

Section 1 - General Information

1.1 SCOPE OF CONTRACT

The intent of this Invitation for Bid is to establish a contract for the purchase and delivery of Bulk Unleaded Gasoline and Diesel Fuel for above and below ground storage tanks owned, operated, or maintained by various State of Arkansas Agencies and any Cooperative Purchasing Group(s).

1.2 USE OF CONTRACT

This will be a preferred State contract. State agencies may obtain all BULK FUELS as referenced herein from any resulting contract(s). State Constitutional Independent Agencies are not required to participate in any resulting contract; however they have the option to participate at their own discretion. The State reserves the right to purchase product elsewhere on an emergency basis or where any delivery requirements are burdensome or restrictive.

Any resulting Contract(s) **will not** apply to Vendor Owned fuel tanks already in existence and used by state agencies.

1.3 CONTRACT TERM AND RENEWAL

This contract is for a ONE (1) YEAR period of time commencing on the date of contract award, for the purchase and delivery of BULK FUELS; with option to renew (upon mutual agreement of all parties) up to SIX (6) additional ONE (1) YEAR periods or a portion thereof. The State of Arkansas, Agencies or Cooperative Purchasing Group(s) will not be obligated or required to purchase any of the Contractor's surplus inventories resulting from the expiration of this contract.

1.4 COOPERATIVE PURCHASING

Arkansas State Procurement Law provides that local public procurement units (counties, municipalities, school districts, certain nonprofit corporations, etc.) may participate in State purchasing contracts. Successful Contractor agrees to provide services to Cooperative Purchasing Program participants. Unless otherwise stated, all standard and special terms and conditions listed within the Invitation for Bid must be equally applied to such participating local procurement units pursuant to Ark Code Ann §19-11-206 and Ark Code Ann §19-11-249.

No Cooperative Purchasing Group shall participate in any Contract as the result of this Invitation for Bid unless such entity meets the credit requirements and signed agreement requirements of the successful Contractor and Office of State Procurement. The State does not assume any liability of the Cooperative Purchasing Group. If any entity is refused participation under the Contract, the Office of State Procurement requests notice of such action.

SECTION 2 - Pricing Structure

2.1 PROCESS

Contracts will be awarded consisting of gasoline and diesel product per County to the lowest responsive and responsible bidder. One contract will be awarded for Tank Wagon delivery consisting of gasoline and diesel product in the amount of 2,500 gallons of fuel or less. A separate contract will be awarded for Transport delivery of gasoline and diesel product in the amount of 2,501 gallons of fuel or more.

Because all other price components (OPIS/Rack and DTN/FastRacks price, taxes, etc.) are pre-established, only the "Vendor Markup" figure listed by the bidder will be used to establish an award. Failure to provide a bid for gasoline and diesel products per desired Counties may result in the bidder being deemed non-responsive.

"Vendor Markup" is the bidder's price to cover all costs associated with providing fuel to State and Cooperative Purchasing Program participants. "Vendor Markup" is above and beyond the OPIS/Rack or DTN/FastRacks price per gallon of fuel. Markup may include, but is not necessarily limited to, cost of transportation to the delivery location, miscellaneous vendor overhead costs, blending fees, and the Bidder's desired margin of profit. The bidder shall assess no other fees associated with the delivery of Fuel except for the below minimum Delivery Charge as indicated in any resulting contract.

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“Vendor Markup” for Fuel shall be on a price per gallon basis.

“VENDOR MARKUP” FIGURES ARE THE BASIS FOR AWARD OF ANY RESULTING CONTRACT(s).
Awards will be determined by averaging ALL "Vendor Markup" figures (less below minimum Delivery Charge) to determine the lowest overall “Vendor Markup” per County.

“VENDOR MARKUP” PRICING INSTRUCTIONS

All “Vendor Markup” bid prices are required to be carried no further than one-hundredth of a cent and expressed as a decimal.

For example:

If the bid price is five and three quarters cents per gallon, express as 0.0575

If the bid price is three quarters of a cent per gallon, express as 0.0075

Unacceptable Quote: \$0.05753

Enter the “Vendor Markup” for each delivery destination (county) and type of delivery (tank wagon / transport) in the appropriate spaces in the accompanying Microsoft Excel Bid Spreadsheet.

Vendor Markup shall be firm for the full term of the contract.

2.2 INVOICING PRICING INSTRUCTIONS

Price for all fuels is to be computed using the following price structure. The total price of the product delivered to destinations shall consist of three components.

