

STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
GENERAL SERVICES DIVISION
OFFICE OF PROCUREMENT SERVICES
4200 SURFACE ROAD, COLUMBUS, OH 43228-1395

AMENDMENT FOR CHANGE
AMENDMENT NO. 2

TO: LIMITED DISTRIBUTION: DEPARTMENT OF EDUCATION, OFFICE FOR SAFETY, HEALTH, AND NUTRITION, 25 SOUTH FRONT STREET, THIRD FLOOR, COLUMBUS, OH 43215

FROM: ROBERT BLAIR, DIRECTOR, DEPARTMENT OF ADMINISTRATIVE SERVICES

SUBJECT: CONTRACT FOR FRENCH TOAST STICKS, PROCESSED USING USDA COMMODITY WHOLE EGGS

Attached are pages 1, 3, 4, 8 and 9 to this contract. Remove these pages from the existing contract and replace with the attached pages on the effective and/or revision date.

This amendment is issued to renew the subject contract an additional twelve (12) months, effective 07/01/12 through 06/30/13. In addition change of analyst, vendor name. New Special Terms and Conditions added by mutual agreement.

All other prices, terms and conditions remain unchanged.

Questions regarding this Amendment and/or the Requirements Contract may be directed to:

Senthan Mahendrarasa
Senthan.Mahendrarasa@das.state.oh.us

This Amendment, the main Requirements Contract and any additional amendments thereto are available from the DAS Web site at the following address:

<http://www.ohio.gov/procure>

Affected Contractor(s):

Michael Foods, Inc.
301 Carlson Parkway, Suite 400
Minnetonka, MN 55305
james.ruhling@michaelfoods.com

STATE OF OHIO
DEPARTMENT OF ADMINISTRATIVE SERVICES
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MANDATORY USE CONTRACT FOR: FRENCH TOAST STICKS, PROCESSED USING USDA COMMODITY WHOLE EGGS

CONTRACT No.: OT900909

EFFECTIVE DATES: 07/01/09 to 06/30/12

* Renewal through 06/30/13

The Department of Administrative Services has accepted bids submitted in response to Invitation to Bid No. OT900909 that opened on 04/02/08. The evaluation of the bid response(s) has been completed. The bidder(s) listed herein have been determined to be the lowest responsive and responsible bidder(s) and have been awarded a contract for the items(s) listed. The respective bid response, including the Terms and Conditions for Bidding, Standard Contract Terms and Conditions, and Supplemental Contract Terms and Conditions, special contract terms & conditions, any bid addenda, specifications, pricing schedules and any attachments incorporated by reference and accepted by DAS become a part of this Requirements Contract.

This Requirements Contract is effective beginning and ending on the dates noted above unless, prior to the expiration date, the Contract is renewed, terminated or cancelled in accordance with the Contract Terms and Conditions.

This Requirements Contract is available to the Department of Education, Office for Safety, Health and Nutrition, 25 South Front Street, Mailstop 303, Columbus, OH 43215, as applicable.

Agencies are eligible to make purchases of the listed supplies and/or services in any amount and at any time as determined by the agency. The State makes no representation or guarantee that agencies will purchase the volume of supplies and/or services as advertised in the Invitation to Bid.

SPECIAL NOTE: State agencies may make purchases under this Requirements Contract up to \$2500.00 using the state of Ohio payment card. Any purchase that exceeds \$2500.00 will be made using the official state of Ohio purchase order (ADM-0523). Any non-state agency, institution of higher education or Cooperative Purchasing member will use forms applicable to their respective agency.

Questions regarding this and/or the Requirements Contract may be directed to:

Senthan Mahendrarasa
senthan.mahendrarasa@das.state.oh.us

This Requirements Contract and any Amendments thereto are available from the DAS Web site at the following address:

<http://www.ohio.gov/procure>

* Contract renewal for twelve (12) months through 06/30/13.

Signed: _____
Robert Blair, Director Date

AMENDMENTS TO CONTRACT TERMS AND CONDITIONS: The following Amendments to the Contract Terms and Conditions do hereby become a part hereof. In the event that an amendment conflicts with the Contract Terms and Conditions, the Amendment will prevail.

