

STATE OF NEW HAMPSHIRE
BUREAU OF PURCHASE AND PROPERTY
STATE HOUSE ANNEX - ROOM 102
25 CAPITOL ST
CONCORD NH 03301-6398

DATE: 12/6/2019

CONTRACT #: 8002645

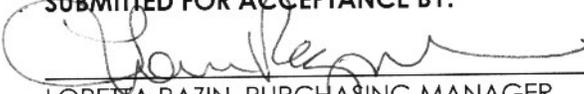
NIGP CODE: 380-7500

CONTRACT FOR: DAIRY PRODUCTS - STATEWIDE

CONTRACTOR: HP Hood LLC
6 Kimball Lane
Lynnfield MA 01940

VENDOR CODE #: 174461

SUBMITTED FOR ACCEPTANCE BY:



LORETTA RAZIN, PURCHASING MANAGER
BUREAU OF PURCHASE AND PROPERTY

DATE 12/6/19

RECOMMENDED FOR ACCEPTANCE BY:



MATHEW STANTON, ADMINISTRATOR III
BUREAU OF PURCHASE AND PROPERTY

DATE _____

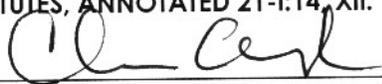
APPROVED FOR ACCEPTANCE BY:



GARY LUNETTA, DIRECTOR
DIVISION OF PROCUREMENT & SUPPORT SERVICES

DATE 12/6/19

ACCEPTED FOR THE STATE OF NEW HAMPSHIRE UNDER THE AUTHORITY GRANTED TO ME BY NEW HAMPSHIRE REVISED STATUTES, ANNOTATED 21-I:14, XII.



CHARLES M. ARLINGHAUS, COMMISSIONER
DEPARTMENT OF ADMINISTRATIVE SERVICES
.....

DATE 12-9-19

Contract 8002645

Division of Procurement and Support Services
Bureau of Purchase and Property
25 Capitol Street, Room 102, State House Annex
Concord, NH 03301-6398

Date: 11/19/19
Bid No.: 2227-20
Date of Bid Closing: 12/06/19
Time of Bid Closing: 11:00 AM (EST)

PLEASE DIRECT ANY QUESTIONS REGARDING THIS BID TO LORETTA RAZIN: E-mail LORETTA.RAZIN@DAS.NH.Gov
EMAIL YOUR BID TO: NH.Purchasing@DAS.NH.Gov

BID INVITATION FOR CONTRACT: DAIRY PRODUCTS

[Insert name of signor] Tim Fontaine, on behalf of HP Hood LLC [insert name of entity submitting bid (collectively referred to as "Vendor") hereby submits an offer as contained in the written bid submitted herewith ("Bid") to the State of New Hampshire in response to BID 2227-20 at the price(s) quoted herein in complete accordance with the bid.

Vendor attests to the fact that:

1. The Vendor has reviewed and agreed to be bound by the Bid.
2. The Vendor has not altered any of the language or other provisions contained in the Bid document.
3. The Bid is effective for a period of 180 days from the Bid Closing date as indicated above.
4. The prices Vendor has quoted in the Bid were established without collusion with other vendors.
5. The Vendor has read and fully understands this Bid.
6. Further, in accordance with RSA 21-I:11-c, the undersigned Vendor certifies that neither the Vendor nor any of its subsidiaries, affiliates or principal officers (principal officers refers to individuals with management responsibility for the entity or association):
 - a. Has, within the past 2 years, been convicted of, or pleaded guilty to, a violation of RSA 356:2, RSA 356:4, or any state or federal law or county or municipal ordinance prohibiting specified bidding practices, or involving antitrust violations, which has not been annulled;
 - b. Has been prohibited, either permanently or temporarily, from participating in any public works project pursuant to RSA 638:20;
 - c. Has previously provided false, deceptive, or fraudulent information on a vendor code number application form, or any other document submitted to the state of New Hampshire, which information was not corrected as of the time of the filing a bid, proposal, or quotation;
 - d. Is currently debarred from performing work on any project of the federal government or the government of any state;
 - e. Has, within the past 2 years, failed to cure a default on any contract with the federal government or the government of any state;
 - f. Is presently subject to any order of the department of labor, the department of employment security, or any other state department, agency, board, or commission, finding that the applicant is not in compliance with the requirements of the laws or rules that the department, agency, board, or commission is charged with implementing;
 - g. Is presently subject to any sanction or penalty finally issued by the department of labor, the department of employment security, or any other state department, agency, board, or commission, which sanction or penalty has not been fully discharged or fulfilled;
 - h. Is currently serving a sentence or is subject to a continuing or unfulfilled penalty for any crime or violation noted in this section;
 - i. Has failed or neglected to advise the division of any conviction, plea of guilty, or finding relative to any crime or violation noted in this section, or of any debarment, within 30 days of such conviction, plea, finding, or debarment; or
 - j. Has been placed on the debarred parties list described in RSA 21-I:11-c within the past year.

This document shall be signed by a person who is authorized to legally obligate the responding vendor. A signature on this document indicates that all State of New Hampshire terms and conditions are accepted by the responding vendor and that any and all other terms and conditions submitted by the responding vendor are null and void, even if such terms and conditions have terminology to the contrary. The responding vendor shall also be subject to State of New Hampshire terms and conditions as stated on the reverse of the purchase order.

