



Term Contract

Vendor No. 100000961
Contact RAYMOND KELLEY
Your reference SP-15-0009

CONWAY WHOLESALE PRODUCE
1150 MARKHAM
CONWAY AR 72032

Contract No. 4600033502
Date 11/01/2014

Contact Anna Hawthorne
Telephone 501-371-6054
Fax 501-324-9311

Our ref. ST
Incoterms FOB
DESTINATION

Send Invoice To:

Ship To:
CONWAY WHOLESALE PRODUCE
1150 MARKHAM
CONWAY AR 72032

Valid from: 11/01/2014
Valid to: 10/31/2017

CONTRACT AWARD: SP-15-0009
AASIS# 4600033502
VENDOR# 100000961

COMMODITY: Grocery
CONTRACT PERIOD: 11/1/2016 - 10/31/2017

THIS IS A TERM CONTRACT ISSUED BY THE OFFICE OF STATE PROCUREMENT. THIS IS NOT AUTHORITY TO SHIP. A SEPARATE PURCHASE ORDER WILL BE ISSUED. THIS CONTRACT CONSTITUTES ACCEPTANCE OF YOUR BID ALONG WITH ALL TERMS AND CONDITIONS THEREIN AND SIGNIFIES THE OFFERER'S KNOWLEDGE AND ACCEPTANCE OF ALL TERMS AND CONDITIONS SET FORTH WITHIN THE INVITATION FOR BID.

THE QUANTITY LISTED IS ESTIMATED AND NOT A GUARANTEE TO PURCHASE

PRICES ARE F.O.B. DESTINATION, INSIDE DELIVERY, UNLESS OTHERWISE SPECIFIED.

This contract will be for a period of one (1) year and has the option to be renewed for up to four (5) additional one (1) year increments or a portion thereof, if mutually agreed upon, in writing by the Office of State Procurement and the vendor.

DELIVERY

- Delivery is FOB destination
-Inside delivery within seven (7) days of the receipt of purchase order.
-If delivery cannot be made within seven (7) days the delivery arrangements must be made with the agency before the seven (7) days has passed.
-A twenty-four hour notice shall be given before delivery.

GENERAL CONDITIONS AND INSTRUCTIONS TO VENDOR:

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Edward R. Armstrong

Purchasing Official/Fiscal Officer

08/01/2016



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- Damaged packages or goods of any kind will be rejected and credit shall be issued to ordering agency.
- Products must be transported to the point of delivery in a vehicle equipped and able to maintain temperature of chilled products not to exceed 45 degrees F and frozen products at an internal temperature of 0 degrees to -15 degrees F.
- Cooperative participants may be charged a delivery fee.

ANTICIPATED DELIVERY LOCATIONS

Listed below are the anticipated delivery locations. There may be additional delivery locations as ordered by various state agencies or cooperative participants.

Human Development Center

- Arkadelphia #1 Prator Drive, Arkadelphia, AR 71923
- Booneville Hwy 116 South, Booneville, AR 72927
- Conway Siebenmorgan Rd, Conway, AR 72032
- Jonesboro 4701 Colony Dr., Jonesboro, AR 72401
- Warren 1 Center Circle, Warren, AR 71671

Department of Community Correction

- CAC - Little Rock 4823 West 7th Street, Little Rock, AR 72204
- NEA - Osceola 1351 Cyro RD, Osceola, AR 72370
- NWA - Fayetteville 100 North College Ave, Fayetteville, AR 72701
- OTV - Malvern 104 Walco Lane, Malvern, AR 72104
- SEA - Pine Bluff 7301 West 13th Street, Pine Bluff, AR 71602
- SWA - Texarkana 506 Walnut St, Texarkana, AR 71854

Arkansas Health Center - Benton 6701 Hwy 67, Benton, AR 72015-8489

AR Career Training Institute 105 Reserve, Hot Springs, AR 71901

Law Enforcement Training Academy 6373 Hussy Rd, East Camden, AR 71711

School for the Blind 2600 West Markham, Little Rock, AR 72203

School for the Deaf 2400 West Markham, Little Rock, AR 72203

State Police Academy - Cadet Kitchen #1 State Police Plaza, Little Rock, AR 72209

