



TO: DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
- MOSQUITO CONTROL SECTION

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL
- WILDLIFE SECTION

FROM: THOMAS J. MORAN
FISH AND WILDLIFE REGIONAL MANAGER
(302) 836-2555

SUBJECT: **AWARD NOTICE**
CONTRACT # NAT13456-HELICOPTER
HELICOPTER SPRAYING AND SURVEILLANCE FOR THE DEPARTMENT OF
NATURAL RESOURCES AND ENVIRONMENTAL CONTROL - MOSQUITO CONTROL
& WILDLIFE SECTIONS

DATE: MARCH 15, 2013

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KEY CONTRACT INFORMATION

1. CONTRACT PERIOD

Each vendor's contract shall be valid for one (1) year from **date of contract execution through March 7, 2014**. Each contract may be renewed for three (3) additional one (1) year contract periods through negotiation between the Contractor and Department of Natural Resources and Environmental Control - Mosquito Control Section. Negotiation may be initiated no later than ninety (90) days prior to the termination of the current agreement.

2. VENDOR

CHORMAN SPRAYING, LLC
30475 East Mill Run
Milton, DE 19968
Contact: Jeff Chorman/Allen Chorman
Phone: (302) 684-2770
Fax: (302) 684-2766
Email: chorspray@aol.com

3. SHIPPING TERMS

F.O.B. destination, freight pre-paid.

4. DELIVERY AND PICKUP

As required.

5. PRICING

Prices will remain firm for the term of the contract.

ITEM	DESCRIPTION	UNIT PRICE PER
1	COST FOR FLYING Primary helicopter and secondary helicopter	\$ 1,350.00/HR
2	COST FOR <i>PHRAGMITES</i> SPRAYING WITH FIVE (5) GALLONS PER ACRE DILUTED Primary helicopter	\$ 30.50/AC

ADDITIONAL TERMS AND CONDITIONS

6. BILLING

The successful vendor is required to bill the Department of Natural Resources and Environmental Control, Division of Fish and Wildlife: a) Mosquito Control Section (for mosquito control related activities) or b) Wildlife Section (for *Phragmites* control related activities), 89 Kings Highway, Dover, DE 19901. Such billing shall be submitted at least once a month and reflect unpaid billable hours flown or acreage sprayed within approximately the last month prior to bill submission or since the last bill submission.

7. BASIS OF PAYMENT

The determination for all payments shall be made by the Department and shall be final and binding on both parties. The Department reserves the right to withhold payment for unsatisfactory mosquito or *Phragmites* control resulting from incomplete application coverage due to equipment malfunction, pilot error or, if not accompanied by Department personnel, unfavorable weather conditions that arise during application flights. Additionally, no charges shall be imposed for cancellation of any flights.

CALIBRATION - There will be no charge to the State for the first 10 hours of any helicopter calibration work that is done during any individual calendar year contract period. For any hours of calibration work beyond 10 hours in a year for helicopter calibrations, the State will pay the contractor a rate of \$500 per hour for such work.

The Contractor will be paid a unit price per hour for the actual flight time for spraying and surveillance associated with mosquito control operations.

The Contractor cannot charge time in the following instances:

- a. Ferry time for coming into or leaving Delaware (if located out-of-state).
- b. When transitioning from *Phragmites* surveillance and control program operations to mosquito surveillance and control program operations (when in the rare event that both operations are needed on the same day).

For *Phragmites* spraying, the Contractor will be paid a unit price per acre for actual acreage sprayed at the five (5) gallons per acre rate. Acreage will be determined by the total volume of herbicide solution applied as measured by the required flow meter on the spray system and mutually agreed upon by the Department and Contractor. This price will include any surveillance and ferry flight time associated with the spraying operation.

8. 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 online systems. The contractor or vendor must accept full payment by procurement (credit) card, conventional check, and/or other electronic means at the State's option, without imposing any additional fees, costs, or conditions.

9. REQUIREMENTS

This contract is issued to cover the Helicopter Spraying and Surveillance requirements for the Department of Natural Resources and Environmental Control - Mosquito Control & Wildlife Sections.

10. 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.

11. 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.

12. FORCE MAJEURE

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.

13. 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.

13. AGENCY'S RESPONSIBILITIES (Continued)

- 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>.

14. FORMAL CONTRACT AND/OR PURCHASE ORDER

No employee of the Contractor(s) is to begin any work prior to receipt of a State of Delaware Purchase Order signed by authorized representatives of the agency requesting service, properly processed through the State of Delaware Accounting Office. A purchase order, telephone call, fax, or State credit card shall serve as the authorization to proceed with work in accordance with the bid specifications and the special instructions, once it is received by the Contractor(s).

15. SCHEDULE FOR PERFORMANCE OF WORK

All work described in these specifications shall be completed with reasonable promptness. As used in this Section, the State of Delaware shall be the sole judge of the term "reasonable". If the Contractor does not begin the work in a reasonable amount of time, they will be notified that if they fail to initiate the work promptly, the contract may be terminated and the State will forthwith proceed to collect for non-performance of work.

16. TIME OF PERFORMANCE

The services of the Contractor are to commence after receipt of a purchase order, and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of the contract, but in any event all of the services required hereunder shall be completed no later than the time periods set out in any schedule contained in the project Scope of Work. Any such schedule shall be maintained by the Contractor unless amended, in writing, by both parties.

17. TERMINATION OF P.O.'s

- a. Termination for Cause - If, for any reasons, or through any cause, the Contractor fails to fulfill in timely and proper manner his obligations, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the Agency shall thereupon have the right to terminate the P.O. by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the contractor in the performance of the P.O. shall, at the option of the Agency, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the Agency.

17. TERMINATION OF P.O.'s (Continued)

- b. Termination for Convenience - The Department may terminate the P.O. at any time by giving written notice of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the department, become its property and the Contractor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials which are usable to the Agency. If the P.O. is terminated by the Agency for convenience, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor called for by the P.O., less payments or compensation previously made; provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this P.O.) incurred by the Contractor during the contract period which are directly attributable to the uncompleted portion of the services covered by this P.O.

18. CHANGES

Both parties may, from time to time, require changes in the services to be provided by the Contractor under the Scope of Work. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Agency and the Contractor shall be incorporated in written amendments to the Purchase Order.

19. RIGHTS AND OBLIGATIONS

The rights and obligations of each party to this agreement shall not be effective, and no party shall be bound by the terms of this agreement, unless and until a valid executed purchase order has been approved by the Secretary of Finance, and all procedures of the Department of Finance have been complied with. A separate purchase order shall be issued for every project.

20. TERMINATION OF CONTRACT

- a. Termination for Cause - If, for any reasons, or through any cause, the Contractor fails to fulfill in timely and proper manner his obligations under this Contract, or if the Contractor violates any of the covenants, agreements, or stipulations of this Contract, the State shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least 5 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Contractor under this Contract shall, at the option of the State, become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials which is usable to the State.

20. TERMINATION OF CONTRACT (Continued)

- b. Termination for Convenience - The State may terminate this Contract at any time by giving written notice of such termination and specifying the effective date thereof, at least 15 days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, models, photographs, reports, supplies, and other materials shall, at the option of the State, become its property and the Contractor shall be entitled to receive compensation for any satisfactory work completed on such documents and other materials, and which is usable to the State. If the Contract is terminated by the State as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Contractor covered by this Contract, less payments of compensation previously made. Provided however that if less than 60 percent of the services covered by this Contract have been performed upon the effective date of termination, the Contractor shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by the Contractor during the Contract period which are directly attributable to the uncompleted portion of the services covered by this Contract.

21. PENALTY CLAUSE

If the Contractor, due to his own reasons or fault, shall neglect, fail or refuse to provide the number of aircraft specified herein within the hours requested, then the contractor shall forfeit to or pay the Department as liquidated damages for breach of contract, the sum of one (1) percent of the total bid price for each incident.

22. VENDOR RESPONSIBILITIES AND REQUIREMENTS

To be compliant with the terms of the contract, the awarded vendor must supply a Performance Bond for an amount no less than \$178,200 for the categories awarded. The Performance Bond must be received before any work shall be completed for this contract.

All technical specifications associated with the awarded categories for mosquito control and Phragmites control can be reviewed within the bid solicitation's Scope of Work.

Technical specifications include at a minimum:

- Statement of work and include airport or landing facilities
- Identification of required helicopter equipment, personnel and ground resources for mosquito control and Phragmites control
- Identification of dispersal equipment for liquid and granular distribution
- Pilot specifications
- Insecticide and herbicide identification to be distributed
- DGPS Navigation requirements
- Transfer of electronic data to agency personnel

23. QUANTITIES

The attention of bidders is called to the fact that, unless stated otherwise, the quantities given in the proposal are best estimates and are given as a basis for the comparison of bids. Quantities ordered may be increased or decreased by any eligible agency as deemed necessary during the period of the contract.