Authorized Signor's Signature [Signature] Authorized Signor's Title VP Sales

NOTARY PUBLIC/JUSTICE OF THE PEACE

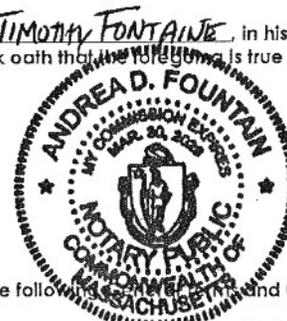
COUNTY: Essex STATE: MASSACHUSETTS ZIP: 01940

On the 2 day of December, 2019, personally appeared before me, the above named TIMOTHY FONTAINE, in his/her capacity as authorized representative of HP Hood LLC, known to me or satisfactorily proven, and took oath that the foregoing is true and accurate to the best of his/her knowledge and belief.

In witness thereof, I hereunto set my hand and official seal.

Andrea D. Fountain
(Notary Public/Justice of the Peace)

My commission expires: MAR 30, 2023 (Date)



Unless specifically amended or deleted by the Division of Procurement and Support Services, the following Terms and Conditions

Form P31-B

apply to this Bid and any resulting Purchase Order or Contract.

GENERAL CONDITIONS AND INSTRUCTIONS:

NATURE OF AND ELIGIBILITY TO RESPOND. This bid invitation is submitted in accordance with Chapter 21-1, and rules promulgated thereunder, and constitute a firm and binding offer. A bid may not be withdrawn unless permission is obtained from the Bureau of Purchase and Property.

Bids may be issued only by the Bureau of Purchase and Property and are not transferable.

SAMPLES AND DEMONSTRATIONS. When samples are required they must be submitted free of costs and will not be returned. Items left for demonstration or evaluation purposes shall be delivered and installed free of charge and shall be removed at no cost to the State. Demonstration units shall not be offered to the State as new equipment.

BIDS. Bids must be received at the Bureau of Purchase and Property before the date and time specified for the closing. Bids must be submitted on this bid form or exact copies and must be typed and clearly printed in ink. Corrections must be initialed. Bids are to be made less Federal Excise Tax and no charge for handling unless required by law.

SPECIFICATIONS. Vendors must submit on items as specified. Proposed changes must be submitted in writing and received at the Bureau of Purchase and Property at least five (5) business days prior to the bid closing. Vendors shall be notified in writing if any changes to the specifications are made.

AWARD. The award will be made to the responsible Vendor submitting a conforming bid meeting specifications at the lowest cost unless other criteria are noted in the bid. Unless otherwise noted, the award may be made by individual items.

If there is a discrepancy between the unit price and the extension, the unit price will prevail.

When identical low bids are received the award will be made in accordance with the Administrative Rules.

Discounts will not be considered in making award but may be offered on the invoice for earlier payment and will be applicable on the date of completion of delivery or receipt of invoice, whichever is later. On orders specifying split deliveries, discounts will apply on the basis of each delivery or receipt of invoice, whichever is later.

PATENT INFRINGEMENT. Any responding vendor who has reason to believe that any other responding vendor will violate a patent should such responding vendor be awarded the contract shall set forth in writing, prior to the date and time of closing, the grounds for his belief and a detailed description of the patent.

ASSIGNMENT PROVISION. The responding vendor hereby agrees to assign all causes of action that it may acquire under the antitrust laws of New Hampshire and the United States as the result of conspiracies, combinations, or contracts in restraint of trade which materially affect the price of goods or services obtained by the state under this contract if so requested by the State of New Hampshire.

FEDERAL FUNDS. This Division of Plant and Property Management, under RSA 21-1:14, VII shall assure the continuation or granting of federal funds or other assistance not otherwise provided for by law by following the Federal Procurement Standards.

STATE'S OPTIONS: The Bureau of Purchase and Property reserves the right to reject or accept all or any part of any bid, to determine what constitutes a conforming bid, to award the bid solely as it deems to be in the best interest of the State, and to waive irregularities that it considers not material to the bid.

PUBLIC INFORMATION: The responding vendor hereby acknowledges that all information relating to this bid and any resulting order (including but not limited to fees, contracts, agreements and prices) are subject to these laws of the State of New Hampshire regarding public information.

PERSONAL LIABILITY: The responding vendor agrees that in the preparation of this bid or the execution of any resulting contract or order, representatives of the State of New Hampshire shall incur no liability of any kind.

PROOF OF COMPLIANCE. The responding vendor may be required to supply proof of compliance with proposal specifications. When requested, the responding vendor must immediately supply the Bureau of Purchase and Property with certified test results or certificates of compliance. Where none are available, the State may require independent laboratory testing. All costs for such testing certified test results or certificate of compliance shall be the responsibility of the responding vendor.

FORM OF CONTRACT. The terms and conditions set forth in any additional Terms and Conditions by the Bureau of Purchase and Property are part of the bid and will apply to any contract awarded the responding vendor unless specific exceptions are taken and accepted and will prevail over any contrary provisions in Terms and Conditions submitted by the responding vendor.

CONTRACT TERMS AND CONDITIONS

1. The State of New Hampshire, acting through the Division of Procurement and Support Services, engages the firm or individual ("the Vendor") to perform the services and/or sale of goods, described in the attached State documents, if any, and the Vendor's bid or quotation, both of which are incorporated herein by reference.

2. **COMPLIANCE BY VENDOR WITH LAWS AND REGULATIONS.** In connection with the performance of this agreement, the Vendor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which shall impose any obligation or duty upon the Vendor, including, but not limited to civil rights and equal opportunity laws.

