

	State of South Carolina Invitation for Bid AMENDMENT 1	Solicitation Number: 5400005670
		Date Issued: 03/21/2013 Procurement Officer: RICHARD EDMONDSON Phone: 803-737-0029 E-Mail Address: REdmondson@mmo.sc.gov

DESCRIPTION: **Commercial Grounds Maintenance Equipment-Phase I including Safety Items**
 USING GOVERNMENTAL UNIT: **Statewide**

The Term "Offer" Means Your "Bid" or "Proposal". Unless submitted on-line, your offer must be submitted in a sealed package. Solicitation Number & Opening Date must appear on package exterior. See "Submitting Your Offer" provision.

SUBMIT YOUR SEALED OFFER TO EITHER OF THE FOLLOWING ADDRESSES:	
MAILING ADDRESS: Materials Management Office PO Box 101103 Columbia SC 29211	PHYSICAL ADDRESS: Materials Management Office Capital Center 1201 Main Street, Suite 600 Columbia SC 29201

SUBMIT OFFER BY (Opening Date/Time): **04/09/2013 11:00:00 A.M.** (See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **03/18/2013 10:00:00** (See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: **Two (2) Paper copies ONE (1) ORIGINAL AND ONE (1) COPY (MARKED 'COPY')**

CONFERENCE TYPE: Pre-Bid Conference DATE & TIME: 03/18/2013 10:00 AM <small>(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)</small>	LOCATION: WEST COLUMBIA CITY HALL NEW BROOKLAN ROOM 200 NORTH 12TH STREET WEST COLUMBIA, SC 29169
--	---

AWARD & AMENDMENTS	Award will be posted on 04/30/2013 . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://www.procurement.sc.gov
--------------------	--

Unless submitted on-line, you must submit a signed copy of this form with Your Offer. By submitting a bid or proposal, You agree to be bound by the terms of the Solicitation. You agree to hold Your Offer open for a minimum of thirty (30) calendar days after the Opening Date. (See "Signing Your Offer" and "Electronic Signature" provisions.)

NAME OF OFFEROR <small>(full legal name of business submitting the offer)</small>		Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.	
AUTHORIZED SIGNATURE <small>(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</small>		TAXPAYER IDENTIFICATION NO. <small>(See "Taxpayer Identification Number" provision)</small>	
TITLE <small>(business title of person signing above)</small>		STATE VENDOR NO. <small>(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</small>	
PRINTED NAME <small>(printed name of person signing above)</small>	DATE SIGNED	STATE OF INCORPORATION <small>(If you are a corporation, identify the state of incorporation.)</small>	
OFFEROR'S TYPE OF ENTITY: (Check one) <small>(See "Signing Your Offer" provision.)</small> <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Other _____ <input type="checkbox"/> Corporate entity (not tax-exempt) <input type="checkbox"/> Corporation (tax-exempt) <input type="checkbox"/> Government entity (federal, state, or local)			

PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)
	_____ Area Code - Number - Extension Facsimile _____ E- mail Address

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)
_____ Payment Address same as Home Office Address _____ Payment Address same as Notice Address (check only one)	_____ Order Address same as Home Office Address _____ Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)

Amendment No.	Amendment Issue Date						
1	3-20-2013						

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
--	----------------------	----------------------	----------------------	-------------------------

Preferences are Not Applicable

[11-35-1524(E)(2)]

Preferences will not apply to this solicitation 11-35-1524 (E) (2)

Table of Contents

SECTION I	4	
MAXIMUM CONTRACT PERIOD - ESTIMATED (Jan 2006)	5	
SECTION IIA	6	
DEFINITIONS (JAN 2006)	6	
AMENDMENTS TO SOLICITATION (JAN 2004)	6	
AWARD NOTIFICATION (NOV 2007)	6	
BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004) .	7	
BID ACCEPTANCE PERIOD (JAN 2004)	7	
BID IN ENGLISH and DOLLARS (JAN 2004)	7	
BOARD AS PROCUREMENT AGENT (JAN 2004)	7	
CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)	7	
CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004)	8	
CODE OF LAWS AVAILABLE (JAN 2006)	9	
COMPLETION OF FORMS/CORRECTION OF ERRORS (JAN 2006)	9	
DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (MAY 2011)	9	
DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)	10	
DRUG FREE WORK PLACE CERTIFICATION (JAN 2004)	10	
DUTY TO INQUIRE (JAN 2006)	10	
ETHICS CERTIFICATE (MAY 2008)	10	
OMIT TAXES FROM PRICE (JAN 2004)	11	
PROTESTS (JUNE 2006)	11	
PUBLIC OPENING (JAN 2004)	11	
QUESTIONS FROM OFFERORS (JAN 2004)	11	
REJECTION/CANCELLATION (JAN 2004)	11	
RESPONSIVENESS/IMPROPER OFFERS (JAN 2004)	11	
RESTRICTIONS APPLICABLE TO OFFERORS (JAN 2004)	12	
SIGNING YOUR OFFER (JAN 2004)	12	
STATE OFFICE CLOSINGS (JAN 2004)	13	
SUBMITTING CONFIDENTIAL INFORMATION (AUG 2002)	13	
SUBMITTING YOUR OFFER OR MODIFICATION (JAN 2004)	14	
TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008)	14	
TAXPAYER IDENTIFICATION NUMBER (JAN 2004)	14	
VENDOR REGISTRATION MANDATORY (JAN 2006)	15	
WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)	15	
SECTION IIB	15	
STATEWIDE TERM CONTRACT - ACCEPTANCE OF OFFERS 10% BELOW PRICE (NOV 2012).....	15	
CONFERENCE - PRE BID/PROPOSAL (JAN 2006)	16	
CLARIFICATION (NOV 2007)	16	
MAIL PICKUP (JAN 2006)	16	
OFFERING BY LOT (JAN 2006)	17	
PROTEST - CPO - MMO ADDRESS (JUNE 2006)	17	
SUBMITTING REDACTED OFFERORS	17	
SECTION III	18	
SEE BIDDING SCHEDULE	18	
DELIVERY DATE --	18	
QUALITY -- NEW (JAN 2006)	18	
SCOPE OF WORK	19	
SECTION IV	22	
INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL (JAN 2006)	22	
MINORITY PARTICIPATION (JAN 2006)	23	
SECTION V	24	
QUALIFICATION OF OFFEROR (JAN 2006)	24	
SECTION VI	25	
AWARD BY LOT (JAN 2006)	25	
AWARD CRITERIA – BIDS	25	

COMPETITION FROM PUBLIC ENTITIES (JAN 2006)	25	
SECTION_VIIA	26	
ASSIGNMENT (JAN 2006)	26	
BANKRUPTCY (JAN 2006)	26	
CHOICE-OF-LAW (JAN 2006)	26	
CONTRACT DOCUMENTS and ORDER OF PRECEDENCE (JAN 2006)	26	26
DISCOUNT FOR PROMPT PAYMENT (JAN 2006)	27	
DISPUTES (JAN 2006)	27	
EQUAL OPPORTUNITY (JAN 2006)	27	
FALSE CLAIMS (JAN 2006)	27	
FIXED PRICING REQUIRED (JAN 2006)	28	
NON-INDEMNIFICATION (JAN 2006)	28	
NOTICE (JAN 2006)	28	
PAYMENT and INTEREST (MAY 2011)	28	
PUBLICITY (JAN 2006)	28	
SETOFF (JAN 2006)	29	
SURVIVAL OF OBLIGATIONS (JAN 2006)	29	
TAXES (JAN 2006)	29	
TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006)	29	29
THIRD PARTY BENEFICIARY (JAN 2006)	29	
WAIVER (JAN 2006)	30	
SECTION_VIIB	31	
CHANGES (JAN 2006)	31	
CISG (JAN 2006)	31	
CONTRACT LIMITATIONS (JAN 2006)	31	
CONTRACTOR'S LIABILITY INSURANCE (JANUARY 2013)	32	32
DEFAULT (JAN 2006)	33	
ESTIMATED QUANTITY -- PURCHASES FROM OTHER SOURCES (JAN 2006)	33	33
ESTIMATED QUANTITY -- UNKNOWN (JAN 2006)	34	34
FEE FOR ADMINISTRATIVE SERVICES -- SPO	35	35
INDEMNIFICATION - THIRD PARTY CLAIMS (JAN 2006):	36	36
INTELLECTUAL PROPERTY INFRINGEMENT (JAN 2006)	36	36
MATERIAL AND WORKMANSHIP (JAN 2006):	37	37
PRICE ADJUSTMENTS (JAN 2006)	37	
PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)	37	
PURCHASING CARD (JAN 2006)	388	
RELATIONSHIP OF USING GOVERNMENTAL UNITS (JAN 2006)	38	38
SHIPPING / RISK OF LOSS (JAN 2006)	38	
STATEWIDE TERM CONTRACT (JAN 2006)	38	
STATEWIDE TERM CONTRACT - ACCEPTANCE OF OFFERS 10% BELOW PRICE (NOV 2012)	38	38
STATEWIDE TERM CONTRACT -- SCOPE (JAN 2006)	39	39
TERM OF CONTRACT -- EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006)	39	39
TERM OF CONTRACT -- OPTION TO RENEW (JAN 2006)	39	39
TERM OF CONTRACT -- TERMINATION BY CONTRACTOR (JAN 2006)	39	39
TERMINATION FOR CONVENIENCE (JAN 2006)	40	
WARRANTY:	41	
SECTION_VIII	42	
BIDDING SCHEDULE (NOV 2007)	42	
SECTION_IX	53	
NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING	53	53
OFFEROR'S CHECKLIST (JUN 2007)	54	
ATTACHMENT A.....	55	
ATTACHMENT B: SC_09_9020_1	56	

IMPORTANT NOTICE

AMENDMENT #1
INVITATION FOR BID – 5400005670
Commercial Grounds Maintenance Equipment-Phase I including Safety Items

The original Invitation for Bid Solicitation document, **dated 03/21/2013** is hereby amended due to the OMISSION and/or CORRECTION of quantities and certain other line item changes in Part VII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL.

