



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

**Solicitation**

NUMBER
BVH404

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
TARA LYLE 304-558-2544

VENDOR

RFQ COPY  
 TYPE NAME/ADDRESS HERE

US Foods  
 2575 VIRGINIA AVENUE  
 HURRICANE, WV 25526  
 USFOODS.COM

SHIP TO

WEST VIRGINIA VETERANS HOME  
 512 WATER STREET  
 BARBOURSVILLE, WV  
 25504 736-1027

DATE PRINTED
09/04/2012

BID OPENING DATE: 10/02/2012 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		390-28		
FRUITS, FRESH						
OPEN-END CONTRACT						
THE WEST VIRGINIA PURCHASING DIVISION FOR THE AGENCY, WV VETERANS HOME, IS SOLICITING BIDS TO PROVIDE FRESH PRODUCE FOR THE WV VETERANS HOME LOCATED IN BARBOURSVILLE, WV, PER THE ATTACHED SPECIFICATIONS.						
ATTACHMENT INCLUDE:						
1. INSTRUCTIONS TO VENDORS SUBMITTING BIDS.						
2. GENERAL TERMS AND CONDITIONS.						
3. BVH404 SPECIFICATIONS.						
4. CERTIFICATION AND SIGNATURE PAGE.						
5. PURCHASING AFFIDAVIT.						
6. RESIDENT VENDOR PREFERENCE (RVP) FORM.						
***** THIS IS THE END OF RFQ						***** TOTAL: <u>20,999.44</u>

RECEIVED  
 2012 OCT -2 PM 1:10  
 WV PURCHASING DIVISION

SIGNATURE <i>M. S. V. J.</i>	TELEPHONE (304) 562-9925 x290	DATE Oct. 2, 2012
TITLE Account Bid Manager	FEIN 36-3642294	ADDRESS CHANGES TO BE NOTED ABOVE

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

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

- 1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
- 2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
- 3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening.

A NON-MANDATORY PRE-BID meeting will be held at the following place and time:

A MANDATORY PRE-BID meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required

information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

- 4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline:

Submit Questions to:

Fax:

Email:

- 5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
- 6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID

BUYER: \_\_\_\_\_  
 SOLICITATION NO.: \_\_\_\_\_  
 BID OPENING DATE: \_\_\_\_\_  
 BID OPENING TIME: \_\_\_\_\_  
 FAX NUMBER: \_\_\_\_\_

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus  convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE:     Technical  
                   Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

Bid Opening Date and Time:

October 12, 2012 at 1:30 pm

Bid Opening Location:

Department of Administration, Purchasing Division  
 2019 Washington Street East  
 P.O. Box 50130,  
 Charleston, WV 25305-0130

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
  
2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.
  - 2.1 "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
  - 2.2 "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.
  - 2.3 "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.
  - 2.4 "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.
  - 2.5 "Purchase Order" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.
  - 2.6 "Solicitation" means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.
  - 2.7 "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
  - 2.8 "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

Term Contract

**Initial Contract Term:** This Contract becomes effective on   
  
 and extends for a period of  year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to  successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension:** At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

- Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within  days.
- One Time Purchase:** The term of this Contract shall run for one year from the date the Purchase Order is issued or from the date the Purchase Order is issued until all of the goods contracted for have been delivered, whichever is shorter.
- Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed
5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.
- Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. 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.
  - Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
  - Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
  - One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.
- BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

**PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of . The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

**LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

**MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

**WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

**INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

**Commercial General Liability Insurance:**  
 or more.

**Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

**LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

<input checked="" type="checkbox"/>	US Dept. of Agriculture (USDA) Grade Standards for Fresh Fruits & Vegetable
<input checked="" type="checkbox"/>	Perishable Agricultural Commodities Act (PACA)
<input type="checkbox"/>	
<input type="checkbox"/>	

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

**9. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

**10. ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

**11. EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or

other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

**12. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount

n/a for n/a

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

**13. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

**14. REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee if applicable.

**15. COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

**16. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

**17. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."

**18. UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

**19. DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.

**20. INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.

**21. PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

22. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
23. **TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
24. **CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.
25. **WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.
26. **TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
27. **APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
28. **COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
29. **PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

- 30. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
- 31. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**
- 32. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 33. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
- 34. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
- 35. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
- 36. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
- 37. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

38. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <http://www.state.wv.us/admin/purchase/vrc/hipaa.html> and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor.
39. **CONFIDENTIALITY:** The Vendor agrees that it 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/default.html>.
40. **DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

41. **LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor 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, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

42. **ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of the State of West Virginia, the Vendor agrees to 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 Vendor.
43. **VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

44. **PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

45. **VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the

State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 46. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 47. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 48. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 49. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.
- 50. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:
- [ ] Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

- [ ] Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).

**51. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

**52. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

- a. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

- b. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**53. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

BVH404 - SPECIFICATIONSPart I - SCOPE AND CLASSIFICATION

- A. Scope: The West Virginia Veterans Home is seeking bids for an Open-Ended Contract to supply and deliver quality fresh fruits and vegetables to our facility. Pricing is based upon the vendor's cost plus markup percentage.
- B. Classification: The products covered by these specifications shall include, but shall not be limited to, the following:
1. Fruits
    - a. Apples
    - b. Bananas
    - c. Cantaloupes
    - d. Grapefruit
    - e. Grapes
    - f. Oranges
    - g. Nectarines
    - h. Peaches
    - i. Pears
    - j. Pineapple
    - k. Strawberries
    - l. Tangerines
    - m. Other seasonal or special fruit
  2. Vegetables
    - a. Broccoli
    - b. Cabbage
    - c. Carrot
    - d. Cauliflower
    - e. Celery
    - f. Cucumbers
    - g. Lettuce
    - h. Onions
    - i. Peppers
    - j. Potatoes
    - k. Squash, yellow, zucchini
    - l. Tomatoes
    - m. Other seasonal or special vegetables
  3. Miscellaneous Processed Items  
May include, but shall not be limited to, the following:
    - a. Slaw Mix (Shredded cabbage and carrots)
    - b. Lettuce Salad
  4. Eggs, Medium

Part II - APPLICABLE DOCUMENTS

- A. United States Department of Agriculture (USDA) Grade Standards for Fresh Fruits and Vegetables and any amendments thereto.