3. **TERM.** The contract, and all obligations of the parties thereunder, shall become effective on a specified date and shall be completed in their entirety prior to a specified date. Any work undertaken by the Vendor prior to the effective date shall be at his sole risk and, in the event that the contract shall not become effective, the State shall be under no obligation to reimburse the Vendor for any such work.

4. **CONTRACT PRICE.** The contract price, a payment schedule and a maximum limitation of price shall be as specified by the bid invitation and the Vendor's bid. All payments shall be conditioned upon receipt, and approval by the State, of appropriate vouchers and upon satisfactory performance by the Vendor, as determined by the State. The payment by the State of the Contract Price shall constitute complete reimbursement to the Vendor for all expenses of any nature incurred by the Vendor in the performance by the Vendor and complete payment for the Services. The State shall have no other liability to the Vendor.

5. **DELIVERY.** If the vendor fails to furnish items and/or services in accordance with all requirements, including delivery, the state may re-purchase similar items from any other source without competitive bidding, and the original vendor may be liable to the state for any excess costs. If a vendor is unable to complete delivery by the date specified, he must contact the using agency. However, the agency is not required to accept a delay to the original delivery date. All deliveries are subject to inspection and receiving procedure rules as established by the State of New Hampshire. Deliveries are not considered accepted until compliance with these rules has been established. State personnel signatures on shipping documents shall signify only the receipt of shipments. All deliveries shall be FOB Destination.

6. **INVOICING.** All invoices must list Order Number, Unit and Extension Prices and discounts allowed. A separate invoice shall be submitted for each order. Unless otherwise noted on the invitation to bid or purchase order, payment will not be due until thirty (30) days after all services have been completed, or all items have been delivered, inspected and accepted or the invoice has been received at the agency business office, whichever is later.

7. PERSONNEL

7.1. The Vendor shall disclose in writing the names of all owners (5% or more), directors, officers, employees, agents or subcontractors who are also officials or employees of the State of New Hampshire. Any change in this information shall be reported in writing within fifteen (15) days of their occurrence.

7.2. The person signing this agreement on behalf of the State, or his or her delegatee ("Contracting Officer") shall be the State's representative for purposes of this agreement. ~~In the event of any dispute concerning the interpretation of this agreement, the Contracting Officer's decision shall be final.~~

8. EVENT OF DEFAULT; REMEDIES.

8.1. Any one or more of the following acts or omissions of the Vendor shall constitute an event of default hereunder ("Events of Default"):

8.1.1. failure to deliver the goods or services satisfactorily or on schedule; or

8.1.2. failure to submit any report required hereunder; or

8.1.3. failure to perform any of the other covenants and conditions of this agreement.

8.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1. give the Vendor a written notice specifying the Event of Default and requiring it to be remedied within, ~~in the absence of a greater or lesser specification of time,~~ thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this agreement, effective two (2) days after giving the Vendor notice of termination; and

8.2.2. give the Vendor a written notice specifying the Event of Default and suspending all payments to be made under this agreement and ordering that the portion of the Contract Price, which would otherwise accrue to the Vendor during the period from the date of such notice until such time as the State determines that the Vendor has cured the Event of Default, shall never be paid to the Vendor; and

8.2.3. set off against any other obligation the State may owe to the Vendor any damages the State suffers by reason of any Event of Default; and

8.2.4. treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

9. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express failure of any Event of Default shall be deemed a waiver of any provision hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Vendor.

10. VENDOR'S RELATION TO THE STATE. In the performance of this agreement the Vendor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Vendor nor any of its officers, employees, agents or members shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

11. ASSIGNMENT AND SUBCONTRACTS. The Vendor shall not assign, or otherwise transfer any interest in this agreement without the prior written consent of the State. No work required by this contract shall be subcontracted without the prior written consent of the State.

12. INDEMNIFICATION. The contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Vendor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

12.1 PATENT PROTECTION. The seller agrees to indemnify and defend the State of New Hampshire from all claims and losses resulting from alleged and actual patent infringements and further agrees to hold the State of New Hampshire harmless from any liability arising under RSA 382-A:2-312(3), (Uniform Commercial Code).

13. TOXIC SUBSTANCES. In compliance with RSA 277-A Toxic Substances in the Workplace known as the Workers Right to Know Act, the vendor shall provide Safety Data Sheets (277-A:4 Safety Data Sheets) for all products covered by said law.

14. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given below.

15. AMENDMENT. This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto.

16. CONSTRUCTION OF AGREEMENT AND TERMS. This agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns.

17. ADDITIONAL PROVISIONS. The additional provisions (if any) have been set forth as Exhibit "A" hereto.

18. ENTIRE AGREEMENT. This agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

BID INVITATION FOR: DAIRY PRODUCTS

PURPOSE:

The purpose of this bid invitation is to establish a contract for supplying the State of New Hampshire agencies with the items indicated in the "Offer" section of this bid invitation to be ordered as needed during the term of the contract, in accordance with the requirements of this bid invitation and any resulting contract. Items ordered under any resulting contract shall be delivered FOB destination to the locations indicated in the "Delivery Locations" section of this bid invitation.

INSTRUCTIONS TO VENDOR:

Read the entire bid invitation prior to filling it out. Complete the pricing information in the "Offer" section (detailed information on how to fill out the pricing information can be found in the "Offer" section); complete the "Vendor Contact Information" section; and finally, fill out, sign, and notarize page 1 of the bid invitation.

