



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

# Request for Quotation

RFQ NUMBER  
 MMB11137

PAGE  
 1

ADDRESS CORRESPONDENCE TO ATTENTION OF  
 ROBERTA WAGNER  
 304-558-0067

\*709023036 01 304-344-2511

VENDOR

UNITED DAIRY INC  
 508 ROANE STREET  
 CHARLESTON WV 25302

SHIP TO

HEALTH AND HUMAN RESOURCES  
 MILDRED MITCHELL-BATEMAN  
 HOSPITAL  
 1530 NORWAY AVENUE  
 HUNTINGTON, WV  
 25705 304-525-7801

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
04/06/2011				

BID OPENING DATE: 05/05/2011 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	700	EA		380-75	15.60	10,920.00
MILK 2%, FIVE GALLON DISPENSE CARTONS						
BRAND: <i>United</i>						
0002	250	EA		380-75	15.20	3800.00
MILK 1%, CHOCOLATE, FIVE GALLON DISPENSE CARTONS						
PKG. SIZE: 5 GALLON						
0003	11,000	EA		380-75	1850	2035.00
MILK, SKIM, GRADE A, HALF PINT CARTONS						
BRAND: <i>United</i>						
PKG. SIZE: 1/2 PINT CARTONS						
0004	100	EA		380-75	2200	22.00
MILK 1%, CHOCOLATE, HALF PINT CARTONS						

RECEIVED  
 2011 APR 21 AM 9:53  
 WV PURCHASING DIVISION

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE: *John D. [Signature]* TELEPHONE: 304-344-2511 DATE: 4/20/11

TITLE: *General manager* FEIN: ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**GENERAL TERMS & CONDITIONS  
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at [www.state.wv.us/admin/purchase/vrc/hipaa.htm](http://www.state.wv.us/admin/purchase/vrc/hipaa.htm) and is hereby made part of the agreement. Provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **LICENSING:** Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, and the West Virginia Insurance Commission. The vendor must provide all necessary releases to obtain information to enable the director or spending unit to verify that the vendor is licensed and in good standing with the above entities.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the State of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

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**INSTRUCTIONS TO BIDDERS**

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



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0005	63,000	EA		380-75	.2000	12,600.00
HALF PINT CARTONS BRAND: <i>United</i> PKG. SIZE: 1/2 PINT CARTONS MILK 2%, WHITE, HALF PINT CARTONS						
0006	275	EA		380-75	1.85	508.75
MILK, BUTTERMILK, HALF GALLON CARTONS BRAND: <i>United</i> PKG. SIZE: 1/2 PINT CARTONS						
0007	100	EA		380-15	7.65	765.00
COTTAGE CHEESE, LOWFAT, 5 LBS. CONTAINERS						

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0008	20	EA		380-30	1.60	32.00
0009	25	EA		380-45	2.20	55.00

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LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0011	2,304	EA		385-18	<i>24 each</i>	552.96
SHERBERT, VARIOUS FLAVORS, 4 OZ. CUPS, 192/12 PK.						
BRAND: <i>Unifed</i>						
PKG. SIZE: 4 OZ. CUPS 192/12 PK.						
0012	1,200	EA		380-45	<i>3.00 per 12pk</i>	300.00
ICE CREAM, BARS, VANILLA WITH CHOCOLATE COATING						
100/12 PK.						
BRAND: <i>Unifed</i>						
PKG. SIZE: 100/12 PK.						
0013	1,200	EA		380-45	<i>3.00 per 12pk</i>	300.00
ICE CREAM SANDWICHES, 3 OZ., 100/12 PK.						
BRAND: <i>Unifed</i>						
PKG. SIZE: 3 OZ. 100/12 PK.						

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LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0014	600	EA		385-18	1.85 per 12pk	92.50
POPSICLES, ASSORTED FLAVORS, 3 OZ., 50/12 PK.						
BRAND: <i>United</i>						
PKG. SIZE: 3 OZ. 50/12 PK.						
0015	600	EA		385-18	2.10 per 12pk	105.00
DREAMSICLES, ASSORTED FLAVORS, 3 OZ., 50/12 PK.						
BRAND: <i>United</i>						
PKG. SIZE: 3 OZ. 50/12 PK.						
0016	350	EA		385-18	2.20 per 12pk	66.00
FUDGECICLES, 3 OZ., 30/12 PK.						
BRAND: <i>United</i>						
PKG. SIZE: 3 OZ. 30/12 PK.						

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0017	2,000	EA		380-45	.24 each	480.00
ICE CREAM, ASSORTED FLAVORS, 4 OZ. CUPS, 100/24 PK.						
BRAND: <i>Unifed</i>						
PKG. SIZE: 4 OZ., 100/24 PK.						
0018	700	EA		380-90	NA	NA
YOGURT, ASSORTED FLAVORS, 4 - 6 OZ. CUPS, 88/8 PK.						
BRAND: .....						
PKG. SIZE: 4 - 6 OZ., 88/8 PK.						
0019	1,500	EA		380-90	NA	NA
YOGURT, 4 - 6 OZ CUPS, ARTIFICALLY SWEETENED, LOW						
LOW FAT, ASSORTED FLAVORS.						
BRAND: .....						
PKG. SIZE: 4 - 6 OZ., 188/8 PK.						