- B. Perishable Agricultural Commodities Act (PACA), 1930 (7 U.S.C. 499a-499t) and any amendments thereto.

**Part III - GENERAL REQUIREMENTS**

**A. Quality**

1. All produce shall be U.S. Number 1 quality, as defined in the applicable grade standard.
2. All items shall be as fresh as possible with minimal processing.
3. The contractor shall guarantee the freshness and quality of produce delivered. Product deemed to be unacceptable by the facility shall be rejected. Rejected product shall be replaced by the contractor within forty-eight (48) hours with no additional delivery charge. Repeated occurrences of rejected product may be basis for cancellation of contract.

- B. All items provided which are not of domestic source shall be labeled as to country of origin. If items are not individually labeled regarding country of origin, the package in which they are provided to the state facility shall be clearly marked with a label or stamp providing county of origin information.

- C. Processed vegetable are not to be treated with any preservatives or chemicals during the preparation and packaging process.

**D. Packaging**

1. Items shall be shipped in original cartons in sizes standard to the industry or shall be repacked in less than case quantities, if needed.
2. Processed items will be gas flushed and packed in approved barrier bags and packed without chemical preservatives.

**E. Order Procedures**

1. Contractor shall develop a mutually acceptable system for issuing a Weekly Price List to the facility and receiving orders, e.g. contractor will broadcast fax or email a Weekly Price List on a selected day of the week for the following week's delivery, with the facility completing the order sheet and faxing same to contractor within two (2) business days, or similar system.

- F. Fill rate is expected to be at least 98% for produce. If an item ordered by the facility is unavailable, is unavailable in stage of ripeness specified, or is unavailable in size/count ordered, the contractor shall contact the facility prior to delivery. The contractor shall find out if the facility would like to revise the size/count/stage of ripeness for the item in question, to delete the item from the order, or order another item instead.

**G. Delivery**

1. At a minimum there will be one (1) Delivery date per week. A regularly scheduled delivery time shall be maintained by the vendor on specified days of the week. These specified days will be determined by vendor availability.
2. Contractor shall make inside dock delivery, the facility personnel and/or their designees shall not participate in unloading contractor's truck.

- H. **Invoicing:** Contractor shall invoice, in arrears, to the facility for the products delivered.
- a. The successful vendor must accept the State of West Virginia Purchasing Card for payment of all orders that do not exceed the maximum allowance for usage.
- I. **Recall Notification:** In the event of a product recall, the contractor shall provide written notification to the facility as soon as possible. The notices shall include, at a minimum, a complete product description, contract and delivery order number, reason for recall, and disposition instructions. The contractor shall provide product replacement or credit for any product removed or recalled. The facility shall have the option of either accepting replacement product or receiving credit for product removed/recalled.

#### Part IV - CONTRACTOR QUALIFICATIONS

- A. The contractor shall have an established, permanent business for which all bonding and/licensing requirements have been met. Fixed or established place of business shall mean, but shall not be limited to, a permanent structure, warehouse or building at which:
  - a. Necessary and appropriate produce and produce handling equipment and fixtures are maintained.
  - b. An adequate quantity of inventory is stored, offered for sale, sold, and delivered.
  - c. Specifically designated personnel are available to handle transactions during appropriate and specified business hours.
- B. The contractor shall possess a Perishable Agricultural Commodities Act (PACA) license.
- C. Contractor must have an effective quality assurance program with procedures to monitor, on a continuous basis, the quality of produce being provided. Shall include a method of monitoring, identifying, and correcting deficiencies in the quality of products furnished to the facility.
- D. Bidder shall be utilizing effective pest control and sanitation procedures in both storage facilities and delivery equipment.

#### Part V – PRICING (This is a cost plus (+) contract.)

##### A. Definitions

1. **Vendor's Cost:** Shall be defined as the cost of the contractor of the fresh product, "field brokerage", FOB shipping point plus freight, cooling, top ice, temperature recorder to the produce distribution center. This shall include all of the Vendor's costs associated with providing the fresh produce to the Vendor's distribution center.
2. **Mark up:** shall be defined as the percentage added to Vendor's Cost for transportation to the facility, processing, packaging, wages, benefits, overhead, profit, etc.

## BVH404 Fresh Produce

## B. Bid Pricing

1. **Bid Pricing**: Bidder shall indicate their percentage of mark up to be added to each classification of items.

## C. Contract Pricing

1. **Method of Cost Determination**: Cost shall be determined by unit price plus the percentage of mark-up.
2. Each week, the Contractor shall issue a **Weekly Price List** to the facility. The **Weekly Price List** shall list the product description, packaging, and delivered price of each item.

**PART VI - Bid Document Instructions:**

- A. Vendor's Costs for the week of 09/09/2012 through 09/15/2012 shall be used for all vendor costs for this bid quotation evaluation. For bid evaluation purposes, the Bidder shall document the Vendor's Costs for selected items. Documentation shall be (legible copies of supplier's invoices and bills of lading) for items in Bid Sheet #3.

The supplier invoices shall include, but shall not be limited to, the following information: supplier company name, bidder company name, invoice date, item description, quantity and price. If the bidder has received more than one delivery of an item(s) for the specified week, copies of invoices and bills of lading for the specified week shall be forwarded to document the pricing. If an item was not delivered to the bidder in the week specified above, invoice(s), etc, for the last week's delivery of the item previous to 09/09/2012 through 09/15/2012 shall be submitted.