To ensure the clarity of the solicitation, prospective bidders should **DISCARD THE ORIGINAL SOLICITATION DOCUMENT.** **AMENDMENT #1** is the new solicitation document and all changes are incorporated herein are **highlighted**.

AMENDMENTS TO SOLICITATION (JAN 2004)

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offeror's should monitor the following web site for the issuance of Amendments: www.procurement.sc.gov (b) Offeror's shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. [02-2A005-1]

I. SCOPE OF SOLICITATION

Commercial Grounds Maintenance Equipment Phase 1

The purpose of this solicitation is to establish a statewide term contract for the provision of commercial grounds maintenance equipment, accessories and attachments for such equipment to be used by state agencies, political subdivisions, local governments and other using government entities as provided by the South Carolina Consolidated Procurement Code.

Offers (bids) will only be accepted directly from manufacturers or from dealers expressly authorized to bid on behalf of a manufacturer (documentation of expressed authority must be submitted/attached to your bid response). The equipment will be bid through two (2) solicitations and divided into lots, based on the categories of related equipment. Each lot will be awarded separately, with one award for each manufacturer's line of equipment, provided the bid meets the responsiveness and responsibility standards described herein. Only offers for commercial grade equipment will be considered. Home/Residential grade equipment will not be considered.

Fossil fuel is the primary power supply for the equipment herein, however, the Offeror can include with their offer alternative power supply equipment (electric, cordless, etc.).

This solicitation will consist of the following six (6) lots for **Phase 1**:

LOT 1

*Commercial Lawn Mowing Equipment to include the following: Heavy Duty, Rotary Type, Walk Behind, Self-Propelled Walk Behind/Riding, Rear Engine Lawn & Garden Type, Push-Type Brush Cutter, Hydro Walk Behind Mowers, **Front & Rear Tire Tillers(tine)***

LOT 2

*Commercial Lawn Mowing Equipment to include the following: Heavy Duty, Rotary Type Riding Mowers, Out-front Type, Mid-Mount Type, Zero-Turn, Stander-Type, 3-Wheel Riders, **All-Terrain, Slope Mowers 3pt hitch**, Wing Mowers, Greens Mowers, Fairway Mowers, Gang Mowers, Rotary-Type Pull Mowers, **Rotary Tillers 3pt Hitch tiller**, Finishing Mowers, Sickle Bar Mowers, Flail Mowers, Reel Mowers*

LOT 3

*Lawn Equipment as follows: Trimmers/Brush Cutters, Multi-Line, Hedge Trimmers, Reciprocating Saws, Lawn Edgers, Walk-Behind Brush Cutters, Brush Chippers **(to include trailer mounted)**/Shredders, Pole Saws/Pruners, Power Blowers – Hand Held, Backpack Type & Walk-Behind, **Vacuums – Hand Held and walk behind**, Earth Auger-Drills, **Walk behind wheel trimmer***

Lot 4

Turf Equipment to include the following: *Walk-Behind, Pull-Type, and Ride on Aerators, Pluggers, Spikers, Hand-Held or backpack Sprayers, Pull Sprayers, Top Dressers, Vericutters, Power Rakes, Sod Cutters, Turf Rollers, Seeders, Spreaders – Hand Held, Mounted & Pull Type, Self-Propelled/Walked Behind Bush Cutter, Power Rake, Broom and Bed Opener/Edger.*

Lot 5

Chain Saws, Heavy & Professional, 16” to 36” Bar Availability, must have the following features: *Outboard Design Clutch, Inertia Chain Brake, Lifetime Ignition System(if applicable), Anti-Vibration System, Automatic Oiler System, High Power-to-Weight Ratio (Range of .49 to .65 on Professional Models), Professional Arborist saw 12”-16”, Inboard Clutch Outboard Sprocket saw.*

Lot 6

Safety Items: Hearing, Eye, Face, and Chainsaw Protection to include clothing, boots, etc.

MAXIMUM CONTRACT PERIOD - ESTIMATED (Jan 2006)

Start date: **05/16/2013** End date: **05/15/2018**. Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract - Effective Date/Initial Contract Period". **05/16/2013 – 05/15/2014**
[01-1040-1]

This will be a one (1) year initial term contract with options for four (4) additional one (1) year contract terms; yielding a possible maximum contract period of five (5) years.

II. INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS

DEFINITIONS (JAN 2006)

EXCEPT AS OTHERWISE PROVIDED HEREIN, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION.

AMENDMENT means a document issued to supplement the original solicitation document.

BOARD means the South Carolina Budget & Control Board.

BUYER means the Procurement Officer.

CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the Procurement Officer, directing the contractor to make changes which the changes clause of the contract authorizes the Procurement Officer to order without the consent of the contractor.

CONTRACTOR means the Offeror receiving an award as a result of this solicitation.

COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.

OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.

OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.

ORDERING ENTITY Using Governmental Unit that has submitted a Purchase Order.

PAGE TWO means the second page of the original solicitation, which is labeled Page Two.

PROCUREMENT OFFICER means the person, or his successor, identified as such on the Cover Page.

YOU and YOUR means Offeror.

SOLICITATION means this document, including all its parts, attachments, and any Amendments.

STATE means the Using Governmental Unit(s) identified on the Cover Page.

SUBCONTRACTOR means any person having a contract to perform work or render service to Contractor as a part of the Contractor's agreement arising from this solicitation.

USING GOVERNMENTAL UNIT means the unit(s) of government identified as such on the Cover Page. If the Cover Page names a Statewide Term Contract as the Using Governmental Unit, the Solicitation seeks to establish a Term Contract [11-35-310(35)] open for use by all South Carolina Public Procurement Units [11-35-4610(5)].

WORK means all labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract. [02-2A003-1]

AMENDMENTS TO SOLICITATION (JAN 2004)

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: www.procurement.sc.gov (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. [02-2A005-1]

AWARD NOTIFICATION (NOV 2007)

Notice regarding any award or cancellation of award will be posted at the location specified on the Cover Page. If the contract resulting from this Solicitation has a total or potential value of fifty thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation. Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given. [02-2A010-1]

BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004)

By submitting Your Bid or Proposal, You are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed. [02-2A015-1]

BID ACCEPTANCE PERIOD (JAN 2004)

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. [02-2A020-1]

BID IN ENGLISH and DOLLARS (JAN 2004)

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation. [02-2A025-1]

BOARD AS PROCUREMENT AGENT (JAN 2004)

(a) Authorized Agent. All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement. (b) Purchasing Liability. The Procurement Officer is an employee of the Board acting on behalf of the Using Governmental Unit(s) pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the Using Governmental Units(s). The Board is not a party to such contracts, unless and to the extent that the board is a using governmental unit, and bears no liability for any party's losses arising out of or relating in any way to the contract. [02-2A030-1]

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAY 2008)

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

- (i) Those prices;
- (ii) The intention to submit an offer; or
- (iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. [02-2A032-1]

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004)

(a) (1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to

contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default.

