in such a manner as to ensure delivery in first class condition and properly marked for identification. All shipments must be comprised of original cartons associated with the commercial industry represented by the actual product contained within each carton. Deliveries containing re-used, re-labeled, re-worked or alternate cartons are subject to rejection by the Using Agency at the contractor's expense.

5.9 ELECTRONIC PAYMENTS

With the award of this contract, the successful vendor(s) will be required to receive their payment(s) electronically. In order to receive your payments via automatic deposit from the State of New Jersey, complete and return the "Credit Authorization Agreement for Automatic Deposits (ACH Credits)" Form with an **original voided check or bank letter**. The form must include ABA number (routing or transit number), bank account number and if the bank account is a checking or savings account. The form and instructions are located on the Office of Management & Budget's website at: <http://www.state.nj.us/treasury/omb/forms/index.shtml>. The completed form along with the required voided check or bank letter should be mailed or faxed to: Department of the Treasury, Office of Management and Budget, PO Box 221, 6TH Floor – Room 674, Trenton, N.J. 08625-0221; fax: (609)-984-5210. To assist in identifying payments, the State offers vendors

access to the Vendor Payment Inquiry web application (VPI) which offers check stub information online. Contact the State of New Jersey at AAIUNIT@treas.state.nj.us to request access to this application.

5.10 CONTRACT ACTIVITY REPORT

Contractor(s) must provide, on a calendar quarter basis, to the assigned Division representative, a record of all purchases made under the contract resulting from this RFP. This reporting requirement includes sales to State using agencies, political sub-divisions thereof and, if permitted under the terms of the contract, sales to counties, municipalities, school districts, volunteer fire departments, first aid squads and rescue squads, independent institutions of higher education, state and county colleges and quasi-state agencies. Quasi-state agencies include any agency, commission, board, authority or other such governmental entity which is established and is allocated to a State department or any bi-state governmental entity of which the State of New Jersey is a member.

This information must be provided in a tabular format such that an analysis can be made to determine the following:

- Contractor's total sales volume to each purchaser under the contract, subtotaled by product, including, if applicable, catalog number and description, price list with appropriate page reference and/or contract discount applied.
- Total dollars paid to subcontractors.

Submission of purchase orders, confirmations, and/or invoices do not fulfill this contract requirement for information. Failure to report this mandated information may be a factor in future award decisions.

Contractors must submit the required information in Microsoft Excel format.

5.11 PROGRAM EFFICIENCY ASSESSMENT

The State Using Agencies shall be charged an assessment equal to one-quarter of one percent (0.25%) of the value of all transactions under this contract. This assessment is authorized by N.J.S.A. 52:27B-56 and N.J.A.C. 17:12-1.5, to maintain the State's procurement system at a level to meet industry standards of efficiency.

6.0 PROPOSAL EVALUATION

6.1 RIGHT TO WAIVE

The Director reserves the right to waive minor irregularities. The Director also reserves the right to waive a requirement provided that:

- (1) the requirement is not mandated by law;
- (2) all of the otherwise responsive proposals failed to meet the requirement; and
- (3) in the sole discretion of the Director, the failure to comply with the requirement does not materially affect the procurement or the State's interests associated with the procurement.

6.2 DIRECTOR'S RIGHT OF FINAL PROPOSAL ACCEPTANCE

The Director reserves the right to reject any or all proposals, or to award in whole or in part if deemed to be in the best interest of the State to do so. The Director shall have authority to award orders or contracts to the vendor or vendors best meeting all specifications and conditions in accordance with N.J.S.A. 52:34-12. Tie proposals will be awarded by the Director in accordance with N.J.A.C.17:12-2.10.

6.3 STATE'S RIGHT TO INSPECT BIDDER'S FACILITIES

The State reserves the right to inspect the bidder's establishment before making an award, for the purposes of ascertaining whether the bidder has the necessary facilities for performing the contract.

The State may also consult with clients of the bidder during the evaluation of bids. Such consultation is intended to assist the State in making a contract award which is most advantageous to the State.

6.4 STATE'S RIGHT TO REQUEST FURTHER INFORMATION

The Director reserves the right to request all information which may assist him or her in making a contract award, including factors necessary to evaluate the bidder's financial capabilities to perform the contract. Further, the Director reserves the right to request a bidder to explain, in detail, how the proposal price was determined.

6.5 ORAL PRESENTATION AND/OR CLARIFICATION OF PROPOSAL

After the submission of proposals, unless requested by the State as noted below, vendor contact with the State is still not permitted.

