

**STATE OF SOUTH DAKOTA**  
MICHAEL J. FITZMAURICE SOUTH DAKOTA VETERANS HOME  
2500 MINNEKAHTA AVE.  
HOT SPRINGS, SD 57747

**INSTITUTIONAL FOOD SERVICES REQUEST FOR PROPOSAL**  
**PROPOSALS ARE DUE NO LATER THAN MAY 1, 2024**

RFP #: 24RFP10085

STATE POC: Pamela Horton, Business Manager

EMAIL: [pamela.horton@state.sd.us](mailto:pamela.horton@state.sd.us)

**READ CAREFULLY**

FIRM NAME: \_\_\_\_\_ AUTHORIZED SIGNATURE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ TYPE OR PRINT NAME: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

ZIP (9 DIGIT): \_\_\_\_\_ FAX NO: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

---

PRIMARY CONTACT INFORMATION

CONTACT NAME: \_\_\_\_\_ TELEPHONE NO: \_\_\_\_\_

FAX NO: \_\_\_\_\_ E-MAIL: \_\_\_\_\_

---

## **1.0 GENERAL INFORMATION**

### **1.1 PURPOSE OF REQUEST FOR PROPOSAL (RFP)**

The State of South Dakota (State) intends to secure manual food service operations for the Michael J. Fitzmaurice SD Veterans Home located in Hot Springs. The purpose of the RFP is to define the State's needs to solicit a proposal from your company and to gain adequate information to evaluate the services that your company has to offer. It is anticipated that this RFP will result in a single award contract.

The State is seeking a nutritional, high quality, cost effective, and innovative solution to the food service needs of residents of the State Veterans Home. These services must be provided in a manner that will meet the needs and concerns of residents and staff. The full achievement of the comprehensive goals of this program should result in an innovative food service operation that will complement the mission of the State Veterans Home.

#### **State Veterans Home, Hot Springs, South Dakota**

The mission of the Michael J. Fitzmaurice South Dakota Veterans Home is to provide a quality living environment with adequate medical support in an independent living and long-term care setting for all eligible South Dakota veterans and their spouses, widows, or widowers. The facility serves up to 106 residents with 78 nursing care beds and 28 domiciliary beds. Residents live in 8 different Households. Each Household has 13-14 single occupancy rooms, and each household has its own kitchen and dining area. Offerors should note that the State Veterans Home offers residents home-style dining served on each individual household. Diets and medications for residents are similar to those found in private and public nursing homes and assisted living facilities.

This RFP is designed to provide interested Offerors with sufficient basic information to submit proposals meeting minimum requirements but is not intended to limit a proposal's content or exclude any relevant or essential data. Offerors are at liberty and are encouraged to expand upon the specifications to evidence service capability under any agreement.

All participating Offerors shall agree to comply with all of the conditions, requirements and instructions of this proposal as stated or implied herein. Should anything have been omitted from this proposal that is necessary to a clear understanding of its requirements, or should it appear that various instructions are in conflict, the Offeror shall secure written instructions from the Director of Procurement Management at least forty-eight hours prior to the time and date of the opening of the proposal.

### **1.2 ISSUING OFFICE AND RFP REFERENCE NUMBER**

The Department of Veterans Affairs, Michael J. Fitzmaurice South Dakota Veterans Home is the issuing office for this document and all subsequent addenda relating to it, on behalf of the State of South Dakota. The reference number for the transaction is RFP #24RFP10085. This number must be referred to on all proposals, correspondence, and documentation relating to the RFP.

### **1.3 LETTER OF INTENT**

All interested offerors must submit a **Letter of Intent** to respond to this RFP.

The Letter of Intent must be submitted no later than 4:30 pm on March 15, 2024, to Pamela Horton, Business Manager via email at [pamela.horton@state.sd.us](mailto:pamela.horton@state.sd.us). Please place the following in the subject line of your email: "**Letter of Intent for RFP #24RFP10085**".

#### 1.4 SCHEDULE OF ACTIVITIES (SUBJECT TO CHANGE)

|   |                           |
|---|---------------------------|
| RFP Publication                                 | February 10, 2024         |
| Letter of Intent to Respond Due                 | March 15, 2024            |
| Site Visits Will Be Completed                   | March 15 - April 01, 2024 |
| Offeror Questions Due                           | April 10, 2024            |
| Responses to Offeror Questions                  |                           |
| Proposal Submission                             | May 01, 2024              |
| Oral Presentations/discussions (if required)    | May 10, 2024              |
| Proposal Revisions (if required)                | May 20, 2024              |
| Anticipated Award Decision/Contract Negotiation | June 01, 2024             |
| Contract Start Date                             | July 01, 2024             |

#### 1.5 SITE VISITS

Offerors are strongly encouraged to inspect the project site completely prior to submitting their proposal in order to determine all requirements associated with the contract. Offerors wishing to make a site visit must contact Pamela Horton, Business Manager, South Dakota Veterans Home at (605) 745-5127 Ext. 1500114 for instructions. All site visits must be completed by the date indicated in the Schedule of Activities. More site information can be found in Section II. Failure to inspect the facilities adequately shall not relieve the Offerors from any items and conditions of this RFP.

#### 1.6 PREPARING AND SUBMITTING YOUR PROPOSAL

##### 1.6.1 General Information

The evaluation and potential selection of a Contractor will be based on the information submitted in the Offeror's proposal plus references and the on-site visits. Each Offeror shall furnish a complete description of capabilities in the field of manual food services. Failure to respond to each of the requirements in the RFP may be the basis for rejecting a proposal.

Elaborate proposals (e.g., expensive art work) beyond that sufficient to present a complete and effective presentation are not necessary or desired.

##### 1.6.2 Incurring Costs

The State is not liable for any cost incurred by Offerors in replying to this RFP.

##### 1.6.3 Submitting the Proposal

All proposals must be completed and received at the Michael J. Fitzmaurice South Dakota Veterans Home by the date and time indicated in the Schedule of Activities.

Proposals received after the deadline will be late and ineligible for consideration.

An original and three identical copies of the proposal shall be submitted.

All proposals must be signed, in ink, by an officer of the responder, legally authorized to bind the responder to the proposal, and sealed in the form intended by the respondent. Proposals that are not properly signed may be rejected. The sealed envelope should be marked with the appropriate RFP Number and Title. **Proposals should be addressed and labeled as follows:**

**REQUEST FOR PROPOSAL #24RFP10085  
PROPOSAL DUE MAY 01, 2024**

**ATTN: PAMELA HORTON, BUSINESS MANAGER  
2500 MINNEKAHTA AVE.  
HOT SPRINGS, SD 57747**

No proposal shall be accepted from, or no contract or purchase order shall be awarded to any person, firm or corporation that is in arrears upon any obligations to the State of South Dakota, or that otherwise may be deemed irresponsible or unreliable by the State of South Dakota.

**1.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

By signing and submitting this proposal, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation, by any Federal department or agency, from transactions involving the use of Federal funds. Where the offeror is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to their offer.

**1.8 NON-DISCRIMINATION STATEMENT**

The State of South Dakota requires that all contractors, vendors, and suppliers doing business with any State agency, department, or institution, provide a statement of non-discrimination. By signing and submitting their proposal, the offeror certifies they do not discriminate in their employment practices with regard to race, color, creed, religion, age, sex, ancestry, national origin or disability.

**1.9 CERTIFICATION RELATING TO PROHIBITED ENTITY**

For contractors, vendors, suppliers, or subcontractors who enter into a contract with the State of South Dakota by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, is not an entity, regardless of its principal place of business, that is ultimately owned or controlled, directly or indirectly, by a foreign national, a foreign parent entity, or foreign government from China, Iran, North Korea, Russia, Cuba, or Venezuela, as defined by SDCL 5-18A. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

**1.10 RESTRICTION OF BOYCOTT OF ISRAEL**

For contractors, vendors, suppliers, or subcontractors with five (5) or more employees who enter into a contract with the State of South Dakota that involves the expenditure of one hundred thousand dollars (\$100,000) or more, by submitting a response to this solicitation or agreeing to contract with the State, the bidder or offeror certifies and agrees that the following information is correct:

The bidder or offeror, in preparing its response or offer or in considering proposals submitted from qualified, potential vendors, suppliers, and subcontractors, or in the solicitation, selection, or commercial treatment of any vendor, supplier, or subcontractor, has not refused to transact business activities, has not terminated business activities, and has not taken other similar actions intended to limit its commercial relations, related to the subject matter of the bid or offer, with a person or entity on the basis of Israeli

national origin, or residence or incorporation in Israel or its territories, with the specific intent to accomplish a boycott or divestment of Israel in a discriminatory manner. It is understood and agreed that, if this certification is false, such false certification will constitute grounds for the State to reject the bid or response submitted by the bidder or offeror on this project and terminate any contract awarded based on the bid or response. The successful bidder or offeror further agrees to provide immediate written notice to the contracting executive branch agency if during the term of the contract it no longer complies with this certification and agrees such noncompliance may be grounds for contract termination.