BID SUBMITTAL:

All bids shall be submitted on this form or an exact copy, shall be typed or clearly printed in ink and shall be received on or before the date and time specified on page 1 of this bid under "Bid closing". Interested parties may submit a bid to the State of New Hampshire Bureau of Purchase and Property by email to NH.Purchasing@DAS.NH.Gov. All bids shall be clearly marked with bid number, date due and purchasing agent's name.

IF YOU ARE EXPERIENCING DIFFICULTIES EMAILING YOUR BID OR YOU WISH TO VERIFY THAT YOUR BID RESPONSE HAS BEEN RECEIVED, PLEASE CALL (603) 271-2201.

REQUEST FOR CHANGES AND/OR CLARIFICATION:

Any Questions shall be submitted by an individual authorized to commit their organization to the Terms and Conditions of this bid. Submissions shall clearly identify the bid Number, the Vendor's name and address and the name of the person submitting the question. Any questions, clarifications, and/or requested changes shall be received in writing at the Bureau of Purchase and Property no later than 4:00 PM as listed in the timeline below. Questions shall not be submitted to anyone other than the Purchasing Agent or his/her representative. Bidders that submit questions verbally or in writing to any other State entity or State personnel shall be found in violation of this part and may be found non-compliant.

Questions shall be submitted by E-mail to Loretta Razin at the following address: Loretta.Razin@DAS.NH.Gov.

ADDENDA:

In the event it becomes necessary to add to or revise any part of this bid prior to the scheduled submittal date, the NH Bureau of Purchase and Property shall post on our web site any Addenda. Before your submission and periodically prior to the RFB closing, check the site for any addenda or other materials that may have been issued affecting the bid. The web site address is <https://das.nh.gov/Purchasing/vendorresources.asp>.

TIMELINE:

The timeline below is provided as a general guideline and is subject to change. Unless stated otherwise, considered the dates below a "no later than" date.

11/19/2019	Bid Solicitation distributed on or by
12/03/2019	Last day for questions, clarifications, and/or requested changes to bid
12/06/2019	11:00 AM (EST) Bid Closing
01/01/2020	Implementation / Posting of Contract

GOVERNING TERMS AND CONDITIONS:

A responding bid that has been completed and signed by your representative shall constitute your company's acceptance of all State of New Hampshire terms and conditions and shall legally obligate your company to these terms and conditions.

A signed response further signifies that from the time the bid is published (bid solicitation date and time) until a contract is awarded, no bidder shall offer or give, directly or indirectly, any gift, expense reimbursement, or honorarium, as defined by RSA 15-B, to any elected official, public official, public employee, constitutional official, or family member of any such official or employee who shall select, evaluate, or award the RFB.

Furthermore, a signed response signifies that any terms and/or conditions that may be or have been submitted by the Vendor are specifically null and void and are not a part of this bid invitation or any awarded purchase order, even if said terms and/or conditions contain language to the contrary.

PUBLIC DISCLOSURE OF BID OR PROPOSAL SUBMISSIONS:

Generally, the full contents of any bid or proposal (including all materials submitted in connection with it, such as attachments, exhibits, addenda, and vendor presentations) become public information upon completion of final contract or purchase order negotiations with the selected vendor. Certain information concerning bids or proposals, including but not limited to pricing or scoring, is generally available to the public even before this time, in accordance with the provisions of NH RSA 21-G: 37.

To the extent consistent with applicable state and federal laws and regulations, as determined by the State, including, but not limited to, NH RSA Chapter 91-A (the "Right-to-Know" Law), the State shall, after final negotiations with the selected vendor are complete, attempt to maintain the confidentiality of portions of a bid or proposal that are clearly and properly marked by a bidder as confidential. Any and all information contained in or connected to a bid or proposal that a bidder considers confidential shall be clearly designated in the following manner:

If the bidder considers any portion of a submission confidential, they shall provide a separate copy of the full and complete document, fully redacting those portions by blacking them out and shall note on the applicable page or pages of the document that the redacted portion or portions are "confidential." Use of any other term or method, such as stating that a document or portion thereof is "proprietary", "not for public use", or "for client's use only", is not acceptable. In addition to providing an additional fully redacted copy of the bid submission to the person listed as the point of contact on Page one (1) of this document, the identified information considered to be confidential must be accompanied by a separate letter stating the rationale for each item designated as confidential. In other words, the letter must specifically state why and under what legal authority each redaction has been made. Submissions which do not conform to these instructions by failing to include a redacted copy (if required), by failing to include a letter specifying the rationale for each redaction, by failing to designate redactions in the manner required by these instructions, or by including redactions which are contrary to these instructions or operative law may be rejected by the State as not conforming to the requirements of the bid or proposal. The State will generally assume that a bid or proposal submitted without an additional redacted copy contains no information which the bidder deems confidential. Bids and proposals which contain no redactions, as well as redacted versions of submissions that have been accepted by the State, may be released to the public, including by means of posting on State web sites.

The State shall have no obligation to maintain the confidentiality of any portion of a bid, proposal or related material, which is not marked in accordance with the foregoing provisions. It is specifically understood and agreed that the bidder waives any claim of confidentiality as to any portion of a response to this RFB or RFP that is not marked as indicated above, and that unmarked (or improperly marked) submissions may be disseminated to any person, without limitation. Marking an entire bid, proposal, attachment or full sections thereof confidential without taking into consideration the public's right to know shall neither be accepted nor honored by the State.

Notwithstanding any provision of this request for submission to the contrary, proposed pricing shall be subject to public disclosure REGARDLESS of whether or not marked as confidential.

