

State of Delaware

School Meal Services

Invitation to Bid Contract No. 2010-9567-01

July 8, 2010

**- Deadline to Respond -
July 22, 2010
5:00pm EST**

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer.

**SECTION 1
INSTRUCTIONS TO BIDDERS**

- 1.1. Purpose of this bid is to solicit a vendor to supply meals inclusive of milk to the special program of breakfast, lunch and after school snack in accordance with the following menu planning requirements of the National School Lunch Program and/or School Breakfast Program and will maintain full and accurate menu and production records.
Prestige Academy uses Traditional Food Based.
- 1.2. All bids must be submitted to Prestige Academy, Food Nutrition Program, on or before **July 22, 2010 by 5:00 pm EST**. All bids must be sealed and delivered by hand or mail to Prestige Academy, 1121 Thatcher Street Wilmington, DE 19802.
- 1.3. Any questions should be directed to Jack Perry by phone only at 302-762-3240.
- 1.4. Addenda—any revisions to the specifications will be handled in writing only.

**SECTION 2
GENERAL CONDITIONS**

- 2.1 Bids shall be submitted on the forms provided with these specifications. Bids shall be in a sealed envelope properly marked with the title of the bid, date and time of opening, and delivered to **Prestige Academy, 1121 Thatcher Street Wilmington, DE 19802** on or before **July 22, 2010 by 5:00pm Est.** All certifications contained herein must be signed and submitted with the bid.
- 2.2 a. After the proposals have been opened, the bids will be tabulated and the results will be made available to the public. Tabulations of the bids will be based on the correct summation of items at the unit price bid.
- b. The right is reserved to waive technicalities, to reject any or all bids, or any portion thereof, to advertise for new proposals, to proceed to do the work otherwise, or to abandon the work, if in the judgment of the Agency or its agent, the best interest of the State will be promoted thereby.
- 2.2 Prestige Academy has the right to reject any or all bids when there are sound documented reasons to do so. Any one or more of the following causes may be considered as sufficient for the disqualification of a bidder and rejection of its proposal:
- a. More than one proposal for the same contract from an individual, firm, or corporation under the same or different names.
- b. Evidence of collusion among bidders.
- c. Unsatisfactory performance record as evidenced by past experience.
- d. If the unit prices are obviously unbalanced either in excess or below reasonable cost analysis values.
- e. If there are any unauthorized additions, interlineation, conditional or alternate bids or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- f. Non-attendance of mandatory pre-bid meetings may be cause of disqualification
- 2.4 Prestige Academy will provide no relief for errors or omissions of a vendors' bid submission.
- 2.5 No deviations or exceptions from the specifications and conditions will be considered.
- 2.6 Submission indicates bidder is informed of specifications and conditions contained herein
- 2.7 A bidder may withdraw its proposal unopened after it has been deposited, if such a request is made prior to **July 22, 2010 at 5:00 pm Est.**
- 2.8 Once bid is opened, no bid modification allowed without written approval

- 2.9 No gratuity by a vendor is allowed in connection with the bid
- 2.10 Prestige Academy reserves right to investigate each bidder's ability to fulfill terms
- 2.11 Bids shall be delivered in sealed a sealed envelope, and shall bear on the outside name and address of the bidder as well as the designation of the contract. Proposals forwarded by U.S. mail shall be sent first class to Prestige Academy, 1121 Thatcher St, Wilmington, DE 19802. Proposals forwarded by other than U.S. Mail or hand delivered must be delivered to Prestige Academy at the address listed above. All bids must clearly display the bid number on the envelope.

SECTION 3 SCOPE

- 3.1 The vendor shall provide the type of food service at sites as specified on Exhibit A for approximately 11 months. The Prestige Academy may add or remove sites and/or meal periods for programs covered by this contract from Exhibit A at any time during the period of the contract unless the addition or removal of sites and/or meal periods creates a material or substantive contract change.
- 3.2 The vendor shall be an independent contractor and not an employee of the Prestige Academy.
- 3.3 The Prestige Academy shall be legally and financially responsible for the conduct of the food service and shall ensure compliance with the rules and regulations of the Delaware State Board of Education and the United States Department of Agriculture regarding Child Nutrition Programs.