- B. The bidder shall provide a narrative and/or calculation that demonstrates the application of their mark-up to the vendor's costs.
- C. If documentation listed above is not submitted with the bid response, it will be requested during the bid evaluation period. If documentation is requested during the evaluation period, it must be provided within five (5) business days of verbal request. Failure to supply documentation in accordance with the above specifications will be deemed the bid not responsive.
- D. The bidder shall possess a valid PACA license and shall submit a copy of the same.
- E. The successful bidder shall provide a copy of their Workers' Compensation Certificate and a Certificate of Insurance reflecting the type and levels of coverage.

**EVALUATION:** Bid Document items with a high usage volume during the past year. Note: All dollar volumes and quantities are estimates only and therefore, there is no guarantee as to the actual purchase volumes for the year.

Bids will be evaluated in the following manner:

1. On Bid Sheet #1: Vendor shall provide the vendor's mark-up percentage for the classifications of fresh fruits, vegetables, miscellaneous processed items and eggs.
2. On Bid Sheet #2: Vendor is to complete Bid Quotation that (a) identifies the produce, quantity, packaging, (b) Vendor's Cost, (c) Vendor's Mark-up percentage (%), (d) State Purchase Price, (e) Annual Total. (This bid sheet is being used for a comparison of vendor prices and to determine the order of contract award.)

## BVH404 Fresh Produce

3. On Bid Sheet #3: Vendor shall provide the information/documentation to demonstrate on the Vendor's Cost per Unit for selected (\*) items on Bid Sheet #2. Bid Sheets #2 and #3 shall have the same Vendor's Cost amounts for the selected items.
4. Vendor's narrative (*Bid Document Instructions, Section B*) will be used to confirm the Vendor's Cost per Unit (Bid Sheet #3).

Failure to bid all items may result in the bidder being deemed as non-responsive. (The Purchasing Division reserves the right to waive items, if the bid quotations do not allow comparison of commodity descriptions, quality, and packaging.)

**CONTRACT AWARD:** This will be a single award contract. The Vendor with the lowest grand total with the most complete bid will be awarded the contract.

**Bid Sheet # 1**

Bidder shall provide the Mark-up percentage (%) for the various classifications of fresh fruits, vegetables and eggs.

Classification of Fresh Produce	Mark-up Percentage
1. Fruits.....	8 % (Eight Percent)
2. Vegetables.....	8 % (Eight Percent)
3. Miscellaneous Processed Items.....	8 % (Eight Percent)
4. Eggs.....	8 % (Eight Percent)

**BVH 404**

**Fresh Produce Bid Form**

**Bid Sheet # 2**

All Quantities are based on Annual Projections

All order Quantities are by Case Unless otherwise Specified

Item #	Fresh Produce U.S. No. 1	Item Description/Package	Vendor Cost Per Unit (*bid Sheet #3)	Mark Up ( 8% )	State Purchase Price (per unit)	Estimated Annual Qty (case)	Annual Total
*1	Apples, Golden Delicious 138 ct	Golden Delicious 138 ct	\$37.35	1.08	\$40.34	6	\$242.04
2	Apples, Granny Smith 138 ct	Granny Smith 138 ct	\$30.25	1.08	\$32.67	2	\$65.34
3	Apples Red Wash. Fancy 138 ct	Red Delicious Fancy 138 ct	\$31.50	1.08	\$34.02	11	\$374.22
*4	Banana, Premium, Yellow 40 lb	Banana Yellow 40 lb	\$19.94	1.08	\$21.54	122	\$2,627.88
5	Cantaloupes 6-9 ct	Cantaloupes 9-15ct	\$18.50	1.08	\$19.98	58	\$1,158.84
6	Grapefruit, Pink 36 ct	Grapefruit, Red 36 ct	\$28.40	1.08	\$30.67	7	\$214.69
*7	Grapes, Red Seedless 18 lb	Grapes, Red Seedless 18 lb	\$20.87	1.08	\$22.54	11	\$247.94
8	Grapes, White, Seedless 18 lb	Grapes, White, Seedless 18 lb	\$20.15	1.08	\$21.76	11	\$239.36
9	Nectarines, Fresh, 25 lb	Nectarines 25 lb	\$28.40	1.08	\$30.67	2	\$61.34
10	Oranges, California Navel 56-72 ct	Oranges, California 56ct	\$22.50	1.08	\$24.30	15	\$364.50
11	Peaches 18 lb	Peaches 18 lb	\$26.50	1.08	\$28.62	23	\$658.26
12	Pears, Fresh 135 ct	Pears 135 ct	\$26.50	1.08	\$28.62	7	\$200.34
13	Pineapple, Golden Shell 8 ct	Pineapple, Golden 6 ct	\$18.40	1.08	\$19.87	1	\$19.87
14	Strawberries, plastic pack 8-1 lb	Strawberries, clamshell 8/1 lb	\$20.18	1.08	\$21.79	20	\$435.80
15	Tangerines 120 ct	Tangerines 120 -150 ct	\$22.00	1.08	\$23.76	9	\$213.84
16	Watermelon, Seedless, Fresh (each)	Watermelon, Seedless 1 ea	\$9.82	1.08	\$10.61	82	\$870.02
<b>Vegetables</b>							
17	Broccoli Florets 4/3 lb	Broccoli Florets 4/3 lb	\$20.85	1.08	\$22.52	27	\$608.04
*18	Cabbage, Green 50lb	Cabbage, Green 50lb	\$14.40	1.08	\$15.55	22	\$342.10
19	Cabbage, Red 5 lb	Cabbage, Red 5 lb	\$5.50	1.08	\$5.94	14	\$83.16
20	Carrots, Bulk	Carrots, Jumbo Bag 50 lb	\$18.50	1.08	\$19.98	58	\$1,158.84
21	Cauliflower (each)	Cauliflower, White 1 ea	\$1.46	1.08	\$1.58	100	\$158.00
22	Celery 9 ct (1/4 case)	Celery, Stalk 9 ct	\$15.00	1.08	\$16.20	72	\$1,166.40
23	Cucumbers (1/4 case)	Cucumbers 12 ct	\$6.50	1.08	\$7.02	58	\$407.16
*24	Lettuce, Iceberg (1/4 case)	Lettuce, Iceberg, Clean & Trim 6 ct	\$13.90	1.08	\$15.01	37	\$555.37

