



# Request for Proposal 09-X-39303

## For: Food Storage Facilities for the Department of Agriculture

Event	Date	Time
<b>Bidder's Electronic Question Due Date</b> (Refer to <a href="#">RFP Section 1.3.1</a> for more information.)	03/26/2008	5:00 PM
<b>Mandatory Pre-bid Conference</b>	Not Applicable	
<b>Mandatory Site Visit</b>	Not Applicable	
<b>Bid Submission Due Date</b> (Refer to <a href="#">RFP Section 1.3.2</a> for more information.)	04/15/2008	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.

<b>Small Business Set-Aside</b> (Refer to <a href="#">RFP Section 4.4.2.2</a> for more information.)	<b>Status</b> <input checked="" type="checkbox"/> Not Applicable	<b>Category</b> <input type="checkbox"/> I
	<input type="checkbox"/> Entire Contract	<input type="checkbox"/> II
	<input type="checkbox"/> Partial Contract	<input type="checkbox"/> III
	<input type="checkbox"/> Subcontracting Only	

RFP Issued By

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

Using Agency:

State of New Jersey  
Department of Agriculture

Date: 3/10/2008

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## **1.0 INFORMATION FOR BIDDERS**

### **1.1 PURPOSE AND INTENT**

This Request for Proposal (RFP) is issued by the Purchase Bureau, Division of Purchase and Property, Department of the Treasury on behalf of the Department of Agriculture of the State of New Jersey. The purpose of this RFP is to solicit bid proposals for the storage of donated federal food commodities to the New Jersey Department of Agriculture. The federal donated food commodities are picked-up from the storage facilities by various recipient agencies to include school districts, non profit organizations and various state agencies. Food storage facilities shall include the storage of dry, cooler and freezer federal food commodities.

The Northern and Southern zones of the State are identified as follows:

#### **SOUTHERN (ZONE A) COUNTIES**

Atlantic  
Burlington  
Camden  
Cape May  
Cumberland  
Gloucester  
Mercer  
Ocean  
Salem

#### **NORTHERN (ZONE B) COUNTIES**

Bergen  
Essex  
Hudson  
Hunterdon  
Middlesex  
Monmouth  
Morris  
Passaic  
Somerset  
Sussex  
Union  
Warren

The intent of this RFP is to award contracts to those responsible bidders whose bid proposals, conforming to this RFP are most advantageous to the State, price and other factors considered. However, the State 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 NJ Standard Terms and Conditions version 07/27/07 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**

The State's obligation to continue to require this service depends on the continued donation, by the United State Department of Agriculture (USDA), of commodity foods for which warehousing is required. The State of New Jersey has no obligation to guarantee any volume of product.

This is a reprocurement of the Food Storage Facilities, North and South Jersey for the Department of Agriculture term contract, presently due to expire on June 30, 2008. Bidders who are interested in the current contract specifications and pricing information may review the current contract (T-0303) at <http://www.state.nj.us/treasury/purchase/contracts.htm>.

### **1.3 KEY EVENTS**

#### **1.3.1 ELECTRONIC QUESTION AND ANSWER PERIOD**

The Purchase Bureau will accept questions and inquiries from all potential bidders electronically via web form. To submit a question, please go to Current Bid Opportunities webpage or to <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 are not to contact the Using Agency directly, in person, by telephone or by email, 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 Purchase Bureau website after the cut-off date (see Section 1.4.1. of this RFP for further information.)

### 1.3.2 SUBMISSION OF BID PROPOSAL

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

BID RECEIVING ROOM - 9TH FLOOR  
PURCHASE 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 Purchase Bureau can be found at the following web address:**  
<http://www.state.nj.us/treasury/purchase/directions.htm>.

Note: Bidders using USPS Regular or Express mail services should allow additional time since USPS mail deliveries are not delivered directly to the Purchase Bureau.

Procedural inquiries on this RFP may be directed to [RFP.procedures@treas.state.nj.us](mailto:RFP.procedures@treas.state.nj.us). This e-mail address may also be used to submit requests to review bid 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>.

### 1.4 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, SELECT THE BID NUMBER ON THE BIDDING OPPORTUNITIES WEB PAGE AT THE FOLLOWING ADDRESS:

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 Purchase Bureau "Bidding Opportunities" website on a daily basis from time of RFP issuance through bid 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 bid proposal in response to this RFP. No special consideration will be given after bid 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 bid proposal in response to this RFP.

#### 1.4.4 CONTENTS OF BID PROPOSAL

Subsequent to bid opening, all information submitted by bidders in response to the bid solicitation is considered public information, except as may be exempted from public disclosure by the Open Public Records Act, N.J.S.A. 47:1A-1 et seq., and the common law. If the State proposes to negotiate and/or pursue a Best and Final Offer, bid proposals will not be made public until the Letter of Intent to Award is issued.

A bidder may designate specific information as not subject to disclosure when the bidder has a good faith legal/factual basis for such assertion. The State reserves the right to make the determination and will advise the bidder accordingly. The location in the bid proposal of any such designation should be clearly stated in a cover letter. **The State will not honor any attempt by a bidder either to designate its entire bid proposal as proprietary and/or to claim copyright protection for its entire proposal.**

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.

All bid proposals, with the exception of information determined by the State or the Court to be proprietary, are available for public inspection. Interested parties can make an appointment with the Purchase Bureau to inspect bid proposals received in response to this RFP.

#### 1.4.5 PRICE ALTERATION

Bid 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.

#### 1.4.6 BID ERRORS

In accordance with N.J.A.C. 17:12-1.22, "Bid Errors," a bidder may withdraw its bid as follows:

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

If, after bid opening but before contract award, a bidder discovers an error in its proposal, the bidder may make written request to the Supervisor of the Business 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. Note: a PB-36 complaint form may be filed and forwarded to the Division's Contract Compliance and Audit Unit (CCAU) for handling. A record of the complaint will also be maintained in the Division's vendor performance file for evaluation of future bids submitted.

All bid withdrawal requests must include the bid identification number and the final bid opening date and sent to the following address:

Department of the Treasury  
Purchase Bureau, PO Box 230  
33 West State Street – 9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0230  
Attention: Supervisor, Business Unit

If during a bid 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 days after receipt of the notice to confirm its pricing. If the vendor fails to respond, its bid 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 bid proposal, the Director may seek clarification from the bidder to ascertain the true intent of the bid.

#### 1.4.7 JOINT VENTURE

If a joint venture is submitting a bid proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's bid proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal. A separate Ownership Disclosure Form, Disclosure of Investigations and Actions Involving Bidder, Affirmative Action Employee Information Report, MacBride Principles Certification, and Business Registration or Interim Registration must be supplied for each party to a joint venture.

## **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 Purchase Bureau.

**Amendment** - A change in the scope of work to be performed by the contractor after contract award. An amendment is not effective until signed by the Director, Division of Purchase and Property or his/her designee.

**Bidder** – A vendor submitting a bid proposal in response to this RFP.

**Contract** - This RFP, any addendum to this RFP, the bidder's bid proposal submitted in response to this RFP and the Division's Notice of Acceptance.

**Contractor** - The contractor is the bidder awarded a contract.

**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.

**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, but not mandatory.

**Request for Proposal (RFP)** - This document, which establishes the bidding and contract requirements and solicits bid proposals to meet the purchase needs of [the] Using Agency[ies], as identified herein.

**Shall or Must** - Denotes that which is a mandatory requirement.

**Should** - Denotes that which is recommended, but not mandatory.

**State** - State of New Jersey

**Using Agency[ies]**- The entity[ies] for which the Division has issued this RFP.

### **2.2 CONTRACT SPECIFIC DEFINITIONS**

**AMS** – Agricultural Marketing Service, located within the United States Department of Agriculture

**CFR** – Code of Federal Regulations

**Consignee** – The receiving facility to which commodities are shipped, sometimes referred to as the received

**Detention** – A penalty charge assessed by motor carriers or piggyback companies for detaining equipment beyond a specified free time.



**DOD** – The United States Department of Defense

**Demurrage** – A penalty charge assessed by railroads for cars held by shippers or receivers of freight beyond a specified free time.

**Drayage** – Transporting freight by truck, primarily in local cartage.

**Dunnage** – Material used to protect or support freight during transit.

**FGMR** - Fruit Growers Mechanical Reefer.

**Flippers** – Both ends of the can are flat, but one end will bulge outward when the opposite end receives pressure. This condition is caused by either bacterial action or chemical action resulting in gas production.