#### **1.11 CERTIFICATION OF NO STATE LEGISLATOR INTEREST**

Offeror (i) understands neither a state legislator nor a business in which a state legislator has an ownership interest may be directly or indirectly interested in any contract with the State that was authorized by any law passed during the term for which that legislator was elected, or within one year thereafter, and (ii) has read South Dakota Constitution Article 3, Section 12 and has had the opportunity to seek independent legal advice on the applicability of that provision to any Agreement entered into as a result of this RFP. By signing an Agreement pursuant to this RFP, Offeror hereby certifies that the Agreement is not made in violation of the South Dakota Constitution Article 3, Section 12.

#### **1.12 MODIFICATION OR WITHDRAWAL OF PROPOSALS**

Proposals may be modified or withdrawn by the offeror prior to the established due date and time.

No oral, telephonic, telegraphic or facsimile responses or modifications to informal, formal bids, or Request for Proposals will be considered.

#### **1.13 OFFEROR INQUIRIES**

Offerors may email inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time indicated in the Schedule of Activities. Inquiries must be emailed to Pamela Horton, Business Manager at [pamela.horton@state.sd.us](mailto:pamela.horton@state.sd.us) with the subject line "RFP #24RFP10085".

The State will respond to offeror's inquiries (if required) via e-mail. In addition, all inquiries and the State's response will be posted on the state's e-procurement system. Offerors may not rely on any other statements, either of a written or oral nature, that alter any specification or other term or condition of this RFP. Offerors will be notified in the same manner as indicated above regarding any modifications to this RFP.

#### **1.14 PROPRIETARY INFORMATION**

The proposal of the successful offeror(s) becomes public information. Proprietary information can be protected under limited circumstances such as client lists and non-public financial statements. An entire proposal may not be marked as proprietary. Offerors must clearly identify in the Executive Summary and mark in the body of the proposal any specific proprietary information they are requesting to be protected. The Executive Summary must contain specific justification explaining why the information is to be protected. Proposals may be reviewed and evaluated by any person at the discretion of the State. All materials submitted become the property of the State of South Dakota and may be returned only at the State's option.

#### **1.15 LENGTH OF CONTRACT**

It is anticipated that this RFP may result in a single or multiple award contract. It is the intent of the State to commence the potential contract(s) on or about July 1, 2024. The term of the contract(s) shall be one year, beginning July 2024, with the option to renew, in one (1) year

increments, for four (4) additional one (1) year extensions at the State's discretion and by mutual agreement of the parties.

#### **1.16 GOVERNING LAW**

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of South Dakota. The laws of South Dakota shall govern this transaction.

#### **1.17 DISCUSSIONS WITH OFFERORS (ORAL PRESENTATION/NEGOTIATIONS)**

An oral presentation by an offeror to clarify a proposal may be required at the sole discretion of the State. However, the State may award a contract based on the initial proposals received without discussion with the Offeror. If oral presentations are required, they will be scheduled after the submission of proposals. Oral presentations will be made at the offeror's expense.

This process is a Request for Proposal/Competitive Negotiation process. Each Proposal shall be evaluated, and each respondent shall be available for negotiation meetings at the State's request. The State reserves the right to negotiate on any and/or all components of every proposal submitted. From the time the proposals are submitted until the formal award of a contract, each proposal is considered a working document and as such, will be kept confidential. The negotiation discussions will also be held as confidential until such time as the award is completed.

#### **1.18 STATE VISITS TO OFFEROR'S FACILITIES**

Representatives from the State reserve the right to inspect the Offeror's facilities and other operations under the Offeror's management prior to award of this proposal.

#### **1.19 DEVIATIONS AND EXCEPTIONS**

Deviations and exceptions from terms, conditions, or specifications shall be described fully on the Offeror's letterhead, signed and attached to the Offeror's response. In the absence of such statement, the proposal and/or contract shall be accepted in strict compliance with all terms, conditions and specifications and the Offeror/Contractor shall be held liable.

#### **1.20 PROFIT OR LOSS**

Any profit or loss from manual food services resulting from this proposal and the subsequent contract shall remain with the Contractor.

#### **1.21 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

By submission of this proposal, the Offeror certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, the following in connection with this RFP.

##### **1.21.1 Independent Pricing**

The prices and guarantees in this proposal have been arrived at independently, without consultation, communication or agreement with any competitor for the purpose of restricting competition.

##### **1.21.2 Disclosure**

Unless otherwise required by law, the prices and guarantees which have been quoted in this proposal have not been knowingly disclosed by the Offeror prior to opening in the case of an advertised procurement or prior to award in the case of a negotiated procurement, directly or indirectly to any other Offeror or to any competitor.

### 1.21.3 Restriction of Competition

No attempt has been made or will be made by the Offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

### 1.21.4 Proposal Signatory Authority

#### A. Responsibility

The individual signing the proposal is the person in the Offeror's organization responsible for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to this solicitation.

#### B. Agent Authorization

The individual signing the proposal is not the person in the Offeror's organization responsible for the decision as to the prices being offered herein, but he/she has been authorized in writing to act as agent for the persons responsible for such decisions and that he/she has the authority to certify that such person has not participated, and will not participate, in any action contrary to this solicitation and their agent does so certify; and that he/she has not participated, and will not participate, in any action contrary to this solicitation.

## 1.22 NEWS RELEASES

News releases pertaining to this procurement, or any part of the proposal shall not be made without the prior written approval of the State.

## 1.23 EMPLOYMENT OF STATE AGENCY PERSONNEL

The Offeror will not engage the services of any persons while they are employed by the State of South Dakota during the process of preparing a response for this RFP.

## 1.24 FOOD SERVICE LICENSE

Offerors will be required to have a South Dakota Food Service license obtained through the South Dakota Department of Health.

## 2.0 STANDARD CONTRACT TERMS AND CONDITIONS

Any contract or agreement resulting from this RFP will include the State's standard terms and conditions as listed below, along with any additional terms and conditions as negotiated by the parties:

- 2.1 Performance Security Deposit:** The successful Contractor(s) must furnish a performance security deposit in the form of an original bond issued by a surety company authorized to do business in the State of South Dakota (copies or facsimiles shall not be acceptable), check, cash, bank draft, to the Bureau of Administration, Office of Procurement Management within thirty (30) days after award of the contract and prior to performance of service under the contract or any installation of equipment. The performance security deposit must be made payable to the State of South Dakota in the amount of \$500,000, United States currency. The contract number and contract period must be specified on the performance security deposit. In the event the State of South Dakota exercises an option to renew the contract for an additional period, the Contractor shall maintain the validity and enforcement of the security deposit for the said period, pursuant to the provisions of this paragraph.

The performance bond shall provide that in the event of non-renewal of the performance bond, the State and the Contractor be notified in writing by the issuer a minimum of sixty (60) days prior to the anniversary of the effective date of the contract. In the event of non-renewal, the Contractor shall provide the State evidence of the new scope of surety within twenty-one (21) calendar days after the State's receipt of the non-renewal notice. Failure to maintain the required surety in force during the entire contract period may be cause for contract termination.

- 2.2** The Contractor will perform those services described in the Scope of Work, attached hereto as Section 3 of the RFP and by this reference incorporated herein. Any additional terms and conditions negotiated by the parties shall be attached to the agreement.
- 2.3** The Contractor's services under this Agreement shall commence on July 1, 2024 and end on June 30, 2029, unless sooner terminated pursuant to the terms hereof.
- 2.4** The Contractor will not use State equipment, supplies or facilities. The Contractor will provide the State with its Employer Identification Number, Federal Tax Identification Number or Social Security Number upon execution of this Agreement.
- 2.5** Payment to Contractor: Unless otherwise negotiated and agreed upon by the parties, The State will make payment in compliance with the Prompt Payment Act, SDCL 5-26 for services provided under the contract.
- 2.6** The Contractor agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require the Contractor to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.
- 2.7** The Contractor, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:

**A. Commercial General Liability Insurance:**

The Contractor shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.