- * DELIVERY AND ACCEPTANCE: Purchase orders for any item(s) listed in a contract awarded pursuant to this bid will be placed directly with the successful contractor by the using agency. Product will be processed and delivered within one (1) month (per one [1] truckload of commodity) of receipt of commodity or as mutually agreed by the contractor and the Ohio Department of Education and, in accordance with Article S-2 of the Supplemental Contract Terms and Conditions. Deliveries shall be made to the following Ohio sites. The delivery location will be noted on the purchase order issued by the participating agency. All shipments are to be one stop composite truckloads, with the exception of the final delivery, which may require a partial load to each site at no additional charge to the state. Unloading is by appointment only. The contractor shall contact the cold storage facilities to make an appointment for unloading prior to loading for shipment. The percentage of total product to be delivered to each location is also provided. The state reserves the right to add, delete, or change distribution centers and/or percentage of usage during the course of the contract. Acceptance (transfer of title) will occur upon the inspection and written confirmation by the ordering agency that the supplies delivered conform to the requirements set forth in the Contract. Unless otherwise provided in the Contract, acceptance shall be conclusive except in regards to latent defects, fraud, or such gross mistakes as amount to fraud.

| <u>CITY</u> | <u>WAREHOUSE</u> | <u>PERCENTAGE OF PRODUCT</u> |
|------------------|-----------------------|------------------------------|
| Dayton, Ohio | Terminal Cold Storage | 50% |
| Cincinnati, Ohio | SYSCO Food Storage | 12% |
| Cleveland, Ohio | SYSCO Foodservice | 38% |

TRANSPORTATION CHARGES: Any item(s) ordered from a contract awarded pursuant to this bid shall be shipped F.O.B. destination, freight prepaid to the three (3) cold storage facilities in the state of Ohio listed above. Commodity will be delivered to the contractor by the United States Department of Agriculture (USDA), F.O.B. Destination.

PAYMENT: Shall be in accordance with Article III.B. of Contract Terms and Conditions with the following exception: Payments will be due on the 90th calendar day rather than the 30th calendar day.

DOCUMENTATION

1. The bidder should submit a narrative of their processing and fabrication procedures as part of the bid response for each product offered. The processing and fabrication procedures are to describe the product and the exact method of processing.
2. The bidder should submit a nutrition analysis as part of the bid response for each product offered.
3. SPA Ohio (State Participation Agreement): If the successful contractor has in place a national agreement with the USDA, they shall complete and sign a SPA Ohio (State Participation Agreement) prior to the inception date of any ensuing contract. The agreement will be provided by the Ohio Department of Education (ODE), Office for Safety, Health, and Nutrition (OSHN) and is the authority to process USDA commodity foods and adherence to its contents is mandatory. Failure to complete and return this document prior to inception date of any ensuing contract may result in immediate cancellation from contract. The SPA Ohio (State Participation Agreement) may be reviewed at the ODE web site: at the following url:

<http://www.ode.state.oh.us/GD/Templates/Pages/ODE/ODEDetail.aspx?page=3&TopicRelationID=487&Content=21647>

Should the successful contractor not currently have in place a national agreement with the USDA, either a national or state master agreement will be required. As part of this process, the successful contractor shall furnish to the ODE a surety bond obtained only from a surety company listed in the U.S. Department of Treasury Circular 570, "Surety Companies Acceptable on Federal Bonds", an irrevocable letter of credit, or an escrow account. Such bond, letter of credit, or escrow account shall be made payable to the Ohio Department of Education. The bond shall guarantee that the processor shall faithfully account for, return, or pay for all of the commodity food received or carried forward, in accordance with the processing agreement.

- * Denotes change in Delivery and Acceptance City

4. Quality Control/Total Quality Control: Prior to contract inception, the contractor shall submit to the ODE, OSHN a narrative of the quality control or total quality control program at the processing plant. The narrative of the quality control or total quality control program is not to be submitted as part of the bid response.

Documentation listed above that is designated to be submitted with the bid response may also be requested during bid evaluation. Documents will be requested during evaluation and a deadline of seven (7) calendar days provided for submission. Failure to provide documents requested by the deadline provided will deem the bid not responsive.

PRODUCT SAMPLES: A sample of the product offered is required. A sample shall consist of one (1) case of French toast sticks. Product samples shall meet all requirements specified herein and shall bear required labeling and markings. The sample shall be identified as to content, processor, bid number, and bidder's company name. Product samples shall be submitted prior to the close of business on Tuesday, March 28, 2008 to the address shown below.