**Floor loaded** – Includes anything not on pallets; that is stacked on the floor or slip sheeted.

**FNS** – Food and Nutrition Services, located within the United States Department of Agriculture

**Form FNS-57 (5-98)** – Report of Shipment Received Over, Short and/or Damaged, United States Department of Agriculture, Food and Nutrition Service

**Form KC-269** – Notice to Deliver and Vendor or Processor Invoice

**Free Time** – The amount of time allowed by the carriers for the loading or unloading of freight before demurrage or detention charges begin to accrue.

**FSA** – Farm Service Agency, located within the United States Department of Agriculture

**Gross Weight** – The weight of an article, together with the weight of its container and the materials used for packing.

**IARW** – International Association of Refrigerated Warehouses

**NJDA** – The New Jersey Department of Agriculture

**NSLP** – National School Lunch Program, a federally assisted meal program

**OEM** – The Office of Emergency Management located in the Division of State Police, Department of Law and Public Safety.

**Palletize** – Place commodity on a pallet.

**Piggyback** – The transportation of a trailer or container on railroad flat cars.

**Slip Sheet** - Piece of cardboard used in place of a pallet to handle unitized commodity, floor loaded with a push/pull attachment.

**Springers** – One or both ends of the exterior of a rusty can bulge outward because of bacterial action and gas. This bulge will yield on pressure and spring back to bulge condition on release.

**Swells** – Both ends of cans bulge outward because of bacterial action and gas production. Ends do not yield to finger pressure.

**Unitize** – To band together and/or stretch or shrink wrap cartons, cases, or bag goods into a single unit and place on a pallet or platform for shipping.

**USDA** - The United States Department of Agriculture.

## **3.0 COMMODITY DESCRIPTION/SCOPE OF WORK**

### **3.1 GENERAL REQUIREMENTS**

The bidder should have, as their primary business, the operation of a public warehouse for the storage of dry, refrigerated, and frozen food commodities as well as fresh produce. The bidder must have these facilities operational as of the date of bid submission. Representatives of the Director and/or the using agency may conduct an on site inspection of the bidders facility to verify its operation prior to bid award.

**3.1.1** The contractor shall store commodities in warehouse(s) operated by the contractor. The contractor's warehouse must be physically located in the zone the contractor plans to service. Recipient agencies located in the other zone may be assigned for pick-up to the contractor's warehouse at the discretion of the State Contract Manger.

**3.1.2** The contractor shall provide the following space in the warehouse for the storage of USDA food commodities owned by the State:

#### **Storage Temperature Ranges:**

Dry Storage: 45 Degrees F 80 Degrees F

Refrigerated: 34 Degrees F 38 Degrees F

Frozen Storage: Maximum 10 Degrees F

Freezer/Cooler Storage temperature records (charts) must be maintained by the contractor on a continual basis and must be available for review, upon request, by representatives of the NJDA or the USDA.

**3.1.3** The contractor shall guarantee, if required, by the Office of Emergency Management (OEM), or upon direction of the NJDA, supply emergency personnel to continue operations in the event of an act of war, terrorism or other man-made or natural disaster. During this period, contractor personnel shall be available and the contractor's warehouse shall be operational. All authorized recipients shall be able to receive commodities for delivery to the disaster area as directed by the OEM or NJDA.

**3.1.4** Storage practices shall conform to those recommend in the "IARW Refrigeration Research Foundation", Food Storage Manual. The contractor shall obey and comply with all applicable Federal and State storage laws and regulations. This shall include, but is not limited to, good sanitation practices, rodent control, weevil infestation control for grain, proper palletization, proper locations and stacking, removal of broken cases to a secured area, separation of in-house damage from railroad damage, and maintenance of proper storage temperatures. The State Contract Manager reserves the right to visit the storage facilities of the contractor at any time during the contract for any possible violations of the above to review food security issues.

**3.1.5** Foods stored for the National School Lunch Program (NSLP) are to be separately identified. If the successful vendor is storing food for any other federal food program, local Board of Education or emergency food program, those foods must be stored separate and apart from NSLP foods.

**3.1.6** Freezer, dry and cooler facilities should be available at one facility. Any exceptions should be so noted by the contractors.

**3.1.7** It is not required that the warehouse facility have a rail siding. If a rail siding is available at the warehouse, the bidder shall indicate under the Bidder's Data Packet.

## **3.2 FACILITY SECURITY**

The following guidelines shall be used for securing the actual food storage facility to reduce access by outside sources:

- Monitor visitors and restrict entry to the establishment.
- Monitor all incoming and outgoing vehicles.
- Restrict access to food handling and storage areas.
- Protect perimeter access with fencing and other appropriate deterrents.
- Minimize number of entrances to the restricted areas where food is stored.
- Provide adequate interior and exterior lighting.
- Restrict access to laboratory and sensitive materials with key cards or other security devices.
- Properly store and track hazardous chemicals like cleaning and sanitizing agents, pesticides and processing aids.
- Assign facility security responsibilities to a qualified employee.

### **3.2.1 Contractor Personnel Security Issues**

Contractor employees that have direct contact with food products should be subject to the following guidelines:

- Establish pre-hiring screening procedures including criminal history background checks, immigration status checks and obtaining and verifying work references.
- Keep good records and information about employee's daily assignments and who should be on the premises.
- Establish an employee identification system including identification badges.
- Limit access so employees can only enter those areas that are necessary for their job functions.
- Provide food security training to all new employees.
- Watch for unusual behavior by new employees.

### **3.2.2 Security Clearances**

As a condition of employment and for purposes of determining a person's qualifications for employment, the contractor shall undertake a criminal history record background check for all its employees assigned to this contract pursuant to N.J.A.C. 13:59-1.1 et seq. The contractor shall bear the cost of the criminal history record background check. The contractor shall be responsible for insuring that employees have legal immigration status to be working in the United States.

### **3.2.3 Computer System Security**

The contractor shall secure critical data systems as follows:

- Restrict computer access and critical data systems to personnel with the appropriate clearances.
- Eliminate computer access to past employees.
- Establish a system of trace ability of computer transactions.

### 3.3 RECIPIENT AGENCY PICK-UP REQUIREMENTS

**3.3.1** Food commodity pick-up schedules shall be prearranged between the NJDA, school district, and if appropriate, their contracted hauler. Delivery receipts are to be signed after foods have been loaded on delivery vehicle(s). All commodities will be picked-up at one loading facility. This loading facility must be in operation between the hours of 7:00 AM to 3:00 PM daily, Monday through Friday, for all recipients authorized pick-up vehicles.

**NOTE: Changes will be authorized by the Food Distribution Program in consultation with the school district.**

**3.3.2** Warehouses are to service both Southern Zone A and/or Northern Zone B counties. Outbound freight is picked-up by recipient agencies in either owned or leased vehicles, or by way of contracted haulers. See Exhibit 1 for details on Outbound Freight "Pick-Up Shipments". The contractor must have sidings capable of handling the maximum numbers as shown in Exhibit 2.

**3.3.3** Warehouses with commodities stored for the NSLP will make food available for pick-up in palletized or non-palletized loads. Movement of these NSLP foods occurs during all four weeks of the month, with specific arrangements made between the school, warehouse and NJDA.

**3.3.4** The warehouseman is obligated to load palletized shipments on the pick-up vehicle. Non-palletized shipments shall be placed at the pick-up vehicle tailgate. The warehouseman is not required to hand load freight onto the pick-up vehicle. Any pick-up vehicle requesting palletized loads must have equivalent pallets to exchange.

### 3.4 INBOUND DELIVERY REQUIREMENTS

The USDA requires all commodities delivered by truck be palletized/unitized. On occasion, commodities may be on slip-sheets or floor loaded. The contractor is responsible, but is not limited to, unload all shipments in the periods prescribed by the USDA.

#### **3.4.1 Unloading Appointments**

Trucking companies are requested, by the USDA Farm Service Agency (FSA) to give twenty-four (24) hour notice of arrival to consignees. Generally, if a trucker (a) arrives without an unloading appointment, (b) calls less than twenty-four (24) hours in advance, or (c) is late for an appointment, the consignee should make every attempt to unload the truck promptly. If trucks are not unloaded in a timely manner, detention may result.

#### **3.4.2 Time to Make Appointments**

The consignee has a reasonable time to arrange an unloading appointment. If the consignee cannot receive the freight, the trucker has the right to protect the product by placing it in storage, if necessary. Tariff rules set out the amount of time a carrier will allow to pass before exercising this option, and any applicable charges.