**B. Professional Liability Insurance or Miscellaneous Professional Liability Insurance:**

The Contractor agrees to procure and maintain professional liability insurance or miscellaneous professional liability insurance with a limit not less than \$1,000,000.00.

**C. Business Automobile Liability Insurance:**

The Contractor shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000.00 for each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

**D. Worker's Compensation Insurance:**

The Contractor shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Contractor shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this



Agreement. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Contractor agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Contractor shall furnish copies of insurance policies if requested by the State.

- 2.8** While performing services hereunder, the Contractor is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
- 2.9** Contractor agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to the person or property of third parties, or which may otherwise subject Contractor or the State to liability. Contractor shall report any such event to the State immediately upon discovery.

Contractor's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Contractor's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Contractor to report any event to law enforcement or other entities under the requirements of any applicable law.

- 2.10** This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Contractor breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is affected by the State, any payments due to Contractor at the time of termination may be adjusted to cover any additional costs to the State because of Contractor's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Contractor it is determined that Contractor was not at fault, then the Contractor shall be paid for eligible services rendered and expenses incurred up to the date of termination.
- 2.11** This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
- 2.12** This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof and be signed by an authorized representative of each of the parties hereto.
- 2.13** This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
- 2.14** The Contractor will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
- 2.15** The Contractor may not use subcontractors to perform the services described herein without the express prior written consent of the State. The Contractor will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Contractor will cause its subcontractors, agents, and employees to comply, with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

- 2.16** Contractor hereby acknowledges and agrees that all reports, plans, specifications, technical data, miscellaneous drawings, software system programs and documentation, procedures, or files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, and all information contained therein provided to the State by the Contractor in connection with its performance of services under this Agreement shall belong to and is the property of the State and will not be used in any way by the Contractor without the written consent of the State. Papers, reports, forms, software programs, source code(s) and other material which are a part of the work under this Agreement will not be copyrighted without written approval of the State.
- 2.17** The Contractor certifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment or suspension, or declared ineligible from participating in transactions by the federal government or any state or local government department or agency. Contractor further agrees that it will immediately notify the State if during the term of this Agreement Contractor or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.
- 2.18** Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to Chuck Johnson, Superintendent on behalf of the State, and by \_\_\_\_\_, on behalf of the Contractor, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
- 2.19** In the event that any court of competent jurisdiction shall hold any provision of this Agreement unenforceable or invalid, such holding shall not invalidate or render unenforceable any other provision hereof.
- 2.20** All other prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.
- 2.21 Use of Space:** The State permits the Contractor to use such spaces as necessary to carry out the terms of the contract. Such spaces, as defined by the State, include areas for manual food service equipment and limited supplies. Subsequent modifications of space needs shall be subject to mutual agreement of the State and Contractor. The State shall provide heat, air conditioning, sewer, electricity, steam, and cold/hot water. The Contractor agrees to exercise care to keep these energy services to a minimum and comply with established energy conservation practices, regulations and policies, and mutually endeavor to conserve the use of energies.
- 2.22 Right of Inspection:** The State shall have the right of inspection of all manual food areas, dining facilities, storage and auxiliary service rooms and the operation of the Contractor with respect to the quality and quantity of manual food service, the method of service, opening and closing hours, and generally with respect to use, safety, sanitation and the maintenance of said premises. All areas shall be maintained at a level satisfactory to the State. The State shall have the right to establish reasonable regulations from time to time with regard to such matters and the Contractor agrees to comply with such regulations. Authorized representatives of the State, or their designees, auditors of the USDA and the Comptroller General of the United States and the School Food Authorities independent auditors shall have access to all such records for audit and review upon request at a reasonable time and place for making audit, examination, excerpts, and transcriptions. Authorized representatives of the SFA, the SA, or the USDA shall have the right to conduct on-site administrative reviews of the food service program.

- 2.23 Regular Meetings on Performance:** Recognizing that the successful performance of the contract is dependent on favorable response from the users, the Contractor shall meet at least quarterly or more often if required by the facility administrator to effect adjustments in operations and shall cooperate at all times to maintain maximum efficiency and good public relations with residents and staff.
- 2.24 Permits/Licenses/Bonds:** The Contractor shall be financially responsible for obtaining all required permits, licenses and bonds to comply with pertinent municipal, county, state, and federal laws and regulations. The Contractor shall assume liability for all applicable taxes including, but not restricted to, sales, use and property taxes.
- 2.25 Contractor Furnished Items:** The Contractor shall furnish all commodities, supplies and other necessary equipment herein specified and all management and labor necessary for the efficient, sanitary and economically sound operation of the specified services included in the contract, and any subsequent extensions or amendments.
- 2.26 Facilities and Equipment:** Upon termination or expiration of the contract, the Contractor shall vacate the premises and deliver up the premises in the same condition that the premises were in at the time the Contractor entered the premises thereunder with reasonable use and wear expected. The State, at its option, shall retain intact leasehold improvements or require that the Contractor remove such leasehold improvements within thirty (30) days from termination or expiration of the contract. The Contractor shall, at its sole expense, repair any damage to the premises caused by such removal.
- 2.27 State Supplemental Food Service:** The State may supplement the manual food service in the contract with other means of dispensing food and beverage items by additional manual or vending food service as determined by the State.
- 2.28 Advertising:** The State shall approve in writing all design, advertising, and/or lettering of textile, polystyrene or paper goods such as paper cups, plates, napkins, prepackaged condiments, matches, menus and similar items, prior to purchase of items by the Contractor. The Contractor shall use recyclable packaging materials, cups, sick tray containers, plates, and similar items when possible.
- 2.29 Personnel:** Staff employees shall be on duty for the efficient, prompt and sanitary service of food based upon the agreed upon staffing plan. Deviations from the staffing plan will require written notification to the recipient institution and subject to its approval. Failure to meet the staffing plan could result in liquidated damages as defined in Section 2.29.6. An adequate staff of employees shall also be in place to guarantee the efficient and accurate handling of financial records. The Contractor shall provide adequate Registered Dietitian staffing to meet state and federal requirements. The dietician shall visit each facility not less than quarterly for quality control and adherence to standards. These visits shall be documented, and a written report issued to the recipient institution.

The Contractor shall provide to the State Veterans Home a qualified Dietary Manager experienced in health care facilities. An additional FTE (full-time employee) will be provided to support the State Veterans Home Activities Department.

All personnel must have PPD yearly, Rubella and Rubeola screening, and shall have a record of a second MMR on file or have positive titer Rubella and Rubeola on record. The State Veterans Home requires a two-step PPD on employment as a new employee. Once that is completed, documented, and billed back to the Contractor, there is no further testing required based on ARSD 47:73:04:12. Tuberculin screening requirements indicate that each healthcare worker or resident who works or residents within the same building (facility) is not required to have additional skin testing if there is documented evidence of a negative skin test conducted at the facility.

Background investigations will be required of all new employees prior to their assignment at a State facility. The Contractor shall immediately notify the facility administrator or designee of any new hires, disciplinary action or terminations of staff.

#### 2.29.1 Management Assignment/Requirements

The Contractor's food service director (also known as "Certified Dietary Manager") assigned to each state facility shall be subject to the approval of the State.

The individuals initially selected for these positions may not be transferred within one year following their appointment without prior approval of the State unless they have terminated from the company. The food service directors assigned to the State shall not be changed more than once per year unless mutually agreed and not without thirty (30) days advanced notice and replacement selection made is acceptable to and mutually agreed by the State, unless they have been terminated from the company. Positions shall not remain vacant for a period to exceed thirty (30) days. Should positions remain vacant for a period to exceed 30 days, liquidated damages may be assessed under Section 2.29.6.