[02-2A035-1]

CODE OF LAWS AVAILABLE (JAN 2006)

The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at: <http://www.scstatehouse.gov/code/statmast.php>

The South Carolina Regulations are available at: <http://www.scstatehouse.gov/coderegs/statmast.php>

[02-2A040-2]

COMPLETION OF FORMS/CORRECTION OF ERRORS (JAN 2006)

All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (Applicable only to offers submitted on paper.) [02-2A045-1]

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (MAY 2011)

You warrant and represent that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. [02-2A047-1]

DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental bodies mail room which services that purchasing office prior to the bid opening. [R.19-445.2070(H)] [02-2A050-1]

DRUG FREE WORK PLACE CERTIFICATION (JAN 2004)

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended. [02-2A065-1]

DUTY TO INQUIRE (JAN 2006)

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offeror's are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. [02-2A070-1]

ETHICS CERTIFICATE (MAY 2008)

By submitting an offer, the Offeror certifies that the Offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2]

OMIT TAXES FROM PRICE (JAN 2004)

Do not include any sales or use taxes in Your price that the State may be required to pay. [02-2A080-1]

PROTESTS (JUNE 2006)

[SEE SECTION 2B]

PUBLIC OPENING (JAN 2004)

Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable. [02-2A090-1]

QUESTIONS FROM OFFERORS (JAN 2004)

(a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions must be received by the Procurement Officer no later than five (5) days prior to opening unless otherwise stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation, that unnecessarily or inappropriately limits full and open competition. [02-2A095-1]

REJECTION/CANCELLATION (JAN 2004)

The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065] [02-2A100-1]

RESPONSIVENESS/IMPROPER OFFERS (JAN 2004)

(a) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation.

(b) Multiple Offers. Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document. If this solicitation is a Request for Proposals, multiple offers may be submitted as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable.

(c) Responsiveness. Any Offer which fails to conform to the material requirements of the Solicitation may be rejected as nonresponsive. Offers which impose conditions that modify material requirements of the Solicitation may be rejected. If a fixed price is required, an Offer will be rejected if the total possible cost to the State cannot be determined. Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [R.19-445.2070 and Section 11-35-1520(13)]

(d) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. [R. 19-445.2070].

(e) Unbalanced Bidding. The State may reject an Offer as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the State even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

[02-2A105-1]

RESTRICTIONS APPLICABLE TO OFFERORS (JAN 2004)

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of the state Ethics Act. (a) After issuance of the solicitation, ***you agree not to discuss this procurement activity in any way with the Using Governmental Unit or its employees, agents or officials*** All communications must be solely with the Procurement Officer. This restriction may be lifted by express written permission from the Procurement Officer. This restriction expires once a contract has been formed. (b) Unless otherwise approved in writing by the Procurement Officer, ***you agree not to give anything to any Using Governmental Unit or its employees, agents or officials prior to award.*** [02-2A110-1]

SIGNING YOUR OFFER (JAN 2004)

Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal. [02-2A115-1]

STATE OFFICE CLOSINGS (JAN 2004)

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at:

<http://scemd.org/index.php/departments/response/severe-winter-weather>

[02-2A120-2]

SUBMITTING CONFIDENTIAL INFORMATION (AUG 2002)

(An overview is available at www.procurement.sc.gov) For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that Offeror contends contains information that is exempt from public disclosure because it is either (a) a trade secret as defined in Section 30-4-40(a)(1), or (b) privileged and confidential, as that phrase is used in Section 11-35-410. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the words "TRADE SECRET" every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by Section 39-8-20 of the Trade Secrets Act. For every document Offeror submits in response to or with regard to this solicitation or request, Offeror must separately mark with the word "PROTECTED" every page, or portion thereof, that Offeror contends is protected by Section 11-35-1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. If only portions of a page are subject to some protection, do not mark the entire page. By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED", (2) agrees that any information not marked, as required by these bidding instructions, as a "Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. In determining whether to release documents, the State will detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "PROTECTED". By submitting a response, Offeror agrees to defend, indemnify and hold harmless the State of South Carolina, its officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from the State withholding information that Offeror marked as "confidential" or "trade secret" or "PROTECTED".

(All references to S.C. Code of Laws.) [02-2A125-1]

SUBMITTING YOUR OFFER OR MODIFICATION (JAN 2004)

(a) Offers and offer modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means) - (1) Addressed to the office specified in the Solicitation; and (2) Showing the time and date specified for opening, the solicitation number, and the name and address of the bidder.

(b) If you are responding to more than one solicitation, each offer must be submitted in a different envelope or package. (c) Each Offeror must submit the number of copies indicated on the Cover Page.

(d) Offeror's using commercial carrier services shall ensure that the Offer is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of this provision when delivered to the office specified in the Solicitation. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. (f) Offers submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation. [02-2A130-1]

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (JAN 2008)

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor.

The credit may be claimed on Form TC-2, "Minority Business Credit." A copy of the subcontractor's certificate from the Governor's Office of Small and Minority Business (OSMBA) is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, Research and Review, Phone: (803) 898-5786, Fax: (803) 898-5888.

Questions regarding subcontractor certification are to be referred to: Governor's Office of Small and Minority Business Assistance, Phone: (803) 734-0657, Fax: (803) 734-2498. [02-2A135-1]

TAXPAYER IDENTIFICATION NUMBER (JAN 2004)

(a) If Offeror is owned or controlled by a common parent as defined in paragraph (b) of this provision, Offeror shall submit with its Offer the name and TIN of common parent.

(b) Definitions: "Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member. "Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(c) If Offeror does not have a TIN, Offeror shall indicate if either a TIN has been applied for or a TIN is not required. If a TIN is not required, indicate whether (i) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States; (ii) Offeror is an agency or instrumentality of a state or local government; (iii) Offeror is an agency or instrumentality of a foreign government; or (iv) Offeror is an agency or instrumentality of the Federal Government. [02-2A140-1]

VENDOR REGISTRATION MANDATORY (JAN 2006)

You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit www.procurement.sc.gov and select New Vendor Registration. (To determine if your business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered, you can update your information by selecting Change Vendor Registration. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or S.C. Department of Revenue. You can register with the agencies at <http://www.scbos.com/default.htm>) [02-2A145-1]

WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085. [02-2A150-1]

II. INSTRUCTIONS TO OFFERORS -- B. SPECIAL INSTRUCTIONS

STATEWIDE TERM CONTRACT - ACCEPTANCE OF OFFERS 10% BELOW PRICE (NOV 2012):

Pursuant to Section 11-35-310(35), the state may purchase items available on this contract from a third party (an "alternate vendor") if the alternate vendor offers a price that is at least ten percent less than the price established by this contract and, after being offered an opportunity, you decline to meet the alternate vendor's price. With regard to the items acquired, the alternate vendor must agree to be bound by all the terms and conditions of this contract. All acquisition pursuant to this clause must be documented by the procurement officer using the attached form. [07-7B010-1]

CONFERENCE - PRE-BID/PROPOSAL (JAN 2006)

~~Pre Bid/Proposal Conference Date and Time: 03/18/2013 10:00 AM~~

~~Location of Pre Bid/Proposal Conference:~~

**WEST COLUMBIA CITY HALL
NEW BROOKLAND CONFERENCE ROOM
200 NORTH 12TH STREET
WEST COLUMBIA, SC 29169**

Due to the importance of all offerors having a clear understanding of the specifications and requirements of this solicitation, a conference of potential offerors will be held on the date specified on the cover page. **Bring a copy of the solicitation with you. Any changes resulting from this conference will be noted in a written amendment to the solicitation.** Your failure to attend will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State. The State assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available at the conference. Nor does the State assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract. [02-2B025-1]

CLARIFICATION (NOV 2007)

Pursuant to Section 11-35-1520(8), the Procurement Officer may elect to communicate with you after opening for the purpose of clarifying either your offer or the requirements of the solicitation. Such communications may be conducted only with offeror's who have submitted an offer which obviously conforms in all material aspects to the solicitation. Clarification of an offer must be documented in writing and included with the offer.

Clarifications may not be used to revise an offer or the solicitation. [Section 11-35-1520(8); R.19-445.2080]
[02-2B055-1]

MAIL PICKUP (JAN 2006)

The State Procurement Office picks up all mail from The US Postal Service once daily around 8:30 a.m. (excluding weekends and holidays). See provision entitled Deadline for Submission of Offer. [02-2B080-1]

All copies requested must be delivered no later than the date and time specified on the cover page of the solicitation to the following address:

SC Budget & Control Board, Procurement Services Division
Materials Management Office
Attention: **Richard Edmondson, CPPB**
Attention: **5400005670**
1201 Main Street, Suite 600
Columbia, SC 29201

OFFERING BY LOT (JAN 2006)

Offers may be submitted for one or more complete lots. ~~Failure to offer on all items within a lot will be reason for rejection.~~ [02-2B095-1]

PROTESTS (JUNE 2006)

Any prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the solicitation of a contract shall protest within fifteen days of the date of issuance of the applicable solicitation document at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. See clause entitled "Protest-CPO". [Section 11-35-4210] [02-2A085-1]

PROTEST - CPO - MMO ADDRESS (JUNE 2006)

Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing

(a) by email to protest-mmo@mmo.state.sc.us ,

(b) by facsimile at 803-737-0639 , or

(c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. [02-2B122-1]

SUBMITTING REDACTED OFFERORS

You are required to mark the original copy of your offer to identify any information that is exempt from public disclosure. You must do so in accordance with the clause entitled "Submitting Confidential Information." In addition, you must also submit one complete copy of your offer from which you have removed any information that you marked as exempt, i.e., a redacted copy. The information redacted should mirror in every detail the information marked as exempt from public disclosure. The redacted copy should (i) reflect the same pagination as the original, (ii) show the empty space from which information was redacted, and (iii) be submitted on magnetic media. Except for redacted information, the CD must be identical to the original hard copy. Portable Document format (.pdf) is preferred

III. SCOPE OF WORK/SPECIFICATIONS

SEE BIDDING SCHEDULE

See Bidding Schedule [03-3005-1]

PAGE 40

DELIVERY DATE --

*****Bidders are to indicate on the Bidding Schedule how many days after receipt of a Purchase Order the Equipment will be delivered for each individual lot in the space marked "Days ARO".*****

DELIVERY INSTRUCTIONS:

All equipment, accessories, and attachments shall be FOB Destination. The term FOB Destination shall mean delivered and unloaded onto Receiving Dock of any State agency and, when applicable, any public procurement unit within the State of South Carolina, will all charges for transportation and unloading PREPAID by the Contractor.

