



STATE OF DELAWARE  
EXECUTIVE DEPARTMENT  
OFFICE OF MANAGEMENT AND BUDGET

April 19, 2012

TO: ALL STATE AGENCIES, SCHOOL DISTRICTS, MUNICIPALITIES, VOLUNTEER  
FIRE COMPANIES AND POLITICAL SUBDIVISIONS

FROM: WILLIAM W. PICKRUM  
DEPUTY DIRECTOR, GOVERNMENT SUPPORT SERVICES  
302-857-4501

SUBJECT: **AWARD NOTICE**  
**CONTRACT NO. GSS12663-HVYEQUIP**  
**Heavy Equipment**

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**KEY CONTRACT INFORMATION**

**1. CONTRACT USE:**

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This is not a mandatory use contract under **Title 29, Chapter 6911(d) Delaware Code**. It is available to every state department and agency within the Executive Branch and Judicial Branch of the state government shall procure all material, equipment and nonprofessional services through the statewide contracts administered by Government Support Services, Office of Management and Budget. Delaware State University, Delaware Technical and Community College, the operations funded by Public School Districts, Delaware Transit Corporation, the Legislative Branch and the Board of Pension Trustees and their consultants are specifically exempted from the requirements of this subsection.

Under Title 29 §6933, The State of Delaware is authorized to participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of materiel or nonprofessional services with 1 or more public procurement units either within the State or within another state in accordance with an agreement entered into between the participants.

A competitive bidding and selection process was conducted by the National Joint Powers Alliance (NJPA), a Minnesota-based Service Cooperative created by Minnesota Legislative Statute 123A.21. NJPA and Contractor established a contract for the purchase of heavy construction equipment with related accessories, supplies, and services on or around July 20, 2011 (hereinafter, "Master Agreement").

**2. CONTRACT PERIOD:**

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Each contractor's contract shall be valid through various periods. See vendor information below.

**3. VENDORS:**

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<b>Contract # GSS12663-HVYEQUIPV01</b> NJPA Contract Number: 060311-CNH FSF Vendor ID: 0000126313 CNH America, LLC Attn: Gary Oldis 621 State Street Racine, WI 53402-5133 Phone: 262-636-0625 Fax: 262-636-5310 Email: <a href="mailto:gary.oldis@cnh.com">gary.oldis@cnh.com</a> Website: <a href="http://www.cnh.com/">http://www.cnh.com/</a> Contract Expires: 7/19/2015	<b>Product lines:</b> Case Kobelco New Holland
	<b>Local Dealers:</b> <b>New Holland Construction;</b> Modern Equipment Sales & Rental Company 24 Brookside Drive Wilmington, DE, 19804-1102 Phone: 800-227-2525 Fax: 302-658-0135  <b>KOBELCO</b> Gaithersburg Equipment Company 700 E Diamond Ave. Gaithersburg, MD, 20877-3065 Phone: (301) 670-9300 Fax: (301) 926-3705

	<p><b>CASE CE</b>          Folcomer Equip. Corp          12420 Sussex Highway          Greenwood, DE, 19950-5447          Phone: (302) 349-5760          Fax: (302) 349-5785</p> <p>Eagle Power &amp; Equip.          2211 DuPont Hwy.          P.O. Box 889          New Castle, DE, 19720-0889          Phone: (302) 652-3028          Fax: (302) 652-7540</p>
<p><b>Contract # GSS12663-HVYEQUIPV02</b>          NJPA Contract Number: 031711-DAC          081209-JDE          FSF Vendor ID: 0000022081          Deere and Company          Attn: Bill Frank          2000 John Deere Run          Cary, NC 27513-2789          Phone: 972-974-0984          Email: <a href="mailto:FrankWilliamD@JohnDeere.com">FrankWilliamD@JohnDeere.com</a>          Website: <a href="http://www.johndeere.com">www.johndeere.com</a></p>	<p><b>Product Lines:</b>          John Deere</p> <p><b>Local Dealers:</b>  <b>Atlantic Tractor LLC</b>          301 East Street          Clayton, DE 19938-7707          302-653-8536</p> <p><b>ATLANTIC TRACTOR LLC</b>          2688 Pulaski Highway          Newark, DE 19702-3915          302-834-0114</p> <p><b>FOULK LAWN &amp; EQUIPMENT, INC.</b>          2018 Foulk Road          Wilmington, DE 19810-3624          302-475-3233</p> <p><b>TAYLOR AND MESSICK, INC.</b>          325 Walt Messick Road          Harrington, DE 19952-3300          302-398-3729</p>

**4. SHIPPING TERMS:**

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Freight – based on FOB pint of shipment.

**5. DELIVERY AND PICKUP:**

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- a. Dealer places machine order.
- b. Dealer receives machine and prepares for delivery to agency
- c. Dealer delivers machine.
  - I. Dealer performs operator review, as needed.
  - II. Dealer files warranty registration.

**6. PRICING:**

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Prices will remain firm for the term of the contract year. All items are a percent off the manufacturer's lowest list price catalog. Pricing and discount information may be obtained from the cognizant State Contract Procurement Officer.

**ADDITIONAL TERMS AND CONDITIONS**

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**7. BILLING:**

The successful vendor is required to **"Bill as Shipped" to the respective ordering agency(s).** Ordering agencies shall provide at a minimum the contract number, ship to and bill to address, contract name and phone number.

**8. PAYMENT:**

The agencies or school districts involved will authorize and process for payment each invoice within thirty (30) days after the date of receipt. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions. Agency pays dealer for purchase.

**9. PRODUCT SUBSTITUTION:**

All items delivered during the life of the contract shall be of the same type and manufacture as specified unless specific approval is given by Government Support Services to do otherwise. Substitutions may require the submission of written specifications and product evaluation prior to any approvals being granted.

**10. ORDERING PROCEDURE:**

Successful contractors are required to have either a local telephone number within the (302) area code, a toll free (800) number, or agree to accept collect calls. Each agency is responsible for placing their orders and may be accomplished by written purchase order, telephone, fax or computer on-line systems. The contractor or vendor must accept full payment by procurement (credit) card and/or conventional check and/or other electronic means at the State's option, without imposing any additional fees, costs or conditions.

**11. HOLD HARMLESS:**

The contractor agrees that it shall indemnify and hold the State of Delaware and all its agencies harmless from and against any and all claims for injury, loss of life, or damage to or loss of use of property caused or alleged to be caused, by acts or omissions of the contractor, its employees, and invitees on or about the premises and which arise out of the contractor's performance, or failure to perform as specified in the Agreement.

**12. NON-PERFORMANCE:**

In the event the contractor does not fulfill its obligations under the terms and conditions of this contract, the ordering agency may purchase equivalent product on the open market. Any difference in cost between the contract prices herein and the price of open market product shall be the responsibility of the contractor. Under no circumstances shall monies be due the contractor in the event open market products can be obtained below contract cost. Any monies charged to the contractor may be deducted from an open invoice.

**13. FORCE MAJEURE:**

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Neither the contractor nor the ordering agency shall be held liable for non-performance under the terms and conditions of this contract due, but not limited to, government restriction, strike, flood, fire, or unforeseen catastrophe beyond either party's control. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this contract.

**14. AGENCY'S RESPONSIBILITIES:**

The Agency shall:

- a. Examine and review in detail all letters, reports, drawings and other documents presented by the Contractor to the Agency and render to the Contractor in writing, findings and decisions pertaining thereto within a reasonable time so as not to delay the services of Contractor.
- b. Give prompt written notice to the Contractor whenever the Agency observes or otherwise becomes aware of any development that affects the scope or timing of the Contractor's services.
- c. When an ordering agency first experiences a relatively minor problem or difficulty with a vendor, the agency will contact the vendor directly and attempt to informally resolve the problem. This includes failure to perform by the date specified and any unacceptable difference(s) between the purchase order and the merchandise received. Ordering agencies should stress to vendors that they should expedite correction of the differences because failure to reply may result in an unfavorable rating in the execution of the awarded contract.
- d. The state has several remedies available to resolve non-performance issues with the contractor. The Agency should refer to the Contract Terms and Conditions to view these remedies. When a default occurs, the Agency should first review the contract to confirm that the issue is a part of the contract. If the issue is not covered by the contract, the state cannot expect the contractor to perform outside the agreement. If the issue is a part of the contract, the Agency or GSS - Contracting must then contact the contractor, discuss the reasons surrounding the default and establish a date when the contractor will resolve the non-performance issue.
- e. If there is a performance deficiency, a Corrective Action Report (CAR) may be used. Complete this form to report concerns with vendors or commodities. Be sure to furnish as much detail as possible. <http://gss.omb.delaware.gov/divisionwide/forms.shtml>.