#### **3.4.3 Unloading Responsibilities**

**3.4.3.1** The consignee handles unloading palletized loads. Dunnage must be removed and disposed of by the consignee.

**3.4.3.2** On non-palletized loads, the driver handles unloading to the tailgate only.

#### **3.4.4 Free Time Allowance and Detention Charges**

The USDA allows the following free time for unloading truck/piggybacks at intermediate and final destinations:

Non-palletized loads – up to six (6) hours

Palletized load – up to two (2) hours

Full and split loads will be allowed the same free time. This free time allowance is computed from the time of arrival or the time of scheduled unloading, whichever is later. There is allowance for lunch. Charges for detention of trucks/piggybacks beyond the free time allowed by the USDA will be payable by the consignee.

#### **3.4.5 Detention Records**

Records kept by the consignee shall include:

1. Commodity
2. Order #, contract#, etc.
3. Name of trucker
4. Truck/trailer #
5. Date/time of truckers notification
6. Date/time unloading began
7. Date/time unloading was completed
8. Date/time vehicle was released
9. Total gross weight of freight unloaded
10. Date/time agreed upon for arrival of the truck
11. Record case pack date on all loads
12. Label all pallets with Commercial Labels Product as School Lunch/USDA on base of pallet as per NJDA approval

#### **3.4.6 Pallet Exchange**

Arrangements should be made in advance if a pallet exchange is requested. In those instances, the consignee must make arrangements with the shippers on method for exchanging pallets.

#### **3.4.7 Unloading Responsibilities for Rail Deliveries**

Consignees are responsible to completely unload rail cars. Dunnage must be removed and disposed of by the consignee. The free time for unloading rail equipment at an intermediate stop over point varies between twenty-four (24) and forty-eight (48) hours. The free time for unloading rail equipment at final destinations varies between twenty-four (24) and seventy-two (72) hours. This free time is set by the carrier. All charges for detaining cars beyond the allowable free time is the responsibility of the consignee.

#### **3.4.8 Computation of Free Time for Unloading**

Time will be computed from the first 7:00 AM after actual placement or constructive placement of the car. If a car is placed after 7:00 AM on Friday, computation of free time does not start on Saturday, Sunday or Legal Holidays. An exception to this rule is shipments in cars identified as FGMR, in which case free time begins at placement regardless of the day. After the free time period for unloading is over, demurrage charges are assessed for all cars at a rate for each day, or part of a day, including Saturdays, Sundays and Holidays. The consignee will be liable for payment of charges incurred after the free time is allowed. Charges for special services, such as switching or reconsignment, not provided in the shipping instructions, if requested by the consignee, are payable by the consignee.

### **3.4.9 Records**

It is important that consignees keep complete and accurate records on each rail shipment, including the following:

1. Order#, Contract #, etc.
2. Name of carrier
3. Rail car initial and #
4. Date/time carrier is notified of the arrival of the car
5. Date/time car was placed for unloading
6. Date/time car was released
7. Date/time car was removed from siding
8. Record the seal# and condition

### **3.5 PIGGYBACK SHIPMENTS**

Piggyback shipments appear to be a truck shipment, but the shipment is given to a third party agent rather than a trucking company. This agent arranges for a local trucking firm to pick up the trailer from the shipper's facility and deliver it to a railroad. The railroad delivers the flat car to an unloading ramp close to its final destination, where a local trucking firm picks up the trailer, delivers it to the consignee and returns the empty trailer to the railroad.

**3.5.1** Most piggyback shipments do not lend themselves to pallet exchange and must be unloaded as a floor loaded shipment.

**3.5.2** All USDA consignees are obligated to accept piggy back shipments and should be prepared to unload upon receipt. Consignees are required to notify the carrier, not the local drayage company, of any loss or damage immediately upon unloading a piggyback trailer. If the Trailer on Flatcar (TOFC) carrier is not listed on shipping documents, the local drayage company will be able to provide the company's name and contact party. Damaged commodities should be unloaded and segregated from other foods pending instructions, from the TOFC Company. When a trailer is received with extensive damage, the warehouse receiver will not unload or accept any part of the load. The warehouse receiver will notify the TOFC carrier and the NJDA immediately.

### **3.6 FRESH PRODUCE**

All fresh whole products (except apples) purchased by the Agricultural Marketing Service (AMS) or Department of Defense (DOD) must have destination inspections. This requires the supplier to arrange and pay for a destination inspection when the shipments arrive at contracted warehouses. Before each shipment's arrival, the consignee should receive a notification from the vendor showing the time of day the inspection will be done. If the warehouse contractor does not receive this notification, the warehouse should contact the supplier. The suppliers name and contact should be on the notice to deliver paperwork (KC-269). Inspections will be performed by the Federal or Federal State Inspection Service according to the destination toleration in the U.S. Grade Standards. The supplier handles arranging and paying for inspections. AMS will work with vendors if there are problems arranging for inspections at the destination. For example, if it is not cost effective to fly an inspector to a destination, under certain conditions arrangements can be made by the shipper to have the load inspected en route.

**3.6.1** Split shipments are to be inspected at each stop unless arrangements have been made with AMS to allow inspections of the entire load at the first stop. When this occurs, the shipper is

still responsible for arranging for the inspection and the associated costs, including uploading and reloading the truck for shipment to the final destination.

**3.6.2** If shipments arrive, and an inspector is not available, the consignee should go ahead and unload shipments, noting on the documentation presented by the trucker that the product was offloaded but not accepted pending USDA's inspection. The Farm Service Agency (FSA) will not pay for product without an inspection certificate.

**3.6.3** Product should not be distributed before an inspection. After inspection, once USDA's inspector confirms that the product meets all contract requirements, it becomes the property of the NJDA. There is no extended warranty period after inspection.

**NOTE:** The contracted warehouse will record product dates on arrival notice sent to the State Contract Manager.

### **3.7 REPORTS, COUNTS AND NOTIFICATION OF SHIPMENTS**

**3.7.1** The contractor and the NJDA's Food Distribution Program Staff will take a physical count of all products owned by the State after the close of the State fiscal year, June 30. The State fiscal year ending inventory reconciliation must be completed during July of each contract year or at an assigned date as prescribed by the NJDA. Damaged commodities will be counted and listed separately.

**3.7.2** The contractor shall submit a monthly transactional inventory report to the NJDA's Food Distribution Section three (3) days before the last day of each month. That transaction inventory shall contain the following information by product description and code number:

- A. Beginning inventory as of the first of the month
- B. Amount distributed/picked up and identified by recipient and date, or amount shipped identified by State reference number and/or bill of lading number
- C. Product transferred in, from other agencies, and so identified.
- D. Amount shipped by master bill number
- E. Separate listing for damaged or "hold" product
- F. Ending inventory as of last day of month

**3.7.3** The contractor shall notify the food distribution office by telephone, when product is received from any source for the account of the NJDA giving the following information:

- A. Type and description of product
- B. Amount of product received
- C. Product is for NSLP account (if other USDA donated foods are stored)
- D. Amount of product over, short or damaged
- E. Action taken regarding damage

**3.7.4** The telephone verbal receipt report will be confirmed by completing the USDA Form FNS-57 (5-98), report of shipment received over, short and/or damage, within ten (10) days following the telephone call.

**3.7.5** The contractor will be notified, in advance, of all incoming and outgoing shipments by rail, truck or piggyback. When this procedure has been followed, any demurrage or detention incurred by the warehouse in unloading is for the account of the contractor.

### **3.8 STORAGE INVENTORY SETTLEMENT PROCEDURE**



**3.8.1** The State shall request a physical count of all merchandise owned by the NJDA once per year. Counting will be done by NJDA Food Distribution Staff accompanied by contractor's representatives. It is understood this inventory will be taken at no additional cost to the State.

**3.8.2** After the inventory is taken and agreed upon by both parties, the warehouseman shall reimburse the NJDA the commodity value price of any shortages, if any, after completion of all reconciliations. The contractor will have their final adjusted figures within seventy-two (72) hours after the first count is taken.

**NOTE:** USDA regulations, 7 CFR Part 250.15 (C) (2), does not allow a percentage of write-off of USDA foods lost, destroyed, stolen damaged, etc., while under the contractual care of a commercial vendor. All USDA foods are accountable on a case for case basis at the established USDA commodity file delivered price.

**3.8.3** During the period of physical inventory, an item shall be adjusted against a like item. Definition of like items: Various size packs of same item; various cheeses or same pack; and various butter of same pack. Failure to comply can be cause for assessment of dollar value of the item short. Assessment shall be based upon USDA current commodity file delivered price. Overage of all items shall be picked up on inventory with no credit value.

**3.8.4** There will be no adjustments allowed between NSLP foods and other NJDA, USDA or separate USDA Recipient Agency accounts held by the contractor.

