

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

MANDATORY USE CONTRACT FOR: FRUIT IN GELATIN CUPS, SHELF STABLE, PROCESSED USING USDA
COMMODITY PEARS, CHERRIES AND/OR PEACHES

CONTRACT No.: OT901312

EFFECTIVE DATES: 08/01/11 to 07/31/14

The Department of Administrative Services has accepted bids submitted in response to Invitation to Bid No. OT901312 that opened on 06/22/11. 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 DEPARTMENT OF EDUCATION, OFFICE FOR CHILD NUTRITION, 25 SOUTH FRONT STREET, THIRD FLOOR, 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:

Jennifer Dammeyer, CPPB
Jennifer.Dammeyer@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>

Signed: _____
Robert Blair, Director Date

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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 Department of Education and, in accordance with Article S-2 of the Supplemental Contract Terms and Conditions and, in accordance with paragraphs S-8, S-9, and S-10 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 (see warehouses and approximate percentage of total product deliveries below) 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 term 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 as regards to latent defects, fraud, or such gross mistakes as amount to fraud.

<u>CITY</u>	<u>WAREHOUSE</u>	<u>PERCENTAGE OF PRODUCT DELIVERIES</u>
Dayton, Ohio	Terminal Cold Storage	50
Cincinnati, Ohio	SYSCO Foodservice	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 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. If payment terms are listed on the invoice of the Ohio Department of Education, it must be consistent with the terms of the contract.

DOCUMENTATION:

1. The bidder should submit a narrative of their processing and fabrication procedures as part of the bid response for all products to be produced under this contract. The processing and fabrication procedures are to describe the product and the exact method of processing.
2. Commodity Food Processing Agreement: The successful contractor shall submit an approved National Processing Agreement or an Ohio Processing Agreement prior to the inception date of any ensuing contract. The processing agreement will be provided by the Department of Education, Office for Child Nutrition 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.

Attachment A to the bid, which is Page 10 of the processing agreement is 'Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions' (Form AD-10-48 [11/97]). This page of the agreement only should be submitted as part of the bid response.

Processor shall furnish to Department of Education 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 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.

Inventory protection is required by the Department of Education prior to the delivery of commodity food to the processor. The minimum amount of the bond, letter or credit or escrow account, shall be determined by: value of the commodity food on order minus anticipated usage rate during the processing Agreement period. The bond shall remain in effect until all commodity food is properly accounted for, paid for or returned in accordance with the processing agreement. Liability for loss is provided in Article 18 of the processing agreement.

3. Nutritional Analysis: As part of the bid response, the bidder should submit a nutritional analysis for all finished products proposed to be processed for the Department of Education, Office for Child Nutrition (OCN).
4. Quality Control/Total Quality Control: Prior to contract inception, the contractor shall submit to the ODE, OCN 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.
5. Quality Control Certification, as specified in paragraph 'PRODCUT SAMPLES' below should be submitted with the bid response.

PRODUCT SAMPLES: A sample of product offered is required. A sample shall consist of one (1) case of each fruit gelatin product. Product samples shall meet all requirements as specified herein and shall bear required labeling and markings. Sample shall be certified by processor's quality control department as meeting the specifications contained herein. Certification shall be in the form of a letter, on company letterhead, signed by quality control representative. Samples shall be submitted prior to 2:00 pm on Wednesday, June 22, 2011 to the address shown below. Failure to submit samples as specified will result in the bidder being deemed as not responsive.

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 diced pears in fruit gelatin product shall be used for bid evaluation and the other one-half (1/2) case shall be used to verify actual processed product received during the contract period. Samples will be evaluated on appearance, color, aroma, flavor (taste), and texture. The sample may be analytically tested. Samples will not be returned.

EVALUATION: Bids will be evaluated in accordance with Article I-17 of the "Instructions, Terms, and Conditions for Bidding". In addition, the bid will be evaluated according to the fee per pound for processing the specified finished product. There will be a taste test of the samples submitted to determine acceptability. There will be, at a minimum, a ten (10) member panel composed of members of the Office for Child Nutrition staff and members of the Ohio Commodity Advisory Board and/or students in Ohio. Samples will be evaluated for taste, texture, eye appeal, aroma, and color. If product 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 meeting all bid specifications and requirements.