These components are:

- A) **Base Price** (OPIS/Rack or DTN/FastRacks Price) in effect on Date of Delivery
- B) **Applicable Taxes/Fees**
- C) **Vendor Markup**

Base Price + Applicable Taxes/Fees + Vendor Markup = INVOICE PRICE per Gallon

Base Price

The base price shall be per gallon “Oil Price Information Service” OPIS/Rack Price or “Data Transmission Network” DTN/FastRacks, low price by product on the date of delivery.

All fuel delivery consisting of more than 2,501 gallons shall be billed for NET gallons delivered temperature adjusted at 60 degrees Fahrenheit. All fuel delivery consisting of less than 2,500 gallons shall be billed for GROSS gallons delivered. See “Billing & Invoicing” section of bid.

The contractor is responsible for providing a delivery ticket and invoiced price per gallon that is based on the actual OPIS/Rack or DTN/FastRacks price from the terminal of origin on the date of delivery. DELIVERY TICKETS MUST INDICATE THE ITEMIZED PRICE PER GALLON!! **A temperature corrected delivery ticket must be provided for delivery consisting of more than 2,501 gallons of fuel.** The State reserves the right to refuse deliveries that are not accompanied by priced and itemized delivery tickets, and/or hold payment without penalty until properly executed invoices/delivery tickets are submitted.

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

Applicable Taxes/Fees

The State of Arkansas is exempt from federal excise tax. The State and its Agencies will not pay these taxes, nor will they pay and apply for a refund. BIDS WHICH INCLUDE THESE TAXES WILL NOT BE

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CONSIDERED FOR AWARD. It will be the responsibility of the contractor to be properly "set up" with the Internal Revenue Service or other regulatory agencies in order to obtain applicable federal tax refunds when doing business with the State.

However, the State of Arkansas is responsible for Arkansas Motor Fuel Taxes and Petroleum Environmental Fees. These items shall be included on the invoice but will not be shown in the bid price. Any applicable superfund fee must be included in the bid price.

The following are fixed Applicable Taxes/Fees:

Arkansas Motor Fuel Tax Rates	
Gasoline	.215 per gallon
Clear Diesel	.225 per gallon
Dyed Diesel	.060 per gallon
Biodiesel Mixture*	.225 per gallon
Gasohol	.215 per gallon
Ethanol/Methanol	.215 per gallon
Petroleum Environmental Fee **	.003 per gallon

*Arkansas Code 15-4-2802 defines "biodiesel mixture" as a mixture of biodiesel fuel and undyed, clear distillate special fuel that is suitable for use in motor vehicles on Arkansas highways. Arkansas taxes the sale of biodiesel mixture as diesel. These sales should be filed using the product code of 160 for undyed diesel.

**The Petroleum Environmental Fee is required to be paid on each gallon of motor fuel or distillate special fuel purchased in or imported into the State of Arkansas.

As of July 1, 2007 Arkansas Fuel Tax must be charged on all DYED DIESEL FUEL sold.

The State, it's Agencies, and any Cooperative Purchasing Program participants are not responsible for miscellaneous charges or fees (i.e., shop supplies, environmental fees, fuel surcharges, travel time, service calls, towing/hauling etc.)

Any mandatory fixed costs added or changed by federal, state or local government after award of this contract will be allowed.

2.3 UNIT OF MEASURE

All fuel deliveries shall be measured in U.S. gallons. Any fuel deliveries of 2,501 gallons or more shall be temperature adjusted to 60 degree Fahrenheit except as stated in Special Provision below in the Billing And Invoicing section.

When metering devices are available they should be used by the Contractor when making deliveries. If metered delivery is not possible, it is the responsibility of the Contractor, his employees or agents to take a "stick" measurement, in the presence of agency employees receiving the fuel, of the volume existing in their storage tank immediately prior to delivery. When the fuel transfer is complete, a "stick" measurement shall be used to measure the volume in the storage tank to verify the actual volume of bulk fuel delivered. Alternative metering devices are acceptable providing both receiving agency and the contractor are satisfied with their accuracy. Readings must be posted on a bill of lading and/or delivery ticket.

MINIMUM DELIVERY QUANTITIES

***150 gallon minimum order quantity.**

Tank Wagon pricing shall be charged for delivery quantities up to 2,500 gallons.

Transport Truck pricing shall be charged for delivery of 2,501 gallons or more.

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* Occasionally agencies are required to “top-off” their tanks for inspection, testing or in preparation of impending emergency. Fuel orders or tank “top off” below 150 gallons minimum, a Delivery Charge may be assessed as prescribed in the Contractor’s award.