### **3.9 DAMAGE REPORT PROCEDURE**

**3.9.1** When merchandise is received for the account of the NJDA, the contractor is responsible to inspect for visible damage and is note on all copies of carrier's delivery ticket before signing for the shipment. This applies to rail, truck and piggyback shipments. Damaged product should not be accepted in the warehouse without the expressed permission of the NJDA Food Distribution Office. Every attempt should be made to keep the contracted warehouse free from damage.

Shipment containing damaged products received by rail car should be first reported to the railroad for their inspection before unloading. Secondly, a telephone call must be placed to the NJDA Food Distribution Office, notifying that office of the damage, the products involved and the count of each. Damage from each shipment should be accumulated and labeled with the car number and date and a delivery ticket should be completed and signed by the carrier.

**3.9.2** Each shipment received is to be carefully looked at as soon as possible after placement for unloading to determine its count condition, and the following actions taken:

**3.9.2.1** A record shall be made of the following temperatures and product dates and/or coding:

- a. Condition and serial numbers of the seal(s) on the door(s) of the car or truck before the car or truck is opened.
- b. Where the shipment is loaded.
- c. Protection given the car or truck during unloading.

**3.9.2.2** Each shipment shall be carefully looked at before unloading begins to determine whether there is any obvious overage, shortage, or damage. If there is, it shall be reported to the agent of the delivering carrier before the entire shipment is unloaded.

**3.9.2.3** A careful count and record of the shipment shall be made as it is unloaded. Overages, shortages, or damage discovered as unloading progresses shall be reported to the agent of the delivering carrier before the entire shipment is unloaded.

**3.9.2.4** Consignees are to notify the carrier's agent immediately by telephone, or in person, upon discovery of an overage, shortage, or damage. The carrier's agent is obligated to make its inspection as soon as practical, but in any event within forty-eight (48) hours, after such notice. Unloading is not to be delayed while waiting for the inspection. Consignees are to complete notices of any overage, loss, or damage in writing to the carrier's agent. A copy of the confirmation is to be forwarded to the USDA's Kansas City, FSA Commodity Office with the Form FNS-57 (5-98).

**3.9.2.5** If the carrier's agent waives or does not make an inspection, the consignees inspection shall be accepted as the carrier's inspection. Failure of the consignee to properly notify the carrier's agency of an overage, shortage or damage shall be regarded as showing the shipment has been received complete and in good order.

**3.9.2.6** A shipment which has damaged foods, unless the damage affects all or a major part of it, must be accepted by the consignee.

- a. Damaged cargo which is still usable for human consumption shall be salvaged and accepted for program use. It is important that usable foods bearing USDA and USDA purchased commercial labels do not get into commercial channels since their appearance for sale can cause questions as to the propriety of their being sold, and many times lead to expensive investigations. Damage to containers, without damage to the food, is to be remedied by mending or replacing the container. Salvage operations may be performed by the consignee or the carrier, as they mutually agree. If canned goods are exposed or leaking, they will not be considered salvageable. Unless canned goods are noticeably dented in the side of end seams, or are otherwise dented to seriously distort the shape of the cans, they shall be accepted. Seriously rusted cans, or cans that are "springers", "flippers", or "swellers" are not considered salvageable.
- b. The damaged cartons, which cannot be salvaged for program use, shall be disposed of as follows:
  - 1) Foods that are unfit for any use which are in such condition as to contaminate or infest the storage space, or which have been condemned by Federal, State or local health officials, must be destroyed according to applicable health and sanitation laws or regulations.
  - 2) Foods that are fit for other than human consumption may be sold for non-human or non-food use, released to the delivering carrier upon its demand, used as annual feed in public institutions, or destroyed as determined by the NJDA.
  - 3) When foods which have a salvage value to the carrier are sold or destroyed, the consignee must furnish the USDA's Kansas City, FSA Commodity Office with a receipt that shows that food was disposed of for an amount less than fifty (50) percent of the claim value, or with a certificate of condemnation (when a food is dumped or destroyed), furnished by the appropriate agency, showing that the food was unfit for human consumption.
  - 4) When a decision is made to refuse to accept a shipment because of all or a major part of it is off-grade, out of condition, or damaged, all facts contributing to the decision not to accept must be reported to the NJDA by telephone. The determination and action necessary to reject the shipment to the delivering carrier will be made by the USDA's FSA Commodity Office which arranged for the shipment. In no event may a consigned reject a shipment to the carrier.
  - 5) If a split shipment is not properly braced upon delivery to stop-off point, the intermediate consignee(s) must repair the bracing or level off the load.
  - 6) If a split shipment is made in a mechanically refrigerated car, the stop-off consignee(s) must be sure that the refrigeration is turned on before the car proceeds to the next

- 7) The NJDA's Commodity Office will consult with the USDA's Regional Office when guidance in any given case is needed, or if a USDA Inspection of the food is shown.
- 8) Consignee of shipments, made by railroad, are obligated under the rules of the Uniform Freight Classification of the Interstate Commerce Commission to completely unload from cars all dunnage, debris, and other foreign matter connected with the inbound movement, so that they are ready for use by another shipper without further unloading. Cost of cleaning the cars is to be borne by the vendor as a normal expense to be expected in the conduct of business. Cars are to be unloaded and cleaned within the allowable free time so their release can be obtained before they are placed on demurrage of detention charges. When a shipment is delivered and all or a major part of it is apparently off-grade, out-of-condition, or damaged, it must not be accepted until the facts pertinent to the arrival condition are reported to the USDA's Regional Office and disposition instructions are received.

### **3.9.2.7 Inspection**

When a first examination of a shipment shows that all or at least fifty percent (50%) of it is off-grade, out-of-condition, or damaged, the consignee must obtain an inspection by the best qualified person available (preferable a Federal, Federal-State, or State inspector). If the findings of the inspection confirm those of the first examination, the shipment must be held and all details promptly reported by telephone to the USDA's Regional Office.

### **3.9.2.8 Report**

The report furnished on a shipment refused by the consignee because it is off-grade, out-of-condition, or damaged, must include, as a minimum the following information:

1. Order Number
2. Railroad car number and initial, or truck identification
3. Name of shipper, origin and date of shipment
4. Quantity and kind of food in the shipment
5. Condition complained about and quantify affected
6. Apparent cause of condition complained about
7. Protective services provided
8. Name and identification of person who made inspection
9. Specific location
10. Person to contact regarding shipment
11. For perishable foods, the information required in Item 26 of USDA Form FNS-57 (5-98)

**3.9.2.9** Form FNS-57 (5-98) Report of Shipment Received Over, Short, and/or Damaged must be prepared whenever a shipment is received over, short, and/or damaged. Consignees or their representatives on the scene when shipments are received must promptly and properly prepare Form FNS-57 (5-98) . It is important that the information reported be as accurate as possible since the USDA must accurately establish and fairly adjudicate claims for all reported shortages and damage in shipments of donated foods. Instructions for preparation and distribution are printed on the reverse side of the form.

**3.9.3** Expenses incurred in recouping, re-packing, reworking and/or sorting of damaged foods will be reimbursed, by the NJDA Food Distribution Program, and must not exceed the bidder's per case recouping charge as stated in this contract. The per case recouping charge must cover all labor hired specifically for recouping, reworking, re-packing and sorting damaged commodities, cost for packing materials, containers, handling and hauling.

**3.9.3.1** Expenses incurred in the disposal of damaged food or food not fit for human consumption will be reimbursed by the Food Distribution Program, NJDA and must not exceed the contractor's per case disposal charge. The per case disposal charge must cover all handling/hauling/dumping/recycling costs incurred in the disposal of unsalvageable food and/or goods. All USDA foods, earmarked for dumping, must be approved for destruction and accompanied to the dumping area by and with a NJDA Food Distribution representative.

**3.9.4** All instances of damaged products connected with incoming shipments must also be reported on USDA Form FNS-57 (5-98) Report of Shipment Received Over, Short and/or Damaged within ten (10) days following receipt. Damaged commodities must be reported weekly to the NJDA Food Distribution Office, removed from stock and accumulated so that Food Distribution staff, may inspect all USDA food damaged to determine disposition. Vendors in-house damaged commodities must be identified and physically separated from usable commodities. All damages must be reported to the NJDA Food Distribution Program. All such damages must be identified and stored separate and apart from any railroad and/or truck shipping damage.

### **3.10 ELECTRONIC DATA PROCESSING INFORMATION/WEB-BASED SYSTEM REQUIREMENTS**

The NJDA reserves the right to require the contractor to maintain an infrastructure support to facilitate electronic communications between the NJDA and warehouse location(s), through the internet, on secured web-based system for the receipt, storage and delivery of federal donated food commodities.