The food service director shall have the full authority to work with designated representatives of the State. The director shall have a demonstrated proficiency with maintaining a sanitary food service operation, menu development, internal accounting and controls, financial management, and personnel management and supervision. Candidates with a college degree and experience in correctional, healthcare and/or institutional food services in increasingly responsible positions are desired.

The food service director shall be certified/licensed as a food service manager in any facility requiring a certification or licensure for operation of said food service. The food service director shall make at least monthly inspections of food delivery sites to ensure standards are being met. These inspections shall be documented for quality control purposes. As part of the Quality Assurance Process at the State Veterans Home, the monitoring of the sanitation of kitchen areas, personnel, and equipment is done twice a month. The quality control survey is also conducted twice monthly.

#### 2.29.2 Contractor Contact People

The Contractor shall identify headquarters management staff by name that shall routinely review and inspect operation, fill staff vacancies, consult with the State on current and future food service programs, and act with full authority on the Contractor's behalf in any and all matters pertaining to the specifications of the contract.

#### 2.29.3 Personnel Relations

Personnel relations of employees on the Contractor's payroll shall be the Contractor's responsibility. The Contractor shall comply with all applicable government regulations related to the employment, compensation, and payment of personnel. The Contractor shall provide each facility with the training guidelines that will be utilized for each employee classification. All employees of the Contractor must complete the training required by the State Veterans Home that is pertinent to food service personnel. All State Veterans Home employees and contractors will be trained in CPR and defibrillator use every two (2) years as a mandatory part of their training.

Personnel of the Contractor shall observe and be subject to all regulations of the State. Failure to do so may be grounds for the State to recommend dismissal from this account. In the event that any agency or institution is not satisfied with the services provided by the Contractor's Certified Dietary Manager and cannot resolve the issues, then funds that are provided by the State of South Dakota shall be deducted from the contract and the agency or institution will contract for their own Dietary Manager position.

The Contractor shall make every attempt to maintain existing personnel when appropriate to ensure an uninterrupted transition in services.

#### 2.29.4 Staff Listing

The Contractor shall supply the State with a complete list of employees, supervisors, and management, including trainings, certifications and/or licensures held by each, assigned to work areas at the start of the contract and as frequently thereafter as requested by the State. The list shall be submitted to the Superintendent and reviewed quarterly or at any time during the year by the State.

The Contractor shall meet the requirements of the staffing plan agreed to by the Contractor and the State. Failure to meet the staffing requirements may result in liquidated damages being assessed under Section 2.29.6. The staffing plan will be determined by the State and provided to the Contractor. The staffing plan will include the number of Cooks, Dietary Aides, Dieticians, Certified Dietary Managers, and Registered Dieticians per shift and the full time or part time status of the position. If the Registered Dietician is not working full time at the facility, then the Certified Dietary Manager must be full time employee of the Contractor. The plan will also include how many cooks and dietary aides will work per shift and the additional FTE to assist the Activities Director, to ensure adequate coverage.

#### 2.29.5 Area Security

The Contractor's staff shall open, close and check State food service facilities as instructed and required by the State. State shall furnish instructions and initially train Contractor's full-time managers in approved procedures.

#### 2.29.6 Liquidated Damages

The amount of liquidated damages shall be calculated based upon the salary of the incumbent staff in the position times the number of hours and shifts that the staffing plan was not met plus 10 percent. This shall apply to each staff member not meeting the staffing plan. Liquidated damages will be reviewed on a monthly basis and assessed accordingly.

Should Contractor staffing positions remain vacant for longer than 30 days, liquidated damages may be assessed. The amount of liquidated damages shall be calculated based upon the number of days the position was vacant times the salary of the previous employee in the position plus 10 percent.

### **2.30 Equipment and Supplies**

#### 2.30.1 State Supplied Equipment

The State shall provide the Contractor with an initial physical inventory of supplies (i.e., hand utensils, cleaning equipment, trays, pans, pots, dishes, glasses, silverware, etc.) and capital equipment at the start of the contract. Depletion of supplies shall be replaced to existing standard operational levels by the Contractor at its expense semiannually and on completion or termination of the contract. The specifications for these items shall be arrived at, in writing, by mutual agreement between the Contractor and the institution administrator or designee. Agencies or institutions will provide all adaptive equipment needed for resident care. These include, but are not limited to weighted or molded silverware, red glasses (for contrast with macular degeneration), sectioned plates, and nose cups.

The Contractor shall confirm arrangements for replacement and/or make payments by the 15th day of the month following the determination of inventory shortages or termination or expiration of

the contract. The State shall maintain an up-to-date physical inventory record of supplies and capital equipment during the life of the contract. Additional new items or increased inventory level requirements shall be provided by the Contractor to meet obligations of the contract through the appropriate purchasing authority and authorized funding procedures. The Contractor shall not purchase items for use at the facilities anticipating the State to purchase these items at some future date.

At the start of the contract, the State and Contractor shall conduct joint physical inventories of all supplies and capital equipment. At that time, the extent of repair and replacement shall also be determined by the State. On completion and acceptance of these inventories by the Contractor in writing, the Contractor shall assume the responsibility for the equipment under the terms of the contract.

Once a successful Vendor has been chosen and the contract(s) signed, it shall be an annual requirement for the Vendor to provide each state facility with a three-year equipment replacement plan by August 1 of each fiscal year.

#### 2.30.2 State Supplied Office Equipment

The State shall provide the following existing office furniture and equipment for use by the Contractor in the performance of the contract at no charge under the same terms applicable to capital equipment contained in the contract: desks, chairs, filing cabinets, and other equipment as negotiated. The State may provide computer access necessary for the Contractor to efficiently carryout food service operations. This shall be limited to the minimum amount of equipment and information necessary to complete the required duties as negotiated between the facility administrator or designee and the Contractor. Contractor shall be responsible for the cost of the computer access and reimburse the State upon receipt of an invoice on a monthly basis.

#### 2.30.3 Other equipment

Other equipment not provided by the State that the Contractor deems necessary may be provided by the Contractor at its own expense. Said equipment and installation shall require prior approval of the State. With respect to equipment provided by the State, the State makes no implied or express warranties, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose. However, the Contractor shall have the benefit of any warranty or guarantee given the State by the manufacturer or the seller of the equipment.

#### 2.30.4 Ownership and Removal of Supplies and Equipment

Ownership of all non-expendable supplies and capital equipment shall remain with the State and shall not be loaned or removed from the facilities without prior written approval. The Contractor shall take such measures as may be reasonably required by the State for the protection against loss by pilferage or destruction.

#### 2.30.5 Leased Equipment

The Contractor shall make contracts for and payments on all leased rental food services related equipment.

#### 2.30.6 Purveyor Owned Equipment

Purchase of products (food or supplies) which require equipment for their dispensing and have the equipment and service costs prorated in the cost of their product may be purchased for use at the State facilities without prior approval of the State.

#### 2.30.7 Repair and Replacement

If food service equipment or other State property is damaged as a result of negligence by Contractor, its employees or agents, and the State determines that the equipment must be replaced, Contractor shall reimburse the State for the full cost of replacement

#### **2.30.8 Sale of Food and Supply Inventory**

On expiration or termination of the contract, the inventories of food and supplies of the Contractor shall remain those of the Contractor unless purchased by the new Contractor. Arrangements for removal or assumption of these inventories shall be completed by the start of the new contract.

#### **2.30.9 Vehicles**

Where needed, the Contractor shall supply vehicle(s) to transport food service items in facilities. The Contractor shall provide qualified staff to operate the vehicle(s). The Contractor shall be liable for damages or injuries caused by the negligent operation of said motor vehicle(s) by the employees or agents of the Contractor. Each supply vehicle will be allowed a parking space in the utility vehicle area as negotiated with each facility administrator or his designee.

#### **2.30.10 Surplus**

The Contractor has the responsibility to consult with the State on the disposition or use of excess capital, expendable or nonexpendable food service supplies and equipment. The disposition or declaration as surplus shall be the responsibility of the State and in accordance with State inventory control procedures.

### **2.31 Space Use**

#### **2.31.1 Food Service Areas**

The Contractor may utilize all space assigned by the State for food service operations.