FIRM FIXED-PRICE CONTRACT: The contract is a Firm Fixed-Price Contract. The Contractor(s) is required to provide to the using agency supplies or services at the listed price(s) for the duration of the contract, and any extensions thereto.

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, OH 43228-1395, Attn: Jennifer Dammeyer, CPPB.

Bid Automobile Liability Checklist:

Contractor will indicate, by checking the appropriate box(es) below, which mode of transportation will apply to this contract.

- Bidder/Broker ("The Contractor") or their Sub Contractor will make delivery or be performing services using a vehicle that is owned, leased or rented. Provide Certificate of Insurance documenting automobile liability with a Combined Single Limit of \$500,000.00.
- Goods/Services will be delivered via common carrier.
- No employee or representative of the contractor will have cause to be on state property to make deliveries or to perform services.

FDA REGISTRATION: Pursuant to the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) all domestic and foreign facilities that manufacture, process, pack or hold food for human or animal consumption in the United States are required to be registered with the Food & Drug Administration (FDA) no later than December 12, 2003. This registration includes owners, operators, or agents in charge of domestic or foreign facilities that manufacture/process, pack, or hold food for human or animal consumption in the United States. All domestic facilities, whether or not food enters interstate commerce, are required to register. Facilities may complete their registration with the FDA online at: <http://www.cfsan.fda.gov/~furl/ovffreg.html>

When applicable, by signature affixed on Page 1, the bidder, or their supplier, certifies that they comply with this requirement.

DISCLOSURE OF SUBCONTRACTORS / JOINT VENTURES (See Standard Contract Terms and Conditions, Section (roman numeral) V. General Provisions:, Paragraph Q.):

List names of subcontractors who will be performing work under the Contract.

<u>Burnette Foods</u>	_____
_____	_____
_____	_____

By the signature affixed to Page 1 of this Bid, Bidder hereby certifies that the above information is true and accurate. The Bidder agrees that no changes will be made to this list of subcontractors or locations where work will be performed or data will be stored without prior written approval of DAS. Any attempt by the Bidder/Contractor to change or otherwise alter subcontractors or locations where work will be performed or locations where data will be stored, without prior written approval of DAS, will be deemed as a default. If a default should occur, DAS will seek all legal remedies as set forth in the Terms and Conditions which may include immediate cancellation of the Contract. Failure to complete this page may deem your bid not responsive.

Notice on the Use of Social Security Numbers as Federal Tax Identification Numbers

The Department of Administrative Services (Department) requires vendors and contractors wishing to do business with the State to provide their Federal Taxpayer Identification Number to the Department. The Department does this so that it can perform statutorily required "responsibility" analyses on those vendors and contractors doing business with the State and, under limited circumstances, for tax reporting purposes. If you are a vendor or contractor using your Social Security Number as your Federal Taxpayer Identification Number, please be aware that the information you submit is a public record, and the Department may be compelled by Ohio law to release Federal Taxpayer Identification Numbers as a public record. If you do not want to have your Social Security Number potentially disclosed as a Federal Taxpayer Identification Number, the Department encourages you to use a separate Employer Identification Number (EIN) obtained from the United States Internal Revenue Service's to serve as your Federal Taxpayer Identification Number.

SPECIFICATION

I. SCOPE AND CLASSIFICATION

A. Scope

The purpose of this bid is to obtain a contractor to process United States Department of Agriculture (USDA) donated cherries, pears, and/or peaches or other fruit into shelf stable diced fruit in gelatin cups for the Ohio Department of Education (DOE), Office for Child Nutrition (OCN). It is anticipated that approximately 144,000 lbs. of pears will be made available by the USDA to the state of Ohio annually and that 144,000 lbs. of pears annually will be processed under any ensuing contract. It is also possible that other fruit may become available during the term of any ensuing contract. Quantity specified is based on anticipated product availability from the USDA and the state of Ohio is not obligated to request processing in these or any other quantity. Fruit will be delivered to the contractor and the contractor shall process product and deliver finished products to the three (3) cold storage facilities specified herein. Bid pricing (fee for processing per pound of finished product) shall include all transportation charges for delivery of processed product to cold storage facilities and any other costs associated with providing the specified product. One (1) bid price shall be offered for all possible types of fruit that may be processed into gelatin cups. The term of any ensuing contract shall be for a period of (3) years, from August 1, 2011 through July 31, 2014.