If a request is made to the State by any person or entity to view or receive copies of any portion of a proposal and if disclosure is not prohibited under NH RSA 21-G:37 or any other applicable law or regulation, bidders acknowledge and agree that the State may disclose any and all portions of the proposal or related materials which is not marked as confidential. In the case of bids, proposals or related materials that contain portions marked confidential, the State shall assess what information it believes is subject to release; notify the bidder that the request has been made; indicate what, if any, portions of the proposal or related material shall not be released; and notify the bidder of the date it plans to release the materials. The State is not obligated to comply with a bidder's designation regarding confidentiality. The State shall have no obligation to advise a bidder that an individual or entity is attempting to electronically access, or has been referred to, materials which have been made publicly available on the State's web sites.

By submitting a bid or proposal, the bidder agrees that unless it obtains and provides to the State, prior to the date specified in the notice described in the paragraph above, a court order valid and enforceable in the State of New Hampshire, at its sole expense, enjoining the release of the requested information, the State may release the information on the date specified in the notice without any liability to the bidder.

Notwithstanding NH RSA 91-A:4, no information shall be available to the public, or to the members of the general court or its staff concerning specific responses to this bid invitation from the time this bid is published until the closing date for responses.

ELIGIBLE PARTICIPANTS:

Political sub-divisions (counties, cities, towns, school districts, special district or precinct, or any other governmental organization), or any nonprofit agency under the provisions of section 501c of the federal Internal revenue code, are eligible to participate under this contract whenever said sub-division or nonprofit agency so desires. These entities are autonomous and may participate at their sole discretion. In doing so, they are entitled to the prices established under the contract. However, they are solely responsible for their association with the successful Vendor. The State of New Hampshire assumes no liability between the successful Vendor and any of these entities.

CONTRACT TERM:

The term of the contract shall be from January 1, 2020 through December 31, 2022, a period of 3 years to a maximum of 5 years. The contract may be extended for additional periods of time thereafter under the same terms, conditions and pricing structure upon the mutual agreement between the successful Vendor and the Bureau of Purchase and Property, with the approval of the Commissioner of the Department of Administrative Services.

CONTRACT AWARD:

The award(s) shall be made to the responsible Vendor(s) meeting the criteria established in this RFB and providing the lowest net total for either Class One and or Class Two. The State reserves the right to reject any or all bids or any part thereof and add/delete locations to the contract price. If an award is made it shall be, in the form of a State of New Hampshire Contract (s). The following formula will be used to determine the overall net cost of the contract for award calculations:

Successful Vendor shall not be allowed to require any other type of order, nor shall the successful Vendor be allowed to require the filling out or signing of any other document by State of New Hampshire personnel.

BID RESULTS:

Bid results may be viewed when available, once the award has been made, on our web site only at: <https://das.nh.gov/purchasing>.

For Vendors wishing to attend the bid closing: **Names of the Vendors submitting responses and pricing shall be made public.**

TERMINATION:

The State of New Hampshire shall have the right to terminate the purchase contract at any time by giving the successful Vendor a thirty (30) day written notice.

VENDOR CERTIFICATIONS:

All Vendors shall be duly registered as a vendor authorized to conduct business in the State of New Hampshire.

- **STATE OF NEW HAMPSHIRE VENDOR APPLICATION:** Prior to bid award, Vendors shall have a completed Vendor Application Package on file with the NH Bureau of Purchase and Property. See the following website for information on obtaining and filling the required forms (no fee): <https://DAS.NH.Gov/Purchasing>
- **CONFIDENTIALITY & CRIMINAL RECORD:** If Applicable, by the using agency, the Vendor shall have signed by each of employees or its approved sub-contractor(s), if any, working in the office or externally with the State of New Hampshire records a Confidentiality form and Criminal Record Authorization Form. These forms shall be returned to the individual using agency prior to the start of any work.

BID PRICES:

Bid prices shall be in US dollars and shall include delivery and all other costs required by this bid invitation. Special charges, surcharges (including credit card transaction fees), or fuel charges of any kind (by whatever name) may not be added on at any time. Any and all charges **shall be built into your bid price** at the time of the bid.

Per Administrative Rule 606.01(e) "If there is a discrepancy between the unit price and the extension price in a response to an RFP, RFB or RFQ, the unit price shall be binding upon the vendor".

TF

The successful Vendor(s) may apply for an Annual Cost of Living Increase on the fixed portion (packaging and ingredients) of all products on this bid, up to approximately 55% on the Anniversary Date of this contract. The

11 Year over year changes to the

Annual Cost of Living increase must be based on the Consumer Price Index, US Department of Labor, All urban Consumers, US City Average and must be in writing ~~and upon approval from Purchase and Property~~

Bid Price should be Delivered Price and based on the USDA, Federal Milk Order No. 1, Northeast Marketing Area, Announcement of Advanced Class 1 Prices and Advanced Pricing Factors for the month of November 2019 with a release date October 23, 2019 and also, USDA Federal Milk Order No. 1, Northeast Marketing Area, Announcement of Class and Component Prices for the month of October 2019 and release date October 30, 2019

Class I Skim Price @ Boston, MA	\$13.36/lb.	Class 1 Price & Advanced Pricing Factors
Class I Butterfat Price @ Boston, MA	\$2.4280/lb.	Class 1 Price & Advanced Pricing Factors
Class II Skim Price	\$9.02/lb.	Class 1 Price & Advanced Pricing Factors
Class II Butterfat Price	\$2.4101/lb.	Class & Component Prices

MONTHLY PRICE ADJUSTMENT:

Class I -- All monthly price adjustments will be based on the USDA, Federal Milk Order No.1, Northeast Marketing Area, Advanced Prices and Pricing Factors, Class I Skim Price @ Boston, MA and the Class I Butterfat Price @ Boston, MA.