#### **2.31.2 Use of Non-Food Service Areas by Contractor**

When the Contractor uses areas that are not primarily intended for food service (e.g., meeting rooms and lounges) for such purposes as may be required, appropriate setup and teardown shall be undertaken by the State. The Contractor shall be responsible for cleanup which shall involve maintenance and sanitation of the areas, furniture rearrangement and equipment and trash removal. When the Contractor caters beverages and snacks in a meeting room, the Contractor is responsible for prompt removal of food equipment and food residue from the area following completion of the meeting. When the Contractor uses regular food service dining areas and arrangements for setup are required, appropriate setup and breakdown shall be undertaken by the Contractor. The Contractor shall be responsible for cleanup and floor maintenance. The Contractor shall not use non-food service areas for purposes other than State business.

#### **2.31.3 Use of Dining and Service Areas by State**

The State may, without interfering with normal food service, use the dining and service areas from time to time for other purposes. Appropriate setup and cleanup shall be undertaken by State personnel at no cost to the Contractor. Facilities shall be restored to conditions mutually satisfactory to the Contractor and the State before the next regularly scheduled meal service. Restoration shall involve maintenance and sanitation to the areas, dining and service equipment, and trash removal.

#### 2.31.4 Facility Security

The Contractor is responsible for control of keys and access cards obtained from the State and the security of those areas that are used by its representatives. Designated employees of the Contractor shall be responsible for ensuring that all equipment has been turned off, windows closed, lights and fans turned off, and doors locked. The Contractor shall be responsible for immediately reporting all the facts relating to losses incurred as a result of break-ins to areas to the State. The State shall designate the authority who shall receive these reports and be responsible for key control.

The State and Contractor shall mutually determine the additional security measures required to control unauthorized access to all food service areas included in the contract. The State and Contractor shall mutually determine their responsibilities for the cost to provide initial and future additional security.

#### 2.31.5 Lock/Cylinder/Key Installation and Replacement

The Contractor shall be responsible for the cost for replacement of lost keys and access cards and the cost of re-keying and replacement of lock cylinders required as a result of its negligence and/or loss of keys. The Contractor is responsible for the purchase of padlocks and other security devices not currently provided by the State that may be required by the Contractor to further ensure revenue, product or property security within the food service areas.

#### 2.31.6 State Security

The State shall provide the Contractor with safety and security services currently available to food service, such as night patrol, door checks, security consulting, call response, etc. This service shall not include armored car service.

If the Contractor requires additional security, it shall be provided by, or coordinated through, the State for which the Contractor agrees to pay prevailing charges. In addition to Security staff, the Contractor may supplement with additional supervisory staff. The Contractor shall follow the State's policies in dealing with improper conduct and shall report all incidences to the State. Emergency calls shall be reported to the State as promptly as possible.

### **2.32 Utilities/Telephone**

#### 2.32.1 Utilities

The State will provide all utilities necessary for normal food service operations.

#### 2.32.2 Telephone

The State shall provide the Contractor with telephone equipment, installation and service. The State shall determine the style, number and location of equipment to be provided. The Contractor, at its option, may install additional equipment at its expense. The Contractor shall have access to local and long-distance service using equipment provided by the State and shall reimburse the State on a monthly basis at rates the State pays for local and long-distance service. The State shall pay for equipment repair and replacement and line maintenance not arising from the negligence of the Contractor, its employees, or agents. The State Veterans Home requires the Contractor to provide their own telephone service for business internet usage.

#### 2.32.3 Uninterrupted Service

The State will not guarantee an uninterrupted supply of water, steam, electricity, gas, telephone, heat, or high/ low temperature refrigeration. However, the State shall use its best efforts to



restore services following an interruption. The State shall not be liable for any product loss that may result from the interruption or failure of any such utility services or equipment. Scheduled outages by the State will be coordinated through the Contract Administrator.

Loss of functionality due to Contractor negligence will be the cost responsibility of the Contractor and repair to systems resulting from negligence will be the cost responsibility of the Contractor.

## **2.33 Equipment and Facility Maintenance, Replacement and Sanitation**

### **2.33.1 Cleanliness and Sanitation**

The Contractor shall adhere to the highest standards of cleanliness and sanitary practices to ensure continual sanitation in all functions of matters related to the execution of the terms of the contract including food handlers' appearance and performance in the preparation, service, transport, and storage of food and related items.

The Contractor is responsible for cleaning dishes, utensils, flatware, cups, glasses, pots, pans, and all other equipment used in the preparation and serving of all meals in the Bistro and Residential Living Services (Independent Living) Households and for special events. Nursing Household staff will be responsible for dishes after meals are served on the nursing households. In the event a household dishwasher breaks down and the kitchen dishwasher is needed for use it will be made available based on mutual agreed upon terms by the food service director and facility administrator.

Contractor is responsible for ordering chemicals for all facility dishwashers.

### **2.33.2 Safety Requirements**

All materials, equipment and supplies provided by the State and Contractor must comply fully with all safety requirements as set forth by the South Dakota Administrative Code, and all applicable OSHA Standards. During the course of the contract, the Contractor is fully liable for public and private protection while work is in process at any site identified as a potential hazard. The Contractor must provide prominently displayed warning devices and/or signs that are in compliance with the safety regulations.

All hazardous conditions, physical surroundings, or fire shall be reported immediately to the State. Verbal reports will be followed with written reports by the Contractor within twenty-four (24) hours listing details of the posted hazard.

With the full cooperation of the State, an aggressive program of accident prevention and safety education shall be instituted by the Contractor. Proper instructions and training shall be provided on the use of equipment and techniques of handling food to aid in the goal of having an accident free and safe environment. Employees are to be trained by the Contractor on where to find safety equipment and how to use such equipment. All injuries and accidents are to be reported to the State the day they occur.

### **2.33.3 Facility Inspections:**

Agents of the State Department of Health, Department of Veterans Affairs, and other applicable state and federal agencies shall have complete cooperation and access to all food service, production and storage areas and records for inspections that they may conduct. These inspections may be conducted unannounced, at the request of the State or at said agency's own discretion. Contractor shall not receive more than two written deficiencies by any agency conducting an inspection. All deficiencies will be corrected, and a corrective action plan will be

submitted to the State for submission to the inspecting agency. Contractor will be allowed no more than two deficiencies and will be penalized \$500 per deficiency that exceeds the two. A management representative of the Contractor shall conduct equipment and facilities' maintenance and sanitation inspections periodically, as determined by mutual agreement. Supplier representatives who normally provide equipment and product inspections and reports as part of their services shall be encouraged to perform frequent inspections and shall furnish a copy of each report to the State and Contractor. The Contractor is responsible to implement corrective operating measures required as a result of these inspections and report within ten days of notification and by mutual agreement of the State to meet or exceed DOH or other regulatory requirements.

Should the Contractor fail to meet the sanitation standards required by the contract or of any agency having jurisdiction, or fail to comply with the State rules and regulations concerning protection from fire or general safety, the State reserves the right to hire outside Contractors to perform the necessary work or have the work done by State personnel, and, in either case, charge back the Contractor at actual labor and materials costs plus twenty-five (25) percent of the labor and materials total cost. The State reserves the right to withhold payment for services not rendered by the Contractor as set forth in the contract.

#### 2.33.4 Contractor Responsibilities

The Contractor shall provide required housekeeping, preventative maintenance and sanitation service on the equipment and supplies for all food service equipment and areas. This shall include, but not be limited to, production areas, serving kitchens, refrigerators, freezers, storage areas, and dining and service areas regularly used by food service as well as areas temporarily assigned for food service. In the event that repairs, or service of equipment is required, it is the contractor's responsibility to submit a Sprocket Work Order to State Veterans Home Physical Plant.

#### 2.33.5 Stripping and Sealing of Floors

The Contractor shall be responsible for the periodic stripping and sealing or waxing of floors in the food service areas as determined by mutual agreement.

#### 2.33.6 Pest Control

The Contractor shall be responsible for the costs and maintenance of insect and pest control in all food service, production and storage areas. In the event the Contractor fails to maintain adequate pest control, the State reserves the right to hire outside Contractors to perform the necessary pest control work or have the work done by State personnel, and, in either case, charge back the Contractor at actual labor and materials costs plus twenty-five (25) percent of the labor and materials total cost.

#### 2.33.7 Food Service Linens and Uniforms

The Contractor shall provide an adequate inventory of table linens, employee uniforms, aprons, jackets, towels, bar swipes, potholders, and such other related food service linens. The Contractor shall be responsible for the laundry service, dry cleaning, repairing, and maintaining an adequate inventory of these items. Selection of employee uniforms shall be mutually agreed upon by the State and the Contractor.