25	Onions, Red 25 lb	Onions, Red, Jumbo 25 lb	\$18.50	1.08	\$19.98	3	\$59.94
26	Onions, Yellow, Jumbo 50 lb	Onions, Yellow, Jumbo 50 lb	\$14.25	1.08	\$15.39	34	\$523.26
27	Peppers, Green (1/2 case)	Peppers, Bell, Green 1/2 cs	\$11.00	1.08	\$11.88	51	\$605.88
28	Peppers, Red ( 1/2 case)	Peppers, Bell, Red 1/2 cs	\$14.00	1.08	\$15.12	3	\$45.36
29	Peppers, Yellow ( 1/2 case)	Peppers, Bell, Yellow 1/2 cs	\$24.50	1.08	\$26.46	1	\$26.46
30	Potatoes, Baking 100 size	Potatoes, Russet Idaho 100 ct	\$12.33	1.08	\$13.32	26	\$346.32
*31	Potatoes, Idaho Cooking 50 lb	Potatoes, White 50 lb	\$10.90	1.08	\$11.77	140	\$1,647.80
32	Potatoes, Russet 50 lb	Potatoes, Russet 50 lb	\$14.83	1.08	\$16.02	10	\$160.20
33	Squash, Yellow 18 lb	Squash, Yellow, Medium 18 lb	\$14.40	1.08	\$15.55	4	\$62.20
34	Squash, Zucchini 18 lb	Squash, Zucchini, Green 18 lb	\$11.00	1.08	\$11.88	2	\$23.76
35	Tomatoes, light red to red 5x6	Tomatoes, 5x6 Bulk 25 lb	\$20.90	1.08	\$22.57	94	\$2,121.58
	Miscellaneous Processed Items	Miscellaneous Processed Items					
36	Cabbage, Diced w/ Carrots	Cabbage, Diced w/ Carrots 4/5#	\$13.20	1.08	\$14.26	12	\$171.12
37	Lettuce, Salad Mix 5 lb	Lettuce, Salad Mix 5 lb	\$3.25	1.08	\$3.51	22	\$77.22
	Eggs						
*38	Eggs, Medium, 30 dz	Eggs, Medium, 15 dz	\$14.55	1.08	\$15.71	169	\$2,654.99
	US Foods WV - Total						\$20,999.44

\* For this item, the Vendor's Costs and documentation shall be shown in Bid Sheet #3  
Vendor's Costs for the week of 09/09/2012 through 09/15/2012 shall be used for all items. Bid Documents Instructions: A & B.

Bidder/Vendor Name: US Foods - WV  
Address : 2575 Virginia Avenue, Hurricane WV 25526  
  
Phone Number : (304) 562-9925 x290  
Fax Number : (304) 562-3600  
Email Address : [michael.virag@usfoods.com](mailto:michael.virag@usfoods.com)  
This Form is for bidding evaluation purposes only.

Pricing Calculation Narrative : Cost of Item X (multiplied by) 1.08 (8 percent mark-up) = Sell Price to Customer  
Example - Item #1 Golden Apples - \$37.35 (cost) x 1.08 ( 8 percent mark-up) = \$40.34 (Sell Price to State)

**BVH 404**

**Fresh Produce Bid Form**

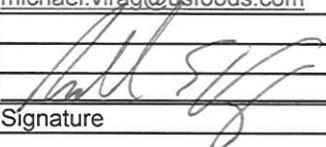
**Bid Sheet #3**

Documentation of Vendor's Cost (legible copies of supplies and bill of lading) shall be submitted for the following items to demonstrate the vendor's cost per unit. For the purpose of evaluation, Vendor's Costs for the week of 9/9/12 through 9/15/12 shall be used.

(See Bid Document Instructions: A & B)

	Fresh Produce U.S. No. 1	Supplier company name, bidder company name, invoice date, item description, quantity and price.	Vendor's Cost per Unit
*1	Apples, Golden Delicious 138 ct	Rainier Fruit, US Foods - WV, 9/10/12, Apple Golden Delicious, 98 cs, \$3,660.30	\$37.35
*4	Banana, Premium, Yellow 40 lb	Del Monte Produce, US Foods - WV , 9/13/12, 40DM Bananas, 90 cs, \$1,794.60	\$19.94
*7	Grapes, Red Seedless 18 lb	Del Monte Produce, US Foods - WV , 9/13/12, .099RB19 Grapes , 30 cs, \$626.10	\$20.87
*18	Cabbage, Green 50lb	Fuller Tomato Co, US Foods - WV, 9/12/12, 50# Cabbage/USA, 20 bag, \$288.00	\$14.40
*24	Lettuce, Iceberg (1/4 case)	Castellini Co, US Foods - WV, 9/10/12, Iceberg Liner 6ct, 70 cs, \$973.00	\$13.90
*31	Potatoes, Idaho Cooking 50 lb	Castellini Co, US Foods - WV, 9/14/12, Potato Russet #2, 10 cs, \$109.00	\$10.90
*35	Tomatoes, light red to red 5x6	Fuller Tomato Co, US Foods - WV, 9/10/12, 25# Tomato 5x6, 48 cs, \$1,003.20	\$20.90
*38	Eggs, Medium, 30 dz	Hillendale Farms, US Foods - WV, 9/11/12, Medium AA/Loose, 324 cs, \$4,714.20	\$14.55

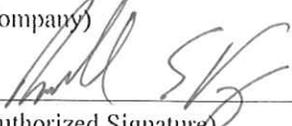
Vendor's Costs for the week of 09/09/2012 through 09/15/2012 shall be used.