SECTION 4
SCHOOL FOOD AUTHORITY RESPONSIBILITIES

- 4.1 Prestige Academy (SFA) shall approve the menus and recipes for meals and other food to be served or sold to students to ensure compliance with the rules and regulations of the Delaware State Board of Education and the United States Department of Agriculture. The SFA must authorize any deviations from the approved menu cycle.
- 4.2 The SFA may request menu changes periodically throughout the contract period and shall inform the vendor of any adjustments to menus and monitor implementation of adjustments.
- 4.3 The SFA orders meals on a daily basis for each site for each type of meal to be delivered. The SFA can increase or decrease the number of meals ordered or cancel deliveries on a twenty-four hour notice to the vendor.
- 4.4 The SFA shall ensure all USDA-donated food received for use by the SFA and made available to the vendor shall be utilized within the specified term of this contract in the SFA's nonprofit school food service for the preparation and service of meals and for other allowable uses in accordance with the Code of Federal Regulations, 7 C.F.R. Part 250.
- 4.5 The SFA shall establish and maintain an advisory board composed of parents, teachers, and students to assist in menu planning.

SECTION 5 VENDOR RESPONSIBILITIES

- 5.1 The vendor shall deliver meals to sites at the specified locations at the times listed on Exhibit A.
- 5.2 The vendor shall adhere to the 21-day cycle menu(s) and portion sizes specified by the SFA on Exhibit B for the first 21 days of meal service. Thereafter, changes in the menu(s) may be made with prior approval of the SFA. The meals must meet the **Traditional Food Based** Menu Planning Approach as designated herein by the SFA for the duration of the contract including all subsequent renewals, if applicable. Meals must meet or exceed the calories and meet the nutrient standards for National School Lunch and/or School Breakfast Programs for the age/grade groups of school children and as listed in Exhibit C. **Note:** If a Nutrient-Based Menu Planning Approach is designated and it is determined the nutritional requirements are not being met per USDA guidelines, the State agency may require the SFA, and subsequently the vendor, to follow a Food-Based Menu Planning Approach.
- 5.3 If a Food-Based Menu Planning Approach is designated, the serving sizes provided by the SFA on the 21-day cycle menu(s) are, in most cases, based on the required minimum serving sizes stated in Exhibit C. If the serving sizes for the food items indicated on the menu(s) do not meet the required weekly calorie and nutrient standards as stated in Exhibit C, the vendor must increase serving sizes and/or provide additional food items as necessary to meet the calorie and nutrient standards without altering the 21-day cycle menu(s). Serving sizes may not be decreased unless otherwise stated in this *Invitation for Bid and Contract*. The vendor shall provide the menu cycle to the SFA ten days prior to the month it begins.
- 5.4 The vendor shall be responsible for providing meals and menus appropriate for the age of the students served and acceptable to students evidenced by a minimum of plate waste and participation levels in the National School Lunch and School Breakfast Programs, as applicable.
- 5.5 The vendor shall participate in the parent, teacher, and student advisory board.
- 5.6 The vendor is required to substitute food components of the meal pattern for students with disabilities in accordance with 7 C.F.R. § 15b when the disability restricts their diet and is permitted to make substitutions for students without disabilities when they are unable to eat regular lunch because of a medical or special dietary need. Substitutions are made on a case-by-case basis and must be supported by a statement of the need for substitutes that includes recommended alternate foods, unless otherwise exempted by the Food and Nutrition Service, USDA. In the case of a student with disabilities, the statement must be signed by a medical doctor. For students without disabilities, the statement must be signed by a recognized medical authority.
- 5.7 The vendor shall be responsible for the quality and wholesomeness of meals up to and including delivery to the SFA.