The Class I monthly market adjustment will be calculated using the "Class I Conversion Calculator Template" located in the USDA website, www.fmmone.com.

Class II -- All monthly price adjustments will be based on the "USDA, Federal Milk Order No.1, Northeast Marketing Area", Advanced Prices and Pricing Factors, Class II Skim and the USDA, Federal Milk Order No. 1, Northeast Marketing Area, Class and Component Prices, Class II Butterfat price.

Prices and price calculations will be four (4) places out. Price adjustment will apply to the month the product is delivered.

Release dates for 2019 USDA, Federal Milk Order No. 1, Northeast Marketing Area Price Data is attached.

11 **WARRANTY REQUIREMENTS:** *This provision is not applicable to our products.*
Successful Vendor shall be required to warranty all of the equipment awarded to Vendor for a period of not less than one (1) year or the manufacturer's standard period of time, whichever is greater, from the date the items are received, inspected and accepted by the State of New Hampshire. ~~The warranty shall cover 100% of all parts, shipping, labor, travel, lodging and expenses.~~

ABILITY TO PROVIDE:

Successful Vendor shall be capable of providing each State of New Hampshire agencies and eligible participants with their entire requirements of the items required in this bid invitation and any resulting contract without any delay or substitution.

ORDERING PROCEDURE:

State agencies shall place their orders by electronic order entry, by e-mail, by FAX, or they may establish a standard delivery order. Eligible participants shall utilize their own individually established ordering procedures.

AUDITS AND ACCOUNTING:

The successful Vendor shall allow representatives of the State of New Hampshire to have complete access to all records for the purpose of determining compliance with the terms and conditions of this bid invitation and in determining the award and for monitoring any resulting contract.

At intervals during the contract term, and prior to the termination of the contract, the successful Vendor may be required to provide a complete and accurate accounting of all products and quantities ordered by each agency and institution and by political sub-divisions and authorized non-profit organizations.

ESTIMATED USAGE:

The quantities indicated in the offer section of this bid invitation are an estimate only for the State of New Hampshire's annual requirements. These quantities are indicated for evaluation purposes only and shall not be considered minimum or guaranteed quantities, nor shall they be considered maximum quantities. These quantities **do not** include any eligible participant usage.

ESTIMATED CONTRACT VALUE:

The annual value of the contract is estimated to be \$500,000.00 for State use. Eligible participant estimated usage is \$2,000,000.00. These figures are given for informational purposes only and shall not be considered a guaranteed or minimum figure, nor shall it be considered a maximum figure.

USAGE REPORTING:

The successful Vendor shall be required to submit a quarterly and annual usage report for analysis for each state agency or eligible participant. Reports are due no later than 30 days after each end of each calendar quarter Bureau of Procurement Services, Loretta Razin and sent electronic to Loretta.Razin@DAS.NH.Gov. At a minimum, the Report shall include:

- Contract Number
- Utilizing Agency and Eligible Participant
- Items Sold and/or All Products Purchased (showing the manufacturer, item, part number, and the final cost.)
- Total Cost of all Products Purchased. Ability to sort by agency/eligible participant.
- Preferred in Excel format

RECIPROCITY:

New Hampshire Revised Statutes Annotated, Chapter 184:87-a reads as follows:

"184:87-Reciprocity Required

I. No institution supported in whole or in part by funds of the state shall use for its daily needs milk produced, processed, or packaged elsewhere than in the state, except milk produced, processed, or packaged outside the state in a state which allows its state institutions to use milk produced, processed, or packaged in New Hampshire.

II. If at any time the supply of milk produced, processed, or packaged as permitted in paragraph I is insufficient for the needs of such institution, the institution may use other milk until the insufficient supply is corrected."

RECIPROCITY CERTIFICATION:

The bidder, by signing this bid in the space provided on the "General Conditions and Instructions" page of this bid invitation hereby certifies that:

He/she has read "New Hampshire Revised Statutes Annotated, Chapter 184:87-a", and that milk produced, processed, or packaged for delivery to State of New Hampshire institutions is in complete compliance with this law.

ESTABLISHMENT OF ACCOUNTS:

Each State of New Hampshire agency shall have its own individual customer account number. There shall be instances where sub-sections of an agency shall need their own individual customer account number. Should any State of New Hampshire agency place an order under the contract, the successful Vendor agrees to establish an account within three business days from the date the order is placed. However, there shall be no delay in any shipment; the agency shall receive the items ordered in accordance with the delivery time required under the "Delivery Time" section of this bid invitation, as if an account already exists for them.

RETURNED GOODS:

The successful Vendor shall resolve all order and invoice discrepancies within five (5) business days from notification. Products returned due to quality issues, duplicate shipments, over-shipments, etc. shall be picked up by the successful Vendor within ten (10) business days of notification with no restocking or freight charges, and shall be replaced with specified products or the agency shall be refunded/credited for the full purchase price. Unauthorized substitutions for any products are not allowed.

Standard stock products ordered in error by the State of New Hampshire shall be returned for full credit within fifteen (15) business days of receipt. Products shall be in re-saleable condition (original container, unused) and there shall be no restocking fee charged for these products. The using agency shall be responsible for any freight charges to return these items to the successful Vendor.

