

STATE OF MONTANA TERM CONTRACT

Department of Administration
 State Procurement Bureau
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<http://gsd.mt.gov/>

T.C. #: SPB11-2071D
Title: BULK GASOLINE/DIESEL FUEL
This is an exclusive contract.

| | | | | |
|----------------|--------------------------------------|-------------------|-----------------|---|
| CONTRACT TERM | FROM | January 1, 2015 | CONTRACT STATUS | NEW () |
| | TO | December 31, 2017 | | RENEW (x) 2 nd Renewal, 5 th /6 th Years |
| VENDOR ADDRESS | Various Vendors (See Vendor Profile) | | ORDER ADDRESS | |
| ATTN: | | | ATTN: | |
| PHONE: | | | PHONE: | |
| FAX: | | | FAX: | |
| E-MAIL: | | | E-MAIL: | |

PRICES: Per Contract
 DELIVERY: Per Contract
 F.O.B.: Per Contract
 TERMS: Per Contract

REMARKS: The term of the contract is January 1, 2015 through December 31, 2017. This is the second renewal, fourth and fifth years of the contract.

Contract Locations are a separate attachment to the website: Attachment A – Contract Locations
<http://svc.mt.gov/gsd/apps/TermContractDetail.aspx?ContractID=119>

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| IFB/RFP No.: IFB11-2071D |  Rick Dorvall, CONTRACTS OFFICER | DATE: 12/19/2014 |
|--------------------------|--|------------------|

AUTHORIZED SIGNATURE

Standard Terms and Conditions

By submitting a response to this invitation for contract, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF CONTRACTS, PROPOSALS, OR LIMITED SOLICITATION RESPONSES: The State reserves the right to accept or reject any or all contracts, proposals, or limited solicitation responses, wholly or in part, and to make awards in any manner deemed in the best interest of the State. Contracts, proposals, and limited solicitation responses will be firm for 30 days, unless stated otherwise in the text of the invitation for contract, request for proposal, or limited solicitation.

ACCESS AND RETENTION OF RECORDS: The contractor agrees to provide the department, Legislative Auditor, or their authorized agents, access to any records necessary to determine contract compliance. (Section 18-1-118, MCA). The contractor agrees to create and retain records supporting the services rendered or supplies delivered for a period of three years after either the completion date of the contract or the conclusion of any claim, litigation, or exception relating to the contract taken by the State of Montana or third party.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the State's solicitation document and a vendor's response, the language contained in the State's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the vendor's disqualification and possible debarment.

ASSIGNMENT, TRANSFER AND SUBCONTRACTING: The contractor shall not assign, transfer or subcontract any portion of the contract without the express written consent of the department. (Section 18-4-141, MCA.)

AUTHORITY: The attached contract, request for proposal, limited solicitation, or contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

COMPLIANCE WITH LAWS: The contractor must, in performance of work under the contract, fully comply with all applicable federal, state, or local laws, rules and regulations, including the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by the contractor subjects subcontractors to the same provision. In accordance with section 49-3-207, MCA, the contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

CONFORMANCE WITH CONTRACT: No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without prior written consent of the State Procurement Bureau. Supplies delivered which do not conform to the contract terms, conditions, and specifications may be rejected and returned at the contractor's expense.

DEBARMENT: The contractor certifies, by submitting this contract or proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by the State.

DISABILITY ACCOMMODATIONS: The State of Montana does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids,

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alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

FACSIMILE RESPONSES: Facsimile responses will be accepted for invitations for contracts, small purchases, or limited solicitations ONLY if they are completely received by the State Procurement Bureau prior to the time set for receipt. Contracts, or portions thereof, received after the due time will not be considered. Facsimile responses to requests for proposals are ONLY accepted on an exception basis with prior approval of the procurement officer.

FAILURE TO HONOR CONTRACT/PROPOSAL: If a contractder/offeror to whom a contract is awarded refuses to accept the award (PO/contract) or fails to deliver in accordance with the contract terms and conditions, the department may, in its discretion, suspend the contractder/offeror for a period of time from entering into any contracts with the State of Montana.

