

USDA Department of Agriculture (USDA)  
Department of Defense (DOD) Fresh Program  
New York City Contract - SPE300-22-DSA82  
Frank Gargiulo & Sons, Inc.

This document summarizes the contract agreement between the DoD and Frank Gargiulo & Sons, Inc. for the USDA's DoD Fresh Fruit and Vegetable Program (FFVP) in New York. Districts that participate in the USDA Foods Program can use up to 100 percent of their entitlement dollars toward this program every school year. Schools must elect to use this program, and provide the dollar amount requested to the Office of General Services Food Distribution Program yearly or upon request.

#### **Order Placement, Lead Time, and Adjustments/Cancelations of Orders**

- Minimum order for delivery is \$150 per drop.
- **Schools shall place orders to accommodate a 4-day lead time.** For example, if a customer has a Friday delivery day, an order must be placed by close of business (COB) on Monday.
- All invoice pricing will be based on the unit price in the Fresh Fruits and Vegetables Order Receipt System (FFAVORS) at time of order by the customer. For example, for any item ordered on a Friday to be delivered on the Friday of the following week, pricing will be based on the day of order price, regardless of whether the unit price for that item changes as part of a weekly catalog update.
- An order may be canceled by the customer up to 24 hours before delivery via written notification to the vendor and the Defense Logistics Agency (DLA) contracting office. When there is less than 24 hours from delivery, an order may be cancelled by mutual agreement between the customer and the vendor. In the event of an act of God, such as extreme weather, the specific situation regarding a cancelled delivery will be dealt with in an equitable manner by the DLA contracting officer, who has the ultimate authority and discretion to resolve the issue.
- The **Customer Ordering Manual** is available by logging into Ffavors and selecting **Help** in the upper right-hand corner of the screen.

#### **Item Availability**

- Vendor must have access to items in sufficient quantities to fill all ordering activity requirements. Partial shipments are acceptable if the customer is notified in advance and agrees to the partial shipment; however, the unfilled quantity is to be reported as "not in stock" (NIS). The vendor must have procedures in place for handling NIS situations. The vendor is required to stipulate timeframes in which the NIS item will be identified to the customer prior to delivery, in order that the substitute item may be requisitioned via a new order. Only substitutions of comparable description, quality, and price may be offered to the customer.
- Vendor shall notify the customer within 24 hours of order placement of the non-availability of any item. Vendor shall offer the customer a substitute of equal or higher quality and at an equal or lower cost, or advise them of the NIS position of the item. Substitute items may not be delivered without prior consent from the customer. Substituted items must be noted on the invoice.

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### Catalog

- Prior to commencement of the first order, DLA, the customer, and the vendor will collaborate to identify items not found in the Schedule of Items which are to be added to the ordering catalog. Neither the vendor nor customer is permitted to add a new item to the catalog without initiating a new item request to the contracting officer.
- The USDA requires that all fresh produce that is supplied through the Federal Entitlement for the USDA School Lunch Program must be from a domestic source.
- New items - If not on the catalog, the vendor has 20 days to source the item, obtain a stock number from DLA Troop Support and add the item in FFAVORS, as applicable.

### Delivery Instructions

- The vendor shall ensure all products are delivered in sanitary trucks that are of a commercially acceptable standard. All delivery trucks must be equipped with a lift gate to expedite the offloading of products. Trucks shall maintain proper temperatures, as determined through standard commercial practices. Deliveries shall be FOB destination to all ordering activities and delivery points. All items will be delivered to customer locations, free of damage, with all packaging and packing intact. The vendor shall remove all excess pallets used for delivery from the delivery point.
- The customer's delivery schedules, routes, and stop-off sequence will be coordinated and verified by the customers. The customers will receive weekly deliveries.
- Inspection and acceptance of products will be performed at the destination. The inspection normally is limited to identify, count and condition; however, this may be expanded if deemed necessary by the customer. Failure to identify latent defects or similar issues at the time of acceptance will not absolve the vendor of its liability or preclude the customer from obtaining appropriate remedy upon the timely discovery of said defects or issues after the fact. In this circumstance the customer shall notify the DLA customer representative who will coordinate with the contracting office in seeking an appropriate resolution. The customer should also notify the vendor and go into FFAVORS to document in the receipt that the product is defective/damaged.
- ***The customer at each delivery point is responsible for inspecting and accepting products as they are delivered. The delivery ticket shall not be signed prior to the inspection of each product.*** All overages/shortages/returns are to be noted on the delivery ticket by the customer and the truck driver. The customer's signature and printed name on the delivery ticket is required for acceptance of the product. All signatures and printed names must be legible. Failure to adhere to this requirement may result in disputes going against that party as its failure can severely limit the contracting officer's judgment.
- Addendum to 52.212-4 – "inspection and acceptance of products will be performed at destination. The authorized Government receiving official for each customer is responsible for signing for and accepting products when they are delivered. The final disposition decision rests with the food service officer and/or the authorized Government receiving official."