All accessories or attachments with a value of less than \$100 shall be shipped FOB Prepaid and added to the Invoice.

All 2-Cycle equipment shall be **delivered FOB Destination, ~~unassembled in the Manufacturer's carton to be assembled by the user/purchaser~~ assembled, serviced, oiled and ready for immediate use.**

All 4-Cycle equipment shall be delivered FOB Destination, assembled, serviced, oiled and ready for immediate use.

QUALITY -- NEW (JAN 2006)

All items must be new. [03-3060-1]

QUALITY STANDARDS AND ANSI:

Commercial Grounds Maintenance Equipment furnished under these specifications shall be the Manufacturer's current standard commercial production. Equipment manufactured for home or residential use will not be considered. All accessories and attachments that is/are normally furnished with the standard product offered commercially shall be furnished with each piece of equipment.

The following standards are in effect on the date of the Invitation for Bid and as a part of these specifications:

- 1. American National Standards Institute, Inc., ANSI B71.-****1-Turf Care Equipment – Power Lawn Mowers, Lawn & Garden Tractors and Lawn Tractors – Safety Specifications**
- 2. American National Standards Institute, Inc., ANSI/OPEI B71.4-**** - safety Specifications for Commercial Turf Care Equipment – Safety Specifications.**

3. Throughout the life of the contract the then current version of specification standard (ANSI B71 and ANSI/OPEI B71.4) is in effect. Therefore, when the standard changes, the resulting contract automatically changes to reflect the changes in the standards.

4. The State does not require all Zero-Turn products to have Rollover Protection Systems (ROPS).

SCOPE OF WORK

Commercial Grounds Maintenance Equipment Phase I

Offerors Relationship with Manufacturer:

Bids will only be accepted from Manufacturers or Dealers expressly authorized to bid on behalf of a Manufacturer (documentation of expressed authority must be submitted with your bid). In the case of a Dealer bidding on behalf of a Manufacturer, the offeror (bidder) MUST clearly indicate on the Cover Page of the solicitation that the Dealer is bidding "In Care Of" a certain Manufacturer. Such bids must be accompanied by a letter from the Manufacturer on its letterhead stating that said Dealer is authorized to bid on behalf of the Manufacturer. The Offeror dealers bidding on behalf of manufacturers incur the contractual obligations intended for the manufactures must be able to provide goods and services for the entire State.

DEALERS:

~~Offers may include a list of local Dealers/Distributors that will service certain geographical areas on behalf of the Manufacturer. These Dealers/Distributors must be in good standing with the State, and will be held by the Contractors (Manufacturers) to the same performance standards as the awarded Contractors. It must be clear that the Contractor will be held responsible by the State for ALL aspects of contract performance. The Dealers/Distributors are responsible to the Contractor. The State will not be entangled in the Contractor Dealer/Distributor relationship.~~

NOTE:

The listing of a Dealer/Distributor is an administrative matter. Changes in the Manufacturer Contractor's Dealer/Distributor list(s) will not require a Change Order document. The two (2) contractual requirements supported by the Dealer/Distributor list(s) that must be maintained by the Manufacturer Contractor throughout the life of the contract are:

1. Complete and continuous distribution coverage of the entire State.
2. All named Dealer/Distributors must be in good standing with the State and be a registered vendor with the State.

****Manufacturer Contractors** are permitted to set up distribution networks to ensure quality and timely service to all areas of the state. So while the **contractors Manufacturer listed herein** or its designated dealer/distributor will serve as the sole point of contact for ordering and payment purposes, local representatives may perform other service functions such as delivery or maintenance services. Changes to the dealer/distributor networks are an administrative matter, not a contractual matter, and thus will not require express authorization of MMO or the State if changes must be made. **However, dealers and distributors are held to the same performance and responsibility standards as the contractors Manufacturer**. Should performance issues arise pertaining to a dealer/distributor acting as an agent of the **contractor Manufacturer**, the **contractor Manufacturer** is responsible for handling such issues and will act as the sole point of contact in resolving these problems.**

Offeror impose conditions (See Heading Responsiveness/Improper Offers)“.....Offers which impose conditions that modify material requirements.....may be rejected (c).” [02-2A105-1] page 11

Lots:

The State recognizes that Manufacturer or Distributor cannot supply all the items within a given lot on this solicitation. Therefore, the Manufacturer or Distributor must identify on their bidding schedule the item(s) that will be offered by them within a given lot.

Multiple Offers (See Heading **Responsiveness/Improper Offers**) (b) “.....Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted as a separate document.”.....

Price Adjustment: The contract is based on a Manufacturer list price, Governmental list price, and Commercial list price percentage (%) discount. Therefore, line item price adjustments will not apply to the discount off the three (3) list prices listed herein.

State and Governmental sub-division may do the receiving at a centralized location and the equipment is distributed to satellite location throughout its organization boundary. Therefore, equipment purchased by State and Governmental sub-division must have the operators manual, parts list, and price list with each of its orders so that the satellite sites have the required information about the equipment.

No, Equipment Leasing, Rental, or Trade-ins allowed.

No, multiple unit discounts permitted.

No, Non-contracted attachments, accessories, and implements allowed.

This wasn't phrased in the form of a question – The contract will be formed based on the discount amount offered in the bidders returned Bid Schedule. An ordering entity will be advised of the Manufacturer's current list price and the contract discount (as per the submitted bid) will be applied.

Farm and Ranch saws will not be included.

Contractor' Liability Insurance herein applies to the Manufacturer and Dealer/Distributor.

CONTACT PERSON:

Offerors must provide **a single point of contact** with whom the State will communicate should issues arise during the performance phase of the contract. This contact person shall be responsible for conducting communication(s) with its Dealers/Distributors if necessary. Please legibly provide contact information for this person:

Name: _____

Address: _____

Phone #: _____

Fax #: _____

E-Mail: _____

If the MMO Administrative Fee reporting and payment will NOT be performed by the contact person above, provide information for the single point of contact for the fee reporting/payment performance requirement below:

Name: _____

Address: _____

Phone #: _____

Fax #: _____

E-Mail: _____

MAINTENANCE/OPERATIONAL INSTRUCTIONS:

The Contractor(s) shall furnish one (1) copy of complete instructions for maintenance and operation and one (1) copy of a complete Replacement Parts list for each piece of equipment delivered. The Contractor shall also furnish one (1) copy of the Manufacturer's Current Price Parts List. These may be furnished in electronic versions.

IV. INFORMATION FOR OFFERORS TO SUBMIT

INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL (JAN 2006)

Offeror shall submit a signed Cover Page and Page Two. Offeror should submit all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in section IX. Attachments to Solicitations. [04-4010-1]

1. Cover Page and Page Two (one (1) copy marked Original and One (1) Marked Copy)
2. Attachment A Certification
3. Bidding Schedule/Price Proposal
4. Contact Person Manufacturer Dealer/Distributor list
5. And any other appropriate attachments addressed in the solicitation

In the case of a Dealer/Distributor bidding on a Manufacturer's behalf, the Offeror **MUST** clearly indicate on the Cover Page of this solicitation that it is bidding "In Care Of" a certain Manufacturer.

Such bids **MUST** be accompanied by a letter from the Manufacturer on its letterhead stating that said Dealer/Distributor is authorized to bid on behalf of the Manufacturer. (See ATTACHMENT "A") **PAGE 48 Page 55.**

Note: If this letter is NOT submitted WITH the bid, the bid will be deemed NON RESPONSIVE and will be REJECTED!!

*****BIDS WILL ONLY BE ACCEPTED FROM MANUFACTURERS OR DEALERS/DISTRIBUTORS EXPRESSLY AUTHORIZED TO BID ON BEHALF OF A MANUFACTURER**SEE ABOVE NOTE****

MINORITY PARTICIPATION (JAN 2006)

Is the bidder a South Carolina Certified Minority Business? Yes No

Is the bidder a Minority Business certified by another governmental entity? Yes No

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subcontractor? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? Yes No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subcontractor? _____

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- Traditional minority
- Traditional minority, but female
- Women (Caucasian females)
- Hispanic minorities
- DOT referral (Traditional minority)
- DOT referral (Caucasian female)
- Temporary certification
- SBA 8 (a) certification referral
- Other minorities (Native American, Asian, etc.)