2.4 FUEL QUALITY

All fuels delivered are subject to testing by the Arkansas State Plant Board/Bureau of Standards, Petroleum Quality Division to determine acceptability. If fuel delivered is contaminated or does not comply with contract specifications, all costs for testing shall be paid by the contractor. In addition, the State reserves the right to require the contractor to remove contractor-supplied contaminated or non-compliant fuel from bulk tanks and equipment tanks and replace the contaminated or non-compliant fuel with fuel that meets specifications. The cost for removal of the contaminated or non-compliant fuel and the cost for the cleanup shall be paid by the contractor. Contractor agrees to pump the bulk tank and equipment tanks to remove contractor-supplied contaminated or non-compliant fuel within twenty-four (24) hours after receiving written notification that the product is contaminated or does not meet contract specification requirements.

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

Deliveries and/or payment may be refused if quality is unacceptable.

Nothing herein shall preclude conformance with other federal, state, or local regulations that may be more stringent.

Specifications For Gasoline

Gasoline must meet or exceed standard specifications listed in the American Society for Testing and Materials (ASTM) Specification D4814-07.

For all delivery sites requiring unleaded gasoline, the Contractor agrees to provide unleaded gasoline with an anti-knock index “(R+M)/2” of at least 87.

In the event the above referenced specifications change, the most current standards on the date of delivery will prevail.

Specifications For Diesel Fuel

Diesel fuel must meet or exceed standard specifications listed in the American Society for Testing and Materials (ASTM) Specification D975 (cetane, distillation and gravity). In the event standard specifications change the most current standards will prevail.

Diesel fuel must meet or exceed standard specifications listed in ASTM Specification D1796 (water and sediment).

Ultra Low-sulfur dyed diesel must meet or exceed standard specifications listed in ASTM Specification D4294.

In the event the above referenced specifications change, the most current standards on the date of delivery will prevail.

Biodiesel

Biodiesel means a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats. Biodiesel Blend means a fuel comprised of a blend of biodiesel fuel with petroleum-based diesel fuel and shall not exceed a B20 designation.

State Agencies may be interested in having diesel blended with a percentage of biodiesel delivered to one or more of their tanks. Blended biodiesel fuel must be supplied by a Contractor that is registered with the EPA to sell biodiesel. Award of this contract will not be based on the vendor’s ability to provide biodiesel. If the Contractor can provide biodiesel and the ordering agency requests it, the Contractor and the ordering agency must mutually agree on the cost of the biodiesel at the time of ordering. This cost must include any cost for blending. The Contractor must blend biodiesel with the diesel before delivery to a site and not blend in the

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agency's tank.

As the ASTM is currently creating method and standards for biodiesel, the most current standards on the date of delivery will prevail.

SECTION 3 - DELIVERY INFORMATION

3.1 AUTHORIZATION FOR DELIVERY

PURCHASE ORDER FROM THE USING AGENCY WILL AUTHORIZE DELIVERY. Orders from the agency may be placed by telephone, e-mail or fax.

Every effort will be made by the ordering agency to consolidate orders of all fuels for each delivery destination. Agencies should be certain that when ordering fuels, their tanks will accept the quantity ordered. In the event an agency orders fuel and their delivered or receiving capacity falls below the 150 gallon minimum the Contractor may impose the Delivery Charge as prescribed in the Contractor's award.

Delivery is to be made one (1) day after receipt of order, Monday through Friday 7:30 a.m. to 4:00 p.m., except state observed holidays, unless emergency conditions dictate otherwise or by special arrangement with the ordering agency.

Contractor must acknowledge the ordering agency with the time and date of delivery. The receiving agency must be informed of the delivery truck arrival, afforded an opportunity to observe/confirm off-loading and sign for receipt. No fuel is to be delivered to an unattended location unless prior arrangements have been made with the receiving agency. Delivery documents must be presented to the receiving agency prior to unloading.

Delivery shall be FOB destination. The contractor agrees to pay all shipping costs and assumes all risks of loss until product(s) are accepted. Delivery charges are included in the bid price and no other shipping or transportation charges will be paid by the State. Where the Contractor cannot make complete delivery of any order placed because of the Contractor's limitations, the Contractor agrees to make subsequent delivery of the balance of the order, at a mutually agreed upon time, without additional charges.

It is the responsibility of the Contractor to use approved measuring devices to insure proper measurement of existing and delivered fuel. All measurements must be posted on a bill of lading and/or delivery ticket. Documents will be signed after unloading and verification of quantities received are made.

Fuel metering devices should be utilized to provide accurate delivery quantities. Contractor's delivery trucks that do not have a metering device, a bill of lading for each truck and/or trailer load will be acceptable. Split loads will be accepted if all fuel from the distribution point/terminal is for delivery to multiple sites of a single State agency.