SECTION 6 FEDERALLY-DONATED COMMODITIES

- 6.1 Any USDA-donated commodities received for use by the SFA and made available to the vendor shall be utilized within the specified term of this contract in the SFA's food service operation for the preparation and service of meals and for other allowable uses in accordance with the Code of Federal Regulations, 7 C.F.R. Part 250.
- 6.2 Upon execution of this contract, the vendor shall accept all USDA-donated commodities owned by the SFA prior to the contract execution date for utilization in the nonprofit food service as designated herein. Except for those commodities previously credited to the SFA, the commodities owned by the SFA prior to the contract execution date shall be credited to the SFA
- on the monthly bill/invoice upon use in the nonprofit food service program and must be credited in full prior to the expiration of the 2010–2011 contract year. Such credit shall be recorded on the monthly bill/invoice as a separate line item entry and shall be clearly identified and labeled. Refer to Exhibit D.
- 6.3 The vendor shall accept and use USDA-donated commodities in as large a quantity as may be efficiently utilized in the nonprofit food service subject to approval of the SFA.
- 6.4 The vendor shall manage all USDA-donated commodities to ensure the commodities are utilized in the SFA's food service.
- 6.5 The vendor shall utilize all USDA-donated ground beef, ground pork, and processed end products received in the SFA's food service. Commercially-purchased foods shall not be substituted for these foods.
- 6.6 The vendor shall utilize all other USDA-donated foods, or substitute commercially-purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA-donated foods as determined by the SFA, in the SFA's food service.
- 6.7 The vendor must subtract from the SFA's monthly bill/invoice the current market value of all USDA-donated commodities received during each contract year as the commodities are used in the SFA's food service. The vendor must credit the SFA for all USDA-donated commodities received for use in the SFA's food service each contract year whether the USDA-donated commodities have been used or not. Such credit shall be issued in full prior to the expiration of each contract year.
- 6.8 Credit issued by the vendor to the SFA for USDA-donated commodities received during each contract year and used in the SFA's food service shall be recorded on the monthly bill/invoice as a separate line item entry and shall be clearly identified and labeled. Attached to the invoice shall be a detailed list identifying each received USDA-donated food item used in the SFA's food service and each USDA-donated food item credit issued for unused commodities, along with the current market value as issued by the Delaware State Board of Education.
- 6.9 The current market value of USDA-donated commodities is based on the prices issued by the Delaware State Board of Education.

- 6.10 The SFA shall ensure the method and timing of crediting does not cause its cash resources to exceed limits.
- 6.11 At the end of each contract year and upon expiration or termination of the contract, a reconciliation shall be conducted by the SFA to ensure and verify correct and proper credit has been received for:
- 6.11.1 The full value of all USDA-donated commodities received by the vendor during each contract year for use in the SFA's food service, and
- 6.11.2 The full value of all USDA-donated commodities owned by the SFA prior to the contract execution date, and not previously credited to the SFA, for use in the SFA's food service.
- The SFA shall verify receipt of USDA-donated food shipments through its electronic records or by contacting the Delaware State Board of Education or processor as applicable.
- 6.12 The SFA reserves the right to conduct commodity credit audits throughout the year to ensure compliance with federal regulations 7 C.F.R. Part 210 and Part 250.
- 6.13 The vendor may store and inventory USDA-donated foods together with commercial foods purchased for use in the SFA's food service. The vendor must meet all storage and inventory management requirements outlined in 7 C.F.R. Part 250. USDA-donated ground beef, ground pork, and processed end products shall be stored in a manner that ensures usage in the SFA's food service.
- 6.14 The vendor must accept liability for any negligence on their part that results in any loss, damage, out of condition, or improper use of USDA-donated commodities not yet credited to the SFA, and shall credit the SFA either monthly or through a fiscal year-end reconciliation.
- 6.15 The SFA and vendor shall consult and agree on end products to be produced from USDA-donated commodities during the time of this agreement. If the SFA and vendor cannot agree on end products, the vendor shall utilize the USDA-donated commodities in the form furnished by the USDA.
- 6.16 The vendor shall not enter into subcontracts for further processing of USDA-donated commodities.