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LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0020	1,500	EA		385-18	2.00 per 18pk	168.00
BUDGET SAVER TWINPOPS, OR EQUAL, 84/18 PK.  BRAND: <i>Budget Pops</i> PKG. SIZE: 84/18 PK.  RFQ TO OBTAIN A SUPPLIER TO PROVIDE AN ASSORTMENT OF DAIRY PRODUCTS TO MILDRED MITCHELL-BATEMAN HOSPITAL PER THE ATTACHED SPECIFICATIONS.  EXHIBIT 3  LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON AWARD..... AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.  UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.  RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE						

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<p>(1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF THE CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p>						

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<p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 05/26/2009</p> <p>INQUIRIES:            WRITTEN QUESTIONS SHALL BE ACCEPTED THROUGH CLOSE OF BUSINESS ON 4/19/2011. QUESTIONS MAY BE SENT VIA USPS, FAX, COURIER OR E-MAIL. IN ORDER TO ASSURE NO VENDOR RECEIVES AN UNFAIR ADVANTAGE, NO SUBSTANTIVE QUESTIONS WILL BE ANSWERED ORALLY. IF POSSIBLE, E-MAIL QUESTIONS ARE PREFERRED. ADDRESS INQUIRIES TO:</p> <p>ROBERTA WAGNER            DEPARTMENT OF ADMINISTRATION            PURCHASING DIVISION            2019 WASHINGTON STREET, EAST            CHARLESTON, WV 25311</p> <p>FAX: 304-558-4115            E-MAIL: ROBERTA.A.WAGNER@WV.GOV</p> <p>EXHIBIT 4</p> <p>LOCAL GOVERNMENT BODIES: UNLESS THE VENDOR INDICATES</p>						

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<p>IN THE BID HIS REFUSAL TO EXTEND THE PRICES, TERMS, AND CONDITIONS OF THE BID TO COUNTY, SCHOOL, MUNICIPAL AND OTHER LOCAL GOVERNMENT BODIES, THE BID SHALL EXTEND TO POLITICAL SUBDIVISIONS OF THE STATE OF WEST VIRGINIA. IF THE VENDOR DOES NOT WISH TO EXTEND THE PRICES, TERMS, AND CONDITIONS OF THE BID TO ALL POLITICAL SUBDIVISIONS OF THE STATE, THE VENDOR MUST CLEARLY INDICATE SUCH REFUSAL IN HIS BID. SUCH REFUSAL SHALL NOT PREJUDICE THE AWARD OF THIS CONTRACT IN ANY MANNER.</p> <p>REV. 3/88            PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A BANK. THE SUCCESSFUL VENDOR MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE AGENCY AS A CONDITION OF AWARD.</p> <p>VENDOR PREFERENCE CERTIFICATE</p> <p>THIS TEAM EXHIBIT HAS BEEN REPLACED BY THE ONLINE VERSION WHICH IS AVAILABLE HERE:  <a href="http://www.state.wv.us/admin/purchase/vrc/venpref.pdf">HTTP://WWW.STATE.WV.US/ADMIN/PURCHASE/VRC/VENPREF.PDF</a></p> <p>NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION            PURCHASING DIVISION            BUILDING 15            2019 WASHINGTON STREET, EAST            CHARLESTON, WV 25305-0130</p>						

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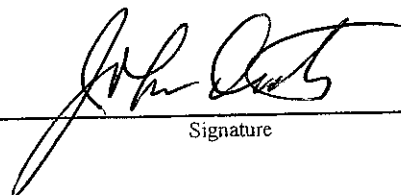
WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