After the proposals are reviewed, one, some or all of the bidders may be asked to clarify certain aspects of their proposals. A request for clarification may be made in order to resolve minor ambiguities, irregularities, informalities or clerical errors. Clarifications cannot correct any deficiencies or material omissions or revise or modify a proposal, except to the extent that correction of apparent clerical mistakes results in a modification.

The bidder may be required to give an oral presentation to the State concerning its proposal.

Bidders may not attend the oral presentations of their competitors.

It is within the State's discretion whether to require the bidder to give an oral presentation or require the bidder to submit written responses to questions regarding its proposal. Action by the State in this regard should not be construed to imply acceptance or rejection of a proposal. The Division will be the sole point of contact regarding any request for an oral presentation or clarification.

6.6 EVALUATION CRITERIA

The following criteria will be used to evaluate all proposals that meet the requirements of this RFP. The criteria are not necessarily listed in order of importance:

- a) Price
- b) Experience of the bidder
- c) The bidder's past performance under similar contracts, including if applicable, the Division's vendor performance database.

6.6.1 PROPOSAL DISCREPANCIES

In evaluating proposals, discrepancies between words and figures will be resolved in favor of words. Discrepancies between unit prices and totals of unit prices will be resolved in favor of unit prices. Discrepancies in the multiplication of units of work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated total of multiplied unit prices and units of work and the actual total will be resolved in favor of the actual total. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum of the column of figures.

6.6.2 EVALUATION OF THE PROPOSALS

After the Evaluation Committee completes its evaluation, it recommends to the Director for award the responsible bidder(s) whose proposal, conforming to this RFP, is most advantageous to the State, price and other factors considered. The Evaluation Committee considers and assesses price, technical criteria, and other factors during the evaluation process and makes a recommendation to the Director. The Director may accept, reject or modify the recommendation of the Evaluation Committee. Whether or not there has been a negotiation process as outlined in Section 6.7 below, the Director reserves the right to negotiate price reductions with the selected bidder.

6.7 NEGOTIATION AND BEST AND FINAL OFFER (BAFO)

After evaluating proposals, the Division may enter into negotiations with one bidder or multiple bidders. The primary purpose of negotiations is to maximize the State's ability to obtain the best value based on the mandatory requirements, evaluation criteria, and cost. Multiple rounds of negotiations may be conducted with one bidder or multiple bidders. Negotiations will be structured by the Division to safeguard information and ensure that all bidders are treated fairly.

Similarly, the Division may invite one bidder or multiple bidders to submit a best and final offer (BAFO). Said invitation will establish the time and place for submission of the BAFO. Any BAFO that is not equal to or lower in price than the pricing offered in the bidder's original proposal will be rejected as non-responsive and the State will revert to consideration and evaluation of the bidder's original pricing.

If required, after review of the BAFO(s), clarification may be sought from the bidder(s). The Division may conduct more than one round of negotiation and/or BAFO in order to attain the best value for the State.

After evaluation of proposals and as applicable, negotiation(s) and/or BAFO(s), the Division will recommend, to the Director, the responsible bidder(s) whose proposal(s), conforming to the RFP, is/are most advantageous to the State, price and other factors considered. The Director may accept, reject or modify the recommendation of the Division. The Director may initiate additional negotiation or BAFO procedures with the selected bidder(s).

Negotiations will be conducted only in those circumstances where they are deemed by the Division or Director to be in the State's best interests and to maximize the State's ability to get the best value. Therefore, the bidder is advised to submit its best technical and price proposal in response to this RFP since the State may, after evaluation, make a contract award based on the content of the initial submission, without further negotiation and/or BAFO with any bidder.

All contacts, records of initial evaluations, any correspondence with bidders related to any request for clarification, negotiation or BAFO, any revised technical and/or price proposals, the

Evaluation Committee Report and the Award Recommendation, will remain confidential until a Notice of Intent to Award a contract is issued.

NOTE: If the Division contemplates negotiation, proposal prices will not be publicly read at the proposal submission opening. Only the name and address of each bidder will be publicly announced at the proposal submission opening.

6.8 COMPLAINTS

A bidder with a history of performance problems as demonstrated by formal complaints and/or contract cancellations for cause pursuant to Section 5.7.b of the State of NJ Standard Terms and Conditions accompanying this RFP may be bypassed for an award issued as a result of this RFP.