- 6.17 The vendor shall be responsible for all delivery, freight/handling, storage, and warehousing costs associated with USDA-donated commodities.
- 6.18 If the vendor acts as an intermediary between a processor and the SFA, the vendor shall credit the SFA for the value of USDA-donated commodities contained in the processed end products at the USDA-donated processing agreement value unless the processor is providing such credit directly to the SFA. Such credit shall be issued to the SFA on the monthly bill/invoice as a separate line item entry and shall be clearly identified and labeled.
- 6.19 The vendor shall have records maintained and available to substantiate the receipt, use, storage, and inventory of USDA-donated commodities. The vendor must submit to the SFA monthly inventory reports showing all transactions for processed and non-processed USDA-donated commodities.
- 6.20 The SFA, Delaware State Board of Education, Comptroller General, and U.S. Department of Agriculture, or their duly authorized representatives, may perform on-site reviews of the vendor's food service operation, including the review of records, to ensure compliance with the requirements of this contract and federal regulations 7 C.F.R. Part 210 and Part 250.
- 6.21 The vendor shall return all unused USDA-donated ground beef products, ground pork products, and processed end products to the SFA upon termination, expiration, or non-renewal of the contract.
- 6.22 At the discretion of the SFA, the vendor may be required to return other unused USDA-donated commodities to the SFA upon termination, expiration, or non-renewal of the contract.
- 6.23 The SFA shall retain title to all USDA-donated commodities provided to the vendor for use in the SFA's food service.
- 6.24 The bid rate per meal must be calculated as if no USDA-donated commodities were available.

**SECTION 7
PURCHASES/BUY AMERICAN**

- 7.1 The vendor shall retain title of all purchased food and nonfood items.
- 7.2 The vendor shall purchase, to the maximum extent practicable, domestic commodities or products which are either an agricultural commodity produced in the United States or a food product processed in the United States substantially using agricultural commodities produced in the United States (U.S.).
- 7.3 The vendor shall not substitute commercially-purchased foods for USDA-donated ground beef, ground pork, and processed end products received.
- 7.4 The vendor may substitute commercially-purchased foods for all other USDA-donated commodities received. All commercially-purchased food substitutes must be of the same generic identity as the USDA-donated commodities received, of U.S. origin, and of equal or better quality than the USDA-donated commodities as determined by the SFA.
- 7.5 The SFA shall ensure commercially-purchased foods used in place of USDA-donated commodities received are of the same generic identity as the USDA-donated commodities received, of U.S. origin, and of equal or better quality than the USDA-donated commodities as determined by the SFA.
- 7.6 The vendor shall certify the percentage of U.S. content in the products supplied to the SFA.
- 7.7 The SFA reserves the right to review vendor purchase records to ensure compliance with the *Buy American* provision in 7 C.F.R. Part 250.
- 7.8 The vendor shall provide Nutrition Facts labels and any other documentation requested by the SFA to ensure compliance with U.S. content requirements.

SECTION 8 EQUIPMENT

- 8.1 The vendor shall provide all equipment to hold and serve the meals.
- 8.2 The SFA shall make structural changes needed to comply with federal, state, and local laws, ordinances, rules, and regulations.
- 8.3 The vendor shall provide written notification to the SFA of any equipment belonging to the vendor within ten days of its placement on SFA premises.
- 8.4 The SFA must give prior approval and have final authority for the purchase of equipment used for storage, preparation, or delivery of school meals.
- 8.5 The vendor shall retain title to all vendor-owned property and equipment when placed in service.
- 8.6 Upon expiration or termination of the contract, it shall be the vendor's responsibility to remove all vendor-owned property and equipment within a timely manner and without damage to SFA facilities.
- 8.7 The SFA shall retain title to all SFA-owned property and equipment when placed in service. If the property and/or equipment is amortized through the vendor and the contract expires or is terminated, the SFA can return the property to the vendor for full release of the unpaid balance or continue to make payments in accordance with amortization schedules.

SECTION 9
INSPECTION OF FACILITY

- 9.1 The SFA, the Delaware State Board of Education, and the U.S. Department of Agriculture reserve the right to inspect the vendor's preparation and storage facilities, and transporting vehicles prior to award of contract and without notice at any time during the contract period, including the right to be present during preparation and delivery of meals.