(If more than one minority contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

For a list of certified minority firms, please consult the Minority Business Directory, which is available at the following [URL:http://www.govoep.state.sc.us/osmba/](http://www.govoep.state.sc.us/osmba/) [04-4015-1]

V. QUALIFICATIONS

QUALIFICATION OF OFFEROR (JAN 2006)

To be eligible for award of a contract, a prospective contractor must be responsible. In evaluating an Offeror's responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source may be considered. An Offeror must, upon request of the State, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that you are ineligible to receive an award. S.C. Code Section 11-35-1810. [05-5005-1]

****BIDS WILL ONLY BE ACCEPTED FROM MANUFACTURERS OR DEALERS/DISTRIBUTORS EXPRESSLY AUTHORIZED TO BID ON BEHALF OF A MANUFACTURER!! (SEE ATTACHMENT "A" & THE NOTE ON PAGE 20!!)****

VI. AWARD CRITERIA

AWARD BY LOT (JAN 2006)

Award will be made by complete lot(s). [06-6015-1]

AWARD CRITERIA -- BIDS

Award will be made to the lowest responsible and responsive bidder(s) for each manufacturer's product line offered.

******Bidders must offer percentage discounts for Equipment, Attachments and Accessories. The percentage discount amount on Attachments and Accessories may be different from the percentage discount on Equipment in the same lot, but must meet the required minimum discount described herein. For the purposes of this contract, Attachments and Accessories are defined as follows:**

Attachments: Items that enhance or contribute to the performance of the piece of Equipment. Examples include, but are not limited to, Side Mowers or Generators.

Accessories: Items that are added to Equipment that provide user comfort or aesthetic value, but do not enhance or contribute to performance or functionality. Examples include, but are not limited to, radios, air conditioners, or canopies.****

******The State has established that bidders must offer a greater than or equal, (\geq) to discounts 10% for all Equipment, Attachments and Accessories.******

EVALUATION/AWARD

*****The State anticipates making award(s) to multiple bidders by lot.*******

Offers are to include the Manufacturer's FULL lines/series of Commercial grounds Maintenance Equipment as defined within the categories in the Bidding Schedule. The Price List to be considered shall be the Manufacturer's published price list and Government Price List. In the event the Manufacturer does not publish a Government Price List, **its published Commercial Price List will be acceptable.** No other Price List will be acceptable and any Bids that do not comply with the above will be rejected.

AWARD TO MULTIPLE OFFERORS (JAN 2006)

Award may be made to more than one Offeror.

COMPETITION FROM PUBLIC ENTITIES (JAN 2006)

If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by non-governmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004). [06-6057-1]

VII. TERMS AND CONDITIONS -- A. GENERAL

ASSIGNMENT (JAN 2006)

No contract or its provisions may be assigned, sublet, or transferred without the written consent of the Procurement Officer. [07-7A004-1]

BANKRUPTCY (JAN 2006)

(a) Notice. In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy. [07-7A005-1]

CHOICE-OF-LAW (JAN 2006)

The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. [07-7A010-1]

CONTRACT DOCUMENTS and ORDER OF PRECEDENCE (JAN 2006)

(a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) documentation regarding the clarification of an offer [e.g., 11-35-1520(8) or 11-35-1530(6)], if applicable, (3) the solicitation, as amended, (4) modifications, if any, to your offer, if accepted by the Procurement Officer, (5) your offer, (6) any statement reflecting the state's final acceptance (a/k/a "award"), and (7) purchase orders. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (6) above shall apply notwithstanding any additional or different terms and conditions in either (i) a purchase order or other instrument submitted by the State or (ii) any invoice or other document submitted by Contractor. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect. [07-7A015-1]

DISCOUNT FOR PROMPT PAYMENT (JAN 2006)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor has not placed a date on the invoice, the due date shall be calculated from the date the designated billing office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day[07-7A020-1]

DISPUTES (JAN 2006)

(1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor agrees that any act by the Government regarding the Agreement is not a waiver of either the Government's sovereign immunity or the Government's immunity under the Eleventh Amendment of the United State's Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail. [07-7A025-1]

EQUAL OPPORTUNITY (JAN 2006)

Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference. [07-7A030-1]

FALSE CLAIMS (JAN 2006)

According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime. [07-7A035-1]

FIXED PRICING REQUIRED (JAN 2006)

Any pricing provided by contractor shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor from offering lower pricing after award. [07-7A040-1]

NON-INDEMNIFICATION (JAN 2006)

Any term or condition is void to the extent it requires the State to indemnify anyone. [07-7A045-1]

NOTICE (JAN 2006)

(A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to contractor shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph. [07-7A050-1]

PAYMENT and INTEREST (MAY 2011)

(a) Unless otherwise provided in this Solicitation, the State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government. (b) Unless otherwise provided herein, including the purchase order, payment will be made by check. (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended. (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. [07-7A055-2]

PUBLICITY (JAN 2006)

Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer. [07-7A060-1]

SETOFF (JAN 2006)

The state shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the state with regard to this contract, any other contract with any state department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the state for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. [07-7A070-1]

SURVIVAL OF OBLIGATIONS (JAN 2006)

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit. [07-7A075-1]

TAXES (JAN 2006)

Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance.

Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor. [07-7A080-1]

TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006)

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, contractor will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor will not be reimbursed any costs amortized beyond the initial contract term. [07-7A085-1]

THIRD PARTY BENEFICIARY (JAN 2006)

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third party beneficiary or otherwise. [07-7A090-1]

WAIVER (JAN 2006)

The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing. [07-7A095-1]

VII. TERMS AND CONDITIONS -- B. SPECIAL

CHANGES (JAN 2006)

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the contractor's cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the contractor from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the contractor shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the contractor shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the contractor's claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the contractor for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract.

[07-7B025-1]

CISG (JAN 2006)

The parties expressly agree that the UN Convention on the International Sale of Goods shall not apply to this agreement. [07-7B030-1]

CONTRACT LIMITATIONS (JAN 2006)

No sales may be made pursuant to this contract for any item or service that is not expressly listed. No sales may be made pursuant to this contract after expiration of this contract. Violation of this provision may result in termination of this contract and may subject contractor to suspension or debarment. [07-7B045-1]

CONTRACTOR'S LIABILITY INSURANCE (JANUARY 2013):

(a) Contractor shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the contractor, his agents, representatives, employees or subcontractors. (b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(b) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

(c) For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the State, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor's insurance and shall not contribute with it.

(d) Prior to commencement of the work, the Contractor shall furnish the State with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(e) Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor shall notify the State immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(f) Contractor hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

(g) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(h) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. [07-7B056]

DEFAULT (JAN 2006)

(a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to:

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor will be liable to the State for any excess costs for those supplies or services. However, the Contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the

default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor's rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the contractor's rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract. [07-7B075-1]

ESTIMATED QUANTITY -- PURCHASES FROM OTHER SOURCES (JAN 2006)

The state may bid separately any unusual requirements or large quantities of supplies covered by this contract. [07-7B090-1]

ESTIMATED QUANTITY -- UNKNOWN (JAN 2006)

The total quantity of purchases of any individual item on the contract is not known. The State does not guarantee that the State will buy any specified item or total amount. The omission of an estimated purchase quantity does not indicate a lack of need but rather a lack of historical information. [07-7B095-1]

FEE FOR ADMINISTRATIVE SERVICES – SPO

As provided herein, a public procurement unit, by participating in this contract, owes the Materials Management Office (MMO) a Fee for administrative services. A public procurement unit shall pay the Fee directly to Contractor as a part of the contract price. Contractor is responsible for collecting this Fee from participating public procurement units (state, county and local) and paying the Fee directly to MMO. The price stated in any Offeror's bid or proposal shall include all amounts necessary for Contractor to meet this obligation. Contractor shall factor the Fee into its contract pricing and shall not separately itemize or invoice for the Fee.

(a) **For each Payment Period, Contractor(s) shall pay to the Materials Management Office (MMO) an Administrative Fee based upon receipts; 1.00% of the total dollar amount of revenue received (excluding sales taxes & adjusted for credits or refunds) from any public procurement unit by Contractor for the cost of all asphalt emulsions delivered (See Agreement Section VIII, Items 1 – 141, located in this solicitation). The term "Payment Period" means each full calendar quarter (Jan. -- Mar., Apr. -- Jun., Jul. -- Sep., and Oct. -- Dec.) and any periods less than a full calendar quarter during the term of this Agreement.** Payment for each Payment Period must be received on or before the last day of the month immediately following the end of the Payment Period (Example: Payment for the quarterly "Payment Period" of Jan. - Mar. 2011 is due on or before April 30, 2011). **Payments are to be mailed to: Materials Management Office, Attn: Contract Admin. Fee, 1201 Main Street, Suite 600, Columbia, S.C., 29201.** Payments shall be made to the order of the Materials Management Office. If the amount due for a Payment Period is less than \$10.00, no payment is required.