FORCE MAJEURE: Neither party shall be responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party is using its best efforts to remedy such failure or delays.

HOLD HARMLESS/INDEMNIFICATION: The contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of the contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of the contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this agreement.

LATE CONTRACTS AND PROPOSALS: Regardless of cause, late contracts and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the vendor's risk to ensure delivery at the designated office by the designated time. Late contracts and proposals will not be opened and may be returned to the vendor at the expense of the vendor or destroyed if requested.

PAYMENT TERM: All payment terms will be computed from the date of delivery of supplies or services OR receipt of a properly executed invoice, whichever is later. Unless otherwise noted in the solicitation document, the State is allowed 30 days to pay such invoices. All contractors will be required to provide banking information at the time of contract execution in order to facilitate State electronic funds transfer payments.

RECIPROCAL PREFERENCE: The State of Montana applies a reciprocal preference against a vendor submitting a contract from a state or country that grants a residency preference to its resident businesses. A reciprocal preference is only applied to an invitation for contract for supplies or an invitation for contract for nonconstruction services for public works as defined in section 18-2-401(9), MCA, and then only if federal funds are not involved. For a list of states that grant resident preference, see <http://gsd.mt.gov/ProcurementServices/preferences.mcp.x>.

REDUCTION OF FUNDING: The State must terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance in a subsequent fiscal period. (See section 18-4-313(4), MCA.)

REFERENCE TO CONTRACT: The contract or purchase order number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract.

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REGISTRATION WITH THE SECRETARY OF STATE: Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with sections 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

SEPARABILITY CLAUSE: A declaration by any court, or any other binding legal source, that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually dependent.

SHIPPING: Supplies shall be shipped prepaid, F.O.B. Destination, unless the contract specifies otherwise.

SOLICITATION DOCUMENT EXAMINATION: Vendors shall promptly notify the State of any ambiguity, inconsistency, or error which they may discover upon examination of a solicitation document.

TAX EXEMPTION: The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED: Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (Section 18-5-603, MCA.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

TERMINATION OF CONTRACT: Unless otherwise stated, the State may, by written notice to the contractor, terminate the contract in whole or in part at any time the contractor fails to perform the contract.

U.S. FUNDS: All prices and payments must be in U.S. dollars.

VENUE: This solicitation is governed by the laws of Montana. The parties agree that any litigation concerning this contract, request for proposal, limited solicitation, or subsequent contract, must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees. (Section 18-1-401, MCA.)

WARRANTIES: The contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship, and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance, and/or use desired. Exceptions will be rejected.

Revised 2/10

BULK GASOLINE/DIESEL FUEL

1.0 CONTRACT SCOPE, CONTRACT TERM, AND RENEWAL

This contract will establish an agreement for supplying bulk deliveries of gasoline and diesel fuel to the various State of Montana and political subdivision locations stated in Attachment A- Locations. The contract term is for a period of two years beginning on the date of award and ending December 31, 2012. Renewals of the contract, by mutual agreement of both parties, may be made at one-year intervals, or any interval that is advantageous to the State, not to exceed a total of seven years. This contract will be exclusive for the specific locations listed. The term of this contract is January 1, 2015 through December 31, 2017. This is the second renewal, fifth and sixth years of the contract.

1.1 TRANSITIONAL PERIOD

In the event a replacement contract is not established to commence immediately after expiration of this contract or after termination by the State, it shall be incumbent upon the contractor to continue the contract under the same terms and conditions until a new contract can be completely operational. At no time shall this transitional period be more than 90 days beyond the original expiration date of the existing Contract.

1.2 EXCLUSIVE CONTRACT

The intent of this contract is to provide the locations listed herein with an expedited means of procuring bulk gasoline and diesel fuel. This contract is considered to be an "Exclusive" use contract and state agencies must obtain the specified bulk deliveries from the contract holder(s), for the locations listed unless the contract allows otherwise. However, the State Procurement Bureau does not guarantee any minimum usage totals and it is the individual agency's responsibility to comply with the terms of the contract.

