



STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0016

JOHN ELIAS BALDACCI
GOVERNOR

DAVID A. COLE
COMMISSIONER

March 18, 2010
Subject: Herbicide Application, Railroad
Right of Ways
PIN: N/A
Location: Statewide
Bid Amendment No. 1

Dear Sir/Ms.:

Make the following change to the Bid Document:

In the Bid Book (page 23 through 28), **REMOVE** "APPENDIX A, SPECIFICATIONS OF WORK TO BE PERFORMED", 6 pages, dated March, 2, 2010 and **REPLACE** with the attached new "APPENDIX A, SPECIFICATIONS OF WORK TO BE PERFORMED", 6 pages, dated March, 16, 2010.

The following questions have been received:

Question: Is the \$210,000.00 annually or for the total amount of the bid or 3years?

Response: The amount is the original contract amount that covers the duration of the contract which is four seasons. The Department may increase or decrease the Contract amount and quantities from those estimated and such increase or decrease shall not be considered Extra Work. Except as expressly provided otherwise in this Contract, the Contractor shall be paid for actual quantities in place and Accepted at the Unit Prices contained in the Contractor's Bid.

Question: Is the bid for 3 years or 4? Bid says contract expires September 30, 2013.

Response: The contract will cover four spray seasons (2010, 2011, 2012 & 2013). The contract expires September 30, 2013. See the attached new Appendix A.

Consider this change and information prior to submitting your bid on March 24, 2010.

Sincerely,

FOR

Scott Bickford
Contracts & Specifications Engineer



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APPENDIX A
SPECIAL PROVISION
SPECIFICATIONS OF WORK TO BE PERFORMED

SCHEDULE OF ITEMS

Contractor _____

Description Per acre rate	Estimated Quantity per Season and Units	Unit Price	Bid Price per Season
Program 1 (2 Qts. Razor + 1 Qt. Arsenal + 4 Oz. Oust Extra+16 Oz. Nufilm IR) Ballast and ROW	215 acres	\$	\$
Program 2 (1 Qt. Razor + 2 Qt. Arsenal + 16Oz. Nufilm IR) Ballast and ROW	110 acres	\$	\$
Program #3 (2 Qts. Razor + 16 Oz Nufilm IR) Ballast only	40 acres	\$	\$
Total Bid Price for 4 Seasons			\$

Scope and Specifications of Work to be Performed:
Herbicide application on state owned railroad ROW

This work shall consist of applying herbicide with an on railroad track vehicle able to control amount of product delivered and desired pattern within the cab of vehicle. Locations and patterns will be determined prior to start of work by the MDOT employee on site or described in the assignment letter. This work shall include navigating paved over and dirt covered highway grade crossings. The Contractor shall be required to be or become Railroad Rules Qualified in the appropriate operating rules of the states lessee of the owned line or be protected by their railroad. The Contractor shall be or become qualified in the Federal Railroad Administration's

Roadway Worker Rules, Bridge Worker Safety Rules, and Roadway Maintenance Machine Rules.

1. After Bid Opening and as a condition for Award, the Apparent Successful Bidder must provide proof of Master level Maine pesticide licensure,
2. The Contractor shall apply herbicides on State maintained Railroad ROW in accordance with the Department's public notification schedule to be provided by the Department, in accordance with Department variances from Board of Pesticides Control regulations, and in accordance with properly posted and approved no-spray agreements.
3. The Contractor shall apply herbicides in accordance with the standards of the Maine Board of Pesticides Control, the Department, and all applicable regulatory agencies to include but not be limited to: quality of application, safety standards, spill mitigation, and personal conduct.
4. The Contractor shall employ a minimum of one Master level Maine licensed pesticide applicator with current license and with appropriate categories for the intended work. The Contractor shall provide a commercial Operator or Master level Maine licensed pesticide applicator with the appropriate category to be on site for every herbicide application.
5. The Department may require the Contractor to submit copies of the Master applicator license or licenses and Operator applicator license or licenses for all employees who will be engaged in Railroad ROW spraying for the Department prior to the commencement of work each year. The Department may suspend Work if the Contractor fails to produce licenses. The Department will not authorize Work to commence again until the Department has received and verified the Contractor's licenses.
6. The Department may require the Contractor to submit copies of all applicable pesticide and EHAP certification for employees engaged in pesticide application. The Department may suspend Work if the Contractor fails to produce licenses or proof of certification. The Department will not authorize Work to commence again until the Department has received and verified the Contractor's certifications and licenses.
7. The Contractor shall supply all the equipment necessary to apply herbicides in a safe and effective manner.
8. The Contractor shall have a complete SPC Economy Universal Spill Kit such as those supplied by Sorbent Products or equivalent, in all vehicles that are carrying herbicides whether concentrates or mixes.
9. The Contractor shall submit Daily Spray Work Reports within 12 hours of application to the Department using methods provided by the Department which may include the use of an internet reporting system or paper forms.
10. The Contractor shall understand and be familiar with and at all times observe and comply with all federal, state, and local laws, ordinances, and regulations which in any manner affect the conduct of this work. The Department may suspend Work if violations are observed. The Contractor shall not resume work until the violations are resolved to the satisfaction of the Department.