DELIVERY TIME:

The successful Vendor shall be required to accomplish delivery of any item ordered under the contract within two (2) business days from the placement of the order.

The use of a private carrier to make delivery **does not** relieve the successful Vendor from the responsibility of meeting the delivery requirement.

INVOICING:

Invoicing shall be done to the Agency Remit Account on the basis of each order completed. Invoices shall clearly indicate the quantity, description, packaging, date delivered, and contract price. Invoicing for eligible participants shall be in accordance with their individual requirements. Payment Terms are net 30 days from date of invoice.

PAYMENT:

Payments shall be made via Procurement Card (P-card = Credit Card) without increase to prices (Unless otherwise specified by the state of New Hampshire). Eligible participants shall negotiate their own payment methods with awarded vendor.

VENDOR'S BALANCE OF PRODUCT LINE ITEMS

The items in each category include the items most commonly purchased by State of New Hampshire agencies, and shall be used for award purposes. During the term of contract, the state may purchase other items in relation to dairy from the successful Vendor's Balance of Product Line. All items ordered shall include all shipping/charges as specified above in "Bid Prices".

EQUIPMENT:

The successful bidder must provide bulk dispensing equipment and coolers at no additional cost. The installation and maintenance of the equipment is also the responsibility of the successful Vendor(s) at no additional cost. Equipment must be kept in excellent condition by the successful Vendor(s). State agencies participating under this contract will be responsible for damage to the equipment due to abuse or for misplacement.

There will be no minimum volume criteria imposed by the successful Vendor(s) on the State of New Hampshire agencies to determine eligibility for equipment (all state agencies are eligible).

Awarded vendor must replace all current equipment with new or refurbished items. Listed below are agencies with equipment:

5 Gallon Dispenser Units

Location & Contact	Quantity Needed
NH State Prison Warehouse, 281 N. State Street, Concord, NH	4
NH State Prison, Calumet House, Manchester NH	
Shea Farm House, 60 Iron Works Road, Concord NH	
Northern Correctional, 138 East Milan Road, Berlin NH	
Heather Cornock, Heather.Cornock@doc.nh.gov, 603-271-8896	2
NH Hospital - 36 Clinton Street, Concord, NH	
Brown Building, 129 Pleasant Street, Concord NH	
Jim Cavallini, JCavallini@dhhs.state.nh.us, 603-271-9364 or Brianna Mancini, Brianna.Mancini@dhhs.nh.gov, 603-271-5850	

SPECIFICATION COMPLIANCE:

Vendor's offer shall meet or exceed the required specifications as written. The State of New Hampshire shall be the sole determining factor of what meets or exceeds the required specifications.

Unless otherwise specified by the Bureau of Purchase and Property in this bid invitation document, all equipment/items offered by the Vendor shall be new (and of the current model year, if applicable for equipment and within normal limitations of expiration); shall not be used, rebuilt, refurbished; shall not have been used as demonstration equipment, and shall not have been placed anywhere for evaluation purposes.

SPECIFICATION COMPLIANCE:

Vendor's offer must meet or exceed the required specifications as written. The State of New Hampshire shall be the sole determining factor as to what meets or exceeds the required specifications.

Unless otherwise specified by the Bureau of Purchase and Property in this bid invitation document, all equipment offered by the Vendor must be new; shall not be used, rebuilt, refurbished; shall not have been used as demonstration equipment, and shall not have been placed anywhere for evaluation purposes.

The unit sizes and types of products listed on the offer sheet (Attachment A) are the only ones acceptable for this bid invitation. You may bid different brand(s); however, your offer must meet or exceed the products indicated. See OFFER section below for further details.

MINIMUM ORDERS:

In any resulting contract, there shall be a minimum order of \$175. A \$40.00 fee shall apply to the State of New Hampshire agencies if the \$175.00 minimum is not met. All other participants shall negotiate a minimum fee between the Vendor(s) and eligible participants.

OFFER:

Vendor(s) hereby offers to furnish to State of New Hampshire agencies and institutions and to any political subdivision and authorized non-profit organization wishing to participate, in accordance with all of the requirements of this bid invitation at the following prices for the entire contract term and any extension (See Attachment A).

Extended Price = Usage X Price/Case

Quantities Are for Quote Purposes Only and are Not a Guaranteed Minimum

If the Case Size Differs, Calculate Down to the Unit Price (Your Case Price/Your Units Per Case) and Then Multiply Your Unit Price by the Case Size Listed in the Bid Table Above to Determine the Price Per Case

Vendors must bid on at least 90% of each section to be considered compliant. The unit sizes and types of products listed on the offer sheet (Attachment A) are the only ones acceptable for this bid invitation. For example, if the listed unit size is 8 oz. and your product's unit size is 10 oz. calculate your price based off of the 8 oz. size (by calculating price per oz. and then converting to the requested unit size).

When determining delivered Price and based on the USDA, Federal Milk Order No. 1, Northeast Marketing Area, Announcement of Advanced Class 1 Prices and Advanced Pricing Factors for the month of November 2019 with a release date October 23, 2019 and also, USDA Federal Milk Order No. 1, Northeast Marketing Area, Announcement of Class and Component Prices for the month of October 2019 and release date October 30, 2019. The extended price is the delivered price multiplied by annual usage required by this bid invitation.