**3.10.1** The requirements are listed as follows:

The State requires capability to send documents, memos, and other paperwork through fax, mail or electronic mail. To facilitate the process, the warehouse will provide a personal computer with modem, printer and designated e-mail account and fax number. On a daily basis, the warehouse will provide, in addition to delivery notes, a copy of detailed inventory transactions and inventory summary report. The inventory transaction report will list commodity receipts and distribution whereas the summary report will list daily ending balances on all commodities. The warehouse should prepare for the exchange of data in a prescribed format such as XML in the future. In addition, the contractor must supply a 1-800 telephone number(s) for voice and fax communications with NJDA staff.

**3.11** Detailed instructions concerning the receipt of USDA foods can be found in FNS (FD) instruction 709-5, dated 4/1/93. The successful bidder must be able to comply with this instruction.

**3.12** The contractor shall comply with all Federal, State or local laws, now in effect or hereafter promulgated, which apply to food storage facilities.

## **4.0 BID 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 bid proposal.

Note: Bid proposals shall not contain URLs (Uniform Resource Locators, i.e., the global address of documents and other resources on the world wide web) or web addresses. Inasmuch as the web contains dynamically changing content, inclusion of a URL or web address in a bid response is indicative of potentially changing information. Inclusion of a URL or web address in a bid response implies that the bid's content changes as the referenced web pages change.

## 4.2 BID PROPOSAL DELIVERY AND IDENTIFICATION

In order to be considered, a bid proposal must arrive at the Purchase Bureau in accordance with the instructions on the RFP signatory page <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>. Bidders are cautioned to allow adequate delivery time to ensure timely delivery of bid proposals. **State regulation mandates that late bid proposals are ineligible for consideration. THE EXTERIOR OF ALL BID PROPOSAL PACKAGES ARE TO BE LABELED WITH THE BID IDENTIFICATION NUMBER AND THE FINAL BID OPENING DATE OR RISK NOT BEING RECEIVED IN TIME.**

## 4.3 NUMBER OF BID PROPOSAL COPIES

The bidder must submit **one (1) complete ORIGINAL bid proposal**, clearly marked as the "ORIGINAL" bid proposal. The bidder should submit **one (1) full, complete and exact copies and one (1) unbound, complete and exact copy** of the original. The copies requested are necessary in the evaluation of the bid proposal. 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. It is suggested that the bidder make and retain a copy of its bid proposal.

## 4.4 BID PROPOSAL CONTENT

### 4.4.1 FORMS THAT MUST BE SUBMITTED WITH BID PROPOSAL

#### 4.4.1.1 SIGNATORY PAGE

The bidder shall complete and submit the Signatory page provided on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>. The Signatory page shall be signed by an authorized representative of the bidder. 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 bid proposal.

#### 4.4.1.2 OWNERSHIP DISCLOSURE FORM

In the event the bidder is a corporation, partnership or sole proprietorship, the bidder must complete the attached Ownership Disclosure Form. A current completed Ownership Disclosure Form must be received prior to or accompany the bid proposal. Failure to do so will preclude the award of a contract.

The Ownership Disclosure Form is located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

#### 4.4.1.3 DISCLOSURE OF INVESTIGATIONS/ACTIONS INVOLVING BIDDER

The bidder shall provide a detailed description of any investigation, litigation, including administrative complaints or other administrative proceedings, involving any public sector clients

during the past five 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. The bidder shall use the Disclosure of Investigations and Actions Involving Bidder form located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

#### **4.4.1.4 NOTICE OF INTENT TO SUBCONTRACT FORM**

All bidders shall complete the attached Notice of Intent to Subcontract Form <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml> to advise the State as to whether or not a subcontractor will be utilized to provide any goods or services under the contract. If this is a Small Business Subcontracting set-aside contract, the bidder must comply with the Procedures for Small Business Participation as Subcontractors set forth in <http://www.state.nj.us/treasury/purchase/bid/summary/08x39304.shtml>.

#### **4.4.1.5 SUBCONTRACTOR UTILIZATION FORM**

If the bidder intends to utilize a subcontractor, the Subcontractor Utilization Form <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml> must be completed and submitted with the bid proposal.

#### **4.4.2 PROOFS OF REGISTRATION THAT MUST BE SUBMITTED WITH THE BID PROPOSAL**

##### **4.4.2.1 BUSINESS REGISTRATION CERTIFICATE FROM THE DIVISION OF REVENUE**

FAILURE TO SUBMIT A COPY OF THE BIDDER'S BUSINESS REGISTRATION CERTIFICATE (OR INTERIM REGISTRATION) FROM THE DIVISION OF REVENUE WITH THE BID PROPOSAL MAY BE CAUSE FOR REJECTION OF THE BID PROPOSAL.

The bidder may go to [www.nj.gov/njbgs](http://www.nj.gov/njbgs) to register with the New Jersey Division of Revenue or to obtain a copy of an existing Business Registration Certificate.

Refer to Section 1.1. of the NJ Standard Terms and Conditions version 07/27/07 located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

#### **4.4.3 FORMS THAT MUST BE SUBMITTED BEFORE CONTRACT AWARD AND SHOULD BE SUBMITTED WITH THE BID PROPOSAL.**

##### **4.4.3.1 MACBRIDE PRINCIPLES CERTIFICATION**

The bidder is required to complete the attached MacBride Principles Certification evidencing compliance with the MacBride Principles. The requirement is a precondition to entering into a State contract. The MacBride Principles Certification Form is located on the Advertised Solicitation, Current Bid Opportunities webpage: <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

##### **4.4.3.2 AFFIRMATIVE ACTION**

The bidder is required to submit a copy of Certificate of Employee Information or a copy of Federal Letter of Approval verifying that the bidder is operating under a federally approved or sanctioned Affirmative Action program. If the bidder has neither document of Affirmative Action evidence, then the bidder must complete the attached Affirmative Action Employee Information

Report (AA-302). This requirement is a precondition to entering into a State contract. The Affirmative Action Employee Information Report (AA-302) is located on the Advertised Solicitation, Current Bid Opportunities webpage:  
<http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

#### 4.4.4 SUBMITTALS

1. Bidder must include and describe its electronic billing methods (if any) which will be used to bill the NJDA.

##### 4.4.4.1 BIDDER EXPERIENCE - DATA SHEETS

The bidder must provide all of the information requested in the Bidder's Data Packet located on the Advertised Solicitation, Current Bid Opportunities webpage:  
<http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

##### 4.4.5 FINANCIAL CAPABILITY OF THE BIDDER

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 two years of certified financial statements that 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 bid 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.

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

The State reserves the right to make the determination whether to accept the bidder's assertion of confidentiality and will advise the bidder accordingly.

##### 4.4.6 SUBCONTRACTOR(S)

**All bidders** must complete the **Notice of Intent to Subcontract Form** whether or not they intend to utilize subcontractors in connection with the work set forth in this RFP. If the bidder intends to utilize subcontractor(s), then the **Subcontractor Utilization Plan** must also be submitted with the bid.

Should the bidder propose to utilize a subcontractor(s) to fulfill any of its obligations, the bidder shall be responsible for the subcontractor's(s): (a) performance; (b) compliance with all of the terms and conditions of the contract; and (c) compliance with the requirements of all applicable laws.

The bidder must provide a detailed description of services to be provided by each subcontractor, referencing the applicable Section or Subsection of this RFP.

The bidder should provide detailed resumes for each subcontractor's management, supervisory and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work which the subcontractor is designated to perform.

The bidder should provide documented experience to demonstrate that each subcontractor has successfully performed work on contracts of a similar size and scope to the work that the subcontractor is designated to perform in the bidder's proposal.

#### **4.4.7 PRICING**

The bidder must submit its pricing using the format set forth in the State supplied price sheet(s) attached to this RFP. Failure to submit all information required will result in the bid being considered non-responsive. Each bidder is required to hold its prices firm through issuance of contract.

#### **4.4.8 METHOD OF BIDDING**

The State reserves the right to request all bidders to explain the method used to arrive at any/or all figures. Bidder must show prices per hundred weight (Cwt.) to provide food storage and related services as per the specifications of this RFP. Bidders must bid for storage on all commodities listed. If the bidder has no price for a certain service, the bidder must show "NONE". Billing is to be based on gross weight of commodity, including packaging.