Contractor's Name:	US Foods - WV	
Remit to Address :	2574 Virginia Avenue, Hurricane WV 25526	
Telephone :	(304) 562-9925 x290	
Fax:	(304) 562-3600	
Email :	michael.virag@usfoods.com	
		
	Signature	Date
		10/2/12

CERTIFICATION AND SIGNATURE PAGE

By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

US FOODS - WV DIVISION  
(Company)

  
(Authorized Signature)

Michael E Viray, Account Bid Manager  
(Representative Name, Title)

(304) 562-9925 x290      (304) 562-3600  
(Phone Number)                      (Fax Number)

10/1/12  
(Date)

RFQ No. BVH 404

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, 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: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. 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.

**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.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"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 exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signor affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: US FOODS - WV DIVISION

Authorized Signature: [Signature] Date: 10/1/12

State of WEST VIRGINIA

County of PUTNAM, to-wit:

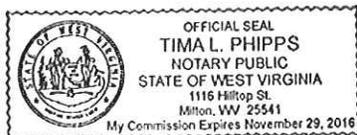
Taken, subscribed, and sworn to before me this 1st day of October, 2012.

My Commission expires November 29, 2016

AFFIX SEAL HERE

NOTARY PUBLIC [Signature]

*Purchasing Affidavit (Revised 07/01/2012)*



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.
7. **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code* §5A-3-59 and *West Virginia Code of State Rules*.**  
 Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

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: US FOODS - WV - DIVISION

Signed: [Signature]

Date: Oct. 2, 2012

Title: Account Bid Manager

**ADDENDUM ACKNOWLEDGEMENT FORM**

**SOLICITATION NO.:** BVH404

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |   |  |
|---|--|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

NO ADDENDUMS RECEIVED

US FOODS - WV DIVISION

Company

*[Handwritten Signature]*

Authorized Signature

10/1/12

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

REMIT TO:

RAINIER FRUIT COMPANY

PAGE: 1

RAINIER FRUIT COMPANY  
 PO BOX 189  
 SELAH WA 98942-018

INVOICE NUMBER: 47655

INVOICE DATE: 09/10/12

BILL TO:

SHIP TO:

US Foods  
 2L - West Virginia

US FOODSERVICE, INC. - WEST VI  
 2575 VIRGINIA AVE.  
 HURRICANE WV 255260000

DATE		VIA	TERMS	VENDOR ORDER #		PO NUMBER
09/06/12			Net 21			150084
CASE	LBS	DESCRIPTION		UNIT PRICE	ALLOWANCE	EXTENDED
98		085461 1331495 APPLE, GOLDEN DELICIOUS 1 00 COUNT WASHINGTON EXTRA-FANCY FRESH		37.35 CS		3660.3
125		033547 2331304 APPLE, RED DELICIOUS 100 COUNT WASHINGTON FANCY FRESH REF		37.35 CS		4668.75
49		5041082 PEAR, FRESH REF		29.35 CS		1438.15
98		439936 5757356 APPLE, GALA 100 COUNT FAN CY FRESH REF		43.35 CS		4248.3
- 245		085492 6331490 APPLE, GOLDEN DELICIOUS 1 38 COUNT WASHINGTON EXTRA-FANCY FRESH		37.35 CS		9150.75
245		033578 8331308 APPLE, RED DELICIOUS 138 COUNT WASHINGTON FANCY FRESH REF		37.35 CS		9150.75
860.000000		Total			0.0000000	32317.0000

MESSAGES 22043757

SUBTOTAL 32317.00  
 FRT CHARGE/CREDIT  
 DISCOUNT .00

PLEASE PAY 32317.00

REMIT TO:

DELMONTE FRESH

PAGE: 1

DEL MONTE FRESH PRODUCE N.A.,  
16989 COLLECTIONS CTR DR  
CHICAGO IL 606930169

INVOICE NUMBER: 2437518

INVOICE DATE: 09/13/12

BILL TO:

SHIP TO:

US Foods  
2L - West Virginia

US FOODS-WEST VIRGINIA  
2575 VIRGINIA AVENUE  
HURRICANE WV 25526

DATE		VIA	TERMS	VENDOR ORDER #		PO NUMBER
09/13/12			Net 10			223638
CASE	LBS	DESCRIPTION		UNIT PRICE	ALLOWANCE	EXTENDED
30		004023	G 099RB19DMES	GRAPES	20.87 CS	626.1
40		004011	B IP40DM	BANANAS	19.74 CS	789.6
90		004011	B 40DM	BANANAS	19.94 CS	1794.6
25		807947	HD006 28NL	HONEYDEWS: MELON	17.47 CS	436.75
			6CT 28#			
60		411108	B 24CCR10DM	BANANA DM 24-COU	8.99 CS	539.4
			NT BOX			
245.000000		Total			0.0000000	4186.45000

MESSAGES 22110616

SUBTOTAL 4186.45  
FRT CHARGE/CREDIT  
DISCOUNT .00

PLEASE PAY 4186.45

Fuller Tomato, LLC  
 225 7th Ave.  
 Huntington, WV 25701



Invoice

Date	Invoice #
9/12/2012	14525

Ph: (304) 523-1452

Bill To
US. Foods 2575 Virginia Ave. Hurricane, WV 25526 USF#5001847

P.O. Number	Terms
214032 2L	Net 30

Item	Quantity	Description	Price Each	Amount
Cant3ct	21	3 Count Cantaloupe / USA	10.84	227.64
Pep12Ct	65	12 Count Pepper / USA	9.43	612.95
Cabbage25Lb	20	Cabbage - Green - 25 Lb / USA	9.40	188.00
YellowOnio...	10	Jumbo Yellow Onion 10Lb / USA	8.40	84.00
OnionBulk	5	Onion - Sweet 40Lb / USA	36.40	182.00
Cabbage10Lb	30	Cabbage - Green - 10 Lb / USA	6.40	192.00
Cabbage5Lb	10	Cabbage - 5Lb / USA	5.40	54.00
YellowJumb...	30	Onion - Jumbo Yellow 5Lb / USA	6.40	192.00
Cabbage50Lb	20	Cabbage - 50Lb - / USA	14.40	288.00
Cuc12Ct	69	12 Count Cucumber / USA	9.70	669.30
Cel3Ct	21	3 Count Celery / USA	9.01	189.21
	36	COOK CHL FISH		

The perishable agricultural commodities listed on this invoice are sold subject to statutory trust authorized by section 5(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.