- 9.2 The vendor must provide meals when requested for periodic inspection by the local or state health department or an independent agency to determine the bacterial levels in the meals served.

SECTION 10
DELIVERY REQUIREMENTS AND NONCOMPLIANCE

- 10.1 Meals must be delivered in accordance with the approved menu cycle.
- 10.2 The vendor shall provide a delivery slip with the date and the number of meals delivered. The SFA authorized representative or his/her designee must sign the delivery slip and verify the condition of the meals received.
- 10.3 Meals must be delivered in closed-topped, sanitary vehicles.
- 10.4 Meals must be delivered in clean, sanitary transporting containers that maintain the proper temperatures of food and are food-grade containers approved by the local or state health departments.
- 10.5 When an emergency prevents the vendor from delivering meals, the vendor shall notify the SFA-authorized representative or his/her designee immediately by phone indicating the reasons for the need for substitution.
- 10.6 The SFA reserves the right to inspect and determine the quality of food delivered. The SFA may reject and not pay for any meals or components of meals that are unwholesome, judged as poor quality, damaged, incomplete either due to inadequate portion sizes or missing number of meal components, or delivered in unsanitary conditions such as incorrect temperatures.
- 10.7 The SFA will obtain meals from other sources if meals are rejected or if an insufficient number of meals is delivered. The SFA will contact the vendor immediately regarding the reasons for rejected meals or if an inadequate number of meals delivered. If the vendor cannot replace meals in time for meal service, then the SFA can obtain meals from another source and deduct the actual cost of such meals from the monthly bill of the vendor. The vendor is responsible for the cost of replacement meals.
- 10.8 The SFA will not pay for deliveries made later than the regularly scheduled lunch or breakfast periods as listed on Exhibit A, or as otherwise stated in this contract.

SECTION 11
PACKAGING REQUIREMENTS

- 11.1 Hot meal unit—Packaging suitable for maintaining components at temperatures in accordance with state and local health standards. Container and overlay should have an airtight closure, be of non-toxic material, and be capable of withstanding temperatures of 350°F (204°C) or higher.
- 11.2 Cold meal unit or unnecessary to heat—Container and overlay to be plastic or paper and non-toxic. Hot bulk meals must be in stainless steel containers with lids with a depth of no more than four inches.
- 11.3 Cold meals must be in white or brown paper bags or in boxes with enough strength to hold meals without tearing or ripping.
- 11.4 Cartons—Each carton shall be labeled to meet state or local requirements. Label should include:
- Processor's name, address, and zip code (plant)
 - Food items and meal type
 - Date of production
 - Quantity of individual units per carton
- 11.5 Meals shall be delivered with the following items: condiments, straws for milk, napkins, single service ware, and serving utensils. Vendor shall insert non-food items that are necessary for the meal to be eaten.
- 11.6 All refrigerated food shall be delivered at an internal temperature of 40°F or below.
- 11.7 All frozen food shall be delivered at 0°F or below. Frozen products should show no evidence of thawing and re-freezing, freezer burn, or any off color or odors.
- 11.8 All hot food shall be delivered with an internal temperature of 135°F or above.