Delivery ticket must be presented at time of product delivery. Bill of lading/metered quantity may be transferred to delivery ticket by hand at time of delivery. Bill of lading must also be attached to the delivery ticket. The State will pay only for the actual amount of fuel delivered as shown on the delivery vehicle's metering device or on bill of lading.

Contractor must be in compliance with Arkansas Bureau of Standards, Uniform Weights and Measures Law 4-18-318 Sale from bulk. For vehicles with ticket printers, the printed metering ticket must be attached to the delivery ticket.

4-18-318. Sale from bulk.

All bulk sales in which the buyer and seller are not both present to witness the measurement, all bulk deliveries of heating fuel, and all other bulk sales specified by rule or regulation of the State Plant Board, shall be accompanied by a delivery ticket containing the following information:

- (a) the name and address of the buyer and seller;
- (b) the date delivered;

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- (c) the quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity, for example, when temperature compensated sales are made;
 - (d) the unit price, unless otherwise agreed upon by both buyer and seller;
 - (e) the identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale; and,
 - (f) count of individually wrapped packages, if more than one (1), in the instance of commodities bought from bulk but delivered in packages.
- History. Acts 2001, No. 587, § 18.

3.2 GUARANTEE OF DELIVERY

The Contractor agrees to deliver products ordered to the County for which they received a contract and for the prices established under all circumstances, including, but not limited to, periods of fuel shortage and/or allocation.

3.3 FUEL TRANSFER

The Contractor shall perform all deliveries to facilities in a safe and professional manner. Contractor's equipment shall be in good working order and all Contractor personnel shall be trained in safety measures to preclude accidents endangering personnel or property.

The Contractor must provide systems necessary to prevent spills and overfills from occurring during the product transfer. The Contractor must also provide the systems necessary to prevent product from reaching streets, catch basins or other drainage structures during product transfers.

The fuel truck operator will be present during delivery and take an active part in the prevention of spills. The fuel truck operator will take immediate action to stop the flow of product when the working capacity of the tank has been reached or when an emergency or spill occurs. Prior to transfer of product and also prior to departure of delivery truck, the fuel truck operator shall examine the lowermost drain and all outlets for leakage, and if necessary, tighten, adjust or replace to prevent liquid leakage.

In the event deliveries are sub-contracted to another vendor by the Contractor, the Contractor is ultimately responsible for complying with State Laws and all conditions of this contract.

3.4 SPECIAL CIRCUMSTANCES

3.4.1 Mixed Fuel

It is the Contractor's responsibility to immediately notify the receiving agency of any delivery which results in a mixture of unleaded and diesel fuels. The Contractor shall be responsible for all cost and damages resulting from "mixed fuel" deliveries. The Contractor agrees to pump the bulk tank and equipment tanks to remove mixed fuel within twenty-four (24) hours after realization of a "mixed fuel" delivery. In the event a "mixed fuel" delivery is discovered after the receipt of fuel, written notice will be sent to the Contractor to rectify the situation within twenty-four (24) hours.

The Contractor shall remove and properly dispose the entire contents of the contaminated tank. The Contractor is responsible for replacing the quantity of fuel before the "mixed fuel" delivery as well as the quantity of correct fuel to be delivered at no cost to the State. The cost for removal of "mixed fuel" and the cost for the cleanup shall be paid by the Contractor. The State will not pay for quantity of any "mixed fuel" deliveries. The State will only pay for correctly delivered fuel quantity as ordered.

Upon failure to rectify any "mixed fuel" delivery, the State may take corrective action and charge the Contractor for all related cost.

3.4.2 Accidental Release Or Spillage

The contractor must utilize proper equipment to prevent fuel spillage during delivery. Accidental release or spillage during delivery of product by the Contractor will result in the Contractor being held responsible for all costs of cleanup

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and disposal of all contaminated soil. Cleanup and disposal must be conducted in accordance with state and federal EPA regulations and guidelines.

The Contractor shall be responsible for all spillage or overfill which may occur during transit or unloading operations. The Contractor shall immediately report spillage or overfill to the Arkansas Department of Emergency Management at 800-322-4012. This office is staffed 24 hours a day, 7 days a week, to respond to these and other emergency conditions. In addition, the Contractor must take immediate measure to contain and clean-up the spill/overflow. Upon failure to do so, the State may take corrective action and charge the Contractor for all related cost or offset that amount from claims made by the Contractor. All clean-up procedures must be in accordance with the most current State and Federal environmental protection agency laws during the terms of the contract.

