



State of Idaho Contract Number 3637

Parties

Agency	Contractor
Department of Administration 650 W. State St. Boise, ID 83702	Wilbur Ellis 20471 Pinto Lane Caldwell, ID 83607

Contract Summary

Contract Name: Wilbur Ellis SBPO Contract Description: Herbicides and Adjuvant Products Original Effective Date: 9/5/2023 Current Expiration Date: 9/4/2025	Current Contract Value: \$500,000.00 Estimated Lifetime Value: \$1,000,000.00 Contract Usage Type: Statewide
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Agency Contacts

Contact Name	Contact Phone	Contact Email
Mike Gwinn	208-332-1617	Contractadmin@adm.idaho.gov

Contractor Contacts

Contact Name	Contact Phone	Contact Email
Kathy Brown	208-509-1570	kbrown@wilburellis.com

STATEWIDE CONTRACT #3637

1. PURPOSE

1.1. This price agreement is established pursuant to IDAPA 38.05.01.085 for Herbicide Adjuvant Products, in accordance with the requirements as described below.

2. TERM

2.1. The term of this Agreement is for two (2) years (09/05/2023 - 09/4/2025). This Agreement is not renewable or extendable.

3. PUBLIC AGENCY CLAUSE

3.1. Prices shall be extended to "Public Agencies" as defined in Idaho Code 67-2327, which reads:

"Public Agency" means any city or political subdivision of the state, including, but not limited to counties; school districts; highway districts; port authorities; instrumentalities of counties; cities or any political subdivision created under the laws of the state of Idaho; any agency of the state government; and any city or political subdivision of another state."

4. TERMS AND CONDITIONS

4.1. The current version of the State of Idaho Standard Contract Terms and Conditions - May 2021 is incorporated by reference into this Agreement, as if set forth in its entirety. This document may be downloaded at https://purchasing.idaho.gov/wp-content/uploads/Standard-Terms-and-Conditions_May-2021.pdf.

5. ADMINISTRATIVE FEE AND USAGE REPORT

5.1. Fee - The prices to be paid by the State (the prices provided by Contractor) shall be inclusive of a one and one-quarter percent (1.25%) Administrative Fee. On a quarterly basis, Contractor will remit to State of Idaho, Attn: Division of Purchasing, PO Box 83720, Boise, Idaho 83720-0075 an amount equal to one and one-quarter percent (1.25%) of Contractor's net (sales minus credits) quarterly sales.

For Example: If the total Contractor's net sales to the Agency for one quarter= \$10,000, Contractor would remit \$10,000 x 0.0125 = \$125 to the Division of Purchasing for that quarter, along with the required quarterly usage report.

5.2. Report - Contractor shall furnish a detailed quarterly usage report, supplying to the State the agency (State or political subdivision), the tire(s) and/or service provided, and the cost of the tire(s) and/or service. The Contractor shall submit the quarterly usage report from the Agreement to the State to purchasing@adm.idaho.gov, in Excel format.

Reporting Timeline (Fiscal Year Quarters):

Fee and Report Date Due:

1st Quarter	July 1 – September 30	October 3
2 nd Quarter	Oct. 1 – December 31	January 3
3 rd Quarter	Jan. 1 – March 31	April 30
4 th Quarter	April 1 – June 30	July 31

Mail your check, in the amount of the Quarterly Administrative Fee, to: State of Idaho, Attn: Division of Purchasing, PO Box 83720, Boise, Idaho 83720-0075.

5.3 If the Contractor fails to submit the required quarterly usage report or timely remit the Administrative Fee, as provided above, the State, at its discretion, may declare the Contractor in default and may be cause for disqualification of Contractor for future agreements or may include other action by the State.

6. HERBICIDE AND ADJUVANT PRODUCTS

6.1. Trade Name: All Herbicide Products offered by Trade Name are the original and/or most common source(s) of the herbicide and are trademarked by the manufacturer.

6.2. Generic Name: Products offered under a Generic Name will generally be accepted if they have the same active ingredients as the Trade Name and perform in a manner substantially similar to the Trade Name product.

7. TECHNICAL ASSISTANT & FIELD SUPPORT

7.1. The Contractor shall provide technical assistance between the hours of 8:00 am-5:00 pm MST, Monday- Friday, with the exception of holidays as identified in Idaho Code 73-108, as amended, available at

7.2. The Contractor shall provide a toll-free or local access number for ordering products and requesting technical assistance.

7.2.1. The Contractor shall have an available employee who are knowledgeable of Herbicide Products and their application.