OTHER DOCUMENTATION:

Each Contractor will be required to provide a copy of their standard Wholesale Price List for New Hampshire in effect November 2019.

DELIVERY LOCATIONS:

The following are the current State of New Hampshire agency/institution locations which, if you are awarded a contract, you are expected to service. The State of New Hampshire reserves the right to add locations to this list at the contract prices or to delete locations, as needed. This listing **does not** include any eligible participants.

Location	Address	City	Zip
Shea Farm House	40 Iron Works Road	Concord	03302
Calumet House	126 Lowell Street	Manchester	03104
NH State Prison For Women	3 McGuire Street	Concord	03301
NH Correctional Facility	138 East Milan Rd	Berlin	00357
NH State Prison Warehouse	3 McGuire Street	Concord	03301
NH Veterans Home	139 Winter Street	Tilton	03276
Glenclyff Home For The Elderly	High Street	Glenclyff	03238
Youth Services Center	1056 North River Rd.	Manchester	03104
NH Hospital	36 Clinton Street	Concord	03301
Mt Washington State Park	Auto Road Base Station	Gorham	03581
Pawtuckaway State Park	128 Mountain Rd.	Nottingham	03290
Brown Building	129 Pleasant Street	Concord	03301

ATTACHMENTS:

The following attachments are an integral part of this bid invitation:

Attachment A – Offer Sheet

Attachment B – USDA Federal Milk Order No. 1 – Northeast Marketing Area-Pricing Factors

Attachment C – USDA Federal Milk Order No. 1 – Northeast Marketing Area-Component Prices

Razin, Loretta

From: Smith, Tom <Tom.Smith@hphood.com>
Sent: Tuesday, December 17, 2019 3:39 PM
To: Razin, Loretta
Subject: RE: NH Dairy Contract.

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good Afternoon Loretta,

Our Legal Counsel is willing to accept the proposed changes listed below.

Thank you,
Tom

Thomas Smith | Senior Key Account Manager | [HP Hood LLC](#)
M: 603-566-2587 | E: tom.smith@hphood.com



From: Razin, Loretta [mailto:Loretta.Razin@das.nh.gov]
Sent: Tuesday, December 17, 2019 8:15 AM
To: Smith, Tom <Tom.Smith@hphood.com>
Subject: NH Dairy Contract.

CAUTION: This email originated from outside of the organization.

Tom, I passed this through our Attorney General's Office said it would be ok to remove that sentence. However, I'd recommend adding a sentence to Page 4, Section 16. Would your legal team be willing to accept the following for Page 3, Section 7.2

“Any actions arising out of this Agreement shall be brought in New Hampshire Superior Court which shall have exclusive jurisdiction thereof.”

If you mean a potential risk of a challenge from other bidders (if any), then there is always a risk when the standard terms are changed. However, in this instance there is only a slight risk because such change would not affect the pricing, so it is defensible and would be ok to move forward.

Page 3, Section 7.2

7.2 The person signing this agreement on behalf of the State, or his/her delegate (Contracting Officer) shall be the State's representative for the purposes of this agreement. ~~In the event of any dispute concerning the interpretation of this agreement, the Contracting Officer's decision shall be final.~~

Loretta Razin

Purchasing Manager-Commodities
State of New Hampshire
Department of Administrative Services
Bureau of Purchasing and Property
25 Capitol Street, RM 102
Concord, NH 03301
(603) 271-0579
Email: Loretta.Razin@DAS.NH.Gov
<https://das.nh.gov/purchasing>

This e-mail and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to whom they are addressed. This communication may contain material protected by law. If you are not the intended recipient or the person responsible for delivering the e-mail to the intended recipient, be advised that you have received this e-mail in error and that any use, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited and may be subject to criminal prosecution. If you have received this e-mail in error, please immediately notify me by telephone at 603-271-2201. You will be reimbursed for reasonable costs incurred in notifying us.

Razin, Loretta

From: Smith, Tom <Tom.Smith@hphood.com>
Sent: Tuesday, December 10, 2019 9:17 AM
To: Razin, Loretta; Curtis, Nancy; DAS: NH Purchasing
Subject: RE: BID #2227-20 DUE 12/6/19 11:00am

EXTERNAL: Do not open attachments or click on links unless you recognize and trust the sender.

Good Morning Loretta,

We sincerely appreciate the opportunity to continue serving the State of NH and being part of the bid process.

Because of the dollar value and potential extended length of this agreement, our Hood General Counsel reviewed the contract and made the edits referenced below.

It is our position that 7.2 is deemed unreasonable, and we cannot enter into an agreement when if there is a dispute, the other party's position on that dispute automatically prevails.

8.2.1 is fine as written, and we will accept the changes on 7 & 8.

Please feel free to reach out to me directly with additional questions or concerns.

Thank you,
Tom

Thomas Smith | Senior Key Account Manager | [HP Hood LLC](#)
M: 603-566-2587 | E: tom.smith@hphood.com



From: Razin, Loretta [mailto:Loretta.Razin@das.nh.gov]
Sent: Friday, December 6, 2019 2:33 PM
To: Curtis, Nancy <Nancy.Curtis@hphood.com>; DAS: NH Purchasing <NH.Purchasing@das.nh.gov>
Cc: Smith, Tom <Tom.Smith@hphood.com>
Subject: RE: BID #2227-20 DUE 12/6/19 11:00am

CAUTION: This email originated from outside of the organization.

Nancy and Tom, I am working on evaluation of NH Bid 2227-20 for Dairy. At this time you are the apparent low bidder.