Commodities received during the first half of any calendar month will be charged on a lot basis, at the full month rate for storage. Fresh produce commodities received from both the USDA and the DOD will be billed on a one-half month rate for each one-half month the fresh produce commodities stay in storage. Commodities received on the 16<sup>th</sup> day to the last day of the month will be charged on-half month storage. Beginning with commodities carried over into the next month, the storage will be billed at the on-half month rate for each on-half month the commodity stay in storage.

Billing is to be based on a gross weight from date commodities are received, on a lot basis as shown above. At the end of the month, billing will be on a 15 day basis. For each 15 days thereafter until the balance is removed. Handling charges per Cwt. is to be limited to inbound freight to the contractor's warehouse.

Bid prices must include (in price per hundred weight (cwt.) all labor, clerical support, fork-lift, pallets, rental, packaging, miscellaneous expenses, overtime pay, overhead, fee for profit, and any other expenses incurred.

### **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, addendum to this RFP, the contractor's bid proposal 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 NJ Standard Terms and Conditions version 07/27/07 located on the Advertised Solicitation, Current Bid Opportunities webpage:



<http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

In the event of a conflict between the provisions of this RFP, including the Special Contractual Terms and the NJ Standard Terms and Conditions version 07/27/07, 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 bid 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 **two (2) years**. The anticipated "Contract Effective Date" is provided on the signatory page of this RFP: <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>. 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.

## 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 one-hundred eighty (180) days beyond the expiration date of the contract.

The contractor acknowledges its responsibility to cooperate fully with the replacement contractor and the State to ensure a smooth and timely transition to the replacement contractor.

## 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 SUBSTITUTION OF STAFF

If it becomes necessary for the contractor to substitute any management, supervisory or key personnel, the contractor will identify the substitute personnel and the work to be performed.

The contractor must provide detailed justification documenting the necessity for the substitution. Resumes must be submitted evidencing that the individual(s) proposed as substitution(s) have qualifications and experience equal to or better than the individual(s) originally proposed or currently assigned.

The contractor shall forward a request to substitute staff to the State Contract Manager for consideration and approval. No substitute personnel are authorized to begin work until the contractor has received written approval to proceed from the State Contract Manager.

#### **5.7 SUBSTITUTION OR ADDITION OF SUBCONTRACTOR(S)**

This Subsection serves to supplement but not to supersede Section 3.11 of the NJ Standard Terms and Conditions version 07/27/07 located on the Advertised Solicitation, Current Bid Opportunities webpage.

If it becomes necessary for the contractor to substitute a subcontractor, add a subcontractor or substitute its own staff for a subcontractor, the contractor will identify the proposed new subcontractor or staff member(s) and the work to be performed. The contractor must provide detailed justification documenting the necessity for the substitution or addition.

The contractor must provide detailed resumes of its proposed replacement staff or of the proposed subcontractor's management, supervisory and other key personnel that demonstrate knowledge, ability and experience relevant to that part of the work which the subcontractor is to undertake.

The qualifications and experience of the replacement(s) must equal or exceed those of similar personnel proposed by the contractor in its bid proposal.

The contractor shall forward a written request to substitute or add a subcontractor or to substitute its own staff for a subcontractor to the State Contract Manager for consideration. If the State Contract Manager approves the request, the State Contract Manager will forward the request to the Director for final approval.

No substituted or additional subcontractors are authorized to begin work until the contractor has received written approval from the Director.

#### **5.8 OWNERSHIP OF MATERIAL**

All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of the State of New Jersey and shall be delivered to the State of New Jersey upon 30 days notice by the State. With respect to software computer programs and/or source codes developed for the State, the work shall be considered "work for hire", i.e., the State, not the contractor or subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed. To the extent that any of such materials may not, by operation of the law, be a work made for hire in accordance with the terms of this Agreement, contractor or subcontractor hereby assigns to the State all right, title and interest in and to any such material, and the State shall have the right to obtain and hold in its own name and copyrights, registrations and any other proprietary rights that may be available.

Should the bidder anticipate bringing pre-existing intellectual property into the project, the intellectual property must be identified in the bid proposal. Otherwise, the language in the first paragraph of this section prevails. If the bidder identifies such intellectual property ("Background IP") in its bid proposal, then the Background IP owned by the bidder on the date of the contract, as well as any modifications or adaptations thereto, remain the property of the bidder. Upon contract award, the bidder or contractor shall grant the State a non-exclusive, perpetual royalty free license to use any of the bidder/contractor's Background IP delivered to the State for the purposes contemplated by the Contract.

## **5.9 DATA CONFIDENTIALITY**

All financial, statistical, personnel and/or technical data supplied by the State to the contractor are confidential. The contractor is required to use reasonable care to protect the confidentiality of such data. Any use, sale or offering of this data in any form by the contractor, or any individual or entity in the contractor's charge or employ, will be considered a violation of this contract and may result in contract termination and the contractor's suspension or debarment from State contracting. In addition, such conduct may be reported to the State Attorney General for possible criminal prosecution.

## **5.10 NEWS RELEASES**

The contractor is not permitted to issue news releases pertaining to any aspect of the services being provided under this contract without the prior written consent of the Director.

## **5.11 ADVERTISING**

The contractor shall not use the State's name, logos, images, or any data or results arising from this contract as a part of any commercial advertising without first obtaining the prior written consent of the Director.

## **5.12 LICENSES AND PERMITS**

The contractor shall obtain and maintain in full force and effect all required licenses, permits, and authorizations necessary to perform this contract. The contractor shall supply the State Contract Manager with evidence of all such licenses, permits and authorizations. This evidence shall be submitted subsequent to the contract award. All costs associated with any such licenses, permits and authorizations must be considered by the bidder in its bid proposal.

## **5.13 CLAIMS AND REMEDIES**

### **5.13.1 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.

### **5.13.2 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.

### **5.13.3 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 administrative code and/or 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.

#### 5.14 LATE DELIVERY

The contractor must immediately advise the State Contract Manager of any circumstance or event that could result in late completion of any task or subtask called for to be completed on a date certain. Notification must also be provided to the Director at the address below:

The State of New Jersey  
Director, Division of Purchase and Property  
Purchase Bureau  
PO Box 230  
33 West State St.  
Trenton, New Jersey 08625-0230

#### 5.15 RETAINAGE

Not applicable to this procurement.

#### 5.16 STATE'S OPTION TO REDUCE SCOPE OF WORK

The State has the option, in its sole discretion, to reduce the scope of work for any task or subtask called for under this contract. In such an event, the Director shall provide advance written notice to the contractor.

Upon receipt of such written notice, the contractor will submit, within five (5) working days to the Director and the State Contract Manager, an itemization of the work effort already completed by task or subtask. The contractor shall be compensated for such work effort according to the applicable portions of its price schedule.

#### 5.17 SUSPENSION OF WORK

The State Contract Manager may, for valid reason, issue a stop order directing the contractor to suspend work under the contract for a specific time. The contractor shall be paid until the effective date of the stop order. The contractor shall resume work upon the date specified in the stop order, or upon such other date as the State Contract Manager may thereafter direct in writing. The period of suspension shall be deemed added to the contractor's approved schedule of performance. The Director and the contractor shall negotiate an equitable adjustment, if any, to the contract price.

#### 5.18 CHANGE IN LAW

Whenever an unforeseen change in applicable law or regulation affects the services that are the subject of this contract, the contractor shall advise the State Contract Manager and the Director in writing and include in such written transmittal any estimated increase or decrease in the cost of its performance of the services as a result of such change in law or regulation. The Director and the contractor shall negotiate an equitable adjustment, if any, to the contract price.

### 5.19 CONTRACT PRICE INCREASE (PREVAILING WAGE)

If the Prevailing Wage Act (N.J.S.A. 34:11-56 et seq.) is applicable to the contract, the contractor may apply to the Director, on the anniversary of the effective date of the contract, for a contract price increase. The contract price increase will be available only for an increase in the prevailing wages of trades and occupations covered under this contract during the prior year. The contractor must substantiate with documentation the need for the increase and submit it to the Director for review and determination of the amount, if any, of the requested increase, which shall be available for the upcoming contract year. No retroactive increases will be approved by the Director.

### 5.20 PUBLIC WORKS CONTRACT-ADDITIONAL AFFIRMATIVE ACTION REQUIREMENT

N.J.S.A. 10:5-33 requires that:

"During the performance of this contract, the contractor agrees as follows:

a) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

b) The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex;

c) The contractor or subcontractor where applicable, will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment."

### 5.21 ADDITIONAL WORK AND/OR SPECIAL PROJECTS

The contractor shall not begin performing any additional work or special projects without first obtaining written approval from both the State Contract Manager and the Director.