1.3 LOCATIONS

Locations are listed alphabetically by county in the attached spreadsheet, and include the agency name, a description of the location, agency phone number, fuel types, tank size and estimated annual usage. Annual quantities listed are estimates only, actual amounts purchased may vary depending upon needs. Storage capacity information is provided but not guaranteed. No guarantees of transport volume quantities are expressed or implied. Contracts may not be accepted if a minimum delivery requirement is stipulated.

1.4 INSURANCE REQUIREMENTS

1.4.1 General Requirements. The Contractor shall maintain for the duration of the contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

1.4.2 Primary Insurance. The Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

1.4.3 Specific Requirements for Commercial General Liability. The Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or subcontractors.

BULK GASOLINE/DIESEL FUEL

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds; for liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products, and completed operations; premises owned, leased, occupied, or used.

1.4.4 Specific Requirements for Automobile Liability. The Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, hired, or borrowed by the Contractor.

1.4.5 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the state agency. At the request of the agency either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of the Contractor, the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

1.4.6 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. The Contractor must notify the State immediately, of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

1.5 COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractors are required to comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither the contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135, upon expiration.

2.0 DEFINITIONS

2.0.1 OPIS, DTN Energy, or Equivalent: Nationwide petroleum information systems which monitors and reports fuel prices per gallon and fluctuations thereto, at each terminal location, on a daily basis.

2.0.2 Terminal Location: The product distribution site where fuel is made available to the vendor for storage or resale purposes.

2.0.3 Vendor: A supplier wishing to sell fuel to the State via award of this contract.

2.0.4 Contractor: A supplier authorized to sell fuel to the agencies listed herein via award of all or a portion of this contract.

2.0.5 OPIS, DTN Energy, or Equivalent: A fuel price per gallon as reported by OPIS, DTN Energy or equivalent, for a specific terminal location, for a specific day.

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2.0.6 Rack Price: Same as OPIS price, i.e., the price of fuel per gallon at a specific terminal location for a specific day.

2.0.7 Location: A government-owned or operated site requiring periodic fuel deliveries: The locations are listed in Attachment A of this IFB. A location may include one or more fuel tanks or various sizes and fuel types.

2.0.8 Delivery Ticket: The delivery receipt (bill of lading) originated by the contractor which must be presented to a representative of the State each time a fuel delivery occurs. Delivery tickets must specify the itemized price per gallon, applicable taxes and fees, and all documentation as stated herein.

2.0.9 Invoice: The billing document originated by the contractor representing the total charge to the agency for each delivery of fuel made by the vendor under this contract.

2.0.10 Federal Excise Tax: State and local governments are exempt from the Federal 18.4 cent per gallon gasoline, 13.2 cent per gallon gasohol and 24.4 cent per gallon diesel fuel tax. It is the responsibility of the vendor to provide and process the required exemption certificates, and to not invoice state agencies for the federal tax.

2.0.11 Montana Gasoline Tax: All parties must pay the 27 cent per gallon state tax. No agencies are eligible for refunds. Government entities may file for a State Gasoline Tax refund for fuel used off road by submitting the required dispersal and/or mileage records a Schedule B - Off Road form. Please contact Montana Department of Transportation at (406) 444-7278 for additional information.

2.0.12 Diesel Fuel: Dyed diesel fuel may be purchased and delivered to agencies tax exempt. The Montana Department of Transportation (MDT) allows red-dyed fuel to be used on-road by state and local governments only.

Unless specified otherwise by an agency, contractors will have the option of delivering either tax exempt dyed ultra low sulfur diesel fuel (15ppm Sulphur maximum) or clear low sulfur diesel fuel (15ppm Sulphur maximum) fuel, taxed at 27.75 cents per gallon, but will only be allowed to deliver one or the other for the duration of the contract. If clear diesel fuel is initially delivered to a site, no deliveries of dyed fuel will be allowed at that location for the duration of the contract unless authorized by the State. Please contract accordingly.