Department of Correction

- Benton Services 6701 Hwy 67, Benton, AR 72015
- Cummins Unit Hwy 388, Grady, AR 71644
- Delta Regional Unit Rt. 1 Box 12, Dermott, AR 71638
- Diagnostic Unit 7500 Correction Circle, Pine Bluff, AR 71603
- Institutional Warehouse 7600 Correction Circle, Pine Bluff, AR 71603
- Jefferson County Jail-Correctional Facility 7206 West 7th Street, Pine Bluff, AR 71603
- Lee County Correctional Facility 324 Lee, Brickeys, AR 72320
- Mississippi County Work Meadow Road, Luxora, AR 72358
- North Central Unit Hc62 Box, Calico Rock, AR 72519300

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N.W. AR Work Release 403-B Huntsville, Springdale, AR 72764
Pine Bluff Work Complex 890 FreeLine Drive, Pine Bluff, AR 71603
Texarkana Regional Correction Center 100 North State Line, Texarkana, AR 75501
Tucker Unit - Maximum Security 2501 State Farm Road, Tucker, AR 72168
Tucker Unit for Women 2400 State Farm Road, Tucker, AR 72168-8703
Varner Unit Hwy 388, Grady, AR 71644
Wrightsville Unit 8400 Hwy 386, Wrightsville, AR 72183

DELIVERY LIMITATIONS

Department of Correction

Deliveries are made to the Institutional Warehouse.

All other Department of Correction locations are listed for emergency purchase situations only.

All items are to be delivered on pallets.

Deliveries accepted between 8am - 3pm, Monday - Friday.

Human Development Centers

All items must be unloaded by delivery person.

Deliveries accepted between 8am - 4pm, Monday - Friday.

Department of Community Correction

CAC - Little Rock

Deliveries accepted between 8am - 4pm, Monday - Friday.

NEA - Osceola

Deliveries accepted between 7am - 3pm, Monday - Friday.

NWA - Fayetteville

Delivery vehicle must have lift gate, location does not have a dock.

Deliveries accepted between 8am - 4pm, Monday - Friday.

OTV - Malvern

Delivery vehicle must not exceed 44'.

Deliveries accepted between 7am - 4pm, Monday - Friday.

SEA - Pine Bluff

Delivery vehicle must have lift gate, location does not have a dock.

Deliveries accepted between 8am - 11am, Tuesday - Thursday.

SWA - Texarkana

Delivery vehicle must have lift gate, location does not have a dock.

Deliveries accepted between 7am - 11am, Monday - Friday.

Arkansas Health Center # Benton

Deliveries accepted between 7am - 2:30pm, Monday - Friday.

AR Career Training Institute

Delivery vehicle must not exceed 40'.

Deliveries accepted between 8am - 4pm, Monday - Friday.

Law Enforcement Training Academy

Deliveries accepted between 8am - 4pm, Monday - Friday.

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School for the Blind
Deliveries accepted between 8am - 4pm, Monday - Thursday and 8am - 2pm Friday.
Delivery vehicle must have lift gate, location does not have a dock.
Extreme caution must be used for student safety.

School for the Deaf
Deliveries accepted between 8am - 4pm, Monday - Friday
Delivery vehicle must have lift gate, location does not have a dock
Extreme caution must be used for student safety

State Police Academy - Cadet Kitchen
Delivery vehicle must have lift gate, location does not have a dock.
Deliveries accepted between 6am - 4pm, Monday - Friday.

Table with 5 columns: Item, Material/Description, Target Qty, UM, Unit Price, Amount. Contains two main rows for items 0001 and 0002, each with multiple price history entries.

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Table with columns: Item, Material/Description, Target Qty, UM, Unit Price, Amount. Includes multiple rows for 'Gross Price' and a summary row for '0003 10130502 CARROT, SLICED, #10 CAN, 6/CS'.

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Table with 5 columns: Item, Material/Description, Target QtyUM, Unit Price, Amount. Row 0004: 10130520 PEAS, PURPLE HULL, #10 CAN, 6/CS, 375 Case, 24.05, \$ 9,018.75. Includes multiple 'Valid from' and 'Gross Price' entries.