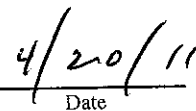
## COST SHEET

<u>ITEM #</u>	<u>QUANTITY</u>	<u>DESCRIPTION</u>	<u>UNIT PRICE</u>	<u>TOTAL</u>
1	700 EA	2% WHITE MILK, 5 GAL DISPENSE BRAND:	<u>15.60</u>	<u>10,920.00</u>
2	250 EA	1% CHOCOLATE MILK, 5 GAL DISPENSE BRAND:	<u>15.20</u>	<u>3800.00</u>
3	11,000 EA	SKIM MILK, HALF PINTS CARTONS BRAND:	<u>.1850</u>	<u>2035.00</u>
4	100 EA	1% CHOCOLATE MILK, HALF PINTS BRAND:	<u>.22</u>	<u>22.00</u>
5	63,000 EA	2% WHITE MILK, HALF PINTS BRAND:	<u>.20</u>	<u>12,600.00</u>
6	275 EA	BUTTERMILK, HALF GALLON CARTONS BRAND:	<u>1.85</u>	<u>508.75</u>
7	100 EA	COTTAGE CHEESE, LOWFAT, 5LB BRAND:	<u>7.65</u>	<u>765.00</u>
8	20 EA	SOUR CREAM, PINT BRAND:	<u>1.60</u>	<u>32.00</u>
9	25 EA	ICE CREAM FLAVORS, HALF GALLON BRAND:	<u>2.20</u>	<u>55.00</u>
10	2304 EA	ASSORTED FLAVORS SHERBET CUPS 4OZ BRAND:	<u>.24</u>	<u>552.96</u>
11	1200 EA	ICE CREAM BARS, VANILLA W/CHOC COATING BRAND:	<u>3.00</u>	<u>300.00</u>
12	1200 EA	ICE CREAM SANDWICHES, 3OZ BRAND:	<u>3.00</u>	<u>300.00</u>
13	600 EA	ASSORTED POPCICLES, 3OZ BRAND:	<u>1.85</u>	<u>92.50</u>
14	600 EA	DREAMCICLES, 3OZ BRAND:	<u>2.10</u>	<u>105.00</u>
15	350 EA	FUDGEICICLES, 3OZ BRAND:	<u>2.20</u>	<u>66.00</u>
16	2000 EA	ASSORTED FLAVORS ICE CREAM CUPS, 4OZ BRAND:	<u>.24</u>	<u>480.00</u>
17	1500 EA	BUDGET SAVER TWINPOPS, 18PK BRAND:	<u>2.00</u>	<u>1680.00</u>
18	700 EA	ASSORTED FLAVORS YOGURT, 4-6OZ CUPS BRAND:	<u>NA</u>	<u>NA</u>
19	1500 EA	ASSORTED FLAVORS YOGURT, 4-6OZ CUP ARTIFICIALLY SWEETEND, LOW FAT BRAND:	<u>NA</u>	<u>NA</u>

BID GRAND TOTAL:

\$ 32,802.21


Signature



Date

MMB11137

**Delivery:**

There must be NO aluminum, metal or glass containers. Paper or Plastic ONLY.

A regular scheduled delivery time shall be maintained by the vendor on the specified days and delivery time of each week. Such days are to be agreed upon between the Director of Dietary and vendor.

Delivery must be at the Shipping and Receiving Dock via the tunnel to the Dietary Department. Acknowledgements of deliveries must be made in the Dietary Department.

Dairy Products with an expiration date of less than ten (10) days will not be accepted.

\*\*Receiving Hours: Monday – Friday 7:30 a.m. – 4:00 p.m. (excluding holidays listed below)

\*\*If scheduled delivery day falls on the following observed holidays, NO deliveries will be accepted:

- New Years Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day- 24<sup>th</sup>
- Christmas Day

\*\*If scheduled delivery day falls on the following observed holidays, deliveries must be before NOON:

- Washington's Birthday (President's Day)
- West Virginia Day
- Columbus Day
- Election Day
- Veteran's Day
- Thanksgiving -25<sup>th</sup>
- Christmas Eve
- New Years Eve

All items must be delivered in returnable plastic crates.

**MMB11137****Invoicing/Pricing:**

Invoicing shall be done on the basis of the unit price per carton/package of each item. All pricing shall be F.O.B. Destination.

All products shall be produced, packaged and distributed in accordance with Federal, State and local regulations of the USDA Standards for health and safety of the products provided for consumption. All Products must be fresh.

Any product delivered that the hospital determines does not meet the specifications, must be replaced as requested.

Delivery charges are to be included in the unit price of the dairy products.

The terms and conditions contained in this contract shall supersede any and all subsequent terms and conditions which may appear on any attached printed documents such as price lists, order forms, sales agreements or maintenance agreements, including any electronic medium such as cd-rom.

Unless specific provisions are stipulated elsewhere in this contract document, the terms, conditions and pricing set herein are firm for the life of the contract.

Contract will be awarded to the successful bidder based upon lowest bid total on all items bid.

RFQ No. mmb 11137

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**West Virginia Code §5A-3-10a states:** No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

**EXCEPTION:** The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (*West Virginia Code §61-5-3*), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

**WITNESS THE FOLLOWING SIGNATURE**

Vendor's Name: United Dairy Inc.

Authorized Signature: *John Deets* Date: 4/20/11

State of West Virginia

County of Kanawha, to-wit:

Taken, subscribed, and sworn to before me this 20th day of April, 2011.

My Commission expires September 29, 2013

NOTARY PUBLIC *Kimberly F. Barker*

AFFIX SEAL HERE





# State of West Virginia VENDOR PREFERENCE CERTIFICATE

Certification and application\* is hereby made for Preference in accordance with **West Virginia Code, §5A-3-37**. (Does not apply to construction contracts). **West Virginia Code, §5A-3-37**, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

1.  **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**  
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or** 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**  
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or,**
2.  **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**
3.  **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**
4.  **Application is made for 5% resident vendor preference for the reason checked:**  
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or,**
5.  **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or,**
6.  **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (**West Virginia Code, §61-5-3**), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: United Dairy Inc.                      Signed: John O'Leary  
Date: 4/20/11                                      Title: GENERAL MANAGER

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.