In the event of additional work and/or special projects, the contractor must present a written proposal to perform the additional work to the State Contract Manager. The proposal should provide justification for the necessity of the additional work. The relationship between the additional work and the base contract work must be clearly established by the contractor in its proposal.

The contractor's written proposal must provide a detailed description of the work to be performed broken down by task and subtask. The proposal should also contain details on the level of effort, including hours, labor categories, etc., necessary to complete the additional work.

The written proposal must detail the cost necessary to complete the additional work in a manner consistent with the contract. The written price schedule must be based upon the hourly rates, unit costs or other cost elements submitted by the contractor in the contractor's original bid proposal submitted in response to this RFP. Whenever possible, the price schedule should be a firm, fixed cost to perform the required work. The firm fixed price should specifically reference and be tied directly to costs submitted by the contractor in its original bid proposal. A payment schedule, tied to successful completion of tasks and subtasks, must be included.

Upon receipt and approval of the contractor's written proposal, the State Contract Manager shall forward same to the Director for the Director's written approval. Complete documentation from the Using Agency, confirming the need for the additional work, must be submitted. Documentation forwarded by the State Contract Manager to the Director must include all other required State approvals, such as those that may be required from the State of New Jersey's Office of Management and Budget (OMB) and Office of Information and Technology (OIT).

No additional work and/or special project may commence without the Director's written approval. In the event the contractor proceeds with additional work and/or special projects without the Director's written approval, it shall be at the contractor's sole risk. The State shall be under no obligation to pay for work performed without the Director's written approval.

## **5.22 FORM OF COMPENSATION AND PAYMENT**

This Section supplements Section 4.5 of the NJ Standard Terms and Conditions version 07/27/07, located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>. The contractor must submit official State invoice forms to the Using Agency with supporting documentation evidencing that work for which payment is sought has been satisfactorily completed. Invoices must reference the tasks or subtasks detailed in the Scope of Work section of the RFP and must be in strict accordance with the firm, fixed prices submitted for each task or subtask on the RFP pricing sheets. When applicable, invoices should reference the appropriate RFP price sheet line number from the contractor's bid proposal. All invoices must be approved by the State Contract Manager before payment will be authorized.

In addition, primary contractors must provide, on a monthly and cumulative basis, a breakdown in accordance with the budget submitted, of all monies paid to any small business subcontractor(s). This breakdown shall be sent to the Purchase Bureau Business Unit, Set-Aside Coordinator.

Invoices must also be submitted for any special projects, additional work or other items properly authorized and satisfactorily completed under the contract. Invoices shall be submitted according to the payment schedule agreed upon when the work was authorized and approved. Payment can only be made for work when it has received all required written approvals and has been satisfactorily completed.

### **5.22.1 PAYMENT TO CONTRACTOR - OPTIONAL METHOD**

The State of New Jersey now offers State contractors the opportunity to be paid through the MasterCard procurement card (p-card). A contractor's acceptance and a State agency's use of the p-card, however, is optional.

P-card transactions do not require the submission of either a contractor invoice or a State payment voucher. Purchasing transactions using the p-card will usually result in payment to a contractor in three days.

A contractor should take note that there will be a transaction-processing fee for each p-card transaction. To participate, a contractor must be capable of accepting the MasterCard. Additional information can be obtained from banks or merchant service companies.

## **5.23 MODIFICATIONS AND CHANGES TO THE NJ STANDARD TERMS AND CONDITIONS VERSION 07/27/07**

NJ Standard Terms and Conditions version 07/27/07 are located on the Advertised Solicitation, Current Bid Opportunities webpage  
<http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

## **6.0 PROPOSAL EVALUATION**

### **6.1 EVALUATION CRITERIA**

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

**6.1.1** Price based on Evaluation Model

**6.1.2** Experience of the bidder

**6.1.3** The bidder's past performance under similar contracts, including if applicable, the Division's vendor performance database.

#### **NOTE:**

For evaluation purposes, a model will be developed in which bidders will be price ranked according to the lowest total cost of several predetermined price lines selected from the Price Sheet located on the Advertised Solicitation, Current Bid Opportunities webpage, <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>.

### **6.2 ORAL PRESENTATION AND/OR CLARIFICATION OF BID PROPOSAL**

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

The bidder may be required to give an oral presentation to the State concerning its bid proposal. The State may also require the bidder to submit written responses to questions regarding its bid proposal.

The purpose of such communication with the bidder, either through an oral presentation or a letter of clarification, is to provide an opportunity for the bidder to clarify or elaborate on its bid proposal. Original bid proposals submitted, however, cannot be supplemented, changed, or corrected in any way. No comments regarding other bid proposals are permitted. Bidders may not attend presentations made by 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 bid proposal. Action by the State in this regard should not be construed to imply acceptance or rejection of a bid proposal.

The Purchase Bureau buyer will be the sole point of contact regarding any request for an oral presentation or clarification.

### **6.3 BID DISCREPANCIES**

In evaluating bids:

- 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 corrected sum of the column of figures.

## **7.0 CONTRACT AWARD**

### **7.1 DOCUMENTS REQUIRED BEFORE CONTRACT AWARD**

#### **7.1.1 REQUIREMENTS OF N.J.S.A. 19:44A-20.13-25 (FORMERLY EXECUTIVE ORDER 134)**

In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the negotiation and award of State contracts from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, the Legislature enacted N.J.S.A. 19:44A-20.13 – 25 on March 22, 2005 the “Legislation”), retroactive to October 15, 2004, superseding the terms of Executive Order 134. Pursuant to the requirements of the Legislation, the terms and conditions set forth in this section are material terms of any contract resulting from this RFP:

##### **7.1.1.1 DEFINITIONS**

For the purpose of this section, the following shall be defined as follows:

a) Contribution – means a contribution reportable as a recipient under “The New Jersey Campaign Contributions and Expenditures Reporting Act.” P.L. 1973, c. 83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Through December 31, 2004, contributions in excess of \$400 during a reporting period were deemed "reportable" under these laws. As of January 1, 2005, that threshold was reduced to contributions in excess of \$300.

b) Business Entity – means any natural or legal person, business corporation, professional services corporation, Limited Liability Company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. The definition of a business entity includes (i)all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate; (ii)any subsidiaries directly or indirectly controlled by the business entity; (iii)any political organization organized under section 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee; and (iv)if a business entity is a natural person, that person’s spouse or child, residing in the same household.



### 7.1.1.2 BREACH OF TERMS OF THE LEGISLATION

It shall be a breach of the terms of the contract for the Business Entity to (i)make or solicit a contribution in violation of the Legislation, (ii)knowingly conceal or misrepresent a contribution given or received; (iii)make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution; (iv)make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate of holder of the public office of Governor, or to any State or county party committee; (v)engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of the Legislation; (vi)fund contributions made by third parties, including consultants, attorneys, family members, and employees; (vii)engage in any exchange of contributions to circumvent the intent of the Legislation; or (viii)directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of the Legislation.

### 7.1.1.3 CERTIFICATION AND DISCLOSURE REQUIREMENTS

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 to any State or county political party 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 the Legislation 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 mean 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 Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134>, shall be provided to the intended awardee for completion and submission to the Purchase Bureau 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 Purchase Bureau Buyer, 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 Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.htm#eo134>, shall be provided to the intended awardee with the Notice of Intent to Award.

### 7.1.1.4 STATE TREASURER REVIEW

The State Treasurer or his designee shall review the Disclosures submitted pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended awardee, prior to award, or during the term of the contract, by the contractor. If the State Treasurer determines that any contribution or action by the contractor constitutes a breach of contract that poses a conflict of interest in the awarding of the contract under this solicitation, the State Treasurer shall disqualify the Business Entity from award of such contract.

#### 7.1.1.5 ADDITIONAL DISCLOSURE REQUIREMENT OF P.L. 2005, C. 271

Contractor is advised of its responsibility to file an annual disclosure statement on political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to P.L. 2005, c. 271, section 3 if the contractor receives contracts in excess of \$50,000 from a public entity in a calendar year. It is the contractor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at [www.elec.state.nj.us](http://www.elec.state.nj.us).

#### 7.2 FINAL CONTRACT AWARD

Contract award[s] shall be made with reasonable promptness by written notice to that responsible bidder(s), whose bid proposal(s), conforming to this RFP, is(are) most advantageous to the State, price, and other factors considered. Any or all bid 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.