11. The Contractor will not be compensated for non-approved work, regulatory violations, or fraudulent reporting.
12. There shall be no guarantee of a minimum number of miles or hours worked. The Department will only pay for actual hours worked or miles covered. The Department will not pay for travel time to or from work. The Contractor is considered to be at work during the day while performing assigned duties and travelling from one site to another.
13. Workers shall have appropriate personal safety equipment including but not limited to hard hats, reflective vests, safety glasses, hearing protection, steel toe boots, and PPE to comply with all federal and state regulations, and Department policies.
14. The Contractor is responsible for complying with all Permit conditions. The Contractor, at its expense, shall procure all applicable environmental or land use Permits, licenses, or other permissions that are necessary or appropriate to perform the Work. At the time of application, the Contractor shall provide the Department with notice of all applications for such Permits, licenses, or other permissions, and upon request, a copy of all such applications.

Herbicides Specifications

The herbicide programs shown below shall be applied by the Contractor. The Department shall designate which program shall be used on an area. Equivalent generic products which contain the same active ingredients at the same concentration may be substituted for the chemicals listed with the exception of **Nufilm**.

Program 1 (2 Qts. Razor + 1 Qt. Arsenal + 4 Oz. Oust Extra+16 Oz. Nufilm IR) Ballast and ROW
Program 2 (1 Qt. Razor + 2 Qt. Arsenal + 16Oz. Nufilm IR) Ballast and ROW
Program #3 (2 Qts. Razor + 16 Oz Nufilm IR) Ballast only

Contract Administrator The Contract Administrator for this contract will be:

Name: Jeff Beecher
Title: Transportation Maintenance Manager Railroads Maine DOT
Address: Maine DOT
16 State House Station
Augusta, ME 04330

The Contractor shall contact Jeff Beecher, Maintenance Manager Railroads, in order to coordinate the work. The Contractor shall submit invoices to the Transportation Maintenance Manager Railroads at completion as described in this contract.

Allowable Work Times Following the secured permits dates, the Contractor shall perform work only during the following times unless otherwise authorized and approved by MaineDOT: Monday through Friday, during hours approved by the Department, except for they may not work on holidays as defined in Appendix B nor state government closure days which include but may not be limited to, March 12, 2010, April 20, 2010, May 28, 2010, July 2, 2010, August 6, 2010, September 3, 2010, October 8, 2010, December 23, 2010, January 14, 2011, February 22, 2011, March 18, 2011, April 19, 2011 nor May 27, 2011. The Contractor is solely responsible for the planning and execution of Work in order to complete the Work within the Contract Time.

Contractor's Safety Program If a copy of the Contractor's Safety Plan is not on file with the Contracts Section of the Department, the Contractor must submit, prior to Contract award, a project specific Safety Plan to the Contract Administrator of the Department. The Contractor's Safety Plan shall identify and address job hazards of the expected contract work and shall comply with all applicable federal, State, and local laws governing safety including all applicable laws and regulations of OSHA

Insurance

The Contractor shall supply proof of insurance in accordance with the provisions specified below:

The Contractor shall provide signed, valid, and enforceable certificate(s) of insurance complying with this Section. All insurance must be procured from insurance companies licensed or approved to do business in the State of Maine by the State of Maine, Department of Business Regulation, Bureau of Insurance. The Contractor shall pay all premiums and take all other actions necessary to keep required insurances in effect for the duration of the Contract obligations, excluding warranty obligations.

Workers' Compensation For all Work performed by the Contractor and any subcontractor, the Contractor and each subcontractor shall carry Workers' Compensation Insurance or shall qualify as a self-insurer with the State of Maine Workers' Compensation Board in accordance with the requirements of the laws of the State of Maine.

Commercial General Liability With respect to all operations performed by the Contractor and any Subcontractors, the Contractor and any Subcontractors shall carry commercial general liability insurance in an amount not less than \$1,000,000.00 per occurrence and \$2,000,000.00 in the Aggregate. The policy shall name the Department of Transportation as an additional insured. The coverage must include products, completed operations, and Contractual liability coverages, and Insurance Services Office (ISO) form #CG25031185 or equivalent. The Contractual liability insurance shall cover the Contractor's obligations to indemnify the Department as provided in this Contract. The Department shall be named as

additional insured on the Commercial General Liability insurance policies carried by the Contractor that are applicable to the Work.

Automobile Liability The Contractor shall carry Automobile Liability Insurance covering the operation of all motor vehicles including any that are rented, leased, borrowed, or otherwise used in connection with the Project. The minimum limit of liability under this Section shall be \$1,000,000.00 per occurrence.

Changes The Department may increase or decrease Pay Item quantities from the estimated quantities shown in the Bid Documents, and such increase or decrease shall not be considered Extra Work. Except as expressly provided otherwise in this Contract, the Contractor shall be paid for actual quantities in place and Accepted at the Unit Prices contained in the Contractor's Bid. The Contractor accepts such payment as full and complete compensation.

Default and Termination The Contractor is in Default of the Contract if the Contractor:

- A. Fails to provide labor, Equipment or Materials specified in the Contract,
- B. Fails to perform the Work with sufficient labor, Equipment, or Materials to assure the timely Completion of the Work,
- C. Fails to perform Work when specified in the Contract.
- D. Performs Defective Work, neglects or refuses to repair or correct Unacceptable Work when directed by the Department;
- E. In any other manner, fails to perform the Work in Substantial Conformity with any material provision of the Contract.

Failure by the Contractor to perform the Work when required or to substantially meet other contractual requirements will result in the following actions:

- 1st Incident: If the Contractor does not take corrective action within 1 day upon receipt of verbal warning, the Department will issue a written warning.
- 2nd Incident: The Department will issue a written warning.
- 3rd Incident: The Department may (A) give written Notice of Default to the Contractor and immediately terminate the Contract by written Notice of Termination, or (B) take prosecution of the Work away from the Contractor without violating the Contract.

If Default occurs, the Department may give written Notice of Default to the Contractor. Failure to give Notice of Default is in no way a waiver by the Department of any provision of the Contract. In this event, the Department may enter into an

Agreement with another entity for the Completion of the Work, or use such other methods as in the opinion of the Department are required for the Completion of the intent of the Contract in an acceptable and timely manner. Termination of the Contract or portion thereof shall not relieve the Contractor of its Contractual responsibilities for the Work completed (including warranty obligations), nor shall it relieve the Surety of its obligation for claims arising from the Work or the Contract. The Department will pay for all Accepted items of Work as of the date of Termination at agreed upon prices. The Contractor shall make all Work records available to the Department upon request regarding payment under this Section.

SPECIAL PROVISION SECTION 102 BIDDING

102.1.1 Basic Requirements Change the first sentence from: "... (A) comply with the Prequalification Procedure adopted by the Department, (B) not have been debarred or suspended from Bidding, and (C) not be in Default with respect to any outstanding Contract with the Department..." to "(A) not have been debarred or suspended from Bidding, and (B) not be in Default with respect to any outstanding Contract with the Department..."

102.6 Bid Guaranty Delete the entire section 102.6.

102.7.1 Location and Time Add the following sentence "As a minimum, the Bidder will submit a Bid Package consisting of the Notice to Contractors, the completed Acknowledgement of Bid Amendments form, the completed Schedule of Items, 2 copies of the completed Agreement, Offer, & Award form, and any other Certifications or Bid Requirements listed in the Bid Book."

102.11.1 Non-curable Bid Defects Replace E. with "E. The unit price and bid amount is not provided or a lump sum price is not provided or is illegible as determined by the Department."

SPECIAL PROVISION SECTION 103 AWARD AND CONTRACTING

103.3.1 Notice and Information Gathering Change the first paragraph to read as follows: "After Bid Opening and as a condition for Award of a Contract, the Department may require an Apparent Successful Bidder to demonstrate to the Department's satisfaction that the Bidder is responsible and qualified to perform the Work."

103.5 Award Conditions Delete the section in its entirety and replace with the following:

The Apparent Successful Bidder must provide and/or perform all of the items listed in this Section 103.5 within 14 days of Receipt of the Notice of Intent to Award. Unless indicated otherwise, all items must be Delivered to the Department's Bureau of Maintenance & Operations.

103.5.1 Performance and Payment Bonds Delete the entire section 103.5.1.

103.5.4 Execution of Contract By Bidder Delete the section in its entirety and replace with the following:

“The properly completed and signed Contract Agreement, Offer, & Award form provided with the Bid constitutes the Bidder's offer. Once the Department has received the insurance, and any other pre-award items required, the Department will sign the Contract Agreement, Offer, & Award form and execute the Contract. The point of Contract execution is when the Department signs the contract.