### Invoicing

- All invoices must be submitted by the vendor to DLA reflecting all debits and/or credits.

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- In an effort to improve the payment process, the vendor is required to view what a customer has or has not accepted in FFAVORS. The vendor will have access to “un-reconciled” information. Both invoice and receipt information will be available to the vendor on the FFAVORS website. It is the vendor’s responsibility to ensure accurate invoices.
- No electronic invoice may be submitted for payment until the acceptance is verified.
- **Customers must receipt in FFAVORS within seven (7) days after delivery.** The customer can make revisions to a receipt up to seven days. On the eighth day, the customer will need to contact the DLA customer service representative to make any adjustments.
- **Failure to receipt timely will result in being locked out of Favors and an inability to place orders.**

### Holidays

- All orders are to be delivered on the specified delivery dates, except for federal holidays outlined below. When a scheduled delivery day falls on one of these days, or one designated by the vendor, delivery should occur on the next business day, unless otherwise agreed to by the customer. Saturday holidays are normally observed on the preceding Friday; Sunday holidays are normally observed on the following Monday. Holidays include:
  1. New Year’s Day
  2. Martin Luther King’s Birthday
  3. President’s Day
  4. Memorial Day
  5. Independence Day
  6. Labor Day
  7. Columbus Day
  8. Veteran’s Day
  9. Thanksgiving Day
  10. Christmas Day
- **The customer should supply the DLA customer service representative and the vendor with their school calendar at the beginning of each school year to ensure school breaks are identified.** The contracting officer will work with the vendor to secure pricing so the customer can place orders prior to the school breaks.

### Product Quality – USDA No. 1 or better; Domestic only

- **Shelf life:** All products delivered shall be as fresh as possible and within the Grower/Packers’ original shelf life (i.e. Best if Used By date, expiration date or other markings). Applicable products shall be identified with readable open code such as Best if Used By Date, Sell By Date, date of production, or similar marking indicating the end of the guaranteed freshness date.
- **For Fresh-cut Fresh Fruits and Vegetables/Ready to Eat Salads/Cole Slaw/etc.:** Individual bags/containers must be marked with a 14-day shelf life from the date of production. **All products must be received by the customer with at least 50% of recommended shelf life remaining.** If the manufacturer recommended shelf life is less than 14 days, the contracting officer must be notified in advance and approve shelf life. Any deviation from these requirements must be approved prior to customer delivery, in writing, by the DLA contracting officer.

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### Recall Procedures

- In the event that a product recall is initiated, the vendor will notify the customers that received the recalled product and the DLA contracting officer.
- At the discretion of the customers, the vendor shall either replace at no additional cost, or adjust the invoice quantity for any recalled product. Delivery of replacement product shall occur at the discretion of the customer.

### Adding new customers

- Customer will be added within the geographic distribution region/zone.
- DLA contracting has sole decision on adding new customers within the region/zone.
- Under no circumstances may the contract's maximum dollar value be exceeded with the addition of any customers and its respective produce requirements.

### Value Added Services

- The vendor is required to provide the customer and contracting officer a weekly produce market forecast bulletin on Friday which outlines the following week information regarding supply availability, product quality, associated growing areas, price trends, weather conditions, and handling tips.

### Local Purchases

- The contractors are encouraged to source local produce taking into consideration price, availability, quality, and other factors, including Good Agricultural Practices (GAP)/Good Handling Practices (GHP) requirements.
- Local purchase is defined as product purchased from growers and manufacturers within the state the customer is located, within the contract zone, or from a state bordering the state in which the customer is located.
- ***The vendor is required to include state of origin information for all products in the FFAVORS catalog.***
- Within 45 days of the contract award, the vendor will provide the contracting officer with a Local Purchase Procurement plan.

### Customer Service

- USDA School Lunch Programs have periodic food menu board meetings, and other types of meetings, that the vendor may be required to attend. At these meetings, the customers may review their internal business practices, and the vendor may utilize this forum to show new products, demonstrate produce preparation, and provide nutritional information.
- At the time of award, the vendor shall provide the customer with at least one customer service representative's name, phone number, mobile number, beeper number, email address, or any other method of communication with the representative.
- The vendor shall assume the responsibility of introducing new food items to the customers, as well as cost effective alternatives to their choices.

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**Contact Information**

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