B. Classification

1. Fruit in Gelatin, Shelf Stable, 4 fl. oz. cups, 100% Vitamin C, Reduced Sugar, No High Fructose Corn Syrup
 - a. Pears, Diced in Gelatin (Cherry, Lime or Tropical Flavor)
 - b. Peaches, Diced in Gelatin (Cherry, Lime or Tropical Flavor)
 - c. Cherries, in Gelatin (Cherry, Lime or Tropical Flavor)

II. REQUIREMENTS

A. Raw Product Description

1. USDA commodity pears, canned
2. USDA commodity peaches, frozen or canned
3. USDA commodity cherries, frozen

B. End Product Description

1. Fruit, Diced, in Gelatin, Shelf Stable, 4 fl. oz. cups, 100% Vitamin C, Reduced Sugar, No High Fructose Corn Syrup

a. Formulation

<u>Ingredients</u>	<u>Percentage</u>
USDA commodity fruit (pears, peaches or cherries)	42% minimum
Gelatin (must be pork-free gelatin only)	12% maximum
Juice concentrate and water	46% minimum

- b. If frozen, fruit shall be defrosted to 35-40 F and run through a dicer, if necessary, and then placed in the filler vat.
- c. Canned fruit shall be opened and run through the dicer, if necessary, and then placed in the filler vat.
- d. Cupping line shall be loaded with polypropylene cups and 1.8 ounces of fruit shall be deposited into each cup.

- e. Cup shall be filled with gelatin-juice mixture (maximum fill 4.2-4.6 ounces) and sealed with clear poly film.
- f. Cups shall pass through a cooker where they shall be heated to a minimum of 190⁰ F.
- g. Hot cups (185° F. - 190° F.) shall pass through a water spray cooler to cool down.
- h. Cups shall be packed into a cardboard box with layer dividers.
- i. Finished product shall provide a minimum of one-half (1/2) cup of fruit per four (4) fluid ounce serving for the National School Lunch and Breakfast programs. Product shall meet 100% RDA for Vitamin C, and contain no high fructose corn syrup.
- j. Individual cups shall have a minimum shelf life of twelve (12) months under normal dry storage conditions.

C. Preparation and Processing

All preparation and processing described herein shall occur subsequent to the date of award. The product shall be produced, processed, and stored in plants regularly operating under the supervision of the contractor.

- D. Packaging: Product shall be packed in individual shelf stable cups, layer packed. Product shall be packed 72-120 cups per case. No alternate packs will be acceptable.

1. General

- a. All packaging and packing materials must be new and clean, and must not impart objectionable odors or flavors to the product.
- b. Staples shall not be used as a final case closure. Case closure shall be accomplished by taping, strapping, or gluing. All boxes within the delivery unit of an individual product shall be of a uniform size and weight.
- c. Boxes shall be one piece, die-cut, regular slotted container (RSC) design. Fiberboard shall be testing not less than 200 lbs. No holes in boxes are permitted. Shipping cartons shall have necessary interior support to prevent crushing of product while in transit or in storage.

E. Labeling

- 1. The contribution value of a serving to the National School Lunch Program (NSLP) pattern, the nutritional analysis, and serving size information shall be printed on the outside of the master case or may be included as an insert in each master case.
- 2. The shipping carton shall contain ingredient statement, name of product, and date of pack.
- 3. Printed, stamped, and stenciled labeling and marking information on shipping containers must be water-fast, non-smearing, of a contrasting color, clear and readable.
- 4. Label shall meet the requirements of the Food Allergy & Consumer Protection Act (FALCPA) of 2004. Any of the eight (8) protein allergens shall be identified if used in the production process. It may be necessary to identify other allergens than the eight (8) protein allergens, as required by the Act.
- 5. Cooking/serving instructions shall be included with each case and a copy sent to the Ohio Department of Education, Office for Child Nutrition prior to initial shipment of product.
- 6. Upon award of the contract to a successful bidder, the processor shall furnish the Ohio Department of Education a "Fact Sheet" and "Ingredient Statement" of the product for display at the Ohio Department of Education website (see the examples in Exhibit A and Exhibit B). The documents shall include the Ohio Department of Education assigned commodity codes.