7.2.2. The Contractor shall respond to technical questions via telephone or e-mail within twenty- four (24) hours of written notice.

8. PACKAGING

8.1. The Contractor shall package and deliver all Herbicide Products in the package size specified by the Ordering Agency. If the container size is no longer in production, the Contractor shall provide written notification from the manufacturer stating the manufacturer's packaging or container size is no longer available or has changed.

8.2. Herbicide Products delivered with a packaging or container deviation, without written justification from the manufacturer, may be rejected and be redelivered within three (3) business days of written notification.

9. LABELING

9.1. The Contractor shall provide to the Ordering Agency, at the time of delivery, one (1) printed copy of federally approved, current, specimen label and Safety Data Sheet(s) (SDS) for each ordered Herbicide Chemical.

10. PESTICIDES DEALER LICENSE

10.1. Contractor shall provide, to the State of Idaho, a Restricted-Use Pesticides (RUP) Pesticide Dealer's license issued by the Idaho State Department of Agriculture for use in the State of Idaho and shall maintain the license for the life of the Price Agreement.

11. INSURANCE

11.1. The Contractor shall carry all insurance which may be required by federal and state laws, state and city ordinances, charters, regulations, and codes. The required insurance shall be subject to the approval of the State, but any acceptance of insurance by the State shall in no way limit or relieve Contractor of the duties and responsibilities stipulated in the Agreement.

The Contractor will maintain, at its sole expense, the required insurance purchased from an insurer licensed/authorized to transact business in the State of Idaho. Insurance carriers must have an AM Best's Rating of A-VII or better. Policies shall provide a minimum of 30 days' advance written notice of cancellation, material change, or nonrenewal of policies required under the contract to the State. In situations where the insurance carrier does not provide notice to the State, the Contractor shall notify the State of any cancellation or reduction in coverage or limits of any insurance within seven (7) days of receipt of insurer's notifications to that effect.

The Contractor's insurance shall be issued on a primary basis, non-contributory with any other insurance coverages and or self-insurance carried by the State.

Self-insured retentions must be declared to and approved by the State. The State may require the Contractor to provide proof of ability to pay losses and related investigations, claim, administration, and defense expenses within the retention.

11.1.1. Commercial General Liability Insurance (CGL) - Contractor shall maintain commercial general liability on an occurrence basis to include premises and operations, personal and advertising injury, products and completed

operations, liability assumed under an insured contract, and independent contractors. The limits of liability shall not be less than:

\$1,000,000 each occurrence bodily injury and property damage
\$1,000,000 personal and advertising injury
\$2,000,000 general aggregate
\$2,000,000 products/completed operations aggregate

11.1.2. Commercial Automobile Liability Insurance – The Contractor shall maintain commercial liability insurance with limits not less than \$1,000,000.00 combined single limit each accident for bodily injury and property damage including coverage for all owned, hired, and non-owned automobiles. Where applicable, coverage should include personal injury protection. Coverage shall include additional insured status in favor of the State, its officers, directors, employees, agents, and volunteers.

11.1.3. Worker's Compensation (Statutory) and Employer's Liability - Coverage shall include additional insured status and a waiver of subrogation in favor of the State, its officers, directors, employees, agents, and volunteers. Coverage shall include a waiver of subrogation in favor of the State, its officers, employees, agents, and volunteers.

12. DISTRIBUTION SITES AND LOCATIONS

12.1. If Contractor has more than one (1) distribution site, Contractor shall provide the details as necessary on a separate word document. The information that shall be provided, at minimum, is the address, contact person, contact phone number, and contact email address.

13. ORDERING AMOUNT AND DELIVERY

13.1. Ordering Agencies will place orders on an as needed basis via a purchase/delivery order (Order). The Ordering Agency contact will be indicated on each order as it is placed. Actual quantities may vary due to the nature of the Ordering Agency's needs; no minimum or maximum orders are guaranteed or implied.

13.2. The Contractor shall deliver all ordered Herbicide Product within three (3) business days, excluding State-recognized holidays, after receipt of order (ARO).

13.2.1. Contractor shall inform the Ordering Agency if delivery cannot be made within three (3) business days. The Ordering Agency may agree to a different delivery date or may cancel the Order.