Estimated Net Value 25,420.84

PRICE ESCALATION

Requests for standard contract price increases can be made once every three (3) months provided the price increase is necessary and based on an increase in the manufacturer price. OSP's due diligence regarding price change requests is to consider the reasonableness of the request and document consideration on behalf of State agencies. Increases will not be considered to increase profit or margins. Increases must be submitted on the fifteenth (15th) day of the month prior to the change becoming effective; i.e. price change submitted August 15th, price reflected on contract September 1st. Vendor is requested to reasonably document the claims cited in their requests. Send the following documentation to request a pricing change:

- A cover letter indicating:
-The amount of the price changes
-Conditions that necessitate the prices changing
-Any deletions from the previous list and the reason for the changes.

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The OSP supplied excel spreadsheet identifying all product pricing in excel format.

Each subsequent pricing update will be saved using the naming convention of:

-"[Vendor Name] pricing effective XX/01/XXXX."

-Include all products regardless of whether their prices have changed. By observing this convention we will be able to reduce confusion and mistakes as well as create a historical record of pricing.

Documentation (e.g. invoices, letter from manufacturer, Purchase history, etc.) showing justification for the requested increase must be submitted with the request.

Price escalation requests from vendors **MUST** be submitted in the format supplied by the contract administrator. OSP will not be responsible for manipulating the vendor's price list to match the posted contract. Any price increase request not submitted in the appropriate format will be rejected.

All shipments are to be billed at prices in effect at the time of the order, not the date the shipment is made.

SALES TAX

Purchases by the State of Arkansas on Foodstuffs are exempt from Arkansas sales or use taxes and Federal excise tax per Arkansas Tax Rule GR-33.

GR-33 EXEMPTIONS FROM TAX - FOODSTUFFS SOLD TO GOVERNMENTAL AGENCIES AND NONPROFIT FOOD DISTRIBUTION AGENCIES:

A. The gross receipts or gross proceeds derived from the sale of food or food ingredients or prepared food to governmental agencies for free distribution to any public, penal, or eleemosynary institution or for free distribution to poor and needy individuals are exempt from the tax. The gross receipts or gross proceeds derived from the sale of food or food ingredients to nonprofit agencies organized under the Arkansas Nonprofit Corporation Act, § 4-28-201, et seq., for free distribution to the poor and needy are exempt from gross receipts tax.

B. DEFINITIONS.

1. "Governmental agencies" mean any agency or department of the United States, the State of Arkansas, counties, cities, towns, or school districts. Government agencies do not include a private non-profit organization funded wholly or in part by public monies.
2. "Public institution" means any institution operated, or managed by a governmental agency, or supported in whole or substantial part by public funds, for the benefit of the economically disadvantaged.
3. "Eleemosynary institution" means any charitable and non-profit organization which is operated primarily for the benefit of the economically disadvantaged.
4. "Free distribution" means that no consideration is required prior to, subsequent to, or at the time of distribution.
5. "Poor and needy" means individuals who are economically disadvantaged (e.g., individuals who receive little or no income in any form or fashion).

Source: Ark. Code Ann. §§ 26-52-401(19); 26-52-421

CANCELLATION

In the event the State no longer needs the service specified in the contract or purchase order due to program changes, changes in laws, rules, or regulations, relocation of offices, or lack of appropriated funding, the State may cancel the contract or purchase order by giving the vendor written notice of such cancellation 30 days prior to the date of cancellation.

ONLINE ORDERING SYSTEM

Commercial Online Ordering System:

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-Vendor must be capable of accepting orders through a commercial online ordering system provided at no cost to the State. The vendor shall provide each agency information, training, and customer service necessary to perform the ordering.

-Unique facility restrictions will require the vendor to make available a "locking feature, device or lock out" that would preclude items from being ordered. Due to additional internal controls, the agency may also provide the vendor a list of other items required to be blocked.

-The vendor shall provide on-site training for instruction on proper procedures to order electronically, prior to commencement of the contract and on an #as needed# basis by agencies. In addition, the vendor shall provide training materials, i.e. user manuals, etc. to the customer.

-A minimum of two (2) employees for each agency shall be trained.

The ordering system shall provide the agency with a confirmation of orders within 24 hours of entry in to system. As a minimum, the confirmation shall include the date of delivery, quantity to be delivered, unit of issue, delivered price and order number.

RECALL PROCEDURES

The vendor must have a documented recall program:

-The contractor must be able to identify, track and locate recalled product items delivered to each location within twenty-four (24) hours after notification of a recall.

-A mock product recall must be performed annually to test recall procedures. Written summaries of mock recalls must be maintained for five (5) years.