3.5 DELIVERY SITES

Bidders are strongly encouraged to visit all proposed fuel sites to become familiar with; physical locations, access conditions and/or any other physical site conditions that may affect the scope of work contained herein. By submitting a bid the bidder acknowledges that they have examined and/or will comply with all existing site conditions for the term of any resultant contract(s). Any failure by the bidder to acquaint themselves with the available information contained herein shall not relieve them of the responsibility to carry out all contract terms and conditions. The State assumes no responsibility for any conclusions or interpretations made by the bidder on the bases of the information made available by the State.

A list of bulk fuel delivery sites may be found in the accompanying Microsoft Excel Bid Spreadsheet. Locations are listed by county, and include the agency name, bulk storage location, fuel types, tank size and estimated annual usage. Storage capacity information is provided but not guaranteed. No guarantees of volume quantities are expressed or implied.

The accompanying spreadsheet is not an all inclusive list; there are numerous other locations that are potential delivery sites throughout the counties and Cooperative Purchasing Program participants. Additional listing of storage tanks throughout the State of Arkansas may be found on the Arkansas Department of Environmental Quality's, Storage Tank Facility Information Database located at the following website:

http://www.adeq.state.ar.us/rst/tankstats/facil_sum.asp

Annual quantities listed are estimates only; actual amounts purchased may vary depending upon needs. No warranty is made concerning the accuracy of completeness of this information. The amount of fuel purchased may be considerably more or less, and sites may be added or deleted at any time during the resulting contract. The types of deliveries may change or remain the same during the contract period.

Agencies reserve the right to close any delivery site or discontinue any fuel product at any time without prior notice to the Contractor or penalty to the State. Agencies can close any delivery site and establish a replacement delivery site within the same county of the original site. The Contractor must deliver fuels for the replacement site at the same margin as charged at the closed site.

The State reserves the right to add, replace, or remove tanks and also reserves the right to add fuels at any delivery site without prior notice to the Contractor or penalty to the State. The Contractor agrees to deliver fuels to additional tanks at a delivery site using the same margin as already charged within the same County. If tanks for additional types of fuels are added at a delivery site, the Contractor agrees to provide the additional fuels at the existing prices for those they are providing within the same County.

Minimum delivery requirements stipulated in this document are firm. Deviations submitted by the vendor will cause bid disqualification.

SECTION 4 - BILLING AND INVOICING

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4.1 General Information

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

- Prices will be charged based upon the day the product is delivered.
- Tank Wagon* Prices will apply to orders placed for deliveries of 2,500 gallons or less.
- Transport Prices will apply to orders placed, where one or a combination of more than one type of fuel is equal to deliveries of 2,501 gallons or more.
- Any fuel or combination of fuels ordered, which totals less than 2,500 gallons, but delivered on a Transport truck will not receive Tank Wagon pricing.

All fuel delivery consisting of more than 2,501 gallons shall be billed for NET gallons delivered temperature adjusted at 60 degrees Fahrenheit. All agencies receiving a fuel delivery consisting of less than 2,500 gallons shall be billed for GROSS gallons delivered.

***Special Provision**

Due to difficult delivery site and/or terrain some locations will only accommodate Tank Wagon vehicles. In this case fuel orders over 2,501 gallons may be delivered in tank trucks at tank truck price. In order for this provision to apply it must be mutually agreed upon by both the fuel site manager and the Contractor.

4.2 Invoices

The State reserves the right to withhold payment without penalty until properly executed invoice/delivery tickets are submitted.

Invoices must be Contractor's invoices. The State will not accept invoices from sub-contractors and will not pay sub-contractors.

Contractor's invoices will include the agency's billing/contact information (name, address, phone and fax no.) as provided by the ordering agency.

The Contractor must deliver/fax an invoice to each agency's business office after delivery of the fuel. State agencies will furnish billing information to the Contractor on an as-needed basis. In the case of a late delivery, fuel base price shall be the price on the actual day the delivery was scheduled.

Invoices must show the date of delivery and separately list for each fuel delivered, the fuel index price, the "Vendor Markup" and all applicable fixed costs (i.e., taxes).

No other price change method such as referencing the contractor's own price list or the contractor's supplier's posted price list or any other publication shall be considered.

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

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

4.3 Invoicing Procedures

Invoices shall be submitted to the address shown on the purchase order. Payment shall be tendered within thirty (30) days of the date of invoice. After the sixtieth (60) day from the date of the invoice unless mutually agreed to,

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interest shall be paid on the unpaid balance due to the contractor at the rate of one half of one percent per month in accordance with Arkansas Code Annotated 5 19-1 1-224. The procuring agency shall make a good-faith effort to pay within thirty (30) days after date of invoice.