13.3. The Contractor shall provide and deliver the exact Herbicide Product ordered.

13.3.1. Substitutions will not be accepted without prior approval of ordering agency.

14. STORAGE LIFE

14.1. Upon delivery, the Herbicide Products ordered shall have a minimum of seventy-five percent (75%) storage life remaining. For example, if an Herbicide Product is good for one (1) year after manufacturer's date on the label, there shall be nine (9) months remaining of product life upon delivery. Products delivered which do not meet this requirement will not be accepted; replacement Products shall be redelivered within three (3) business days of written notification. Contractor will be responsible for collection and proper disposal of rejected Products.

15. PRICE ADJUSTMENTS

15.1. A price redetermination may be initiated by the Contractor at any time during the term of the Price Agreement. Price redeterminations shall be submitted to the State, in writing, and shall include justification and supporting documentation of industry wide decrease or increase in cost to provide the Herbicide Product.

15.2. The price redetermination will be based on the Producer's Price Index (PPI) www.bls.gov/ppi and the price to be paid will be increased by 100% of the change as reflected by the following Industries of the Producers Price Index published by the United States Department of Labor:

Industry: Pesticide and other agricultural chemical manufacturing Product:

Pesticide and other agricultural chemical manufacturing.

Series ID #PCU325320325320 Categories 1, 2, and 3.

Industry: Pesticide, fertilizer, and other agricultural chemical manufacturing Product:

Pesticide, fertilizer, and other agricultural chemical manufacturing. Series ID #PCU3253 –

3253 – Category 4, Items 4A-4E

Base Period: January 2018 is hereinafter the reference "Base Period".

15.3. Mechanics of price adjustment: Divide the current index value by the index value for the base period, and then multiply the result by 100 and round to the nearest one hundredth. Multiply the current value of the Special Index by the original base selling price, and then divide by 100; this final figure will be the adjusted price for the current time period.

15.4. The Contractor's pricing may be update by sending the most current pricing to contractadmin@adm.idaho.gov which will be posted to the Division of Purchasing website once approved.

16. CATALOG PRICING

16.1. The Contractor may offer their full catalog to the State with all products, both Trade and Generic Name. Your catalog shall show the pricing that will be offered to the State.

16.2. In the event the efficiency of Products are diminished due to adaptation of the target weeds, the State may seek to add Products to the Contract. Contractors may offer new Herbicide Product to the State at any time during the Price Agreement. The State will offer each Contractor an opportunity to provide a price for the new Herbicide Product. The new Herbicide Products, once accepted by the State, shall be governed under the same terms and conditions of this Price Agreement.

16.3. In the event an Herbicide Product shall be removed from this Price Agreement, the State will notify the Contractor immediately of the removal and the Contractor shall no longer sell the product under this Price Agreement.

16.4. If a Herbicide Product is no longer being produced, the Contractor shall immediately notify the State and the State will confirm, with all the Contractors, that the Herbicide Product is no longer in production.

17. NEW PRODUCTS (TRADE OR GENERIC)

17.1. Each individual agency utilizing this Price Agreement shall be required to seek individual pricing from each Contractor for any new product offered. The consideration for award will be contingent on the Contractor who is offering the best overall value to the State (pricing, availability, effectiveness, etc.).

18. NON-EXCLUSIVITY

18.1. The Contractor and State agree this Price Agreement is not an exclusive agreement for the Herbicide Products listed. State and public agencies may, at their option, choose to use this Price Agreement as they see fit and in

their best interests. State and public agencies may utilize additional or alternate price agreements and State contracts.

19. TERMINATION FOR CONVENIENCE

19.1. The State or Contractor may terminate this Price Agreement for any reason with thirty (30) days written notice to the other party.

20. CERTIFICATION

20.1. Pursuant to Idaho Code 67-2359, the Contractor certifies that it is not currently owned or operated by the government of China and will not for the duration of the Contract be owned or operated by the government of China.

21. BILLING PROCEDURE

The Contractor shall provide an invoice no later than thirty (30) calendar days after each delivery. Invoices submitted without the information below will be returned to the Contractor for correction and resubmission.

The Contractor shall provide the following information with each invoice:

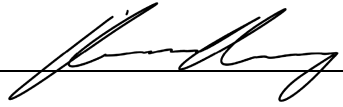
1. Contract number and Ordering Agency PO number
2. Identification of billing period
3. Total amount billed for the billing period
4. Detailed description of products
5. Name of authorized individual and contact information for Contractor

****SIGNATURE PAGE FOLLOWS****

Department of Administration

Wilbur Ellis

Signature: Mark Ward

Signature: 

Name: Mark Ward

Name: Kenny Macy

Title: Buyer

Title: Director of Sales

Date: 08/30/23

Date: 8/30/23