#### 2.33.8 Trash Removal

Contractor is responsible for disposing garbage properly. Applicable state, county and municipal recycling and waste disposal requirements shall be adhered to. The Contractor shall be

financially responsible for costs of removal of trash and garbage from food service and production operations to remote dumpsters. The State shall be financially responsible for the costs of removal of exterior trash from the facilities' campus.

#### 2.33.9 Waste Containers

The Contractor shall provide garbage and refuse containers within food service and production areas in sufficient quantity and in good condition to maintain sanitary standards for trash disposal. The Contractor shall provide trash bag liners as needed. Waste containers will always be kept in a clean and satisfactory condition and emptied by the Contractor.

#### 2.33.10 Recycling

The Contractor shall develop programs, approved by the State, to reduce the use of disposable items that are not recyclable and separate for recycling the following materials that are generated as solid waste by the Contractor:

- A. Aluminum containers
- B. Corrugated paper or other container board
- C. Foam polystyrene
- D. Glass containers
- E. Magazines or other materials printed on similar paper
- F. Newspapers or other materials printed on similar paper
- G. Office paper
- H. Plastic containers
- I. Steel containers
- J. Containers for carbonated beverages that are primarily made of a combination of steel and aluminum

#### 2.33.11 First Aid Equipment

The Contractor shall be responsible for the costs of first aid equipment and supplies in all production and food service areas.

#### 2.33.12 Fire Extinguisher System

The State shall furnish and maintain fire extinguisher equipment and supplies, including automatic hood extinguisher systems.

#### 2.33.13 Hood Ducts and Vent Cleaning

The Contractor is responsible for the professional cleaning of hood ducts, plenums and related vents and fans. The Contractor shall be responsible for routine cleaning and maintenance of hoods and filters to meet SD Department of Health regulations. Documentation of completion must be provided to State Veterans Home Physical Plant.

### **2.34 Statements, Audits, Payments, and Billings**

#### 2.34.1 Monthly Billings

The Contractor shall submit to the State Veterans Home on the fifth working day of each month covering the preceding month, an invoice for meals served. A breakdown of types of meals served, number of meals served, special meals, and partial day meals must be included.

The State will bill the Contractor on a monthly basis for State services and equipment utilized by the Contractor including but not limited to: telephone usage, copies, supplies, postage, State computer usage, plus applicable taxes, etc. The Contractor shall pay the state within thirty (30) days of invoice date.

#### 2.34.2 Reporting Period

The Contractor's year-to-date reports shall correspond with the State's fiscal year, July 1 through June 30. A month shall be a calendar month. A week shall run from Saturday through Friday. Contractors with manual food service at more than one State facility shall provide period statements that are uniform for each type of service at each facility as nearly possible as the terms of each contract specification permit. Electronic reporting is required.

#### 2.34.3 Review of Operating Statements

Upon request of the State, the Contractor shall meet with the State and review each operating statement, explain deviations, discuss problems, and mutually agree on courses of action to improve the results of the required services included in the contract. Operating statement adjustments required as a result of review and/or audit shall be identified and reflected on the next period statement.

#### 2.34.4 Record Retention/ Audits

- A. Retention and Inspection of Records: The Contractor agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the food service operation, including records and documents regarding the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. The Contractor shall retain such records for a period of six years from the close of each year's operations. If such records are under pending audit, the Contractor agrees to hold such records until such time as the audit is resolved or a longer period upon notification from the State. The State, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to food service operations rendered under this contract. All payments to the Contractor by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment of this contract shall be returned to the State within thirty (30) days after written notification to the Contractor.
- B. Audit Requirements: The Contractor agrees to submit to the State agency or facility a copy of an annual entity-wide, independent audit conducted by an independent certified public accounting firm in accordance with Generally Accepted Accounting Principles (GAAP). The audit shall be filed annually with the agency or institution within a month after completion of the audit.

If federal funds of \$500,000 or more have been received by the Contractor, the audit shall be conducted in accordance with OMB Circular A-133 by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the South Dakota Auditor General's approval should be obtained annually. Audits shall be completed and filed with the Department of Legislative Audit by the end of the fourth month following the end of the fiscal year being audited. For an A-133 audit, approval must be obtained by forwarding a copy of the audit engagement letter to:

Department of Legislative Audit  
A-133 Coordinator  
427 South Chapelle  
c/o 500 East Capitol Avenue

Pierre, SD 57501-5070

For either an entity-wide, independent audit or an A-133 audit, the Contractor assures resolution of all interim audit findings.

The State's representative or selected auditors may annually, or more often if deemed necessary, examine all financial and operational phases of the Contractor's services. Periodic reviews, conducted jointly by representatives of the State and the Contractor, shall be made to ensure that the staffing pattern, menu pricing structure and other phases of the operation are conducted in a manner that will provide the best value to the State. The purpose of the review is to ensure that the State is provided with quality, convenient food service, under sanitary and healthful conditions, at the most reasonable prices possible.

The State, to the extent authorized under SDCL Chapter 1-27, will maintain the confidentiality of Contractor's revenue and expense statements, audit and related financial information obtained under this subsection.

#### 2.34.5 Purchases and Expenses

The taxes or costs described below which are applicable are components of the financial consideration of the contract.

- A. Payroll taxes for the Contractor's employees shall be paid by the Contractor to the appropriate Federal, State and local authorities.
- B. Licenses and permits, such as health and food service permits, shall be paid by the Contractor to the appropriate State and local authorities.
- C. All purchases of non-food supplies except certain disposable one-time use containers resold with meals, for use in the performance of the contract are subject to the State sales and use tax and Contractor shall pay the tax to the supplier or to the proper government agency.

#### 2.346 Other Services and/or Sales

Sales tax applies to all direct sales of meals to employees and visitors. The Contractor is responsible for obtaining the proper South Dakota tax licenses and for collecting and remitting the appropriate sales tax to the Department of Revenue and Regulation.

**2.35 Contractor Tax Delinquency:** Contractors who have delinquent South Dakota tax liability may have their payments offset by the State of South Dakota.

**2.36 Recycled Materials:** The State of South Dakota has a commitment to encourage the purchase of recycled materials whenever technically or economically feasible or required by law. Offerors are encouraged to use recycled materials.

**2.37 Material Safety Data Sheet:** If any item(s) resulting from this award is a hazardous chemical, as defined under 29CFR 1910.1200, the Contractor must provide one (1) copy of a Material Safety Data Sheet for each item to the State for approval prior to use, including reformulated chemicals.

**2.38 Procurement of Food:** The Contractor shall procure food from sources approved or considered satisfactory by federal, state, or local authorities. The Contractor shall maintain rigid procurement procedures throughout the entire process of purchasing, receiving, storage, and inventory of all foods and direct supplies and shall pay for all food and direct supplies related to food production, service and management applicable to the contract.

**2.39 Compliance with U.S. Grades:** All food and supplies purchased shall be in conformance with the specified minimum U.S. Standards for Grades. In the absence of grade labeling, the Contractor shall provide the State with packers' labeling codes or industry accepted grade equivalent standards to verify the minimum grades specified are being provided. The State shall periodically, or as necessary, inspect the Contractor's inventory of food and supplies to determine that purchase standards are maintained. Grade minimum for food items shall be as follows:

2.39.1 Meat - USDA No. 1 or choice, cut to IMP specifications. Please note South Dakota forbids the use of any imported beef in State institutions.

2.39.2 Seafood - U.S. Grade A, certified

2.39.3 Poultry - U.S. Grade A

2.39.4 Eggs - U.S. Grade A medium size

2.39.5 Pure ground beef - USDA utility or better, not to exceed 18% to 22 % fat

2.39.6 Fresh fruits, vegetables - USDA Grade A

2.39.7 Canned fruits, vegetables, juices - USDA Grade A

2.39.8 Frozen fruits, vegetables, juices - USDA Grade A

2.39.9 Dairy products, cheese - USDA Grade A

2.39.10 Grains and Breads must meet USDA Grade requirements.

In addition to the above, all other food products must be top quality. No substitutes will be allowed to be utilized in recipes.