Ohio Department of Education
Ohio Office for Child Nutrition
c/o Terminal Cold Storage
20-60 Eaker Road
Dayton, Ohio 45402
Telephone: (937) 223-3138 ext. 10
Attn: Cindy Watkins/Oji Ohajuruka

One-half (1/2) case of the product sample shall be used in sample evaluation and the other one-half (1/2) case shall be used for comparison to actual processed product received during the term of any contract issued pursuant to this bid. The samples may be analytically tested. Samples will not be returned. Failure to submit samples as specified will deem the bid not responsive.

EVALUATION: Bids will be evaluated in accordance with Article I-5 of the "Instructions to Bidders". In addition, the state will evaluate the bid according to the fee per pound for processing offered on the bid pricing page.

There will be a taste test of the samples submitted to determine acceptability. There will be, at a minimum, a five (5) member panel composed of members of the Ohio Advisory Committee made up of food service professionals from across the state of Ohio. Samples will be evaluated for appearance, color, aroma, flavor (taste), and texture. If product sample is deemed unacceptable as a result of the taste test, no further consideration for award shall be given. If the product sample submitted for the taste test exceeds the specifications, as stated in the bid and is presented as being the end product for the entire contract, then the sample shall be the standard for the entire contract with anticipated yields as projected and costs as stated.

CONTRACT AWARD: The contract will be awarded to the lowest responsive and responsible bidder by line item.

- * USAGE REPORTS: Every six (6) months the contractor must submit a report (written or on disk) indicating sales generated by this contract. The report shall list usage by customer, by line item, showing the quantities/dollars generated by this contract. The report shall be forwarded to the Office of Procurement Services, 4200 Surface Road, Columbus, Ohio 43228-1395, Attn: Senthana Mahendrarasa.
- ** Labeling of products shall be in compliance with all guidelines as specified by the U. S. Food and Drug Administration regulations 21 CFR 101 and 9 CFR 317 Subpart B; The Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282, Title II); and the State of Ohio Rule 3717-1-03.5(C), (the administrative rule adopted under Ohio Revised Code 3717.53).
- ** Labeling of products containing the major food allergens - milk, egg, fish (e.g., bass, flounder, or cod), Crustacean shellfish (e.g., crab, lobster, or shrimp), tree nuts (e.g., almonds, pecans, or walnuts), wheat, peanuts, and soybeans - shall be in compliance with the Food Allergen Labeling and Consumer Protection Act of 2004 (Public Law 108-282, Title II) and the State of Ohio Rule 3717-1-03.5(C), (the administrative rule adopted under Ohio Revised Code 3717.53).

* Denotes change in Usage Reports Contact

** To indicate additional Special Terms and Conditions added by mutual agreement with amendment 2.

| OAKS ITEM ID | ITEM DESCRIPTION | USDA COMMODITY WEIGHT (TL) | MINIMUM YIELD PER TRUCKLOAD OF USDA COMMODITY | FEE FOR PROCESSING (PER LB. OF END PRODUCT) |
|-----------------|----------------------------------|----------------------------------|---|--|
| 13382 | French Toast Sticks, Whole Grain | 48,000 lbs. | 183,525 lbs. | \$ 1.54 per lb. |

Case Pack: 16.25 lbs. per bag; 16.25 lbs. per case; 300 French toast sticks per bag

* CONTRACTOR, TERMS AND DELIVERY:

BID/CONTRACT NO.: OT900909-1 (06/30/13)

TERMS: Net 90 Days

** Michael Foods, Inc.
 301 Carlson Parkway, Suite 400
 Minnetonka, MN 55305

DELIVERY: In accordance with 'Delivery and
 Acceptance' paragraph, page 3

Remit To:

P.O. Box 98378
 Chicago, IL 60693

*** CONTRACTOR'S CONTACT: Mr. James Ruhling

Telephone: (412) 793-7601
 Fax: ((952) 258-4278
 Email: james.ruhling@michaelfoods.com

CONTRACTOR'S IT/MIS CONTACT: Mr. Guy Dandrea

Telephone: (952) 258-4783

* To indicate renewal of the contract for another year.

** To indicate change in vendor name.

*** To indicate change in Contractor's Contact.

SUMMARY OF AMENDMENTS

| Amendment Number | Revision Date | Description |
|------------------|---------------|--|
| 2 | 07/01/12 | Indicates renewal of the contract an additional twelve (12) months, effective 07/01/12 through 06/30/13. In addition change of analyst, vendor name. New Special Terms and Conditions added by mutual agreement. |
| 1 | 07/01/11 | Contract renewal for twelve months through 06/30/12 |