#### 7.4 PERFORMANCE BOND

This section supplements Section 3.3b of the NJ Standard Terms and Conditions version 07/27/07, located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>. A performance bond is required. The amount of the performance bond is noted on the RFP signatory page located on the Advertised Solicitation, Current Bid Opportunities webpage <http://www.state.nj.us/treasury/purchase/bid/summary/09x39303.shtml>. The contractor must provide the performance bond within thirty (30) days of the effective date of the contract award. The performance bond must remain in full force and effect for the term of the contract and any extension thereof. Within thirty (30) days of the anniversary of the contract effective date, the contractor shall provide proof to the Director that the performance bond in the required amount is in effect. Failure to provide such proof may result in the suspension of payment to the contractor until such time the contractor complies with this requirement.

Although the performance bond is required for the full term of the contract, the Director recognizes that the industry practice of sureties is to issue a one year performance bond for goods and services contracts. Thus, the contractor is required to submit a one year performance bond for the amount required under the contract and, on each succeeding anniversary date of the contract, provide a continuation or renewal certificate to evidence that the bond is in effect for the next year of the contract. This procedure will remain in place for each year of the contract thereafter until the termination of the contract. Failure to provide such proof on the anniversary date of the contract shall result in suspension of the contract, and possibly, termination of the contract.

For performance bonds based on a percentage of the total estimated contract price, the performance bond requirement is calculated as follows. For the first year of the contract, the performance bond percentage on the RFP signatory page is applied to the estimated total contract amount for the full term of the contract. On each anniversary of the effective date of the contract, the amount of the required performance bond, unless otherwise noted, is calculated by

applying the established RFP performance bond percentage to the outstanding balance of the estimated amount of the contract price to be paid to the contractor.

In the event that the contract price is increased by amendment to the contract, the contractor may be required to provide, within thirty (30) days of the effective date of the amendment, performance bond coverage for the increase in contract price. The required increase in the performance bond amount is calculated by applying the established bond percentage set forth on RFP signatory page to the increase in contract price. Failure to provide such proof to the Director of this required coverage may result in the suspension of payment to the contractor until such time the contractor complies with this requirement.

## **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 email 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 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 can not resolve a dispute with contract users.

## **9.0 EXHIBITS**

**EXHIBIT 1 – COMMODITY STORAGE AND HANDLING DATA SHEET – ZONE A**

**USDA COMMODITY STORAGE AND HANDLING DATA SHEET  
ZONE A – SOUTHERN NEW JERSEY  
FY07 (7/1/06-6/30/07)**

	<b>DRY</b>	<b>COOLER</b>	<b>FREEZER</b>
Average Unit Weight Gross	40	40	40
Average Unit Cube	1.1	1.1	1.1
Average Density (wt. per cubic ft.)	36	36	36
Number of Items Stored Per Year	28	29	30
Number of Items Stored Per Month	24	5	20
<b>Maximum Inventory</b>	<b>DRY</b>	<b>COOLER</b>	<b>FREEZER</b>
Month	DEC	OCT	APR
Cases	33,974	8,711	43,861
CWT.	13,590	3,484	17,544
<b>Average inventory</b>			
Cases	19,887	5,175	32,756
CWT.	7,955	2,070	13,102
Turnover (times per year)	4	4	4
Receipts per month (12 month avg)			
Rail	0	0	0
Truck	9	4	9
Piggy Back	n/a	n/a	n/a

**OUTBOUND "PICKUP" STATISTICS FY07**

	<b>ZONE A</b>	<b>ZONE B</b>
Total Schools	275	310
Total Child/Adult Care	7	21
Total Charitable Institutions	42	57
Total Summer Feeding	13	23
Total Summer Camps	54	6
Minimum No. of Pick-ups per Day	8	10
Average No. of Pick-ups per Day	35	40

EXHIBIT 2 – COMMODITY STORAGE AND HANDLING DATA SHEET – ZONE B

**USDA COMMODITY STORAGE AND HANDLING DATA SHEET  
 ZONE B - NORTHERN NEW JERSEY  
 AVERAGE/MAXIMUM TOTAL INVENTORY STATISTICS  
 FY07 (7/1/06-6/30/07)**

Average Inventory (12 Months)	<b>FREEZER</b>	<b>COOLER</b>	<b>DRY</b>
Cases	31,373	5,260	18,376
CWT.	12,549	2,104	7,350

Maximum Inventory Freezer	<b>FREEZER</b>	<b>COOLER</b>	<b>DRY</b>
Month	Feb	Sept	Dec
Cases	44,268	10,159	32,922
CWT.	17,707	4,064	13,169

**EXHIBIT 3 - ZONE A AND B RECEIPTS**

**ZONE A - SOUTH JERSEY RECEIPTS  
FY07 (7/1/06-6/30/07)**

	<b>JULY</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>MARCH</b>	<b>APRIL</b>	<b>MAY</b>	<b>JUNE</b>
<b>FREEZER</b>												
Cases	600	7,216	11,000	5,065	11,989	9,430	9,430	6,824	16,867	14,539	0	480
Cwt.	240	2,886	4,400	2,026	4,796	3,772	3,772	2,730	6,747	5,816	0	192
<b>COOLER</b>												
Cases	n/a	1,960	15,937	3,597	2,960	3,808	2,620	4,890	3,244	4,618	800	1,848
Cwt.	n/a	784	6,375	1,439	1,184	1,523	1,048	1,956	1,298	1,847	320	739
<b>DRY</b>												
Cases	n/a	10,457	8,614	5,774	19,281	11,538	9,666	8,687	5,741	3,868	0	0
Cwt.	n/a	4,183	3,446	2,310	7,712	4,615	3,866	3,475	2,296	1,547	0	0

**ZONE B - NORTH JERSEY RECEIPTS**

	<b>JULY</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>MARCH</b>	<b>APRIL</b>	<b>MAY</b>	<b>JUNE</b>
<b>FREEZER</b>												
Cases	0	8,270	12,431	5,054	11,782	9,430	11,821	27,624	6,550	4,490	0	480
Cwt.	0	3,308	4,972	2,022	4,713	3,772	4,728	11,050	2,620	1,796	0	192
<b>COOLER</b>												
Cases	0	1,960	20,161	3,808	3,168	3,808	2,595	4,865	3,219	4,593	800	1,848
Cwt.	0	784	8,064	1,523	1,267	1,523	1,038	1,946	1,288	1,837	320	739
<b>DRY</b>												
Cases	0	10,121	10,563	4,255	19,474	11,538	10,505	8,377	7,450	2,956	0	0
Cwt.	0	4,048	4,225	1,702	7,790	4,615	4,202	3,351	2,980	1,182	0	0

**EXHIBIT 4 - ZONE A AND B OUTBOUND**

**ZONE A - SOUTH JERSEY OUTBOUND  
FY07 (7/1/06-6/30/07)**

	<b>JULY</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>MARCH</b>	<b>APRIL</b>	<b>MAY</b>	<b>JUNE</b>
<b>FREEZER</b>												
Cases	4,959	228	8,019	11,892	8,180	7,839	13,324	10,565	9,379	4,827	8,037	2,236
Cwt.	1,984	91	3,208	4,757	3,272	3,136	5,330	4,226	3,752	1,931	3,215	894
<b>COOLER</b>												
Cases	180	4	9,453	3,517	5,092	4,874	3,111	3,336	3,987	4,766	16	558
Cwt.	72	2	3,781	1,407	2,037	1,950	1,244	1,334	1,595	1,906	6	223
<b>DRY</b>												
Cases	2,095	577	5,247	2,436	12,342	6,475	16,732	10,325	9,151	6,886	5,844	3,873
Cwt.	838	231	2,099	974	4,937	2,590	6,693	4,130	3,660	2,754	2,338	1,549

**ZONE B - NORTH JERSEY OUTBOUND**

	<b>JULY</b>	<b>AUG</b>	<b>SEPT</b>	<b>OCT</b>	<b>NOV</b>	<b>DEC</b>	<b>JAN</b>	<b>FEB</b>	<b>MARCH</b>	<b>APRIL</b>	<b>MAY</b>	<b>JUNE</b>
<b>FREEZER</b>												
Cases	1,590	244	13,033	11,881	12,637	7,661	11,364	8,136	9,420	7,684	5,464	2,028
Cwt.	636	98	5,213	4,752	5,055	3,064	4,546	3,254	3,768	3,074	2,186	811
<b>COOLER</b>												
Cases	72	102	0	2,100	3,795	1,791	1,561	1,969	1,318	1,926	0	544
Cwt.	29	41	0	840	1,518	716	624	788	527	770	0	218
<b>DRY</b>												
Cases	1,218	110	4,598	4,492	13,797	4,144	18,502	9,826	7,906	11,580	6,119	2,199
Cwt.	487	44	1,839	1,797	5,519	1,658	7,401	3,930	3,162	4,632	2,448	880