(b) **Contractor shall submit a Usage Report for each Payment Period, even if no payment is due for the Payment Period.** The Usage Report shall include any information requested by MMO to verify the amount due. At a minimum, each Usage Report shall reflect the following information for the applicable Payment Period: contractor's name, contract number, contract description, Payment Period/quarter, Total Dollar Value of Invoice Payments Received (excluding sales taxes and showing any adjustments for credits or refunds), Total Number of Units (if practicable) , and the number, date, and amount of Contractor's check to MMO. The MMO procurement officer may require the Contractor to provide a separate, more detailed usage report. Should this be necessary, the procurement officer will work directly with the contractor to determine the appropriate content and format of the separate report? Separate reports may be required on a quarterly basis.

(c) During the term of this Agreement and for a period of three years thereafter, MMO, its auditors, or other authorized representatives shall be afforded access at reasonable times to Contractor's accounting records in order to audit all records relating to goods sold or work performed pursuant to this Agreement. If such an audit indicates that Contractor has materially underpaid MMO, then Contractor shall remit the underpayment and reimburse MMO for all costs of the audit.

(d) All amounts that become payable by the Contractor to MMO under this Agreement shall bear simple interest from the date due until paid unless paid within 30 calendar days of becoming due. The interest rate shall be the highest prime rate (as published in The Wall Street Journal) plus 2% per annum (unless a higher rate is provided by law, but in no event be greater than the maximum interest rate permitted by law), shall be variable, and shall be adjusted effective at the close of business on the day of any change in the prime rate.

(e) In the event the Contractor fails to make any payment when due, Contractor shall be liable to MMO for all expenses, court costs, and attorneys' fees (including inside counsel) incurred in enforcing the terms and conditions of this Agreement.

(f) Failure to pay any amount due pursuant to this clause may result in the Contractor's debarment pursuant to Section 11-35-4220 of the South Carolina Code of Laws, as amended.

(g) For purposes of this clause, MMO is intended as a third-party beneficiary of this Agreement. The phrase "public procurement unit" is defined by Section 11-35-4610(5) of the South Carolina Code of Laws, as amended.

INDEMNIFICATION - THIRD PARTY CLAIMS (JAN 2006):

Notwithstanding any limitation in this agreement, Contractor shall defend and indemnify the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all suits or claims of any nature (and all damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities attributable thereto) by any third party which arise out of, or result in any way from, any defect in the goods or services acquired hereunder or from any act or omission of Contractor, its subcontractors, their employees, workmen, servants or agents. Contractor shall be given written notice of any suit or claim. State shall allow Contractor to defend such claim so long as such defense is diligently and capably prosecuted through legal counsel. State shall allow Contractor to settle such suit or claim so long as (i) all settlement payments are made by (and any deferred settlement payments are the sole liability of) Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall not admit liability or agree to a settlement or other disposition of the suit or claim, in whole or in part, without the prior written consent of Contractor. State shall reasonably cooperate with Contractor's defense of such suit or claim. The obligations of this paragraph shall survive termination of the parties' agreement. [07-07B100]

INTELLECTUAL PROPERTY INFRINGEMENT (JAN 2006)

(a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the State, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. State shall allow Contractor to defend such claim so long as the defense is diligently and capably prosecuted. State shall allow Contractor to settle such claim so long as (i) all settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against State's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for State the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by State. If neither (1) nor (2), above, is practical, State may require that Contractor remove the acquired item from State, refund to State any charges paid by State therefor, and take all steps necessary to have State released from any further liability. (c) Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by Contractor's compliance with specifications furnished by the State unless Contractor knew its compliance with the State's specifications would infringe an IP right, or (ii) that the claim is caused by Contractor's compliance with specifications furnished by the State if the State knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement.

MATERIAL AND WORKMANSHIP (JAN 2006):

Unless otherwise specifically provided in this contract, all equipment, material, and articles incorporated in the work covered by this contract are to be new and of the most suitable grade for the purpose intended.

PRICE ADJUSTMENTS (JAN 2006)

Since the pricing structure is based on a percent discount from the manufacturer's list price, the State does not contemplate any situation where it will approve a decrease in the discount awarded. However, the State will consider and increase to the discount awarded.

(1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor (including profit, if otherwise allowed):

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the Contract or subsequently agreed upon;

(c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;

(d) in such other manner as the parties may mutually agree; or,

(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the contractor shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830.[07-7B160-1]

PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)

[Clause Included Pursuant to Section 11-35-1830, - 2210, & -2220] (a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to contractor pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with contractor which exceeds \$100,000.

Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the state context). (e) Subcontracts. You shall include the above text of this clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state.[07-7B185-1]

PURCHASING CARD (JAN 2006)

Contractor agrees to accept payment by the South Carolina Purchasing Card for no extra charge. The Purchasing Card is issued by Visa. The purchasing card allows state agencies to make authorized purchases from a vendor without the requirement to issue a purchase order. [07-7B200-1]

Many of the State agencies and Governmental sub-division may not have the resource to generate a purchase order for every item less than (\leq) the States small purchase limits. The Purchasing Card is an option that allows them away to process a requirement without issuing a Purchase order. Therefore, the Purchasing card is the preferred method for procuring items within the States small purchase limits by State agencies and Governmental sub-division. The use of the purchasing card is not mandatory.

RELATIONSHIP OF USING GOVERNMENTAL UNITS (JAN 2006)

Each Using Governmental Unit's obligations and liabilities are independent of every other Using Governmental Unit's obligations and liabilities. No Using Governmental Unit shall be responsible for any other Using Governmental Unit's act or failure to act. [07-7B210-1]

SHIPPING / RISK OF LOSS (JAN 2006)

F.O.B. Destination. Destination is the shipping dock of the Using Governmental Units' designated receiving site, or other location, as specified herein. (See Delivery clause) [07-7B220-1]

STATEWIDE TERM CONTRACT (JAN 2006)

With this solicitation, the state seeks to establish a term contract (as defined in Section 11-35-310(35)) available for use by all South Carolina public procurement units (as defined in Section 11-35-4610(5)). Use by state governmental bodies (as defined in Section 11-35-310(18)), which includes most state agencies, is mandatory except under limited circumstances, as provided in Section 11-35-310(35). See clause entitled "Acceptance of Offers 10% Below Price" in Part VII.B. of this solicitation. Use by local public procurement units is optional. Section 11-35-4610 defines local public procurement units to include any political subdivision, or unit thereof, which expends public funds. Section 11-35-310(23) defines the term political subdivision as all counties, municipalities, school districts, public service or special purpose districts. The State shall be entitled to audit the books and records of you and any subcontractor to the extent that such books and records relate to the performance of the work. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is otherwise authorized in writing by the Chief Procurement Officer. [07-7B225-1]

STATEWIDE TERM CONTRACT - ACCEPTANCE OF OFFERS 10% BELOW PRICE (NOV 2012)

Pursuant to Section 11-35-310(35), the state may purchase items available on this contract from a third party (an "alternate vendor") if the alternate vendor offers a price that is at least ten percent less than the price established by this contract and, after being offered an opportunity, you decline to meet the alternate vendor's price. With regard to the items acquired, the alternate vendor must agree to be bound by all the terms and conditions of this contract. All acquisition pursuant to this clause must be documented by the procurement officer using the attached form. [07-7B227-1]

STATEWIDE TERM CONTRACT -- SCOPE (JAN 2006)

The scope of this contract is limited by the Bidding Schedule / Cost Proposals and by the description included in Part I, Scope of Solicitation. Sales of supplies or services not within the scope of this contract are prohibited. See clause entitled Contract Limitations. [07-7B230-1]

TERM OF CONTRACT -- EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006)

The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is 1 year, 0 months, 0 days from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award. [07-7B240-1]

TERM OF CONTRACT -- OPTION TO RENEW (JAN 2006)

At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of 4 year(s), 0 month(s), and 0 day(s), unless contractor receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award. [07-7B245-1]

TERM OF CONTRACT -- TERMINATION BY CONTRACTOR (JAN 2006)

Contractor may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least **120** days prior to the expiration of the then current term. [07-7B250-1]

TERMINATION FOR CONVENIENCE (JAN 2006)

- (1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective.
- (2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.
- (3) Right to Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in a accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.
- (4) Compensation. (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.
 - (b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;
 - (c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:
 - (i) contract prices for supplies or services accepted under the contract;
 - (ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;
 - (iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in

accordance with Subparagraph (c)(ii) of this paragraph;

(iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

- (5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the state's right to require the termination of a subcontract, or (ii) increase the obligation of the state beyond what it would have been if the subcontract had contained an appropriate clause.