Agencies may apply for State diesel tax refunds directly from the Montana Department of Transportation. Please contact MDT at (406) 444-7278 for additional information regarding taxation.

2.0.13 Federal Superfund Tax: The Federal Superfund Tax of .0023 applied to crude oil is to be calculated into the rack price and is not separately invoiced to state agencies under this contract.

2.0.14 State of Montana Clean-up Fee: A 0.75 cent per gallon (three-fourths of one cent) is presently in effect on all gasoline and diesel purchases and is to be calculated into the rack price, and is not eligible for refund.

2.0.15 Ethanol Blended Gasoline: Fuel products consisting of not less than 10% anhydrous ethanol produced from agricultural products, including wood or wood products. Vendors shall indicate contract locations that are to be supplied with ethanol blended gasoline.

BULK GASOLINE/DIESEL FUEL

2.0.16 Vendor's Markup: Markup is the amount of money the vendor chooses to calculate into the contract, above and beyond the Rack price per gallon of fuel and the applicable taxes per gallon assessed against that fuel.

Markup may include, but is not necessarily limited to, cost of transportation to the State's locations, miscellaneous vendor overhead costs, blending fees, and the vendor's desired margin of profit. **The vendor's markup figure is the basis for award of this contract.**

3.0 FUEL SPECIFICATIONS

3.1 GASOLINE

Each contractor agrees to provide standard unleaded gasoline with a minimum anti-knock index of 85.5, 87, 89 or 91, R+M/2, whichever product is ordered by the State. Minimum octane levels will be determined by availability, facility location/elevation and the specifications contained herein. Unleaded products shall comply with ASTM D4814-01 specifications.

Products supplied under the resulting contract must be delivered in compliance with ordinances governing regulatory actions, such as oxygenated fuel, unless indicated otherwise by the agency.

3.2 DIESEL

Each contractor agrees to provide ultra low sulfur diesel fuel with a minimum 40 cetane index or maximum 35 volume percent aromatic; and sulfur content of 15 ppm maximum; and meeting ASTM D975-02 specifications. **The State requires only Ultra Low Sulfur Dyed Diesel. If the vendor cannot deliver Ultra Low Sulfur Dyed Diesel because of availability issues the State will take Clear Ultra Low Sulphur Diesel.**

3.3 BIODIESEL

Biodiesel fuel, when requested, is to be blended to B20 level prior to delivery. Blended biodiesel fuel shall be supplied by a vendor that is registered with the EPA to sell biodiesel and is licensed to sell diesel fuel in Montana. Biodiesel feedstock must meet or exceed ASTM D6751-02 specifications.

3.4 ETHANOL PRODUCTS

All ethanol products delivered shall comply with ASTM D5798-98a, including seasonal blending adjustments.

Montana law requires state agencies to use gasohol in motor vehicles, provided that the gasohol is priced the same or less as non-gasohol products. Vendors are encouraged to contract ethanol blended fuel, if available. All contracts for gasoline products must be based on the vendor mark-up over the OPIS/rack price for regular unleaded fuel only.

Contractors will be afforded the opportunity to supply gasohol provided it is available at the corresponding OPIS/rack price for regular unleaded fuel. Vendors shall indicate locations that are to be supplied with gasohol.

3.5 HEATING FUELS

Products must comply with accepted industry specifications, including compliance with distillation, viscosity, pour point, stability, sediment and water requirements. The most widely used types include:

HEATING FUEL NO. 1 - An ASTM No. 1 grade fuel for pot-type burners and circulating air furnaces.

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HEATING FUEL NO. 2 - An ASTM No. 2 grade fuel for pressure and gun-type oil burners.

Diesel #2 is used primarily for vehicle fuel and heating purposes. Diesel #2, used for vehicle fuel in low temperature conditions, must be blended as outlined in Section 3.6 for diesel fuel.

3.6 BLENDING #2 DIESEL

Blending is required to prevent congealing of diesel fuel in low temperature conditions. Fuel provided must be blended by contractor to ensure it is suitable for satisfactory operation of the equipment for which its use is intended at the temperatures that can reasonably be expected to occur. Additional consideration must be given to fuel system design, equipment protection for cold weather operation, type of operation, area of operation, and unusual weather or operating conditions.