**2.40 Use of Natural, Low-Fat Products:** The Contractor shall use natural, low-fat products whenever possible. Natural, low fat processed cheeses may be used for cooking purposes. Tropical oils may not be used by the Contractor for cooking purposes.

**2.41 Meat Cuts:** All meat cuts shall be in accordance with USDA IMP specifications. These grades are intended as minimum standards only and the Contractor is encouraged to exceed these minimums whenever possible. All other food stuffs not included in the above categories shall be of comparable quality.

**2.42 Meat Content:** Ground beef patties may contain a maximum fat content of the finished raw patty of 18% to 22%. All menu items prefabricated, produced by others, or processed by the Contractor containing soy protein derivatives or poultry analogues shall be approved by the State prior to service.

**2.43 Subsidies:** The Contractor agrees to make the fullest use of the USDA Foods when they are available, wholesome, and appropriate for menu purposes. The Contractor reserves the right to refuse acceptance of any such commodities that are contaminated or in excessive amounts or not cost effective for the food service operation. The utilization/control of USDA Foods are subject to the following requirements:

- 2.43.1 The Contractor will properly handle, store and prepare all USDA foods.
- 2.43.2 Any subsidies received will be used solely for the benefit of residents in institutional facilities. Reimbursement received for this program cannot be used to subsidize meals for staff and/or residents who are not eligible program recipients.
- 2.43.3 The Contractor shall credit to the State's invoice, the manifest/bill of lading of USDA Foods used for the Period, deducting shipping and handling charges actually incurred.
- 2.43.4 The Contractor shall not enter into subcontracts for further processing of USDA Foods on behalf of the State.
- 2.44 Donated Food Items:** The Contractor may use donated food items when they are available, wholesome and appropriate for menu purposes. The Contractor reserves the right to refuse acceptance of any such donated items that are contaminated or in excessive amounts. The Contractor must properly handle, store and prepare all donated food items.
- 2.45 Frequency of Meals:** The Contractor shall provide hot meals at least three (3) times per day at regular times comparable to normal mealtimes in the community or in accordance with resident needs, preferences, requests, and plan of care. A meal schedule shall be specific to the needs of the State Veterans Home but shall be mutually agreed upon by both the Contractor and each facility.
- 2.45.1 Suitable, nourishing alternative meals and snacks must be provided to residents who want to eat at non-traditional times or outside of scheduled meal service times and shall be based on a physician order if appropriate. The alternative meal and snack will be of similar nutritive value as the meal or snack offered at the normally scheduled time and consistent with the resident plan of care. This alternative meal will count towards the meal count and not be a separate charge.
- 2.45.2 Snacks and nutritional supplements may be required and will be billed to the State at invoiced cost to the Contractor, excluding overhead and administrative costs.
- 2.45.3 Meal service times shall be established at least annually. The Contractor is responsible to have meals ready to serve during those times.
- 2.46 Menu Cycles:** Meals shall follow a menu cycle pre-approved by the facility administrator or designee with a minimum cycle length of three weeks. Cycle menus shall be changed a minimum of two times per year. A sample 4-week cycle menu must be submitted with the proposal for each facility. Contractor must provide to the State Veterans Home Administrator, or his designee, and Director of Nursing for pre-approval a proposed cycle menu at least thirty days prior to the beginning of the cycle to which the menu applies. Any changes to the cycle menu after approval must be approved by the State Veterans Home Administrator or his designee.

- 2.47 Menu Planning:** Menus shall be planned in accordance with the National Research Council's Recommended Dietary Allowances (RDA) to meet the nutritional needs of the individuals. The Dietary Guidelines for Americans and the USDA MyPlate Guide shall serve as a basis for all menu planning to assure a variety of foods, maintenance or improvement of weight, adequate sources of essential nutrients and fiber, and appropriate amounts of fat, cholesterol, sugar, and salt/sodium.

Menus must meet the nutritional needs of residents in accordance with established national guidelines. Menus must be prepared in advance, be followed, and be updated periodically. Menus must reflect, based on the Contractor's reasonable efforts, the religious, cultural, and ethnic needs of the resident population, as well as input received from residents and resident groups. Menus must be reviewed by the facility's dietitian or other clinically qualified nutrition professional for nutritional adequacy.

- 2.47.1 The menus shall provide a variety of foods in adequate amounts to meet State and Federal Agency guidelines. These shall be adjusted for age, gender, and activity level of the individuals. The Contractor shall retain copies of appropriate regulations at the individual facilities.
- 2.47.2 The menu shall be planned with residential tested products and recipes for resident acceptability. Food must be prepared by methods that conserve nutritive value, flavor, and appearance. Contractor will ensure that food and drink is palatable, attractive, and served at a safe and appetizing temperature. The Contractor shall include in the proposal a method to monitor resident preferences and to make acceptable adjustments. A sample meal quality assurance assessment form shall be submitted.
- 2.47.3 The menu planning process shall include input from the residents and staff of the State Veterans Home to address the essential needs of the individuals served by the facility. All menus must be approved by the facility administrator or designee prior to implementation.
- 2.47.4 The Contractor will be required to utilize a menu planning software product that is compatible with the State facilities' food service operations to meet the demands of the individuals served by the State.
- 2.47.5 The State Veterans Home utilizes a clinical software program called American Data and the Dietary Manager must be proficient in entering data for accuracy of the MDS (Minimum Data Set).

- 2.48 Menu Review and Approval:** The menus shall be reviewed and approved by a Registered Dietitian who is licensed by the State of South Dakota (or independently contracted with the Contractor) in order to ensure compliance with all of the above-mentioned regulations and RDAs for age and gender of all groups. A nutrient analysis shall be submitted and to assure that the RDAs are being met for all individuals. Minimum nutrients to be analyzed include protein, vitamin A, vitamin C, iron, calcium, total fat, saturated fat, cholesterol, dietary fiber, and total calories. Analysis of all menu items and foods offered in the menu shall be calculated as a weekly average. Approved menus shall remain as presented in that actual items are prepared as expected by the facility, i.e. if the menu calls for pure ground beef, it must be used unless a dietary substitute is requested or required by a resident.

- 2.49 Recipes and Production Standards:** Standardized recipes and portion control shall be submitted and followed for all food preparation to ensure medical nutrition therapy, nutritional adequacy, and nutrient requirements. All recipes and production directions shall be in writing and followed implicitly to assure consistency of taste and quality in food products served. Production such as grilling, French frying, steam cooking, etc., of items shall be continuous through each meal period with large quantities prepared as close as possible to the time they will be served, while still maintaining quality and adequate stock to avoid delay in service. The Contractor shall ensure preparation of a sufficient quantity of food to meet the daily population estimates.

- 2.49.1 The State shall have free access to any and all records of recipes, production sheets, product specifications, and quantities of food issued each service unit.



- 2.49.2 The State Veterans Home may utilize recipes received by its residents as determined appropriate by the Dietary Manager.

## **2.50 Menu Modifications and Substitutions**

- 2.50.1 Modifications in the menu will be made to accommodate therapeutic diets as prescribed by the attending physician for individuals. Modifications in the menu made to accommodate mechanically altered diets for the individuals will be provided as prescribed by the attending physician.
- 2.50.2 Documentation of all meals served, including substitutions, shall be maintained. A written method for food substitutions shall be maintained and shall be reviewed by a Registered Dietitian who is licensed in South Dakota to assure nutrient content of substituted foods is comparable. Food substitutions must be available to accommodate food avoidances due to religious beliefs/practices/observances and patient likes/dislikes in compliance with Medicare/Medicaid standards. Vegetarian food substitutions may be needed. Food allergies must also be accommodated, and a substitution provided.
- 2.50.3 Modifications in menu will be made to accommodate religious diets.
- 2.50.4 There may be no more than two menu substitutions per week. Substitutions exceeding two per week will be subject to a \$1,000.00 penalty for each week. The State Veterans Home has an alternative entrée for every meal (breakfast, lunch, and dinner).

**2.51 Meal Preparation and Service:** All meal preparation and service shall be supervised by a qualified food service director as described in Section 2.-29.1 to ensure quality, sanitation, texture, consistency, appearance, therapeutic modifications, and temperatures are adequate and maintained throughout preparation, service and delivery of food.