7.0 CONTRACT AWARD

7.1 DOCUMENTS REQUIRED BEFORE CONTRACT AWARD

7.1.1 REQUIREMENTS OF PUBLIC LAW 2005, CHAPTER 51, N.J.S.A. 19:44A-20.13 - N.J.S.A. 19:44A-20.25 (FORMERLY EXECUTIVE ORDER NO. 134) AND EXECUTIVE ORDER NO. 117 (2008)

a) The State shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of money, or pledge of contribution, including in-kind contributions, to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, to any State, county, municipal political party committee, or to any legislative leadership committee during certain specified time periods

b) Prior to awarding any contract or agreement to any Business Entity, the Business Entity proposed as the intended awardee of the contract shall submit the Certification and Disclosure form, certifying that no contributions prohibited by either Chapter 51 or Executive Order No. 117 have been made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization organized under 26 U.S.C.527 of the Internal Revenue Code that also meets the definition of a "continuing political committee" within the means of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions, available for review on the Division's website at <http://www.state.nj.us/treasury/purchase/forms.shtml#eo134>, shall be provided to the intended awardee for completion and submission to the Division with the Notice of Intent to Award. Upon receipt of a Notice of Intent to Award a Contract, the intended awardee shall submit to the Division, in care of the Division Procurement Specialist, the Certification and Disclosure(s) within five (5) business days of the State's request. Failure to submit the required forms will preclude award of a contract under this RFP, as well as future contract opportunities.

c) Further, the Contractor is required, on a continuing basis, to report any contributions it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution is made. The required form and instructions, available for review on the Division's website at <http://www.state.nj.us/treasury/purchase/forms.shtml#eo134>, shall be provided to the intended awardee with the Notice of Intent to Award.

7.1.2 SOURCE DISCLOSURE REQUIREMENTS

NOT APPLICABLE TO THIS PROCUREMENT.

7.1.3 AFFIRMATIVE ACTION

The intended awardee must submit a copy of a New Jersey Certificate of Employee Information Report, or a copy of Federal Letter of Approval verifying it is operating under a federally approved or sanctioned Affirmative Action program. Intended awardee(s) not in possession of either a New Jersey Certificate of Employee Information Report or a Federal Letter of Approval must complete the Affirmative Action Employee Information Report (AA-302) located on the web at http://www.nj.gov/treasury/purchase/forms/AA_%20Supplement.pdf.

7.1.4 BUSINESS REGISTRATION

In accordance with N.J.S.A. 52:32-44(b), a bidder and its named subcontractors must have a valid Business Registration Certificate ("BRC") issued by the Department of Treasury, Division of Revenue prior to the award of a contract. (Refer to Section 4.4.2.1 of this RFP for further information.)

7.2 FINAL CONTRACT AWARD

Contract award[s] shall be made on four (4) distinct and separate "all or none" grouping basis (refer to Section 4.4.6) to the overall lowest responsive bidder(s) for each group with reasonable promptness by written notice to that responsible bidder(s), whose proposal(s), conforming to this RFP, is(are) most advantageous to the State, price, and other factors considered. Any or all proposals may be rejected when the State Treasurer or the Director determines that it is in the public interest to do so.

7.3 INSURANCE CERTIFICATES

The contractor shall provide the State with current certificates of insurance for all coverages required by the terms of this contract, naming the State as an Additional Insured. Refer to Section 4.2 of the State of NJ Standard Terms and Conditions accompanying this RFP.

7.4 PERFORMANCE SECURITY

NOT APPLICABLE TO THIS PROCUREMENT.

8.0 CONTRACT ADMINISTRATION

8.1 CONTRACT MANAGER

The State Contract Manager is the State employee responsible for the overall management and administration of the contract.

The State Contract Manager for this project will be identified at the time of execution of contract. At that time, the contractor will be provided with the State Contract Manager's name, department, division, agency, address, telephone number, fax phone number, and e-mail address.

8.1.1 STATE CONTRACT MANAGER RESPONSIBILITIES

For an agency contract where only one State office uses the contract, the State Contract Manager will be responsible for engaging the contractor, assuring that Purchase Orders are

issued to the contractor, directing the contractor to perform the work of the contract, approving the deliverables and approving payment vouchers. The State Contract Manager is the person that the contractor will contact **after the contract is executed** for answers to any questions and concerns about any aspect of the contract. The State Contract Manager is responsible for coordinating the use of the Contract and resolving minor disputes between the contractor and any component part of the State Contract Manager's Department.

If the contract has multiple users, then the State Contract Manager shall be the central coordinator of the use of the contract for all Using Agencies, while other State employees engage and pay the contractor. All persons and agencies that use the contract must notify and coordinate the use of the contract with the State Contract Manager.

8.1.2 COORDINATION WITH THE STATE CONTRACT MANAGER

Any contract user that is unable to resolve disputes with a contractor shall refer those disputes to the State Contract Manager for resolution. Any questions related to performance of the work of the contract by contract users shall be directed to the State Contract Manager. The contractor may contact the State Contract Manager if the contractor cannot resolve a dispute with contract users.