F. Palletizing

Shipments may be requested as palletized deliveries; and if requested, shall conform to the following:

1. Manufacturers standard 40" x 48" partial 4-way shipping pallets are acceptable.
2. Maximum height: 7'6" (including pallet).
3. Maximum weight: 3500 pounds (including pallet).
4. Pallets are to be securely banded or shrink wrapped.
5. The cost of palletizing must be included in the unit price.

Pallet exchange is satisfactory with all warehouses.

G. General Information

1. The delivered product shall comply with all applicable federal and state mandatory requirements and regulations relating to the preparation, packaging, labeling, storage, distribution and sales of the product within the commercial marketplace.
2. All commodities and services to be furnished hereunder shall conform to the specifications as noted herein. All product shall be processed in the United States.
3. If laboratory analysis is done in accordance with "Quality Control" paragraph specified herein, the laboratory analysis will be predicated upon the formulation specified herein.
4. Guaranty: By the signature affixed on page 1 of this bid, contractor guarantees that, as of the date of delivery to the State or the State's agent, the product(s) offered is (are) not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act ("the ACT"), and not an article which may not, under the provisions of section 404, 505, or 512 of the Act, be introduced into interstate commerce.

III. CONTRACTOR'S RESPONSIBILITIES

In addition to those responsibilities specified above, the contractor shall be responsible for the following:

- A. Prime Contractor Responsibilities: The prime contractor will be required to assume responsibility for all contractual activities offered in this agreement, whether or not that contractor performs them. Further, the state will consider the prime contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated contract. If any part of the work is to be subcontracted, the contractor shall provide a list of subcontractors, including firm name and address, contact person, complete description of work to be subcontracted and descriptive information concerning subcontractor's organizational abilities. The state reserves the right to approve subcontractors and to require the primary contractor to replace subcontractors found to be unacceptable. The contractor is totally responsible for adherence by the subcontractor to all provisions of the contract. Any changes in subcontractors must be approved by the state, in writing, prior to such change.
- B. Accounting Records: The contractor and all subcontractors shall maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and other procedures specified by the state of Ohio. Financial and accounting records shall be made available upon request to the state of Ohio, its designees or the Ohio Auditor of State at any time during the contract period and any extension thereof, and for three (3) years from expiration date and final payment on the contract or extension thereof.

PRICE SCHEDULE:

Bidders shall not insert a unit cost more than 3 digits after the decimal point. Digit(s) beyond 3, after the decimal point, shall be dropped by State Purchasing and not used in the evaluation and any subsequent award.

OAKS ITEM ID	PRODUCT (PROCESSED AS SPECIFIED)	CASE PACK	RAW COMMODITY WEIGHT (PER TRUCKLOAD)	* MINIMUM YIELD OF FINISHED PRODUCT PER TL OF COMMODITY	FEE FOR PROCESSING (PER LB. OF FINISHED PRODUCT)
8200	Fruit, Diced, in Gelatin, Shelf Stable, 4 fl. oz. cups (with USDA fruit)	72 Cups/case	36,000 lbs.	40,020 lbs.	\$0.849 per lb. (24 lbs. net wt. per case)

Flavors available:

Diced peaches or diced pears in cherry, lime or tropical flavor gelatin.

PLEASE COMPLETE ALL INFORMATION REQUESTED ABOVE.

** Product packaging contains recycled material: Yes No (Please circle response), if yes, 45 %

*Minimum yield under this contract is the pounds of finished product returned to the State of Ohio on weight of raw commodity product.

**Shall not be included in evaluation

CONTRACTOR INDEX

CONTRACTOR, TERMS, AND DELIVERY:

151937
National Food Group, Inc.
46820 Magellan Dr. Ste A
Novi, MI 48377

CONTRACTOR'S CONTACT: Mr. Sean Zecman

CONTRACTOR'S IT/MIS CONTACT: Same as above

BID/CONTRACT NO.: OT901312-1 (07/31/14)

TERMS: Net 90 Days

DELIVERY: As specified on page 3, paragraph 'DELIVERY
AND ACCEPTANCE

Toll Free: (800) 886-6866
Telephone: (734) 446-1150
FAX: (248) 669-3000
Email: szecman@nationalfoodgroup.com