[07-7B265-1]

WARRANTY:

Warranty will be a factor in determining award(s). ALL Commercial Grounds Maintenance Equipment must have a minimum one (1) year Commercial Grade Warranty that guarantees against defects in design, material and workmanship. Warranty shall be effective for one (1) year from the date of acceptance by the using agency/entity. All equipment listed in this bid will be used for Heavy Duty/Commercial applications and shall be warranted accordingly.

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

BIDDING SCHEDULE (NOV 2007)

LOT 1 Manufacture Name: _____

*Commercial Lawn Mowing Equipment to include the following: Heavy Duty, Rotary Type, Walk Behind, Self-Propelled Walk Behind/Riding, Rear Engine Lawn & Garden Type, Push-Type Brush Cutter, Hydro Walk Behind Mowers, **Front & Rear Tire Tillers***

Estimated Quantity	MFG % Discount for Equipment	Delivery: _____ Days ARO	
N/A			
Product Catg.: 51545 - Lawn Mowers Power Heavy Duty Rotary Type			
Item Description: MFG % Discount for Phase I Lot 1 Equipment			
<i>Commercial Lawn Mowing Equipment to include the following:</i>			
<i>Indicate Offered category type by entering</i>	YES	NO	
<i>Heavy Duty, Rotary Type</i>			
<i>Walk Behind</i>			
<i>Self-Propelled Walk Behind/Riding</i>			
<i>Rear Engine Lawn & Garden Type</i>			
<i>Push-Type Brush Cutter</i>			
<i>Hydro Walk Behind Mowers</i>			
<i>Front & Rear Tire Tillers</i>			

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Attachments	Delivery: _____ Days ARO
N/A		
Product Catg.: 51545 - Lawn Mowers Power Heavy Duty Rotary Type		
Item Description: MFG % Discount for Phase I Lot 1 Attachments		

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Accessories	Delivery: _____ Days ARO
N/A		
Product Catg.: 51545 - Lawn Mowers Power Heavy Duty Rotary Type		
Item Description: MFG % Discount for Phase I Lot 1 Accessories		

LOT 2 **Manufacture Name:** _____

LOT 2

Commercial Lawn Mowing Equipment to include the following: Heavy Duty, Rotary Type Riding Mowers, Out-front Type, Mid-Mount Type, Zero-Turn, Stander-Type, 3-Wheel Riders, All-Terrain, Slope Mowers 3pt hitch, Wing Mowers, Greens Mowers, Fairway Mowers, Gang Mowers, Rotary-Type Pull Mowers, Rotary Tillers 3pt Hitch tiller, Finishing Mowers, Sickle Bar Mowers, Flail Mowers, Reel Mowers

Estimated Quantity	MFG % Discount for Equipment	Delivery: _____ Days ARO
N/A		
Product Catg.: 51545 - Lawn Mowers Power Heavy Duty Rotary Type		
Item Description: MFG % Discount for Phase I Lot 2 Equipment		
Commercial Lawn Mowing Equipment to include the following		
Indicate Offered category type by entering	YES	NO
Heavy Duty, Rotary Type Riding Mowers		
Outfront Type		
Mid-Mount Type		
Zero-Turn		
Stander-Type		
3-Wheel Riders		
Slope Mowers 3pt hitch		
Wing Mowers		
Greens Mowers		
Fairway Mowers		
Gang Mowers		
Rotary-Type Pull Mowers		
Rotary Tillers 3pt Hitch tiller		
Finishing Mowers		
Sickle Bar Mowers		
Flail Mowers		
Reel Mowers		

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Attachments	Delivery: _____ Days ARO
N/A		
Product Catg.: 51545 - Lawn Mowers Power Heavy Duty Rotary Type		
Item Description: MFG % Discount for Phase I Lot 2 Attachments		

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Accessories	Delivery: _____ Days ARO
N/A		
Product Catg.: 51545 - Lawn Mowers Power Heavy Duty Rotary Type		
Item Description: MFG % Discount for Phase I Lot 2 Accessories		

LOT 3 **Manufacture Name:** _____

Lawn Equipment as follows: Trimmers/Brush Cutters, Multi-Line, Hedge Trimmers, Reciprocating Saws, Lawn Edgers, Walk-Behind Brush Cutters, Brush Chippers **(to include trailer mounted)**/Shredders, Pole Saws/Pruners, Power Blowers – Hand Held, Backpack Type & Walk-Behind, **Vacuums – Hand Held and walk behind**, Earth Auger-Drills, **Walk behind wheel trimmer**

Estimated Quantity	MFG % Discount for Equipment	Delivery: _____ Days ARO
N/A		
Product Catg.: 51510 - Edgers Trimmers and Weed Cutters		
Item Description: MFG % Discount for Phase I Lot 3 Equipment		
Lawn Equipment as following		
<i>Indicate Offered category type by entering</i>	Yes	NO
Trimmers/Brush Cutters		
Multi-Line, Hedge Trimmers		
Reciprocating Saws		
Lawn Edgers		
Walk-Behind Brush Cutters		
Brush Chippers (to include trailer mounted)/Shredders,		
Pole Saws/Pruners		
Power Blowers – Hand Held		
Backpack Type & Walk-Behind		
Vacuums – Hand Held and walk behind		
Earth Auger-Drills		
Walk behind wheel trimmer		

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Attachments	Delivery: _____ Days ARO
N/A		
Product Catg.: 51510 - Edgers Trimmers and Weed Cutters		
Item Description: MFG % Discount for Phase I Lot 3 Attachments		

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Accessories	Delivery: _____ Days ARO
N/A		
Product Catg.: 51510 - Edgers Trimmers and Weed Cutters		
Item Description: MFG % Discount for Phase I Lot 3 Accessories		

LOT 4 **Manufacture Name:** _____

Turf Equipment to include the following: **Walk-Behind, Pull-Type, and Ride on Aerators, Pluggers, Spikers, Hand-Held or backpack Sprayers, Pull Sprayers, Top Dressers, Vericutters, Power Rakes, Sod Cutters, Turf Rollers, Seeders, Spreaders – Hand Held, Mounted & Pull Type, Self-Propelled/Walked Behind Bush Cutter, Power Rake, Broom and Bed Opener/Edger.**

Estimated Quantity	MFG % Discount for Equipment	Delivery: _____ Days ARO	
N/A			
Product Catg.: 51505 - Aerators Pluggers and Spikers			
Item Description: MFG % Discount for Phase I Lot 4 Equipment			
Turf Equipment to include the following			
Indicate Offered category type by entering	Yes	NO	
Walk-Behind & Pull-Type Aerators			
Ride on Aerators			
Pluggers			
Spikers			
Hand-Held or backpack Sprayers			
Pull Sprayers			
Top Dressers			
Vericutters			
Power Rakes			
Sod Cutters			
Turf Rollers			
Seeders			
Spreaders – Hand Held			
Mounted & Pull Type			
Self-Propelled/Walked Behind Bush Cutter			
Power Rake			
Broom and Bed Opener/Edger			

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Attachments	Delivery: _____ Days ARO
N/A		
Product Catg.: 51505 - Aerators Pluggers and Spikers		
Item Description: MFG % Discount for Lot 4 Attachments		

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Accessories	Delivery: _____ Days ARO
N/A		
Product Catg.: 51505 - Aerators Pluggers and Spikers		
Item Description: MFG % Discount for Lot 4 Accessories		

LOT 5 Manufacture Name: _____

Chain Saws, Heavy & Professional, 16" to 36" Bar Availability, must have the following features: **Outboard Design Clutch, Inertia Chain Brake, Lifetime Ignition System(if applicable), Anti-Vibration System, Automatic Oiler System, High Power-to-Weight Ratio (Range of .49 to .65 on Professional Models), Professional Arborist saw 12"-16", Inboard Clutch Outboard Sprocket saw.**

Estimated Quantity	MFG % Discount for Equipment	Delivery: _____ Days ARO	
N/A			
Product Catg.: 54509 - Chain Saws			
Item Description: MFG % Discount for Phase I Lot 5 Equipment			
Chain Saws			
<i>Indicate Offered category type by entering</i>	Yes	NO	
<i>Heavy & Professional, 16" to 36" Bar Availability</i>			
<i>Outboard Design Clutch, Inertia Chain Brake, Lifetime Ignition System(if applicable)</i>			
<i>Anti-Vibration System</i>			
<i>Automatic Oiler System</i>			
<i>High Power-to-Weight Ratio (Range of .49 to .65 on Professional Models)</i>			
<i>Professional Arborist saw 12"-16"</i>			
<i>Inboard Clutch Outboard Sprocket saw.</i>			

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Attachments	Delivery: _____ Days ARO
N/A		
Product Catg.: 54509 - Chain Saws		
Item Description: MFG % Discount for Phase I Lot 5 Attachments		

Manufacture Name: _____

Estimated Quantity	MFG % Discount for Accessories	Delivery: _____ Days ARO
N/A		
Product Catg.: 54509 - Chain Saws		
Item Description: MFG % Discount for Phase I Lot 5 Accessories		

LOT 6

Safety Items: Hearing, Eye, Face, and Chainsaw Protection to include clothing, boots, etc.