SECTION 12 MEAL PRICING

- 12.1 All bids must be based on the menu(s) in Exhibit B. Milk will be supplied by the vendor.
- 12.2 The price per meal must include the meal including milk, condiments applicable to the menu, serving utensils, packaging and containers needed to transport food in sanitary manner, and transportation to and from the SFA.
- 12.3 All bids must be submitted using the *Bid Summary* form attached herein. The bid price must not include the use of commodities, alternate pricing structures such as guaranteed commodity credits, or Offer versus Serve credits unless otherwise stated herein. All rates must be written in ink or typed in the blank space provided and the estimated totals must be carried out to the second decimal place and must not be rounded.
- 12.4 The vendor shall receive the fixed meal rate specified on the bid form for each meal type times the number of meals delivered and accepted by the SFA.
- 12.5 The vendor cannot provide guaranteed commodity credits. If the vendor receives USDA commodities, the vendor must credit the current market value of USDA-donated commodities used on the monthly bill/invoice to the SFA.
- 12.5.1 Credit issued by the vendor to the SFA upon the use of USDA-donated commodities received shall be recorded on the monthly bill/invoice as a separate line item entry and shall be clearly identified and labeled. Attached to the invoice shall be a detailed list identifying each received USDA-donated food item used in the SFA's food service along with the current market value as issued by the Illinois State Board of Education. Prior to the expiration of each contract year, the SFA shall be credited in full for all commodities received.
- 12.5.2 Credit issued by the vendor for USDA-donated commodities owned by the SFA prior to the contract execution date, not previously credited to the SFA, and used in the SFA's food service shall be
- recorded on the monthly bill/invoice as a separate line item entry and shall be clearly identified and labeled. Except for those commodities that have been previously credited to the SFA, all commodities owned by the SFA prior to the contract execution date must be credited to the SFA in full prior to the expiration of the 2010–2011 contract year.
- 12.6 The SFA shall ensure the method and timing of crediting does not cause its cash resources to exceed the limits established in 7 C.F.R. § 210.9(b)(2).
- 12.7 The vendor must submit invoices for payment for meals delivered within ten days of the last day of each month or the final day of service for the school year.
- 12.8 The SFA is not obligated to purchase any minimum number or dollar amount of meals under this contract.

**SECTION 13
REVENUE**

- 13.1 All goods, services, or monies received as the result of any equipment or government-donated commodity rebate shall be credited to the SFA's nonprofit food service account.
- 13.2 If reimbursement is denied as a direct result of the failure of the vendor to comply with the provisions of this contract, the vendor shall assume responsibility for the amount denied.

**SECTION 14
LICENSES, CERTIFICATIONS, AND TAXES**

- 14.1 Throughout the entire contract period and subsequent renewals, the vendor shall obtain and maintain all licenses, permits, and health certifications required by federal, state, and local laws.
- 14.2 The vendor shall obtain state or local health certification for any facility where components are prepared or packaged and the vendor shall maintain this health certification for the duration of the contract and all subsequent renewals, if applicable.

SECTION 15 RECORD KEEPING

- 15.1 The vendor shall retain all records relating to food service production and delivery for the initial contract and all subsequent renewals for a period of three years either from the date the final contract renewal period has expired, receipt of final payment under the contract is recorded, or after the SFA submits the final Claim for Reimbursement for the final fiscal year of the contract, whichever occurs last.
- 15.2 The FSMC shall have records maintained and available to demonstrate compliance with the requirements relating to USDA-donated commodities. Such records shall include the following:
- 15.2.1 The receipt, use, storage, and inventory of USDA-donated commodities;
 - 15.2.2 Monthly inventory reports showing all transactions for processed and non-processed USDA-donated commodities;
 - 15.2.3 Documentation of credits issued to the SFA for USDA-donated commodities received; and
 - 15.2.4 Documentation of credits issued to the SFA for commodities owned by the SFA prior to the contract execution date.
- 15.3 All records must be available for the period of time specified above for the purpose of making audits, examinations, excerpts, and transcriptions by representatives of the SFA, the Delaware State Board of Education, the United States Department of Agriculture, and the Auditor General, and other governmental entities with monitoring authority at any reasonable time and place. If audit findings have not been resolved, the records shall be retained beyond the specified period as long as required for the resolution of the issues raised by the audit.
- 15.4 The vendor shall maintain the following records for the SFA:
- Production records, including quantities and amounts of food used in preparation of each meal and food component of menus
 - Standardized recipes and yield from recipes
 - Processed product nutritional analysis
 - Dates of preparation of meals
 - Number of meals and locations where meals were delivered
 - Signed delivery slips
 - Nutritional content of individual food items and meals as delivered
 - Bills charged to SFA for meals delivered under this contract including the credit of USDA commodities where applicable
 - Nutritional analysis for each school week if Nutrient-Based Menu Planning Approach (NuMenus) is used
 - Inventory records
 - Food and bid specifications

SECTION 16
TERMS AND TERMINATION

- 16.1 This contract is effective for a one-year period commencing **August 23, 2010** or upon written acceptance of the contract, whichever occurs last, through **June 22, 2011**, with options to renew yearly not to exceed four additional years.
- 16.2 Renewal of this contract is contingent upon the fulfillment of all contract provisions relating to USDA-donated commodities.
- 16.3 Either the SFA or vendor can terminate this contract for cause or for convenience with a sixty-(60) day written notification.
- 16.4 In the event written notice of termination for cause is issued and if the cause is remedied within the sixty-(60) day notification period, the notice shall be null and void. If such cause is not remedied within the sixty-(60) day notification period, the party giving notice shall have the right to terminate the contract upon expiration of the notification period.
- 16.5 Neither the vendor nor SFA shall be responsible for any losses resulting if the fulfillment of the terms of the contract is delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or any other acts which could not have been prevented by the exercise of due diligence.
- 16.6 The only rates and fees that may be adjusted in subsequent years of this contract are the fixed rates and fixed fees contained herein. Before any fixed rate or fee adjustments can be implemented as part of a contract renewal agreement, the vendor shall document to the SFA, through a written financial analysis, the need for such adjustments. Adjustment of all fixed rates and fees in subsequent years of the contract must not exceed **\$3.09**. Individual per meal fixed rate and applicable fixed fee increases cannot exceed **\$3.09** as stated above. Percentage increases cannot be applied to any previous year's total estimated or actual contract cost. The calculation method regarding the determination of a la carte equivalents is outlined in the *Fees* section of this contract.

SECTION 17
GENERAL CONTRACT TERMS

- 17.1 No provision of this contract shall be assigned or subcontracted without prior written consent of the SFA.
- 17.2 This solicitation/contract, exhibits, and attachments constitute the entire agreement between the SFA and the vendor and may not be changed, extended orally, or altered by course of conduct. No other contracts will be signed by the SFA.
- 17.3 Payments on any claim shall not prevent the SFA from making claims for adjustment on any item found not to have been in accordance with the provisions of this contract.
- 17.4 It is further agreed between the SFA and vendor that the exhibits, attachments, and clauses attached and designated are hereby in all respects made a part of this contract.
- 17.5 The vendor certifies compliance with:
- Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871);
 - The Department of Labor regulations (29 C.F.R. Part 5); and
 - Executive Order 11246, entitled *Equal Employment Opportunity*, as amended by Executive Order 11375 and Department of Labor Regulation (41 C.F.R. Chapter 60).
- 17.6 The vendor is subject to the provisions of Section 2209d of Title 7 of the United States Code due to the use of federal funds for the food service program. All announcements and other materials publicizing this program must include statements as to the amount and proportion of federal funding involved.
- 17.7 The Delaware State Board of Education and the United States Department of Agriculture are not parties to this contract and are not obligated, liable, or responsible for any action or inaction by the SFA or the vendor. The SFA has full responsibility for ensuring the terms of the contract are fulfilled.

SECTION 18 FOOD SPECIFICATIONS

- 18.1 All USDA-donated commodities offered to the SFA and made available to the vendor are acceptable and should be utilized in as large a quantity as may be efficiently utilized.

For all other food components, specifications shall be as follows:

- 18.2 Breads, bread alternates, and grains must be made from whole-grain or enriched meal or flour. All breads and grains must be fresh (or frozen, if applicable) and must meet the minimum weight per serving as listed on Exhibit C. If applicable, product should be in moisture-proof wrapping and pack-code date provided.
- 18.3 All meat and poultry must have been inspected by the United States Department of Agriculture (USDA) and must be free from off color or odor.
- 18.3.1 Beef must be at least 70:30 lean to fat, preferably 80:20 lean to fat.
- 18.3.2 Poultry should be U.S. Grade A when applicable and should meet the recommendations outlined in *Specifications for Poultry Products, A Guide for Food Service Operators* from the USDA.
- 18.3.3 For breaded and battered items, all flours must be enriched for breads/grains credit and breading/batter must not exceed 30 percent of the weight of the finished product.
- 18.3.4 For sausage patties, the maximum fat allowed is 50 percent by weight; industry standard of 38 to 42 percent fat preferred.
- 18.4 All cured processed meats (bologna, frankfurters, luncheon meat, salami, others) shall be made from beef and/or poultry. No variety meats, fillers, extenders, non-fat milk solids, or cereal will be allowed. Meats must not show evidence of greening, streaking, or other discoloration.
- 18.5 All cheese should be firm, compact, and free from gas holes; free of mold; free of undesirable flavor and odors; pasteurized when applicable; and preferably reduced or low-fat. All cheese should also have a bright, uniform, and attractive appearance; have a pleasing flavor; demonstrate satisfactory meltability; and contain proper moisture and salt content.
- 18.6 All fish must have been inspected by the United States Department of Commerce (USDC) and meet minimum flesh and batter/breading requirements for a USDC Grade A product or a product packed under federal inspection (PUFI) by the USDC.
- 18.7 All fresh fruits must be ripe and in good condition when delivered and must be ready for consumption per the USDA *Food Buying Guide*. At a minimum, fruit must meet the food distributors' second-quality level. Fruits should have characteristic color and good flavor and be well-shaped and free from scars and bruises. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.
- 18.8 All fresh vegetables must be ripe and in good condition when delivered and must be ready for consumption per the USDA *Food Buying Guide*. At a minimum, vegetables must meet the food distributors' second-quality level. Vegetables should have characteristic color and good flavor and be well-shaped and free from discoloration, blemishes, and decay. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.

- 18.9 All canned vegetables must meet the food distributors' first-quality level (extra fancy and fancy) and canned fruits (standard) must meet the second-quality level. Vegetables should have characteristic color and good fresh flavor and be free from discoloration, blemishes, and decay.
- 18.10 Eggs must be inspected and passed by the state or federal Department of Agriculture and used within 30 days of date on carton. Eggs should be grade A, uniform in size, clean, sound-shelled, and free of foreign odors or flavors.
- 18.11 Sauces, such as gravy, spaghetti sauce, pizza sauce, etc., must be smooth and uniform in color with no foreign substance, flavor, odor, or off color.
- 18.12 If applicable, the food production facility, manufacturing plant, and products must meet all sanitary and other requirements of the Food, Drug, and Cosmetic Act and other regulations that support the wholesomeness of products.
- 18.13 Meals and food items must be stored and prepared under properly controlled temperatures and in accordance with all applicable health and sanitation regulations.
- 18.14 All fruit juices must be 100 percent fruit juice.

Invitation for Bid and Contract
Nonprofit School Food Service

BID SUMMARY

This document contains a solicitation for the furnishing of meals for a nonprofit food service program for the period beginning **August 23, 2010**, and ending **June 22, 2011**, and sets forth the terms and conditions applicable to the proposed procurement. Upon acceptance, this document shall constitute the contract between the bidder and the school food authority (SFA).

The bidder shall not plead misunderstanding or deception because of such estimate of quantities, or of the character, location, or other conditions pertaining to the solicitation/contract.

PER MEAL PRICES MUST BE QUOTED AS IF NO USDA
COMMODITIES WILL BE RECEIVED

	Units	Rate	Total*
1. Reimbursable Breakfasts With Milk	1. _____	1. _____	1. _____
2. Reimbursable Breakfasts Without Milk	2. _____	2. _____	2. _____
3. Reimbursable Lunches With Milk	3. _____	3. _____	3. _____
4. Reimbursable Lunches Without Milk	4. _____	4. _____	4. _____
5. Reimbursable After-School Snacks	5. _____	5. _____	5. _____
Total Estimated Amount of Bid*			\$ _____

*All totals must be carried out to the second decimal place and must not be rounded.

Name of Bidder

Street Address

City State Zip Code

By submission of this bid, the bidder certifies that in the event the bidder receives an award under this solicitation, the bidder shall operate in accordance with all applicable current program regulations. This agreement shall be in effect for one year and may be renewed by mutual agreement for four additional one-year periods.

Date Signature of Bidder Title

ACCEPTANCE OF CONTRACT

Agreement Number School Food Authority (SFA)

Date Signature of Authorized SFA Representative Title