All bills due are subject to the highest interest rate allowed by law.

Subtotal \$2,879.10

Total \$2,879.10

Payments/Credits \$0.00

Balance Due \$2,879.10

Received in good condition by X

*[Handwritten signature]* 9-12-12  
*[Handwritten signature]*

REMIT TO:

CASTELLINI COMPANY LLC

PAGE: 1

CASTELLINI COMPANY LLC  
P.O. BOX 632559  
CINCINNATI OH 452632559

INVOICE NUMBER: 7291335

INVOICE DATE: 09/10/12

BILL TO:

SHIP TO:

US Foods  
2L - West Virginia

US FOODS - HURRICANE  
P.O. BOX 899  
HURRICANE WV 25526

DATE	VIA	TERMS	VENDOR ORDER #		PO NUMBER
09/13/12		Net 14			143575
CASE	LBS	DESCRIPTION	UNIT PRICE	ALLOWANCE	EXTENDED
28		BROCCOLI 18CT	19.83 CS		555.24
10		CAULIFLOWER 12CT	17.55 CS		175.5
70		ICEBERG WRAPPED 12CT FC	16.41 CS		1148.7
15		ONION GREEN ICELESS 4/2LB	18.37 CS		275.55
15		LETTUCE ARTISAN 16CT	15.76 CS		236.4
60		ROMAINE BABY 10#	20.78 CS		1246.8
-70		ICEBERG LINER 6CT FC	13.9 CS		973
40		ICEBERG LINER 24CT	22.41 CS		896.4
50		SPINACH CELLO 4/2.5	20.87 CS		1043.5
30		LEAF GREEN SINGLES 10#	21.36 CS		640.8
30		SPINACH BABY	16.51 CS		495.3
15		CELERY CALIF 30CT	32.04 CS		480.6
50		ICEBERG CLEAN&TRIM 24CT	21.72 CS		1086
149		ROMAINE 12CT	17.12 CS		2550.88
200		CARROT SLIM 4/5#	19.9 CS		3980
5		PARSLEY 4/1# FC	17.57 CS		87.85
10		LEAF GREEN 6CT FC	14.9 CS		149
100		SPRINGMIX 2/1.5# FC	12.31 CS		1231
10		BROCCOLI CROWNS	18.47 CS		184.7
10		CILANTRO 4/1# FC	17.57 CS		175.7
967.000000		Total		0.000000	17612.9200

MESSAGES 22100959

SUBTOTAL 17612.92  
FRT CHARGE/CREDIT  
DISCOUNT .00

PLEASE PAY 17612.92

REMIT TO:

CASTELLINI COMPANY LLC

PAGE: 1

CASTELLINI COMPANY LLC  
 P.O. BOX 632559  
 CINCINNATI OH 452632559

INVOICE NUMBER: 7292730

INVOICE DATE: 09/14/12

BILL TO:

SHIP TO:

US Foods  
 2L - West Virginia

US FOODS - HURRICANE  
 P.O. BOX 899  
 HURRICANE WV 25526

DATE		VIA	TERMS	VENDOR ORDER #		PO NUMBER
09/20/12			Net 14			247111
CASE	LBS	DESCRIPTION		UNIT PRICE	ALLOWANCE	EXTENDED
10		ORANGE NAVEL 5# BC		6.39 CS		63.9
40		KIWI 36CT		12.65 CS		506
1		GREENS COLLARD BCH 24CT		15.4 CS		15.4
10		POTATO RED "B" 25# BC		13.03 CS		130.3
10		PINEAPPLE 6CT CROSS VALLEY		18 CS		180
10		WATERMELON SDLS SNGLE BX		9.47 CS		94.7
12		CARROT 6/1# BC		6.9 CS		82.8
5		CABBAGE RED 10# BC		7.55 CS		37.75
10		POTATO RUSSET #2 50# PAPE		10.9 CS		109
2		BLUEBERRY 12/6OZ		29.4 CS		58.8
5		PEPPER RED/ORGE/YLW 5# BC		16.4 CS		82
115.000000		Total			0.000000	1360.65000

MESSAGES 22165875

SUBTOTAL 1360.65  
 FRT CHARGE/CREDIT  
 DISCOUNT .00

PLEASE PAY 1360.65

**Fuller Tomato, LLC**

225 7th Ave.

Huntington, WV 25701

Ph: (304) 523-1452



**Invoice**

Date	Invoice #
9/10/2012	14510

<b>Bill To</b>
US. Foods 2575 Virginia Ave. Hurricane, WV 25526 USF#5001847

<b>P.O. Number</b>	<b>Terms</b>
207714 2L	Net 30

Item	Quantity	Description	Price Each	Amount
Grape	24	Grape Tomato 12-Pint Clamshell / USA		
6x6	56	25# Tomato - 6x6 / USA	20.90	501.60
Roma	5	Roma Tomato - 25Lb / USA	20.90	1,170.40
5x5	24	5x5 Tomato - 50 Count / USA	20.90	104.50
10Lb Tomato	48	10Lb. Tomato / USA	19.40	465.60
Cherry	50	Cherry Tomato 12-Pint / USA	13.40	643.20
5x6	48	25# Tomato - 5x6 / USA	21.90	1,095.00
			20.90	1,003.20

255 CH 12 CH 1 Full

*The perishable agricultural commodities listed on this invoice are sold subject to statutory trust authorized by section 3(c) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499e(c)). The seller of these commodities retains a trust claim over these commodities, all inventories of food or other products derived from these commodities, and any receivables or proceeds from the sale of these commodities until full payment is received.*

All bills due are subject to the highest interest rate allowed by law.

<b>Subtotal</b>	\$4,983.50
<b>Total</b>	\$4,983.50
<b>Payments/Credits</b>	\$0.00
<b>Balance Due</b>	\$4,983.50

Received in good condition by X  9/10/12



**Hillandale Farms**

11210 Croton Road  
Croton, OH 43013  
740.893.7242

*The Symbol  
of Quality*

**BILL TO:**  
US FOODS-WEST VIRGINIA  
TRADE PAYABLES  
P.O. BOX 29283  
PHOENIX, AZ 85038-9283

**SHIP TO: US FOODS-WEST VIRGINIA**

2575 VIRGINIA AVE.  
HURRICANE, WV 25526

**INVOICE NO. 115242**

**DATE 09/11/2012**  
**SHIP DT 09/11/2012**  
**CUSTOMER NO. USF650**

**ORDER NO. 20776021**

**COMMENT :**

**TERMS NET 0 DAYS**

ORDER QUANTITY	UNIT AMOUNT	ITEM	DESCRIPTION	UNIT PRICE	AMOUNT
324 HALF	CS4860.00	14030015	MED AA/LOOSE GLENVIEW CROTON	.9700	4714.20
1 HALF	CS 15.00	13571015	LGE A/HILL 12CT	1.1700	17.55
<p>Total Cases: 162.50      Racks: .00      Baskets: .00</p> <p>Driver Signature: _____</p>					

CUSTOMER  
SIGNATURE

**INVOICE AMOUNT**

**4731.75**

ORIGINAL MT VICTO



**Fruit and Vegetable Programs**

**Search PACA**

<b><u>License No.</u></b>	<b><u>Date Issued</u></b>	<b><u>Anniversary Date</u></b>	<b><u>Status</u></b>
19901056	4/23/1990	4/23/2013	Active

**Business Name**  
U S FOODS INC

<b><u>Business Address</u></b>	<b><u>City</u></b>	<b><u>State</u></b>	<b><u>Zip</u></b>
9399 W HIGGINS RD STE 600	ROSEMONT	IL	600184992

<b><u>Web Address</u></b>	<b><u>Email</u></b>	<b><u>Phone</u></b>	<b><u>Fax</u></b>
	PILAR.TORRES@USFOODS.COM	847 720-2363	847 720-2345

<b><u>Mailing Address</u></b>	<b><u>City</u></b>	<b><u>State</u></b>	<b><u>Zip</u></b>
9399 W HIGGINS RD STE 600	ROSEMONT	IL	600184992

**Reported Principal (Last Name, First Name)**

USF HOLDING CORP,  
PRYOR, JULIETTE W  
SWANSON, ALLAN D

**Trade Names**  
None

**Branch Name , Branch City , Branch State**

CITY MEAT & PROVISIONS COMPANY. TUCSON, AZ  
NORTH STAR FOODSERVICE. THROUGHOUT US (6), XX  
WESTLUNDS. ST PAUL, MN  
ALLEN FOODS. ST LOUIS, MO  
CITY MEAT & PROVISIONS COMPANY. PHOENIX, AZ  
U S FOODSERVICE. THROUGHOUT US (63), XX  
PYA MONARCH. THROUGHOUT US (10), XX  
CROSS VALLEY FARMS. ALBUQUERQUE, NM  
STOCK YARDS. THROUGHOUT US (13), XX

**To connect with the PACA National License Center, Apply for a PACA License, or check on the status of a firm's license, please contact us at:**

1 (800) 495-7222, then Option #1 or email us at [PACALicense@ams.usda.gov](mailto:PACALicense@ams.usda.gov)

**To connect with our Good Delivery Hotline, or if you have any Good Delivery Inquiries or contract-related issues, please**

**contactus at:**

1 (800) 495-7222, then Option #2

**To connect with our PACA Manassas, VA Regional Office about the status of a complaint or to ask a general PACA question, please contact us at:**

1 (800) 495-7222, then Option #3 or email us at PACAManassas@ams.usda.gov

**To connect with our PACA Fort Worth, TX Regional Office about the status of a complaint or to ask a general PACA question, please contact us at:**

1 (800) 495-7222, then Option #4 or email us at PACAFtWorth@ams.usda.gov

**To connect with our PACA Tucson, AZ Regional Office about the status of a complaint or to ask a general PACA question, please contact us at:**

1 (800) 495-7222, then Option #5 or email us at PACATucson@ams.usda.gov

**ADDENDUM TO REQUEST FOR QUOTATION #BVH404**  
**STATE OF WEST VIRGINIA**  
**DEPARTMENT OF ADMINISTRATION**  
**FRESH PRODUCE**  
**BID DATE: OCTOBER 2, 2012**

The provisions of this Addendum to Request for Quotation shall govern and control over any and all conflicting and/or inconsistent provisions of like or similar nature in the Request for Quotation (the "Bid") between US Foods, Inc. – West Virginia Division ("USF") and the State of West Virginia, Department of Administration. This Addendum shall be attached to, made part of and incorporated into the Bid.

The Bid is hereby supplemented and/or amended by the addition or replacement of the following terms to the extent any provisions in the Addendum to Request for Proposal may deviate or are not included in the Bid.