Blended fuels may only be invoiced at the actual quantity of each gallon of each fuel grade delivered. If an extra fee is required for blending, it must be included in the Vendor Markup.

3.7 GENERAL

Fuel deliveries may be "spot" tested to verify compliance. Deliveries and/or payment may be refused if quality is unacceptable. If fuels do not comply with the established specifications, all costs for testing shall be paid by the contractor. In addition, if a contaminated fuel delivery requires a tank cleanup, (including any equipment fueled as a result of contractor's delivery of contaminated or specification non-compliant product), the cost for removal of the contaminated or non-compliant fuel and the cost for the cleanup shall be paid by the contractor. Contractor agrees to pump the tank to remove Contractor supplied contaminated or non-compliant fuel within 24 hours after receiving written notification that the product does not meet contract specification requirements.

The State reserves the right to collect a sample of fuel from the contractor's delivery truck at time of delivery for purposes of verification of specification compliance.

Note: Nothing herein shall preclude conformance with present and future federal, state, or local regulations.

4.0 CONTRACT REQUIREMENTS

4.1 RELATIONSHIP OF OPIS, DTN ENERGY or EQUIVALENT TO THE RESULTING CONTRACT

Vendors are not required to subscribe to OPIS, DTN Energy or equivalent, to contract or to be eligible for award. The State's intention is to establish a fuel contract whereby the purchase price per gallon on each vendor's fuel invoice can be directly reconciled to the Rack price per gallon on the date of delivery based on the following formula:

Rack Price in effect on Date of Delivery + Applicable Taxes/Fees + Vendor Markup = INVOICE PRICE per Gallon.

The contractor is responsible for providing a delivery ticket and invoiced price per gallon that is based on the actual Rack price for the terminal of origin on the date of delivery. **DELIVERY TICKETS MUST INDICATE THE ITEMIZED PRICE PER GALLON!** The State reserves the right to refuse deliveries that are not accompanied by priced and itemized delivery tickets, and/or hold payment without penalty until properly executed invoices/delivery tickets are submitted.

Throughout the term of this contract, the State will randomly verify delivery ticket and/or invoice prices. Any invoice for which verification cannot be achieved using the above formula, will be returned unpaid to the originating vendor for correction.

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4.2 BRANDED AND UNBRANDED FUEL

It is the State's intent to provide agencies with the least expensive fuel available. Therefore, a vendor may contract branded or unbranded fuel, or both.

When providing the State with fuel, a successful vendor agrees to deliver and invoice based on the least expensive of the fuel options (branded or unbranded) contract and available, per Rack price, on the date of delivery. Vendors may deliver products from multiple terminal locations, but must so indicate on the individual delivery ticket/invoice.

Should the pricing structure become unworkable, detrimental or injurious to the State of Montana, or result in prices which are not truly reflective of current market conditions, and no adjustment in price is mutually agreeable, the State reserves the right to make necessary modifications or to cancel this contract.

If pulling product from a rack with a lower price than the rack location indicated on the contract, vendors may adjust the "Vendor Markup" for that delivery only if: 1) the delivered net cost to the State is lower than the rack location indicated on the contract and, 2) sufficient documentation and rack pricing is provided on the delivery ticket/invoice to justify that the State paid a lower delivered price. The markup adjustment is subject to approval by the State. Failure to comply with the terms stated herein may result in cancellation of contract.

The State reserves the right to randomly verify invoice pricing throughout the term of the contract to assure compliance.

4.3 FUTURE FUEL TAX CHANGES

Federal and/or State fuel taxes may increase or decrease during the term of the contract. After a change occurs, the vendor will submit invoices reflecting the change and the agencies will pay accordingly. Changes in the fuel tax structure shall not alter the "Vendor Markup" figure upon which award of this contract is based.

5.0 CONTRACTOR RESPONSIBILITIES

Contractors agree to comply with the following term contract requirements and responsibilities.

5.1 NOTIFICATION OF DELIVERY

Fuel shall be delivered on an "as needed" basis as per notification from the agency to the term contract holding vendor.

5.2 LEAD TIME

Delivery shall be required not more than 48 hours after notification by the agency. Should the term contract holding vendor, for any reason whatsoever, be unable to make delivery of the requested fuel within the 48 hour period, the State of Montana, reserves the right to purchase fuel, as necessary, from any other available source. The contractor that was unable to supply will be liable for any increase in price to the State, if the price from the other source is more than from the contractor.

5.3 RECEIPT OF FUEL DELIVERIES

The contractor must utilize proper equipment to prevent fuel spillage during delivery. One of the following methods shall be required as documentation of delivery of fuel per location:

- 5.3.1** Where installed, metering devices shall be used by the term contract holding vendor when making deliveries.

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5.3.2 Where metered delivery is not possible, a "stick" measurement shall be taken by an employee of the agency receiving the product as a receipt of the delivered quantity of fuel.

5.3.3 In all cases an employee of the agency must be informed of the delivery truck arrival, afforded an opportunity to observe/confirm off-loading and sign for receipt.

5.4 DELIVERY TICKETS

NOTE: Delivery tickets must accompany the delivery of fuel and must state the itemized invoice price of the delivered products. Deliveries without priced delivery receipts may be refused. Failure to provide priced delivery receipts at the time of delivery is cause for cancellation of the contractor's portion of the contract.

5.5 BILLING AND INVOICING

In all cases, billing and invoicing of fuel purchases shall be directed to the department or agency with authority over the specific delivery location. A priced copy of the delivery ticket will be left at the delivery location. The contractor shall secure the proper billing and invoicing address for each location(s) awarded to their firm.

6.0 QUOTATION AND AWARD PROCESS

Award will be made, per agency contract location, to the vendor who provides the lowest, valid "Vendor Markup" quotation for that location. Because all other price components (Rack price, taxes, etc.) are pre-established, only the "Vendor Markup" figure shall be listed by the vendor and only it will be used to establish award.

At contract locations where both gasoline and diesel products are required, vendor must provide a quote for all types of fuel listed in order to receive an award for that location.

Award will be determined by multiplying the "Vendor Markup" figure times the "estimated annual usage" gallons provided for each tank per agency contract location. The vendor must total the extension prices and list the "location total".

Vendors may calculate the "Vendor Markup" to one-hundredth of a cent (example: \$0.0285).

| | |
|----------------------------------|-----------|
| Unacceptable Quote: | \$0.02853 |
| Adjusted Quote (as noted above): | \$0.0285 |

Vendors must clearly indicate, for each applicable item contract, if quoting a "Vendor Markup" that is **below or to be deducted from** Rack price. The extended "Location Total" must reflect the subtraction/deduction.

Vendors may submit a quote for a single contract location or for any number of contract locations throughout the state.

Vendors wishing to be considered for award of a specific group of contract locations only, may submit an "All-or-None" quote by providing a Vendor Markup price per gallon (and Location Total, if applicable) for each location and then clearly indicating "ALL OR NONE" for the items to be considered as a group award. All-or-None contracts may be submitted as alternative contracts and will be considered if advantageous to the agency. All-or-None contracts must contain individual Vendor Markup item-by-item pricing.

7.0 VENDOR PROFILE

G. M.

G.M. Petroleum Distributors
Jay Brookie
PO Box 30335
Billings MT 59107
Telephone: (406) 252-4661
FAX: (406) 259-1189
Fed ID #81-0379601
Email: jbrookie@gmpetroleum.com

HELENA FUEL, INC.

Helena Fuel Supply
Valerie Palmer
PO Box 728
East Helena, MT 59635
Telephone: (406) 439-5910
FAX: (406) 227-5579
Fed ID#20-8532521
E-mail: helenafuelsupply@aol.com

MOORE OIL

Moore Oil, Inc.
Bary Moore
PO Box 564
Libby, MT 59923
Telephone: (406) 827-4314
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