**2.52 Holiday Meals:** A minimum of eight holiday or special meals shall be served each year. Three sample holiday meal menus shall be submitted with the proposal. Holiday meals shall be consistent with traditional meals prepared during each holiday and shall be approved by the State Veterans Home administrator or designee prior to the menu cycle in which the holiday falls. Additional holiday or special meals may be requested and shall be determined by mutual agreement of the facility and the Contractor. The eight holiday meals are: Memorial Day, Cinco De Mayo, 4<sup>th</sup> of July, Labor Day, Ramadan, Native American Day, Thanksgiving, and Christmas. In addition to the listed holidays, the State Veterans Home celebrates New Year's Day, President's Day, Veteran's Day, Martin Luther King's Day, Valentine's Day, Easter, Mother's Day, Father's Day, Flag Day, Patriot Day (9/11). The State Veterans Home also has special days or weeks for nurses, nursing assistants, therapists, housekeeping, National Nursing Home Week, engineering, etc.

**2.53 Processing of Complaints/Quality Assurance Plan:** The Contractor shall provide a quality assurance plan that describes the complaint resolution process in place for addressing complaints from residents and clearly describes how the Contractor will ensure the quality of the products and services being provided. The Contractor will be required to be an active participant on the State Veterans Home QA Committee which meets quarterly.

**2.54 Employee/Visitor Meals:** The Contractor shall provide employee and visitor meals and must set a cost per meal. The Contractor will be responsible for establishing and maintaining a system for collection of money for employee/visitor meals. The revenue derived from the employee and visitor meals should offset the cost per meal to the State at each facility. The State Veterans Home has frequent family and visitors. Occasionally there will be large groups of visitors to the home. Coordination between the Contractor and the State Veterans Home is required to accommodate these groups.

**2.55 Annual Pricing Adjustment:** The State will calculate the annual pricing adjustment to the price per meal based upon the following factors:

- A. For the labor related component of the price (hereby assumed to be 50%), the price shall be based upon the wage adjustment recommended by the Governor or approved by the Legislature, whichever is less, for State employees.
- B. For the non-labor component of the price (hereby assumed to be 50%), the price shall be adjusted by the change in the CPI (Consumer Price Index) for the Midwest Urban Food Award From Home series.
- C. Calculation based on the year prior to the year immediately preceding the year of adjustment.
- D. State reserves the right to utilize the 50/50 split identified in A and B above or 3% whichever is less.

### **3.0 PROPOSAL REQUIREMENTS AND COMPANY QUALIFICATIONS**

**3.1** The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of South Dakota is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.

**3.2 Offeror's Contacts:** Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the buyer of record indicated on the first page of this RFP. Offerors and their agents may not contact any state employee other than the buyer of record regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.

**3.3** Provide the following information related to at least three previous and current service/contracts, performed by the offeror's organization, which are similar to the requirements of this RFP.

- a. Name, address and telephone number of client/contracting agency and a representative of that agency who may be contacted for verification of all information submitted;
- b. Dates of the service/contract; and
- c. A brief, written description of the specific prior services performed and requirements thereof.

**3.4 Listing of Proposed Suppliers:** Provide a listing of suppliers you propose to utilize for the purpose of fulfilling the requirements of this RFP. Provide the name of the supplier, the location their home office, the products, or services they provide, and the expected volume of purchases from each specific supplier during the term of the contract.

#### **3.5 Management Experience**

**3.5.1** Describe your regional and corporate support structure and any special resources available to the account management team. Provide an organizational chart.

**3.5.2** Provide a schedule of frequency of visits and a regional and corporate personnel supervisory plan for professional staff.

**3.5.3** Provide resumes for the proposed management team and discuss corporate training/educational opportunities available and management retention programs.

### **3.6 Work Force**

- 3.6.1 Provide an overview of your plan to adequately staff the State Veterans Home, including proposed staffing by shift. Provide a staff listing by position title, job description and salary range. Include all management positions, administrative support positions and non-management positions. Provide a proposed compensation and benefit plan for all positions assigned to the State account. Describe employee training programs and your plan to implement and maintain training throughout the term of this contract.
- 3.6.2 Describe the administrative accounting support for billings and financial accountability.
- 3.6.3 Provide an outline of your daily housekeeping and sanitation program, including recycling efforts, energy conservation and a plan for implementation.
- 3.6.4 The State Veterans Home requires a dedicated FTE (full-time employee) for activities support.

## **4 PROPOSAL RESPONSE FORMAT**

### **4.1** An original and three copies shall be submitted.

- 4.1.1 In addition, the offeror should provide one (1) copy of their entire proposal, including all attachments, in Microsoft Word or PDF electronic format (flash drive, USB drive, etc.) Offerors may not send the electronically formatted copy of their proposal via email.
- 4.1.2 The proposal should be page numbered and should have an index and/or a table of contents referencing the appropriate page number.

### **4.2** All proposals must be organized and tabbed with labels for the following headings:

#### **4.3 RFP Form.** The State's Request for Proposal form (1<sup>st</sup> page of RFP) completed and signed.

#### **4.4 Executive Summary.** The one-to-two-page executive summary is to briefly describe the offeror's proposal. This summary should highlight the major features of the proposal. It must indicate any requirements that cannot be met by the offeror. The reader should be able to determine the essence of the proposal by reading the executive summary. Proprietary information requests should be identified in this section.

#### **4.5 Detailed Response.** This section should constitute the major portion of the proposal and must contain at least the following information:

- 4.5.1 A complete narrative of the offeror's assessment of the work to be performed, the offeror's ability and approach, and the resources necessary to fulfill the requirements. This should demonstrate the offeror's understanding of the desired overall performance expectations.
- 4.5.2 A specific point-by-point response, in the order listed to each requirement in the RFP. The response should identify each requirement being addressed as enumerated in the RFP.
- 4.5.3 A clear description of any options or alternatives proposed.

#### **4.6 Cost Proposal.** Cost will be evaluated independently from the technical proposal. Offerors may submit multiple cost proposals. All costs related to the provision of the required services must be included in each cost proposal offered.

The State will not consider a cost-plus management fee contract proposal nor operations which require extended term subsidy of food services. The State will only consider proposal alternates from those Offerors who have met qualifications.

If an Offeror's technical proposal is not accepted by the State, the cost proposal will be returned to the Offeror unopened.

#### **4.7 Multiple Proposals**

Multiple proposals from an Offeror will be permissible. Each proposal submitted must conform fully to the requirements for proposal submission. If multiple proposals are submitted, each such proposal must be separately submitted and labeled as Proposal #1, Proposal #2, etc., on each page included in the response.

### **5 PROPOSAL EVALUATION AND AWARD PROCESS**

**5.1** After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use subjective judgment in conducting a comparative assessment of the proposal by considering each of the following criteria:

- 5.1.1 Specialized expertise, capabilities, and technical competence as demonstrated by the proposed approach and methodology to meet the project requirements;
- 5.1.2 Resources available to perform the work, including any specialized services, within the specified time limits for the project;
- 5.1.3 Record of past performance, including price and cost data from previous projects, quality of work, ability to meet schedules, cost control, and contract administration;
- 5.1.4 Availability to the project locale;
- 5.1.5 Familiarity with the project locale;
- 5.1.6 Proposed project management techniques; and
- 5.1.7 Ability and proven history in handling special project constraints.

**5.2** Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP.

**5.3** The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel.

**5.4** The State reserves the right to reject any or all proposals, waive technicalities, and make award(s) as deemed to be in the best interest of the State of South Dakota.

**5.5 Award:** The requesting agency and the highest ranked offeror shall mutually discuss and refine the scope of services for the project and shall negotiate terms, including compensation and performance schedule.

- 5.5.1 If the agency and the highest ranked offeror are unable for any reason to negotiate a contract at a compensation level that is reasonable and fair to the agency, the agency shall, either orally or in

writing, terminate negotiations with the contractor. The agency may then negotiate with the next highest ranked contractor.

- 5.5.2 The negotiation process may continue through successive offerors, according to agency ranking, until an agreement is reached, or the agency terminates the contracting process.

## **6 COST PROPOSAL**

The Offeror, in compliance with RFP #24RFP10085 for institutional food service, hereby proposes the following **average daily meal costs** for institutional food services for the State Departments/Offices indicated below:

### **Meals**

#### **a. Department of Veterans Affairs**

State Veteran's Home, Hot Springs, SD