General Terms & Conditions:

- (a) Item 6, entitled "Pricing" is hereby supplemented by the addition of the following language:

**"Pricing**

a. **Sell Price.** Sell Price is the price at which US Foods, Inc. ("USF") will sell products to a customer ("Customer"). The markup USF will use to calculate Sell Price will be as stated in USF's bid response. Customer will be responsible for all customs, duties, fees, taxes or other payment for such products. The Sell Price is calculated as follows:

$$\text{Sell Price} = \text{Delivered Price} (1 + \text{markup (expressed as a decimal)})$$

b. **Delivered Price.** The Delivered Price refers to USF Supplier's invoice or quote, which may include a transportation fee for inbound shipment to USF's distribution center. "Supplier" defined as manufacturers, vendors, suppliers, packers, brokers, redistributors, consolidators, transaction service providers and USF business units and affiliates. When USF Supplier's invoice or quote does not include a fee for transporting products, Delivered Price will include compensation to USF for inbound shipment to its distribution centers and, in such situations, the transportation fee will not exceed the average market freight price, for comparable products, shipping methods and quantities. USF may use its logistics expertise to manage freight and consolidate orders and may earn income and profit from those freight management activities; provided that Delivered Price will not exceed the f.o.b. origin unit price plus the transportation fee for inbound shipments to its distribution center that would have been payable at the quantities ordered had USF not managed freight. For USF's "Exclusive Brand" products, which are certain products under the trademarks owned and licensed by USF, the Delivered Price may be calculated based on USF's published price list plus any applicable service charge. If there is a national agreement between USF and a Supplier that specifies the price USF must charge our customers for certain products, the Sell Price, which is the price at which USF will sell products to Customer, will be governed by such national agreements. Delivered Price will include any duties, taxes or fees USF is charged by a Supplier. All manufacturer's discounts on the face of the invoice or that are otherwise designated by a Supplier to be passed on to Customer will be applied when determining the Sell Price. Delivered Price is a price, not an actual product cost, and may include Earned Income.

c. **Earned Income.** "Earned Income" is the income and profit USF makes from value-added services USF provides, such as regional and national marketing, freight management, procurement leverage, consolidated warehousing, quality assurance, and performance-based product marketing. USF also receives income and makes a profit from the sale of USF Exclusive Brand products, from its Suppliers through promotional allowances, cash discounts, prompt pay discounts, growth programs, and from other transactional payments and our management of competitive conditions. All of this income and profit is referred to as "Earned Income." USF may negotiate or set the invoice price and amount of earned income USF receives from its Suppliers. The Sell Price is not adjusted for Earned Income.

d. **Special Pricing Arrangements.** Special pricing terms that the Customer put in place with Suppliers regarding pricing (including special pricing for customer labeled products) to be made available specifically to Customer are referred to as Special Pricing Arrangements. USF will honor Special Pricing Arrangements, if the following conditions, as applicable are met:

i. The Special Pricing Arrangement is either signed by Customer and the Supplier or is submitted by the Supplier through our standard electronic validation process.

ii. The Supplier commits to reimburse USF for any amounts we bill back to the Supplier for the difference between USF's contracted product price and the Special Pricing Arrangement.

iii. Customer agrees to assist USF in obtaining from the Supplier any amounts owed to USF, and Customer will remain responsible for paying those amounts to USF if they are not collected from the Supplier in a timely fashion.

iv. Customer's Supplier timely provides USF with updates and extensions to all Special Pricing Arrangements. Upon the expiration of a Special Pricing Arrangements between Customer and the Supplier, USF's pricing will be calculated based upon the Delivered Price.

v. The Supplier does not require USF to bring products into inventory at the price agreed to in the Special Pricing Agreement (other than customer labeled products).

USF reserve the right to charge handling fees to help defray any additional administrative, system, financing and other costs USF incurs by handling products that are subject to a Special Pricing Arrangement. Special Pricing Arrangements submitted by the 15<sup>th</sup> of the month will be effective in the following calendar month. The Special Pricing Arrangements reduce the Delivered Price of the product only after the calculation of the markup.

e. **Selection of Invoice to Set Delivered Price.** USF may select the invoice price to be used for determining Delivered Price from its Supplier's purchase orders for product currently available for sale or from confirmed purchase orders for product due to be received no later than Wednesday of the following week for weekly priced items and for product due to be received no later than the seventh business day of the following calendar month for monthly priced items.

f. **Price Adjustments.** The Supplier invoice price based upon the pricing in this Agreement is guaranteed for 1 month (effective the first calendar day of that month), except for Products that are commodities in nature, which will be priced weekly unless otherwise provided in this Agreement. Products that are commodities in nature are: Beef, Cheese, Dairy, Eggs, Fresh Produce, Coffee, Orange Juice, Flour, Sugar, Rice, Oils & Shortening, Veal, Lamb, Pork, Poultry, Seafood, Specialty Meats, Mayonnaise, and other items mutually deemed as commodity in nature, shall be priced weekly. Notwithstanding the foregoing, USF may at any time adjust the Sell Price of any products if the Delivered Price of such products increases by 2% or more over the Delivered Price, in which case the Sell Price shall be re-established by applying the applicable markup to the increased Delivered Price.

g. **Produce Adjustments.** The Sell Price for produce products is established on Total Market Cost. "Total Market Cost" or "TMC" refers to the price set by a distribution center based on locally negotiated terms to allow for local market pricing flexibility given volatile market conditions and often increased service and delivery requirements."

h. **Increase in Cost Indices.** For products where we charge a markup based on a flat fee per unit, the flat fee will be periodically adjusted to reflect increases in the Consumer Price Index (CPI-U).

(b) Item 34, entitled "Assignment" is hereby modified with the following language:

"USF will agree that the purchase and distribution of food products contained in this Bid will not be assigned to any subcontractor; however, a portion of the receivables from this contract may be used as collateral under the USF's accounts receivable debt facility (the "ABS Facility"). Under the ABS Facility, USF and certain of its subsidiaries sell, on a revolving basis, their eligible receivables to a wholly owned, special purpose, bankruptcy remote subsidiary of USF which in turn transfers, assigns and conveys all of its present and future right, title and interest, in the eligible receivables to a trust."

(c) Item 42, entitled "Antitrust" is hereby deleted in its entirety: