

MEMO TO: William T. Panos
Director

FROM: Johnson, Cheri M.

DATE: 04/28/2020

SUBJECT: Amendment for Herbicides, Surfactants, Drift Control & Fertilizer - NDDOT
Contract No. 50190478

The purpose of this contract is to provide the Districts with herbicides, surfactants, fertilizer and drift control products. The cost of the contract is unknown as the districts purchase product as-needed.

Cheri Johnson is the Contract Manager for this contract and can be reached at 328-4465.

50/cj

**North Dakota Department of Transportation
AMENDMENT TO CONTRACT NO. 50190478
Project No.**

THIS AMENDMENT to the above-referenced contract is entered into by and between the State of North Dakota, acting through its Director of Transportation, hereinafter known as NDDOT, whose address is 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, and Nutrien Ag Solutions, Inc., hereinafter known as the Contractor, whose address is 5230 Airport Road, Spearfish, South Dakota 57783.

WHEREAS, the parties entered into a contract on May 1, 2019; and

WHEREAS, the contract was competitively bid and awarded to the Contractor; and

WHEREAS, the Contractor has performed satisfactorily under the terms of the contract; and

WHEREAS, the Contractor has expressed a willingness to extend the term of the above referenced contract for an additional twelve (12) months; and

NOW THEREFORE, the Contractor and NDDOT agree that the term of the contract is extended through April 30, 2021.



All other terms and conditions of the above-referenced contract are incorporated herein by reference and remain in full force and effect.

EXECUTED the date last below signed.

WITNESS:

Jessica Milburn
NAME (TYPE OR PRINT)
SIGNATURE

To be signed by Owner, Partner, Corp. Pres., Vice Pres., or other authorized Corp. Officer. (If signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

CONTRACTOR:

Nutrien Ag Solutions, Inc
COMPANY NAME
Tim Smith
OFFICER'S NAME (TYPE OR PRINT)
SIGNATURE
Division Manager
TITLE
4/21/2020
DATE

WITNESS:

LAUREEN M. MARTIN
NAME (TYPE OR PRINT)
SIGNATURE

NORTH DAKOTA DEPARTMENT OF TRANSPORTATION

RONALD J. HENKE
DIRECTOR (TYPE OR PRINT)
SIGNATURE
5/3/2020
DATE

APPROVED as to substance by:

Bryd Darr
DIVISION DIRECTOR (TYPE OR PRINT)
SIGNATURE
4-28-2020
DATE

CLA 52494 (Div. 06)
L.D. Approved 5-19-00; 5-03

APPROVED as to execution this
30th day of April 2020
ATTORNEY GENERAL
By [Signature]
SPECIAL ASST. ATTORNEY GENERAL



North Dakota Department of Transportation
INVITATION TO BID

NDDOT Contract # 50190478

Bid Number: 988-89-19-050-02	Bid Opening Date & Time: 05/10/2019 02:00 PM
Items: Herbicides, Surfactants, Drift Control, & Fertilizer	Buyer: Gabriel Hoggarth
Bid Mailing Address: 608 E Blvd Ave	Telephone Number: 701-328-4465
City, State, Zip: Bismarck, ND 58505	Email: ghoggarth@nd.gov
Contract Period: 05/01/2019 TO 04/30/2020	Date Prepared: 04/25/2019

BID RESPONSE

Please submit your bid response on the attached forms in conformance with the instructions and specifications in the NDAC 04-12-01 – 04-12-16. One copy of your bid response must be returned to the North Dakota Department of Transportation (NDDOT) prior to the time and date specified for the bid opening. Bid responses received after the time and day specified for the bid opening will be rejected. Mark envelope with word "BID" and the opening time and date. **If your bid response is accepted by NDDOT, then your bid response will constitute a binding contract.**

CONTRACT

This contract is made and entered into by and between NDDOT for the state of North Dakota (hereinafter state) and

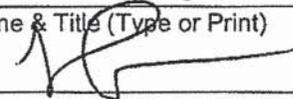
Vendor Name Nutrien Ag Solutions, Inc	Vendor Address 5230 Airport Rd. Spearfish, SD 57783
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(hereinafter vendor). In consideration of and for the acceptance by the state of the offer made by the vendor pursuant to the bid response, the vendor agrees and promises to sell, furnish, and deliver to the state, at the time, places, and prices specified in the bid response, all goods, merchandise, supplies, commodities, equipment, or other items contained in the bid response and for which the vendor has been awarded this contract by the state. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the bid response including all specifications, rules, or regulations mentioned therein, and shall comply with all applicable provisions of the NDAC 04-12-01 – 04-12-16 promulgated by the State Purchasing Division; such manual being made a part of this contract by reference. The Risk Management Appendix and Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

The following must be completed by the vendor; failure to do so may result in the rejection of the vendors bid proposal.

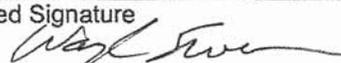
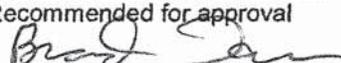
Vendor Name Nutrien Ag Solutions, Inc.		
Mailing Address 5230 Airport Road, Spearfish, SD 57783		
Telephone Number 605-642-3800	Fax Number 605-642-3784	E-mail Address william.walker@nutrien.com

Tim Smith Region Manager

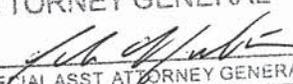
Name & Title (Type or Print)

 Signature
 4/29/2019
 Date

To be signed by Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer or bid may be rejected. (if signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

FOR ND DEPARTMENT OF TRANSPORTATION USE ONLY Accepted by the state according to provisions of award.

Authorized Signature 	Date 5/23/19
Recommended for approval 	Date 5-20-19
	Approximate contract amount \$ Unknown



APPROVED as to execution this
 20th day of May 2019
 ATTORNEY GENERAL
 By 
 SPECIAL ASST AT TORNEY GENERAL

CLA 7480 (Div. 50)

MAILING INSTRUCTIONS

Mail only one completed and signed request for bid document per envelope, unless instructed otherwise. Request for bid documents not signed or received after the date and time specified in the request for bid will be rejected.

BID IS: SEALED NOT SEALED

Address the envelope containing your response in the following manner:

BID NUMBER – 988-89-19-050-02
BID OPENING DATE/TIME – 05/10/2019 @ 2:00 PM CST
N. D. DEPT. OF TRANSPORTATION
PROCUREMENT SECTION
608 E BOULEVARD AVE
BISMARCK ND 58505-0700

BIDDERS INSTRUCTIONS

1. **Additional Terms and Conditions.** Additional terms and conditions submitted with a bid response are of no effect unless accepted in writing by the Purchasing Agency. Bids with additional terms and conditions may be rejected as non-responsive. (N.D.A.C. § 4-12-11-06)
2. **Assistance to Bidders with a Disability.** Bidders with a disability and/or language assistance, contact Civil Rights Division, NDDOT, 701-328-2978 or civilrights@nd.gov or TTY 711, as soon as possible so that reasonable accommodations can be made. Additionally, the Request for Reasonable Accommodations form (SFN 60135) can be accessed at the following NDDOT website location: <http://www.dot.nd.gov/forms/sfn60135.pdf>.
3. **Award.** Award will be made to a responsive, responsible bidder with the lowest price considering conformity with specifications, terms of delivery, quality, and serviceability. NDDOT reserves the right to consider bids varying in minor respects from any specific requirements herein, but judged to meet the intent of this request. Bidders interested only in the total low bid for all items are to state 'all or nothing' on their bid response. Award will be made as follows:
 - All or none.
4. **Award – Tie Bid Preference.** After applying any reciprocal preference, if a tie occurs between two or more bidders with equal bid prices or offerors with identical evaluation scores:
 - Preference must first be given to bids submitted by resident North Dakota vendors.
 - If a tie remains, preference is given to approved vendors on the Bidders List.
 - If a tie still remains, award shall be made in accordance with N.D.A.C. § 4-12-11-05.
5. **Bid Bond.** Waived in this instance: however, bidder(s) failing to enter into a contract with this office, upon notification of award, may be subject to removal from the bidder's list.
6. **Bid Held Firm.** Bids are not awarded at the bid opening. Bid responses will be firm for 30 days, unless stated otherwise.
7. **Bid Opening.** All sealed bids received by the NDDOT Procurement Office will be opened and read at 608 East Boulevard Avenue, Bismarck, North Dakota, at the time specified in the solicitation. Interested parties are invited to attend the bid opening.
8. **Bid Summary.** Bid summaries are available when the bid has been awarded. When bids are issued using the State's electronic bidding system, the bid summary will be posted and available for download from: <https://www.nd.gov/omb/vendor>. Bid summaries will be mailed to those bidders who supply a self-addressed, stamped envelope with their bid response. A copy of the bid summary may also be obtained by visiting the NDDOT Procurement Office during normal working hours.

9. **Bidder Checklist.** HAVE YOU REMEMBERED TO:
- Review all instructions, terms and conditions, and specifications to ensure your bid response complies?
 - Prepare your price in the specified unit of measure, F.O.B. Destination, Freight Prepaid to the delivery location listed on the cover sheet?
 - Indicate whether you can meet the delivery date indicated on the cover sheet?
 - Sign your bid response on the cover sheet?
 - Initial all changes and corrections?
 - Submit any required samples or enclosures, if applicable?
 - Mark the envelope as indicated above?
 - Review and complete all requirements contained in this solicitation to ensure compliance.
10. **Clarifications, Bid Changes and Questions Deadline.** The Procurement Officer is the point of contact. Any irregularities, lack of clarity, requested bid changes and all questions regarding this bid and the procurement process must be addressed to the Procurement Officer referenced on the first page of this document not later than end of business May 3, 2019. (Contact information is indicated on cover page). If a bid amendment is required, it will generally be issued after this date.
- The bidder is cautioned that the requirement of this solicitation can be altered only by written amendments and that verbal communications from whatever source are of no effect.
11. **Corrections.** The bidder's authorized representative must initial any corrections and alterations (i.e. erasures, whiteouts, correction tape, etc.) made to the bid response. Those bid responses with corrections and alterations that are not initialed are subject to confirmation by the Procurement Officer.
12. **Definitions.**
- Bidder - any person or firm submitting a competitive bid in response to a solicitation.
 - Bid summary - a summary of all bid responses received by the NDDOT Procurement Office.
 - Bid response - the executed document submitted by a bidder in response to a solicitation.
 - Contract - a deliberate written agreement between two or more competent persons to perform specific act or acts.
 - Contractor - any person or firm having a contract with a governmental body.
 - Solicitation - the process of notifying prospective bidders that the State wishes to receive bids for furnishing goods or services.
13. **Electronic & Facsimile Bids.** Bid responses are not to be email attached or faxed to the NDDOT unless this transmittal method has been authorized by the Procurement Officer or bid document. (Contact the Procurement officer regarding additional requirements and exceptions.) Bid responses electronically submitted or faxed may be rejected as non-responsive. Bids may be faxed to a third party who will put it in a properly-addressed envelope and deliver it to the NDDOT Procurement Office before the date and time specified in the solicitation.
14. **Freight/F.O.B. Destination.** Freight and transportation charges are to be included in the price of the products, unless otherwise specified in the solicitation. (F.O.B. - Free On Board).
15. **Indemnification.** Bidders must review the attached Risk Management Appendix for indemnification and insurance requirements. The indemnification and insurance provisions are incorporated and made part of this solicitation and the resultant final contract. Objections to any of the provisions of the indemnification and insurance requirements must be made in writing to the attention of the Procurement Officer by the time and date set for receipt of questions. No alteration of these provisions will be permitted without prior written approval from the Purchasing Agency or Entity in consultation with the North Dakota Risk Management Division. Upon receipt of the Notice of Award, the successful bidder must obtain the required insurance coverage and provide the Procurement Officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the Purchasing Agency or Entity, in consultation with the North Dakota Risk Management Division. A bidder's failure to provide evidence of insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

16. **Late Bids.** It is the bidder's responsibility to ensure that a bid response is physically deposited with the NDDOT Procurement Office prior to the date and time specified for the opening. Late bids will be rejected, regardless of the degree of lateness, unless the delay is due to the error of the Purchasing Agency and discovered before the selection of the successful bidder.
17. **Minor Informalities.** The State reserves the right to waive minor informalities in bid responses in accordance with N.D.A.C. 4-12-10. Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from the bid document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other bidders.
18. **Multiple Bid(s).** Bidders may submit more than one bid response(s) for the item(s) specified in the solicitation. Each bid submitted must comply in all aspects with the bid requirements and these instructions.
19. **Negotiation.** NDDOT reserves the right to negotiate with the successful bidder to ensure the best possible consideration is afforded to all concerned.
20. **New Equipment and Materials.** Unless otherwise indicated in the detailed specifications of this solicitation, all equipment and materials shall be new and under current production for use in the United States.
21. **Open Records Requests.** Bid responses are exempt records until the date and time of the bid opening. After the bid opening, all bid responses are subject to North Dakota open records laws. Interested parties may contact the Procurement Officer to request information related to this solicitation.
22. **Packaging.** All shipments are to be packaged according to accepted commercial practices to avoid damage in shipment.
23. **Performance Bond.** Successful bidders will not be required to furnish a performance bond; however, failure to perform satisfactorily will result in the immediate termination of the contract(s) and bidders may be subject to removal from the bidder's list.
24. **Preparation of Bid.** Bids will be accepted on NDDOT forms only. If the document is located on the State Procurement Office website, then bidder is to download the document and type or write their responses as indicated by the bid document. Alteration of the bid document may be cause for bid rejection. Bidders are cautioned to examine specifications and all instructions. Failure to do so will be at the bidder's risk.
25. **Pricing.** Unit prices are to be stated in United States currency and based on the unit of measurement specified in the solicitation, F.O.B. Destination, to the NDDOT delivery locations specified herein.

In the event of mathematical differences between the unit price and extended total, the unit price will prevail.
26. **Protests.** Protests of the solicitation must be received by the Procurement Officer within seven days before the bid closing deadline. Protests of the award or Notice of Intent to Award must be received by the Procurement Officer within seven days after receiving notice of award. Seven calendar days after award or issuance of the Notice of Intent to Award it will be assumed that all interested parties knew or should have known all the facts surrounding the award. Protests must be made in writing to the Procurement Officer and include the basis for the protest. (N.D.C.C. § 54-44.4-12; N.D.A.C. § 4-12-14.)
27. **Rejection.** Bid responses may be rejected if:
 - The bid response is not legible.
 - The bid response is not completed as requested.
 - The bid response is faxed to the procurement office.

- The bid response is not responsive to the specifications or other requirements of the solicitation.
- The bid response is received after the time and date specified.
- The bidder has not met Vendor Registration requirements or is suspended or debarred.
- The bid document has been altered by the bidder.
- The bidder is determined to be not responsible (N.D.A.C. 4-12-11-04).

If all bids are rejected, the Procurement Officer will send written notice to bidders, including the reason all bids were rejected.

28. **Signature.** The bid must be signed manually in ink. The name and title of the person signing the bid response must be typed or printed above the signature. The bid must be signed by **Owner, Partner, Corp. Pres., Vice Pres., or other authorized Corp. Officer** or the bid may be rejected. If signed by other authorized Corp. Officer or representative, please attach a letter signed by the Owner, Partner, Corp. Pres., or Vice Pres. indicating the individual has authority to enter into a contract on behalf of the company (or a Power of Attorney).
29. **Specifications, Brand Name or Equivalent.** Unless otherwise indicated in the detailed specifications of this solicitation, the use of a specific brand name or make/model is for illustrative purposes only, and the State will consider equivalent products. If a commodity or service put forth by a bidder is rejected as not being equivalent, the Procurement Officer will notify the bidder of the rejection.
30. **Specifications, Compliance.** All bid responses must comply with the specifications contained herein, and the successful bidder will be held responsible. Noncompliance with specifications is grounds for rejection of the bid response. Bidders who desire to submit commodities or services that deviate from these specifications or have any objections to the specifications stated herein must be clearly pointed out **PRIOR TO THE DEADLINE FOR RECEIPT OF QUESTIONS**; otherwise, it will be considered that the items offered are in strict compliance with these specifications, and the bidder will be held responsible.
31. **Supplemental Terms and Conditions.** Bids including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with any conditions contained in this ITB or that diminish the State's rights will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award.

After award of contract:

- a) If a conflict arises between a supplemental term or condition included in the bid and a term or condition of the ITB, the term or condition of the ITB will prevail, and,
- b) If the State's rights would be diminished as a result of application of a supplemental term or condition included in the bid, the supplemental term or condition will be considered null and void.

Changes, modifications, additions, or alterations to the bid document could be cause for rejection of the submitted bid at the sole discretion of the NDDOT. Contact the Procurement Officer in writing prior to the deadline for clarifications.

32. **Taxes.** The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-70-0010K. The Purchasing Agency will furnish a tax exempt certificate upon request.
33. **Vendor Registration.** Bids will be accepted from bidders who are not currently Approved Bidders for the State of North Dakota; however, the successful bidder may be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an Approved Bidder, you must: 1) register with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidder List Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: www.nd.gov/spo/vendor. Contact the ND State Procurement Office at 701-328-2683 or infospo@nd.gov for assistance.

Placement on the bidders list does not guarantee a bidder will receive notice of every formal solicitation. Bidders must maintain current information by submitting a Notice of Change form to the

State Procurement Office (Fax 701-328-1615). Visit the website for forms: www.nd.gov/spo/vendor.

34. **Withdrawal or changes to a bid response prior to the bid opening date and time.** A bidder may withdraw or make a change to his bid response prior to the bid opening date and time. The request to make a change or withdraw must be in writing by a representative of the firm. The request to withdraw or change must be signed by the bidder or his designated representatives.
35. **Withdrawals after the bid opening date and time.** After the bid opening, no changes may be made to the bid response. The bidder may make a written request to withdraw the bid response, subject to approval by the NDDOT Procurement Office. Vendors continually withdrawing bids after the bid opening may be removed from the Vendor Database.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **Affirmative Action.** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of individuals with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
2. **Applicable Law and Venue.** Any dispute arising out of this agreement will be resolved under the laws of the State of North Dakota.
3. **Billing and Payment Procedures.** Purchase orders will be issued by the individual NDDOT districts.

Invoices are to be submitted as indicated on the purchase orders unless otherwise instructed. Failure to submit correct invoices to the appropriate NDDOT office may delay contractor payment.

Payment will normally be made within thirty days after delivery and acceptance of commodities or services under this contract and receipt of a correct invoice. All invoice and payment inquiries must be directed to the purchasing agency.

4. **Binding Contract.** The acceptance of a bid response in writing by the purchasing agency constitutes a contract between the bidder and the State. Written acceptance from the purchasing agency will be in the form of a purchase order, notification of award, or contract. Any oral agreement or arrangement by a bidder with a State employee or purchasing agency will have no force or effect unless reduced to writing.
5. **Compliance with Laws.** The contractor must, in performance of work under this contract, fully comply with all applicable federal, state or local laws, rules, regulations and policies, including those relating to nondiscrimination, affirmative action, accessibility and civil rights including Title VI of the Civil Rights Act of 1964. The contractor agrees to file all required reports on time, to make required payroll deductions, and to pay all taxes and premiums owed on time, including sales and use taxes and unemployment compensation and workers' compensation premiums. The contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.
6. **Contract Amendments, Waivers.** After a binding contract has been entered into, no changes (i.e. additions, substitutions, subcontracting or a price adjustment) may be made, unless prior approval has been obtained from the purchasing agency and Procurement Officer.

The terms of this contract shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

7. **Contract Price Adjustment.** The Contract Unit Prices shall be firm for the twelve (12) months of the contract period. On an annual basis, all unit prices may be subject to price adjustment (increase / decrease). The request for a price adjustment shall be submitted to the Procurement Office at least

forty five (45) days before the scheduled contract expiration date and must include justification for the proposed change. The Procurement Officer will respond as follows:

1. The request may be granted,
2. The contract may be cancelled and solicitation may be re-advertised, or
3. The contract may be continued without change.

If a price increase is approved by the NDDOT, the date the increase will be effective along with the new unit prices will be included in an amendment document. Approval of any price increase renews the twelve month firm price period.

The State shall also be advised of and receive the benefit of any price decrease. The same notification and review process will apply to a decrease in cost.

8. **Contract Term and Renewal Option.** The NDDOT will enter into a contract with an effective date **beginning May 1, 2019, and ending April 30, 2020**, inclusive. This contract may be renewed upon satisfactory completion of the initial contract term. The NDDOT reserves the right to execute up to two options to renew this contract for a period of twelve (12) months each, not to exceed thirty-six (36) months total. Renewals will be documented by amendment.

The NDDOT reserves the right to renegotiate price and terms provided that such negotiated price and terms fall within the original scope of work for this bid. Negotiations may be conducted annually or at such times that additional and unexpected services falling within the scope of the contract may occur. Such changes will be documented by amendment to the contract.

9. **Contract Termination.**

- a. **Termination without Cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.
- b. **Termination for Lack of Funding or Authority.** The State may terminate this contract effective upon delivery of written notice to the contractor, or on any later date stated in the notice, under any of the following conditions:
 - i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
 - ii. If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
 - iii. If any license or certificate required by law or regulation to be held by the contractor to provide the services required by the contract is for any reason denied, revoked or not renewed.

Any such termination of this contract under (i), (ii), or (iii), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- c. **Termination for Cause.** The State by written notice to the contractor may terminate the whole or any part of this contract:
 - i. If the contractor fails to provide services required by this contract within the time specified herein or any extension thereof; or
 - ii. If the contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms and after receipt of written notice from the State, fails to correct such failures within ten days or such longer period as NDDOT may authorize.

iii. The rights and remedies of the State provided in the above clause related to defaults by the contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.

d. **Termination, Deliveries.** If the contract is terminated for any reason, the contractor is responsible for delivery of all commodities and services ordered prior to the termination, unless those orders had been canceled by the Purchasing Agency or Entity.

10. **Inspection and Investigations.** The State reserves the right to conduct inspections and investigations related to the bidder and the offered commodities or services, including but not limited to the firm, personnel, qualifications, and the commodities and services offered to make determinations regarding compliance with the bid requirements and responsibility of the bidder. All material and workmanship are subject to inspection and testing by the State at the point of manufacturer, place of storage, or upon receipt. The State reserves the right to reject any commodities or services and terminate the contract if the Contractor fails to comply with the specifications, terms and conditions, or the seller's express or implied warranties. Rejected commodities will be removed at the Contractor's expense. Failure to satisfactorily perform may result in suspension or debarment from the Bidders List.

11. **Materials and Workmanship.** All material and workmanship shall be subject to inspection and testing at the discretion of the purchasing agency either at the point of manufacturer, place of storage, or upon receipt.

12. **Receiving.** Deliveries must arrive at the designated destination(s) during normal business hours unless other shipping/receiving instructions are issued by NDDOT personnel. The contractor shall contact the NDDOT to schedule delivery dates and times at least 24 hours in advance of delivery.

All NDDOT offices will be closed in recognition of State holidays. Any day declared a holiday by the President or Governor will also be recognized by office closure.

13. **Subcontracts, Assignment.** The contractor shall not subcontract, assign or transfer the contractor's interests or duties under this contract without express written consent of the purchasing agency. However, the contractor may enter into subcontracts provided that any such subcontractor acknowledges the binding nature of this contract and incorporates this contract, including any attachments. The contractor is solely responsible for the performance of any subcontractor. The contractor shall not have the authority to contract for or incur obligations on behalf of the State.

14. **Successors in Interest.** The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

15. **Service Representative.** The contractor must provide a dedicated customer service representative to provide support for this contract. The contractor shall notify the Procurement Officer in the event the representative is changed.

NAME: William Walker Territory Manager
(Name of person servicing this contract)

BUSINESS NAME: Nutrien Ag Solutions, Inc.

MAILING ADDRESS: 5230 Airport Road

CITY & STATE: Spearfish, SD ZIP CODE: 57783

PHONE NUMBER: 605-642-3800 TOLL FREE: _____

FAX NUMBER: 605-642-3764 E-MAIL: william.walker@nutrien.com

Information

When bidding an alternate item that you wish to be considered as an approved equal, print the exact name of the proposed alternate in the provided space so that we may research and consider it fully. Bidders are highly encouraged to bid all 28 bid items.

When considering shipping expenses in your bid amounts, use the Bismarck District zip code 58504. Other DOT Districts may coordinate to pick their orders up at the Bismarck District, or they may ask the bidder to ship directly to them. For Districts requesting direct shipments, bidder agrees to charge actual shipping costs. (Check One) YES NO **

**Checking NO will result in bid rejection.

Item No.	Item Detail	Equivalent	Proposed Alternate	Bid Amount		
				1 to 3 Units	4 to 7 Units	8 or More
1	Roundup (min. 50% Glyphosate) <i>Roundup PRO Conc.</i>	Exact		\$40.95 ea	\$40.95 ea	\$40.95 ea
2	Generic Glyphosate (min. 50% Glyphosate)	Approved Equal	Mad Dog 514 Herbicide	\$38.15 ea	\$38.15 ea	\$38.15 ea
3	Roundup (min. 40% Glyphosate)	Exact	Ranger PRO Herbicide	\$30.00 ea	\$30.00 ea	\$30.00 ea
4	Generic Glyphosate (min. 40% Glyphosate)	Approved Equal	Mad Dog Plus Herbicide	\$29.75 ea	\$29.75 ea	\$29.75 ea
5	Plateau (min. 20% Imazapic) 1 Gallon Min.	Exact	Bird is per Gallon →	\$101.06 ea	\$101.06 ea	\$101.06 ea
6	Generic Imazapic (min. 20% Imazapic) <i>per gal.</i>	Approved Equal	Panorama 25L Herbicide	\$101.06 ea	\$101.06 ea	\$101.06 ea
7	Generic Imazapyr (min. 20 Imazapyr)	Approved Equal	Arsenal Herbicide	\$118.00 ea	\$118.00 ea	\$118.00 ea
8	Pramitol 25E (min. 25% Prometon)	Exact		\$80.40 ea	\$80.40 ea	\$80.40 ea
9	Generic Prometon (min. 20% Prometon)	Approved Equal	None Available	\$ — ea	\$ — ea	\$ — ea
10	Rodeo (min. 50% Glyphosate)	Exact		\$47.65 ea	\$47.65 ea	\$47.65 ea
11	Aqua Star (min. 50% Glyphosate) <i>Use AquaVest</i>	Exact	AquaVest Herbicide	\$ — ea	\$ — ea	\$ — ea
12	Generic Aquatic Glyphosate (min. 50% Glyphosate)	Approved Equal	AquaVest Herbicide	\$39.00 ea	\$39.00 ea	\$39.00 ea
13	Amine 2,4-D (min. 45% 2,4-D)	Exact	Platoon 2,4-D Amine	\$26.00 ea	\$26.00 ea	\$26.00 ea
14	Generic 2,4-D (min. 45% 2,4-D)	Approved Equal	Platoon 2,4-D Amine	\$26.00 ea	\$26.00 ea	\$26.00 ea
15	Curtail Herbicide (min. 5% clopyralid MEA salt and 38% 2,4-D)	Exact or Approved Equal		\$97.70 ea	\$97.70 ea	\$97.70 ea
16	Cody Herbicide (min. 5% clopyralid MEA salt and 38% 2,4-D)	Exact or Approved Equal	Not Available - No Bid	\$ — ea	\$ — ea	\$ — ea
17	Generic Dicamba (min. 40% Dicamba)	Approved Equal	Rifle Herbicide	\$91.45 ea	\$91.45 ea	\$91.45 ea
18	Picloram 22k	Exact or Approved Equal	Tordon 22k Herbicide	\$110.50 ea	\$110.50 ea	\$110.50 ea
19	Tordon 22k	Exact or Approved Equal		\$110.50 ea	\$110.50 ea	\$110.50 ea
20	Preference Surfactant	Exact or Approved Equal	Activator 90 Surfactant	\$42.00 ea	\$42.00 ea	\$42.00 ea
21	Gordon Lawn & Pasture Liquid Fertilizer, 20-0-0	Exact or Approved Equal	Stetline 18-3-6	\$36.50 ea	\$36.50 ea	\$36.50 ea
22	Snapshot 2.5 TG Granular Pre-Emergent, 45 lb Bag Min.	Exact or Approved Equal	Snapshot 2.5 TG (50 lb)	\$100.00 ea	\$100.00 ea	\$100.00 ea
23	Sahara DG for Total Background Control, 9 lb Bag Min.	Exact or Approved Equal	Imazuron Herbicide	\$85.80 ea	\$85.80 ea	\$85.80 ea
24	Bronc + Surfactant, 38 lb Bag Min.	Exact or Approved Equal	Flame 2.5 gal. cont.	\$57.75 ea	\$57.75 ea	\$57.75 ea
25	R11 Spreader-Activator, 1 Quart Min.	Exact or Approved Equal	Spreader 90 Surfactant	\$35.25 ea	\$35.25 ea	\$35.25 ea
26	Crosshair Drift control, 1 Quart Min.	Exact or Approved Equal	Reign KC gals	\$9.80 ea	\$9.80 ea	\$9.80 ea
27	Chem-Trol Drift Control Agent, 1 Quart Min.	Exact or Approved Equal	Reign 2.5 gal. cont.	\$35.00 ea	\$35.00 ea	\$35.00 ea
28	Ammonium Sulfate Fertilizer, 45 lb Bag Min.	Exact or Approved Equal	Acta-master - 51 lb. bag	\$15.30 ea	\$15.30 ea	\$15.30 ea

Nutrien Solutions

5230 AIRPORT ROAD
SPEARFISH, SOUTH DAKOTA 57783

VEGETATION MANAGEMENT PRODUCTS / VEGETATION MANAGEMENT CONSULTING

(866) 642-3800 Office Toll Free (605) 642-3800 Office (605) 642-3784 Fax Line (605) 645-1636 Bill's Mobile Phone

May 7, 2019

North Dakota Department of Transportation
Attn: Gabriel Hoggarth, Procurement Section
608 East Boulevard Avenue
Bismarck, ND 58505-0700

Bid Number: 988-89-19-050-02

Bid Opening Time: 05/10/2019 @ 2:00 PM CST

Subject: Explanation of Products Bid, Product Package Container Sizes and Package Size Bid.

Line Item and Product	Container Size Bid	Manufacturer
1. Roundup PRO Concentrate Exact Match to Product Requested	2.5-gallon container	Monsanto/Bayer
2. Mad Dog 5.4 Herbicide 5.4 lb. per gallon generic glyphosate	2.5-gallon container	Loveland Products
3. Ranger PRO Herbicide Monsanto no longer makes a 4# Roundup, they switched it over to Ranger PRO as the exact match now.	2.5-gallon container	Monsanto/Bayer
4. Mad Dog Plus Herbicide 4 lb. per gallon generic glyphosate, has a light surfactant load but not as much as the Roundup brands.	2.5-gallon container	Loveland Products
5. Plateau Herbicide Plateau Herbicide bid, only comes in 1-gallon containers, bid by the 1-gallon container.	1-gallon container	BASF
6. Panoramic 2SL Herbicide Generic to Plateau, bid by the 1-gallon container	1-gallon container	Alligare
7. Arsenal Herbicide Original branded BASF Imazapyr, has full aquatic and terrestrial labeling.	2.5-gallon container	BASF
8. Pramitol 25 E Herbicide Exact match to requested product.	2.5-gallon container	Loveland Products
9. Generic Prometon	No Bid – we do not handle a generic Pramitol 25 E product	
10. Rodeo Herbicide Exact match to product requested.	2.5-gallon container	CORTEVA
11. Aqua Star Glyphosate We do not handle the Aqua Star product.	No Bid – Use AquaNeat Herbicide	

12. AquaNeat Herbicide 50% glyphosate, is an aquatic labeled glyphosate, has all aquatic labeling needed as well as terrestrial labeling, will need a surfactant as no aquatic labeled glyphosates have surfactant in them.	2.5-gallon container	NuFarm
13. Platoon 2, 4-D Amine Exact match or product requested	2.5-gallon container	Nutrien Ag Solutions
14. Platoon 2, 4-D Amine	2.5-gallon container	Nutrien Ag Solutions
15. Curtail Herbicide Exact match to product requested.	2.5-gallon container	CORTEVA
16. Cody Herbicide	No Bid – We do not handle Cody Herbicide for sale	
17. Rifle Herbicide 4# per gallon dicamba (40%)	2.5-gallon container	Loveland Products
18. Picloram 22K We do not handle a generic Tordon 22K product, we replaced with Tordon 22K Herbicide	2.5-gallon container (bid Tordon 22K)	CORTEVA
19. Tordon 22K Exact match to requested product.	2.5-gallon container	CORTEVA
20. Activator 90 Surfactant Replaces the Preference Surfactant, has aquatic labeling as well.	2.5-gallon container	Loveland Products
21. Starline 18-3-6 Liquid Fertilizer Replaces the Gordon Lawn and Pasture Liquid fertilizer.	2.5-gallon container	Loveland Products
22. Snapshot 2.5 TG Granule Herbicide Snapshot 2.5 TG is packaged in 50 lb. bags, bid is per 50 lb. bag, Exact match to requested product.	50 lb. bag	CORTEVA
23. Imazuron Herbicide Replaces the Sahara DG Herbicide, Sahara is no longer produced and is off the market.	10 lb. bag	NuFarm
24. Flame Surfactant Replaces the Bronc + Surfactant product.	2.5-gallon container	Loveland Products
25. Spreader 90 Surfactant Replaces the R-11 Surfactant product, has aquatic labeling as well.	2.5-gallon container	Loveland Products
26. Reign LC Drift Control Reign LC is bid by the quart container, replaces the Crosshair Drift Control product.	1-quart container	Loveland Products
27. Reign Drift Control Reign comes in 2.5-gallon containers and is bid per 2.5-gallon container, replaces the Chem-Trol drift control product.	2.5-gallon container	Loveland Products
28. Actamaster Granule AMS Is a granule AMS, bid is by the 51-lb. bag.	51 lb. bag	Loveland Products

Special Notes:

CORTEVA is formally DOW AgroSciences.

Bayer purchased Monsanto and is now handling the branded Roundup products.

If you have any further questions on any of the products bid, please contact me at any of the above numbers or by email.

Sincerely,

William Walker

William "Bill" Walker
Territory Manager
SD, ND, IA, NE
Cell# 1-605-645-1636
william.walker@nutrien.com

Nutrien

Solutions

Nutrien Solutions – Vegetation Management Solutions for a Changing Environment

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by *competitive bidding*, or *negotiation made by the Contractor* for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.P.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Risk Management Appendix

Supply Contracts with Private Individuals, Companies, Corporations, Etc.:

Each party agrees to assume its own liability for any and all claims of any nature including all costs, expenses and attorney's fees which may in any manner result from or arise out of this agreement.

Contractor, or Contractor's delivery agent, shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance.
- 2) **Workers compensation** insurance.

Contractor shall produce certificates of insurance or copies of insurance policies upon request by the State.

When a portion of a Contract is sublet, the Contractor shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Contractor and the State as a result of work undertaken by the Subcontractor. In addition, the Contractor shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors performing work under the Contract are required to maintain the same scope of insurance required of the Contractor. The Contractor shall be held responsible for ensuring compliance with those requirements by all Subcontractors.

RM Consulted 2007
Revised 6-07