SHELF LIFE

The products listed below must have a minimum shelf life date from the time of delivery as follows:

-Six Months - powdered milk, dried fruit and vegetables, crackers.

-One Year - Canned, condensed meat and vegetable soups, canned fruits, fruit juice and canned vegetables, peanut butter, jelly and nuts.

-All other products must have a 60-day shelf life from the time of delivery.

PRODUCT, PACKING, AND LABELING STANDARDS

All packaging and packing shall be in accordance with good commercial practice. Labeling shall be in accordance with national UPC bar coding complying with the Federal Food, Drug and Cosmetic Act and regulation promulgated there under. USDA nutritional labels shall be included on products delivered to institutions requesting this labeling (such labeling is mandatory for customers receiving National School Lunch Program reimbursement). Shipping containers shall be in compliance with the National Motor Freight Classification and Uniform Freight Classification Code.

Semi-perishable items shall be snugly packed in shipping containers that fully comply with the National Motor Freight Classification and Uniform Freight Classification Code, as applicable.

-All meats, poultry, and seafood will be vacuum packed when practicable. In all instances the packaging will protect the product from freezer burn and contamination.

-All fresh poultry items will be packed in ice-packed cartons or gas-flush cartons.

-All fresh seafood items will be in ice packed cartons.

Frozen product must be processed and packed to allow removal of the individual units from the container without damage to that or other units. The intent is to be able to remove only that amount of product required for current needs, without the necessity of defrosting.

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All products will be delivered in first-class condition. No damaged cans, boxes or bags will be accepted. Damaged packages, i.e., torn, crushed or otherwise exposed to the elements or damaged in a manner to lose eye appeal may be refused. Vendor will be responsible for replacement of any items so refused. Products delivered shall be from the latest season's pack. Pack dates on all items to be delivered may not be more than 120 days old unless written permission is given by the receiving agency.

NO DISTRESSED OR SALVAGED FOOD WILL BE ACCEPTED.

PRODUCT HANDLING INSTRUCTIONS

To ensure that the carrier and the receiving activity properly handle and store items, standard commercial precautionary markings such as "KEEP FROZEN", "KEEP REFRIGERATED", etc. shall be used on all cases when appropriate.

All food and beverage products shall be identified with readable dates (open code dates), or coded dates, as determined by the type of product delivered. For semi-perishable/shelf-stable items, open code dating is preferred, but code dating is acceptable. If the vendor does not use open code dating, they shall provide a product code number key to each customer facility. Items other than semi-perishable/shelf stable, products must have readable, open code dates clearly showing the use by date, date of production, date of processing/pasteurization, sell by date, best if Used by Date, or similar markings.

PERMANENT SUBSTITUTIONS

Substitutions that permanently replace a contract item will not be permitted unless prior notice is submitted and approved by the Office of State Procurement except in cases of natural disasters. In every case where a permanent substitution is required, the selected respondent(s) must provide documentation to substantiate the occurrence. Approved substitutions must be an item of equal value. Example: Brand name items will be substituted with a brand name item, not a private label brand item. The contractor will provide a point of contact for all customer service issues relating to substitution(s).

A permanent substitution request must contain the following:

- List of the current items that are to be changed and the new item listed alongside, including manufacturer item numbers
- Reason for the change to each item listed
- Copy of the current item nutritional information
- Copy of the new item nutritional information

MINIMUM ORDERS

There will be no restrictions or requirements on quantities that can be ordered for a particular contract item.

Orders shall be placed throughout the year with no restrictions on delivery amount or frequency.

MANAGEMENT REPORTS

The following reports shall be submitted to the OSP Contract Administrator on or before the 15th day of the month required as indicated below:

Monthly Fill Rate Report: The monthly fill rate report is to be calculated by dividing the number of cases accepted by the agency by the number of cases ordered. This report should reflect the rates with and without substitutions. The report should specify fill rates per agency and an overall average for the month.

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Quarterly Reports: The vendor shall develop, and provide a report, every 4th month of the contract summarizing the following activities including, but not limited to:

- discrepancies and complaints from the ordering activities and their respective resolutions
- Rebates that have been passed along to the agencies via off-price reductions, or that are due to the agencies, shall be summarized by listing each agency and the rebate amount. Also include the manufacturer offering the rebate and the product usage.
- a showing of all state agencies, public schools and other governmental entities purchasing through the resulting contract shall be listed with their total dollar amount

Monthly Usage Reports: Vendor will be required to provide monthly sales reports, based upon total dollars sold per agency. This report shall be per agency and show both contract and non-contract purchases.

The vendor will provide the contract administrator the following purchase information per agency/location upon request:

Line item detail of products sold:

- Description
- Contractor stock number and Brand name
- Unit of Issue
- Units sold
- Cost per unit
- Total dollars per line item sold

OUTLINE AGREEMENT AWARD TERMS AND CONDITIONS

1. **GENERAL:** All terms and conditions stated in the invitation for bid govern this contract.
2. **PRICES:** Prices are firm and not subject to escalation, unless otherwise specified in the invitation for bid.
3. **DISCOUNTS:** All cash discounts offered will be taken if earned.
4. **TAXES:** Most state agencies must pay state sales tax. Before billing, the contractor should contact the ordering agency to find out if that agency must pay sales tax. Itemize state sales tax when applicable on invoices.
5. **BRAND NAME REFERENCES:** The contractor guarantees that the commodity delivered is the same as specified in the bid.
6. **GUARANTY:** All items delivered are to be newly manufactured, in first- class condition, latest model and design, including, where applicable, containers suitable for shipment and storage unless otherwise indicated in the bid invitation. The contractor guarantees that everything furnished hereunder will be free from defects in design, workmanship, and material; that if sold by drawing, sample or specification, it will conform thereto and will serve the function for which furnished. The contractor further guarantees that if the items furnished hereunder are to be installed by the contractor, such items will function properly when installed. The contractor also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling, and registration. The contractor's obligations under this paragraph shall survive for a period of one year from the date of delivery, unless otherwise specified in the invitation for bid.
7. **AWARD:** This contract award does not authorize shipment. Shipment against this contract is authorized by the

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receipt of a purchase order from the ordering agency. A written purchase order mailed or otherwise furnished to the contractor results in a binding obligation without further action by either party.

8. **DELIVERY:** The term of the contract is shown on the face of the contract award. The contractor is required to supply the state's needs during this term. The number of days required to place the commodity in the receiving agency's designated location under normal conditions is also shown. Consistent failure to meet delivery without a valid reason may cause removal from the bidders' list or suspension of eligibility for award.

9. **BACK ORDERS OR DELAY IN DELIVERY:** Back orders or failure to deliver within the time required may be default of the contract. The contractor must give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. If the reason is not acceptable, the contractor is in default. The Office of State Procurement has the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere.

10. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery shall be made during agency work hours only, 8:00 a.m. to 4:30 p.m., unless prior approval for other delivery has been obtained from the agency. Packing memoranda shall be enclosed with each shipment.

11. **STORAGE:** The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.

12. **DEFAULT:** All commodities furnished will be subject to inspection and acceptance of the ordering agency after delivery. Default in promised delivery or failure to meet specifications authorizes the Office of State Procurement to cancel this contract or any portion of same and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor.

13. **VARIATION IN QUANTITY:** The state assumes no liability for commodities produced, processed or shipped in excess of the amount specified herein.

14. **INVOICING:** The contractor shall submit an original and two copies of an itemized invoice showing the bid number and purchase request number when itemized in the invitation for bid. Invoices must be sent to "Invoice to" point shown on the purchase order.

15. **STATE PROPERTY:** Any specifications, drawing, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for the use hereunder shall remain property of the state, be kept confidential, be used only as expressly authorized, and be returned at the contractor's expense to the F.O.B. point, properly identifying what is being returned.

16. **ASSIGNMENT:** This contract is not assignable nor the duties hereunder delegable by either party without the written consent of the other party to the contract.

17. **OTHER REMEDIES:** In addition to the remedies outlined herein, the contractor and the state have the right to pursue any other remedy permitted by law or in equity.

18. **LACK OF FUNDS:** The state may cancel this contract to the extent funds are no longer legally available for expenditures under this contract. Any delivered but unpaid for goods will be returned in normal condition to the

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contractor by the state. If the state is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission. If the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim.

19.QUANTITIES: The state may order more or less than the estimated quantity in the invitation for bid.

20.DISCLOSURE: Failure to make any disclosure required by the Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

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