Estimated Quantity	MFG % Discount for Head, ear, eye and face protection	Delivery: _____ Days ARO
N/A		
Product Catg.: 34564 - Head Ear Eye and Face Protection		
Item Description: MFG % Discount for Phase I Lot 6 Head Ear Eye and Face Protection		

IX. ATTACHMENTS TO SOLICITATION

Attachment A; Certification Form

Attachment B: 10% Clause Document

NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING

IMPORTANT TAX NOTICE - NONRESIDENTS ONLY

Withholding Requirements for Payments to Nonresidents: Section 12-8-550 of the South Carolina Code of Laws requires persons hiring or contracting with a nonresident conducting a business or performing personal services of a temporary nature within South Carolina to withhold 2% of each payment made to the nonresident. The withholding requirement does not apply to (1) payments on purchase orders for tangible personal property when the payments are not accompanied by services to be performed in South Carolina, (2) nonresidents who are not conducting business in South Carolina, (3) nonresidents for contracts that do not exceed \$10,000 in a calendar year, or (4) payments to a nonresident who (a) registers with either the S.C. Department of Revenue or the S.C. Secretary of State and (b) submits a Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to the person letting the contract.

The withholding requirement applies to every governmental entity that uses a contract ("Using Entity"). Nonresidents should submit a separate copy of the Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, Form I-312 to every Using Entity that makes payment to the nonresident pursuant to this solicitation. Once submitted, an affidavit is valid for all contracts between the nonresident and the Using Entity, unless the Using Entity receives notice from the Department of Revenue that the exemption from withholding has been revoked.

Section 12-8-540 requires persons making payment to a nonresident taxpayer of rentals or royalties at a rate of \$1,200.00 or more a year for the use of or for the privilege of using property in South Carolina to withhold 7% of the total of each payment made to a nonresident taxpayer who is not a corporation and 5% if the payment is made to a corporation. Contact the Department of Revenue for any applicable exceptions.

For information about other withholding requirements (e.g., employee withholding), contact the Withholding Section at the South Carolina Department of Revenue at 803-898-5383 or visit the Department's website at: www.sctax.org

This notice is for informational purposes only. This agency does not administer and has no authority over tax issues. All registration questions should be directed to the License and Registration Section at 803-898-5872 or to the South Carolina Department of Revenue, Registration Unit, Columbia, S.C. 29214-0140. All withholding questions should be directed to the Withholding Section at 803-896-1420.

PLEASE SEE THE "NONRESIDENT TAXPAYER REGISTRATION AFFIDAVIT INCOME TAX WITHHOLDING" FORM (FORM NUMBER I-312) LOCATED AT:
<http://www.sctax.org/Forms+and+Instructions/withholding/default.htm>

[09-9005-1]

OFFEROR'S CHECKLIST (JUN 2007)

OFFEROR'S CHECKLIST -- AVOID COMMON BID/PROPOSAL MISTAKES

Review this checklist prior to submitting your bid/proposal.

If you fail to follow this checklist, you risk having your bid/proposal rejected.

- Do not include any of your standard contract forms!
- Unless expressly required, do not include any additional boilerplate contract clauses.
- Reread your entire bid/proposal to make sure your bid/proposal does not take exception to any of the state's mandatory requirements.
- Make sure you have properly marked all protected, confidential, or trade secret information in accordance with the instructions entitled: SUBMITTING CONFIDENTIAL INFORMATION. **DO NOT** mark your entire bid/proposal as confidential, trade secret, or protected! **Do not include a legend on the cover stating that your entire response is not to be released!**
- Have you properly acknowledged all amendments? Instructions regarding how to acknowledge an amendment should appear in all amendments issued.
- Make sure your bid/proposal includes a copy of the solicitation cover page. Make sure the cover page is signed by a person that is authorized to contractually bind your business.
- Make sure your Bid/proposal includes the number of copies requested.
- Check to ensure your Bid/proposal includes everything requested!
- If you have concerns about the solicitation, do not raise those concerns in your response! **After opening, it is too late! If this solicitation includes a pre-bid/proposal conference or a question & answer period, raise your questions as a part of that process!** Please see instructions under the heading "submission of questions" and any provisions regarding pre-bid/proposal conferences.

[09-9010-1]

ATTACHMENT A:
CERTIFICATION

****When a distributor/dealer is submitting an offer on behalf of the manufacturer, the following verbiage must be placed on manufacturer's letterhead, executed by manufacturer's personnel, and included in the offeror's submittal. The manufacturer's personnel executing the letter must have the authority to bind the manufacturer ****

NAME OF MANUFACTURER: _____

ADDRESS: _____

NAME OF OFFEROR: _____

ADDRESS: _____

This serves as notice that the above named offeror is authorized to submit an offer on behalf of the manufacturer to provide the goods and services specified per the terms and conditions of the State's solicitation document throughout the entire State of South Carolina. Full performance includes but is not limited to the following:

- Receive and process all purchase orders from South Carolina Governmental Entities;
- Collect and remit all admin fees due to the Materials Management Office quarterly;
- Submit usage reports associated with the admin fee to the Materials Management Office quarterly.

_____ (Signature of Manufacturer's Representative)

_____ (Printed name of Manufacturer's Representative)

_____ (Title of Manufacturer's Representative)

_____ (Date Signed)

Purchase Order Attachment
Acceptance of Offers 10% Below Statewide Term Contract Price

Instructions: If an agency purchases any item available on the Term Contract identified below from a business (an Alternate Vendor) other than the Term Contract Contractor and the total price of the purchase order exceeds \$500, then the procurement officer making the purchase must attach this form to the purchase order issued to the Alternate Vendor. The agency procurement officer must complete the following four blanks: the number and description of the applicable Term Contract, the number of the agency's Purchase Order, and the name of Term Contract Contractor that you offered an opportunity to match.

Term Contract Solicitation No.	Term Contract Description
Term Contract Contractor	Purchase Order No.

Agreement

By signing this document, Alternate Vendor is entering into a contract with the agency named above regarding the items referenced on Purchase Order identified above. Regarding the items acquired with the Purchase Order, Alternate Vendor agrees to be bound by all the terms and conditions of the Term Contract Solicitation identified above. Alternate Vendor has received and read a copy of the Term Contract Solicitation identified above. The Purchase Order may be used to elect only those options expressly allowed in the Term Contract Solicitation. Possible options might include quantity, item, delivery date, and payment method. Any contract resulting from this Purchase Order is limited to the documents identified in the clause entitled Contract Documents & Order of Precedence.

NAME OF ALTERNATE VENDOR <small>(full legal name of business entering this contract)</small>	TAXPAYER IDENTIFICATION NO. <small>(See "Taxpayer Identification Number" provision)</small>
AUTHORIZED SIGNATURE <small>(person authorized to enter binding contract on behalf of Alternate Vendor)</small>	TITLE <small>(business title of person signing)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	DATE SIGNED

Certification of Compliance

I certify as follows: (1) every item acquired with the Purchase Order is priced at least ten percent less than the Term Contract price for the same item; (2) the Term Contract Contractor identified above declined to meet the prices stated on the Purchase Order after being offered a reasonable opportunity to meet the price stated on the Purchase Order; and, (3) this purchase complies with Section 11-35-310(35), which is reprinted below.

AUTHORIZED SIGNATURE <small>(procurement officer authorized to issue purchase order and sign certification)</small>	TITLE <small>(business title of person signing)</small>
PRINTED NAME <small>(printed name of person signing above)</small>	DATE SIGNED

Section 11-35-310(35) of the South Carolina Code of Laws reads as follows: ""Term contract" means contracts established by the chief procurement officer for specific supplies, services, or information technology for a specified time and for which it is mandatory that all governmental bodies procure their requirements during its term. As provided in the solicitation, if a public procurement unit is offered the same supplies, services, or information technology at a price that is at least ten percent less than the term contract price, it may purchase from the vendor offering the lower price after first offering the vendor holding the term contract the option to meet the lower price. The solicitation used to establish the term contract must specify contract terms applicable to a purchase from the vendor offering the lower price. If the vendor holding the term contract meets the lower price, then the governmental body shall purchase from the contract vendor. All decisions to purchase from the vendor offering the lower price must be documented by the procurement officer in sufficient detail to satisfy the requirements of an external audit. A term contract may be a multi term contract as provided in Section 11-35-2030."

----- PURCHASE ORDER ATTACHMENT (NOV 2012) -----

[09-9020-1]

ATTACHMENT B: