

# SECTION 1: GENERAL REQUIREMENTS

## **1.0 INTRODUCTION**

The STATE OF MONTANA, The Department of Natural Resources and Conservation (DNRC) (hereinafter referred to as "the State") is soliciting bids for Call-When-Needed (CWN) **Single Engine Air Tanker (SEAT) Service Agreement**. A Call When Needed SEAT is to be provided for the state of Montana in support of severity and fire suppression. A more complete description of the supplies and/or services sought is provided in Section 4 of this Invitation for Bid (IFB). Bids submitted in response to this solicitation must comply with the instructions and procedures contained herein.

## **1.1 AGREEMENT TERM**

The agreement term is for (1) one year beginning June 1, 2020 and ending May 31, 2021 unless superseded or terminated earlier in accordance with the terms of this contract. (*Section 18-4-313, MCA*).

The contract period shall be for one (1) year beginning upon award with an option to renew for three (3) successive one (1) year terms if mutually agreed to by the Vendor and the State.

Prices for the first annual period of the contract will be firm and unchanging. Prices for the remaining years of the contract will be subject to the U.S. Department of Labor Consumer Price Index (CPI) for the month of March in each succeeding year of the contract. This adjustment will apply to the flight rate and daily availability only and will be rounded to the nearest whole dollar.

## **1.2 START WORK**

The Vendor shall provide availability status (phone call or Vendor self-status if available at the dispatch center) to the designated dispatch office within 5 days after award of the agreement.

## **1.3 INSTRUCTIONS TO BIDDERS**

**1.3.1 Procurement Officer Contact Information.** Contact information for the procurement officer is as follows:

Procurement Officer: John Monzie  
Fire Protection Bureau  
Address: 2705 Spurgin Road  
Missoula MT 59804  
Telephone Number: 406-542-4350  
Fax Number: 406-542-4242  
E-mail Address: DNRCFireContracting@mt.gov

**1.3.2 Examination of Solicitation Documents and Explanation to Bidders.** Bidders are responsible for examining the solicitation documents and any addenda issued to become informed as to all conditions that might in any way affect the cost or performance of any work. Failure to do so will be at the sole risk of the bidder. Should the bidder find discrepancies in or omissions from the solicitation documents or should their intent or meaning appear unclear or ambiguous, or should any other question arise relative to the solicitation documents, the bidder shall promptly notify the Procurement Officer in writing. The bidder making such request will be solely responsible for its timely receipt by the Procurement Officer. Replies to such notices may be made in the form of an addendum to the solicitation.

**1.3.3 Interpretation or Representations.** The state of Montana assumes no responsibility for any interpretation or representations made by any of its officers or agents unless interpretations or representations are incorporated into a formal written addendum to the solicitation.

**1.3.4 Acknowledgment of Addendum.** If the IFB is amended, then all terms and conditions which are not modified remain unchanged. It is the bidder's responsibility to keep informed of any changes to the solicitation.

**1.3.5 Extension of Prices.** In the case of error in the extension of prices in the bid, the unit price will govern. In a lot bid, the lot price will govern.

**1.3.6 Bid Preparation Costs.** The costs for developing and delivering responses to this IFB are entirely the responsibility of the bidder. The State is not liable for any expense incurred by the bidder in the preparation and presentation of their bid or any other costs incurred by the bidder prior to execution of a purchase order or agreement.

**1.3.7 IFB Attachments.**

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| ATTACHMENTS                              |
| A. Aviation Price Agreement Submittal    |
| B. Sample Aviation Price Agreement       |
| C. Standard Terms and Conditions         |
| D. Harassment Free Workplace Policy      |
| E. Debarment and Suspension Form         |
| F. Drug and Alcohol                      |
| G. Standard Vendor Performance Report    |
| H. Taxpayer Identification Request (W-9) |
| I. Payment Procedures                    |
| J. Dark Money Executive Order            |

**1.4 REQUIRED REVIEW**

**1.4.1 Review IFB.** Bidders shall carefully review the entire IFB. Bidders shall promptly notify the Procurement Officer in writing utilizing the eMACS Q&A Board of this solicitation of any ambiguity, inconsistency, unduly restrictive specifications, or error which they discover. In this notice, the bidder shall include any terms or requirements within the IFB that preclude the bidder from responding or add unnecessary cost. Bidders shall provide an explanation with suggested modifications. The notification must be received by the deadline set forth in Section 1.4.2 Form of Questions. The State will determine any changes to the IFB.

**1.4.2 Form of Questions.** Bidders having questions or requiring clarification or interpretation of any section within this IFB must address these issues in writing utilizing the eMACS Q&A Board of this solicitation by **April 13, 2020**, and no later than **2:00 p.m., Mountain Time**. Clear reference to the section, page, and item in question must be included in the form. Questions received after the deadline may not be considered.

**1.4.3 State's Response.** The State will provide a written response **April 27, 2020** to all questions received by **April 13, 2020**. The State's response will be by written addendum and will be posted on the State's website with the IFB at <https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=StateOfMontana> by the close of business on the date listed. Any other form of interpretation, correction, or change to this IFB will not be binding upon the State.

## **1.5 BID SUBMISSION**

### **1.5.1 BID SUBMISSION – Bids will be submitted through the eMACS system – Bids must be entered into eMACS prior to 2:00 pm, Mountain time of the deadline found in eMACS.**

To learn more about eMACS, and to access vendor registration go to: <http://vendorresources.mt.gov/>.

#### **For registration assistance:**

General Assistance: Call 406-444-2575

Email: [emacs@mt.gov](mailto:emacs@mt.gov)

Register at: [vendorportal.mt.gov](http://vendorportal.mt.gov)

Vendor Registration and Data Management Handbooks

**1.5.2 Late Bids.** *Regardless of cause, late bids will not be accepted and will automatically be disqualified from further consideration.* It shall be the bidder's sole risk to assure bids are submitted and complete before the deadline.

**1.5.3 Tax Identification Number (TIN) / Social Security Number (SSN).** All bidders must furnish a tax identification number in the space provided on the bid submittal and return the *Taxpayer Identification Request* (see ATTACHMENT H – W-9). All State agencies require a tax identification number to process payments.

## **1.6 CHANGE OR WITHDRAWAL OF BIDS**

**1.6.1 Change or Withdrawal PRIOR to Bid Opening.** Should any bidder desire to change or withdraw a bid prior to the scheduled opening, the bidder may do so through eMACS.

**1.6.2 Change AFTER Bid Opening But Prior to Bid Award.** After bids are opened, they may not be changed except to correct patently obvious mistakes and minor variations as allowed by *ARM 2.5.505*. The Bidder shall submit verification of the correct bid to the State prior to the final award by the State. Bids will be evaluated for price reasonableness. You may be contacted for re-submittal for items deemed unreasonable. This will be determined by the State.

## **1.7 BID AWARDS**

**1.7.1 Basis for Award.** The State intends to award multiple agreements; however, awards will only be made to those bidders offering a reasonable price and resources that are technically acceptable. Reasonable price technically acceptable will be the basis for award. Proposed pricing for ALL line items will be evaluated for reasonableness. At the discretion of the State, bidders may be given an opportunity for resubmittal if their offer is determined as unreasonable. The result of this IFB will be a statewide resource list of prequalified Vendors by location and price for which they have agreed to furnish SEATs.

**Once bid is excepted by the STATE the Vendor will need to follow up with federal carding on all of their aircraft, pilots, and service vehicles before they can be issued an agreement.**

**1.7.2 Rejection of Bids.** While the State has every intention to award an agreement as a result of this IFB, issuance of the IFB in no way constitutes a commitment by the state of Montana to award and execute an agreement. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- Eliminate any bids which seem excessive compared to the average of prices submitted in any given geographic area.
- Cancel or terminate this IFB (18-4-307, MCA)

- Waive any undesirable, inconsequential, or inconsistent provisions of this IFB which would not have significant impact on any bid (*ARM 2.5.505*); or
- If awarded, terminate any agreement if the State determines adequate state funds are not available (*18-4-313, MCA*).

## **1.8 CLAIMS**

Claims settlement is agency specific and remains the responsibility of the incident agency.

**1.8.1 State of Montana Claims.** Claims arising under the jurisdiction of the state of Montana are negotiated by the responsible Line Officer or Agency Administrator. These individuals may delegate this authority to other DNRC employees or to the Incident Management Team. When possible, claims should be settled at the incident. For comprehensive information on handling claims against MT DNRC, see the *DNRC 300 Incident Business Management Manual* located at <http://www.dnrc.mt.gov/Forestry/Fire/Manuals/manuals.asp>, or contact the Forestry Division Office, Forestry Division, Department of Natural Resources and Conservation, 2705 Spurgin Road, Missoula, Montana 59804; office phone: (406) 542-4300.

## **1.9 VENDOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE**

### **1.9.1 Vendor Liability for Personal Injury and/or Property Damage.**

- a. The Vendor assumes responsibility for all damage or injury to persons or property occasioned through the use, maintenance, and operation of the Vendor's vehicles or other equipment by, or the action of, the Vendor or the Vendor's employees and agents.
- b. The Vendor, at the Vendor's expense, shall maintain adequate public liability and property damage insurance during the continuance of this agreement, insuring the Vendor against all claims for injury or damage.
- c. The Vendor shall maintain Workers' Compensation and other legally required insurance with respect to the Vendor's own employees and agents.
- d. The State shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any vehicle or other equipment by, or the action of, the Vendor or the Vendor's employees and agents in performing under this agreement, and the State shall be indemnified and saved harmless against claims for damage or injury in such cases.

## **1.10 LOSS, DAMAGE, OR DESTRUCTION**

### **1.10.1 Loss, Damage, or Destruction.**

For equipment furnished under this agreement, the State shall not be liable for any loss, damage or destruction of such equipment, except for loss, damage, or destruction resulting from the negligence, or wrongful act(s) of government employee(s) while acting within the scope of their employment. The Vendor is responsible for operating the equipment within its operating limits and is responsible for safety of the equipment.

## **15. COMPLIANCE WITH DARK MONEY SPENDING DISCLOSURE REQUIREMENTS**

Vendor shall comply with the provisions of the *State of Montana Executive Order No. 15-2018*. Vendor shall annually submit a disclosure form to the contract liaison. Disclosure forms can be found at:

[http://vendorresources.mt.gov/Portals/121/vendor\\_resources/Dark\\_Money\\_Disclosure\\_Template.xlsm](http://vendorresources.mt.gov/Portals/121/vendor_resources/Dark_Money_Disclosure_Template.xlsm).

All disclosures must be submitted to (insert agency contact information), for reporting on <https://transparency.mt.gov/>. Failure to comply with these requirements may result in contract termination. Contractor agrees that such a failure is a material breach of this Contract.

## SECTION 2: DISPATCH/DELIVERY REQUIREMENTS

### **2.0 DISPATCH/DELIVERY/OPERATIONAL REQUIREMENTS**

All equipment awarded under this IFB shall be dispatched through a Northern Rockies Dispatch Center. The Vendor will be listed on an established statewide resource list. When Vendor's resources are listed as unavailable, the resources will not be eligible for dispatch under this agreement.

Since the needs of the State and availability of Vendor's resources during an emergency cannot be determined in advance, it is mutually agreed that, upon request of the State, the Vendor shall furnish the resources listed herein to the extent the Vendor is willing and able at the time of order. The State is not obligated to place nor is the Vendor obligated to accept an order under the agreement, but if an order is placed and accepted, all the terms and conditions set forth shall be met. Due to the sporadic occurrence of incident activity, the placement of any orders IS NOT GUARANTEED. The State reserves the right to establish a dispatch priority list should the need arise.

### **2.1 AVAILABILITY**

The Vendor is responsible for maintaining their status by informing their host dispatch center of their availability. When Vendor resources are listed as unavailable, the resources will not be eligible for dispatch under this agreement.

### **2.2 RELIABILITY and OPERATIONS**

The Vendor shall provide dependable equipment that meets all applicable state and federal laws relating to motor vehicles and equipment. The State reserves the right to conduct inspections at any time (see Item 2.7 INSPECTIONS). It is the intent of this agreement that the Vendor operate within FAA civil authorities and not as a Public Use Aircraft. The Vendor shall remain the operator of the aircraft at all times.

#### (a) General

The Vendor shall operate in accordance with *14 Code of Federal Regulations (CFR), Part 91* (General Operating and Flight Rules), and each certification required by this contract unless otherwise authorized by the Procurement Officer.

#### (b) Pilot Authority and Responsibilities

- (1) The Pilot in Charge (PIC) is responsible for the safe operation of the aircraft and the safety of its occupants and payload. The PIC has final authority to determine whether the flight can be accomplished safely and shall refuse any flight or landing which is considered unsafe.
- (2) Aircraft shall be operated within recommended flight envelope limitations. Aircraft operating in turbulent conditions shall not exceed authorized penetration speeds for the aircraft.

#### (c) Loading and Refueling

Fuel availability is the responsibility of the Vendor. The Vendor will provide support vehicle(s) and personnel for fueling. If mobile mixing capability is ordered on an incident resource order, all equipment, support vehicles, and personnel will be provided by the Vendor as indicated in the contract. The following requirements and specifications shall apply:

- (1) Vendors may propose procedures for hot loading of retardant into their aircraft with supporting information to include a risk-based analysis for the State to consider. The Procurement Officer must approve this procedure prior to implementation.
- (2) The Vendor shall comply with all applicable federal, state, and local laws regarding fuel trucks. Vendor's fuel vehicles must meet all requirements of *49 CFR* applicable to the type of fuel being transported.

- (3) Fuel/support vehicles shall be approved for interagency use and be currently carded with an interagency Data Card – Fuel Service Vehicle. Card must be carried in the truck.
- (4) The Vendor shall verify the correct retardant mix with a Vendor supplied refractometer. Results will be recorded prior to loading the aircraft with any Vendor mixed load.

## **2.3 CERTIFICATIONS AND APPROVALS**

Vendors shall be certificated to meet *14 CFR, Part 137* (Agricultural Aircraft Operations). Any aircraft operated shall be listed by make, model, series, and registration number on the Operators Certificates.

## **2.4 AIRCRAFT MAINTENANCE**

- (1) Maintenance of the aircraft shall be recorded in accordance with *14 CFR Part 43 and Part 91*.
- (2) A State official will be notified upon maintenance completion and log book entry that aircraft is ready to return to service.

## **2.5 ORDERING/DISPATCH PROCEDURE**

Following award, the Fire Protection Bureau will have an established statewide resource list. The State intends to dispatch Vendor resources based on this statewide resource list. This state resource list will identify location and price. State personnel may use this state list when an incident develops. Although price will be a major consideration, due to the exigency nature of fire suppression and severity activities, factors other than price (such as location, ability to meet timeframes, etc.) may be considered prior to placing an order.

Orders will primarily come through dispatch, although other government personnel are authorized to place orders.

The State will generally consult the statewide resource list and choose the Vendor closest to the incident, taking Vendor equitability and mobilization costs into consideration. The ordering official will inform that Vendor of the location, quantity required, and date and time needed. The order will be placed with that Vendor until that Vendor cannot fill the order or meet the date and time needed. If that Vendor is unable to meet the requirements, the next closest Vendor may be contacted, etc. The next time the service is required, the same process will be followed, taking in to account location and ensuring equitability among the Vendors.

**NOTE: The state of Montana reserves the right to select Vendors who they (State Officials) consider to be in their best interest. This may include Vendors who did not participate in this solicitation.**

When receiving a dispatch call, the Vendor shall confirm their availability and ability to meet specified timeframes. If the Vendor cannot be reached or is not able to meet the date and time needed, the dispatcher may proceed with contacting the next closest Vendor. Vendors shall check in at the time agreed when dispatched; at the assignment or designated meeting place, as determined by the Aircraft Manager or State office

At the time of acceptance of the assignment, the following information will be given to the Vendor:

- a. Resource Order Number
- b. Incident Order Number and Name of the Incident
- c. Date and Time to report to the Incident
- d. Descriptive location of the designated site where the Vendor shall meet a State Representative. A map will be provided, if available.
- e. Incident contact phone number for further information
- f. Fire charge code/funding code

The Vendor is required to provide a copy of their resource order and agreement to the Aircraft Manager or state field office upon check-in. The Vendor shall carry a minimum of **TWO COPIES** of the complete agreement at all times.

Dispatch offices may use a FAX or email to provide a hard copy of the resource order to the Vendor.

**Vendor is REQUIRED to meet all date(s) and time(s) once an order has been accepted by the Vendor.**

## **2.6 WEAR AND TEAR**

Equipment furnished under the agreement may be operated and subjected to extreme environmental and/or strenuous operating conditions which could include but are not limited to unimproved roads, steep, rocky, hilly terrain, dust, heat, and smoky conditions. **As a result, by entering into this agreement, the Vendor agrees that what is considered wear and tear under the agreement may be in excess of what the equipment is subjected to under normal operations and is reflected in the rates paid for the equipment.**

## **2.7 INSPECTIONS**

Pre-season inspections **will not** be done. All resources furnished under this agreement shall be in acceptable condition as determined by the State. The State reserves the right to reject resources that are not in safe and operable condition. Documentation for the items described below shall be made available upon request:

**2.7.1 Aircraft.** Aircraft shall meet all the specifications, certifications, and requirements and be approved for operations utilizing the *National Interagency SEAT Contract*. The must have current certifications and approvals indicating that all specifications and requirements for the aircraft are met.

**2.7.2 Pilots.** Pilots shall be carded by the USFS or Department of Interior OAS meeting all requirements specified in the *National Interagency SEAT Contract*.

- a. Completed Pilot Qualifications and Approval Record Form and pilot records
- b. Pilots shall be rated as Level 1 or Level 2 by the BLM, USFS or OAS.
- c. FAA pilot certificates
- d. Current FAA pilot medical certificate
- e. Copy of a signed Pilot Operations Briefing Certificate

### **2.7.3 Equipment.**

- a. Aircraft maintenance records

### **2.7.4 Vehicle(s).**

- a. Annual *Department of Transportation (DOT)* inspection records
- b. Proof of insurance
- c. Certified fully loaded weight receipt and/or aftermarket certification
- d. Proof of Workers Compensation or legal exemption

Due to the immediate needs dictated by fire suppression and severity, the normal procedures to document Vendor deviations may not be followed. If the Vendor services/equipment fails to meet or exceed requirements, the contracting agency may take whatever steps are necessary to obtain services/equipment which meets their needs. This may include but is not limited to rejecting the equipment and going to the next qualified Vendor. **The Vendor shall not have any claims or payments due for equipment rejected for not meeting the specifications/requirements contained herein.**

## **2.8 DEMOBILIZATION**

The Procurement Officer will determine the priority of demobilization.



## **2.9 RELEASE**

Once released from the incident, any new assignments shall come directly from the host dispatch center. Vendors shall not seek out re-assignment from any place other than the host dispatch center. **Resource orders are assigned for a specific fire incident. The Vendor's equipment cannot move to other incidents with the same resource order. A new unique resource order number will be assigned for each incident.**

## **2.10 PROPERTY**

Accountable and durable property will not be loaned or exchanged at the incident. The Vendor shall arrive at the incident fully outfitted and prepared to perform under the terms of the agreement. If the resource upon arrival at the incident or during the course of the incident does not have the required equipment or personal protective equipment (if required for the position), it will be considered noncompliant. The Vendor may be given 24 hours, or a timeframe designated by a State representative to bring the resource into compliance.

Vendor will be charged for consumable goods supplied by the State and used by the resource while under hire. The cost of all consumable goods, with the exception of those specifically listed below, shall be deducted from payment to the Vendor.

All water and fire retardant, including foam, will be provided by the State.

## SECTION 3: SPECIAL TERMS AND CONDITIONS

### **3.0 AGREEMENT TERMINATION/NON-COMPLIANCE**

**3.0.1 Termination for Cause.** The State may, by written notice to the Vendor, terminate this agreement in whole or in part at any time the Vendor fails to perform under this agreement. See Item 2.7 INSPECTIONS. If the Vendor fails to meet specifications, Vendor may be removed from the list.

**3.0.2 Workmanship.** All work under this agreement shall be performed in a safe manner to a professional standard. The goal of performance under this agreement is the suppression of wildland fire and other emergency incident responses. The Incident Commander may release from an incident assignment any Vendor employee deemed incompetent, careless, or otherwise objectionable including violation of *Harassment Free Workplace Policy* (see ATTACHMENT D – *Harassment Free Workplace Policy*). It will be left to the discretion of the Incident Commander to demobilize an entire resource or to allow replacement of the noncompliant personnel. Documentation of the rationale for release will be provided to the Procurement Officer subsequent to the action. Accordingly, the Procurement Officer may require, in writing, the Vendor remove from use under this agreement, any employee found incompetent, careless, or otherwise objectionable including violation of Harassment Free Workplace Policy. The Procurement Officer may require other proof of mitigation. Misconduct may result in the suspension or cancellation of this agreement. If an employee or crew is terminated, quits, or otherwise is released from the incident for any reason, the Vendor is responsible for returning the employee(s) to the point of hire with a departure time from the Incident Command Post (ICP) no later than 12 hours or a time specified by a State representative following such decision. The Vendor may, at their discretion, provide such transportation, or request the Incident Management Team (IMT) to arrange for the transportation with all transportation costs deducted from Vendor's payment. If the Vendor does not act in a timely manner (i.e., Vendor's employee(s) not departing from the ICP for return to point of hire within the specified time period), the IMT has authority to transport said employee or arrange for employee's transportation and to deduct all such transportation costs from Vendor's payment.

### **3.1 PERSONNEL REQUIREMENTS**

**3.1.1 Personnel Requirements- Fair Labor Standards Act (FLSA).** Vendors shall comply with the *Fair Labor Standards Act* when employing persons less than 18 years of age (Ref. 29 CFR 570). (See FLSA) website: <http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>.

**3.1.2 English Speaking Requirement.** Communications between Vendor crew personnel and government incident personnel is mandatory for safe and effective performance. Vendor's representative shall be able to proficiently communicate in English, in the language of the crew, and read and communicate the *Incident Action Plan*, *Safety Alerts*, etc. All radio communication on State-assigned frequencies shall be in English.

**3.1.3 Incident Behavior.** It is extremely important that inappropriate behavior be recognized and dealt with promptly. Inappropriate behavior is all forms of harassment including sexual and racial harassment. HARASSMENT IN ANY FORM WILL NOT BE TOLERATED. Non-prescription unlawful drugs and alcohol are not permitted at the incident. Possession or use of these substances will result in the Vendor being released from the incident. During off-incident periods, personnel are responsible for proper conduct and maintenance of fitness for duty. Drug or alcohol abuse resulting in unfitness for duty will normally result in the Vendor being released from the incident.

Sexual harassment is defined as unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature that constitute sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably

interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment (see *ATTACHMENT D - Harassment Free Workplace Policy*).

**3.1.4 First Aid/Emergency Evacuation/Accidents.** The Vendor is financially responsible for medical coverage of employee accidents and illness. The State will provide first aid to employees when needs arise due to work on the incident. In life threatening situations, first aid will be given, and further medical aid will be charged back to the Vendor. If Vendor personnel are injured, the State, at the Vendor expense, may evacuate the injured person(s). If the Vendor personnel become ill or are injured and required transport to a medical facility/hospital, the costs shall be at the Vendor's expense.

Vendor shall provide their representative with an adequate supply of appropriate insurance forms, insurance ID card(s), and other necessary documents. Such documents shall accompany the injured person(s) when a medical need arises.

**3.1.5 Food and Drink.** Vendors are required to provide sufficient food and drink to support contract employees while in travel status and the first shift of the incident. This is not reimbursed by the State.

After that time, when State subsistence at incident camps are available, meals for Vendor's operator(s) will be furnished without charge. The State will furnish meals without cost if restaurant subsistence is the approved camp for incident personnel. All other expenses for food and drink will be reimbursed at the Federal Government rate with the appropriate receipts included with the Vendor invoice.

The State, during demobilization and/or reassignment, may provide sack lunches to the Vendor personnel without charging the Vendor.

**3.1.6 Remain Overnight Allowance (RON).** RON is not applicable for travel to and from an incident. Contractors are not paid per diem or lodging expenses to and from incidents. When the State cannot provide a campsite or meals, and if pre-approved by the host unit and properly receipted and invoiced, actual lodging expenses, including associated taxes, incurred by Contractors providing services under an Agreement whether for severity or incident responses are reimbursable up to the federal rates allowed. Food and drink is also reimbursable up to the federal per diem rates allowed. Double occupancy of rooms may be required. If the resource is allowed to return to its dispatch location during off-shift time, RON allowance is not authorized.

## **3.2 SAFETY STANDARDS**

**3.2.1 Vendor Requirements.** Each person employed by the Vendor under this agreement shall meet the following minimum requirements:

- a. To protect life and health and to prevent damage, the Vendor will use due diligence in preventing accidents and will comply with the applicable federal and state laws.
- b. The Vendor shall furnish (when requested) a copy of all reports required to be submitted to the *Federal Aviation Administration (FAA)* by the *Federal Aviation Regulations (FAR)* that relate to pilot and maintenance personnel performance, aircraft airworthiness, or operations.
- c. The Vendor shall keep and maintain programs necessary to assure safety of ground and flight operations.
- d. *Commercial Driver's License (CDL)* with the appropriate endorsements and medical card valid for the state in which the operator resides, (if combination weight of truck and trailer exceeds 26,001 lbs.).
- e. All operators shall be able to operate the equipment safely up to the manufacturer's limitations.

**3.2.2 Emergency Incident Driving.** The Vendor shall follow the driving regulations and work/rest guidelines listed in the *Standards for Interagency Incident Business Management handbook (SIIBM) (FSH 5109.34)*. The SIIBM can be found on the National Wildfire Coordinating Group's website using the following link: <http://www.nwcg.gov/pms/pubs/large.html>

The Vendor is responsible for complying with all other current federal, state, and local driving regulations.

### **3.3 PERFORMANCE EVALUATIONS**

Performance evaluations will be performed at the incident using the evaluation form (see *ATTACHMENT G – Standard Vendor Performance Report*) by the State representative supervising the work. This form is the only performance evaluation that will be accepted by the Procurement Officer. The State representative's signature shall be legible and printed on the form. If the supervising State representative is released from the incident prior to the release of the resource, the State representative will complete a performance evaluation prior to demobilization for work the resource performed under their supervision. The State representative will review the performance evaluation with the Vendor, record Vendor comments, and obtain Vendor signature acknowledging completion of the evaluation. The State representative will then give a copy of the evaluation form(s) to the Vendor at the incident and submit a copy to the appropriate State representative (i.e. Finance/Plans) for distribution to the Contracting Office and the Host Unit incident file. Evaluations are to be sent to the following address:

Procurement Officer: John Monzie  
Fire Protection Bureau  
Address: 2705 Spurgin Road  
MISSOULA MT 59804

## SECTION 4: SPECIFICATIONS AND PRICING

### **4.0 PURPOSE**

The purpose of this Price Agreement is to establish general terms and conditions for aviation equipment and services in connection with fire suppression activities by the Montana Department of Natural Resources & Conservation.

Requirements designated in this bid must be satisfied, or a functional equivalent bid submitted, which is acceptable to the State. Bidders who do not meet this criterion may be disqualified from further consideration. A bidder must state if they are unable or unwilling to meet any requirement. Inability or unwillingness to meet any requirement, in part or total, may be cause for disqualification of the entire response. Any exceptions taken by the bidder must be clearly identified on the bid forms.

Bid rates shall be listed as a "dry rate". Aircraft fuel costs are additional as described in Section 4.1. – FULLY OPERATED.

### **4.1 FULLY OPERATED**

Vendor, except as otherwise provided in this agreement, will furnish the aviation equipment and services in accordance with the specifications, terms and conditions of this agreement and at the applicable accepted bid schedule prices, the aircraft, pilots, other personnel, repairs, operating supplies, service facilities, and incidentals necessary to the operations of the aircraft. Vendor must furnish the aircraft, pilots, and other personnel, repairs, operating supplies, service facilities, equipment, services, and personnel and incidentals as described in the bid submittal at the price quoted for that period. The flight rate will be considered a dry rate. The vendor will be reimbursed by the state for aircraft fuel and airport incidentals such as landing fees. Documentation of fuel and incidentals is required for payment. In addition, overnight cost for personnel will be reimbursed by the State at the federal government per diem rate as described in Section 3.1.6 - Remain Overnight Allowance. This agreement requires that the Vendor's operations be conducted within FAA civil authorities and not as a Public Use Aircraft. The Vendor shall remain the operator of the aircraft at all times.

### **4.2 REQUIRED INSURANCE**

**4.2.1 General Requirements.** The Vendor shall maintain for the duration of the agreement, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by the Vendor, its agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission. The State must be listed as the certificate holder and also as an additional insured.

**4.2.2 Primary Insurance.** The Vendor's insurance coverage shall be a primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees or volunteers shall be excess of the Vendor's insurance and shall not contribute with it.

**4.2.3 Aircraft Liability Insurance.** The Vendor shall purchase and maintain occurrence coverage of \$1,000,000.

**4.2.4 Specific Requirements for Commercial General Liability Insurance.** The Vendor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of the Vendor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insured for liability arising out of activities performed by or on behalf of the Vendor, including the insured's general supervision of the Vendor; products, premises owned, leased, occupied, or used.

**4.2.5 Specific Requirements for Automobile Liability Insurance.** The Vendor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of the Vendor or its officers, agents, representatives, assigns, or subcontractors. The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insured for automobiles leased, hired, or borrowed by the Vendor.

**4.2.6 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by DNRC. At the request of DNRC either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State of Montana, its officers, officials, employees, or volunteers; or (2) at the expense of the Vendor, the Vendor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**4.2.7 Certificate of Insurance/Endorsements.** The Vendor shall obtain and retain in force for the duration of this agreement, the following forms of insurance written by an insurance company having a Best's rating of A- or better and be licensed and admitted in Montana. The Vendor will ensure that a certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverage has been received by DNRC, 2705 Spurgin Road, Missoula, MT 59804. The Vendor must notify DNRC immediately, of any material change in insurance coverage, such as changes in limits, coverage, change in status of policy, etc. DNRC reserves the right to require complete copies of insurance policies at all times. All policies shall be endorsed to include the state of Montana, its departments, agents, officials, and employees as additional insured and shall protect the Vendor and the State of Montana from claims for damages for bodily injury, including accidental death, as well as for claims for property damages, which may fall within the scope of Vendors' obligations under this agreement. All policies shall contain waiver of subrogation coverage or endorsements. Failure of the DNRC to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of the DNRC to identify a deficiency from evidence that is provided shall not be construed as a waiver of Vendor's obligation to maintain such insurance. Failure to maintain the required insurance may result in termination of this agreement.

**4.2.8 Compliance with the Workers' Compensation Act.** Vendor is required to comply with the provisions of the *Montana Workers' Compensation Act* while performing work for the State of Montana in accordance with sections 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent Vendor's exemption, or documentation of corporate officer status. Neither the Vendor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the contract. A renewal document must be sent to the Department of Natural Resources and Conservation, 2705 Spurgin Road, Missoula, MT 59804, upon expiration.

**4.2.9 Subcontractor Insurance.** The Vendor shall require all subcontractors utilized in performance of this agreement to provide certificates of insurance to the DNRC evidencing insurance coverage with the required additional insured endorsements as set forth in the preceding paragraphs.

**4.2.10 No Warranty Regarding Insurance Limits.** By requiring insurance herein, the DNRC does not represent that coverage and limits will necessarily be adequate to protect Vendor and such coverage and limits shall not be deemed as a limitation on Vendor's liability under the indemnities granted to the State of Montana in this agreement.

### **4.3. LIABILITY FOR DAMAGE TO EQUIPMENT**

**4.3.1.** Security of the aircraft and Vendor-owned equipment shall be the responsibility of the Vendor regardless of whether the aircraft is operating from a remote alternate base point or the designated base point.

**4.3.2.** Any claim for damage, loss or destruction of any item of equipment accepted under this agreement that occurs while said item of equipment is being used on authorized work will be considered under applicable laws and regulations. Under no circumstances will a claim be approved for damage, loss or destruction of said equipment due to ordinary wear and tear or to which negligence on the part of the Vendor, his agent or employees contributed.

**4.3.3 Officials, Agents and Employees of the State Not Personally Liable.** In no event shall any official, officer, employee or agent of the State of Montana be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement. This section shall not apply to any remedies in law or at equity against any person or entity that exist by reason of fraud, misrepresentation, or outside the terms of this agreement.

### **4.4 AIRCRAFT AND PERSONNEL CARDING**

All aircraft and support vehicles shall be approved by the USFS or Department of Interior, OAS indicating they meet the standards and specifications of the current Federal SEAT Contract. Personnel will have a current interagency card issued by the USFS or Department of Interior, OAS. Pilots will be rated Level I or Level II by the BLM, USFS, or OAS. Any aircraft, support vehicle or person not having such approval or card will not be authorized for use under this agreement. All aircraft, support vehicles and personnel must meet the specifications of the current Federal SEAT Contract while operating under this agreement. A copy of the current federal approval or card for all aircraft, support vehicles and personnel must be submitted with each Vendor's bid. Aircraft must be turbine engine powered and have a minimum capacity of 400 gallons of water/retardant.

### **4.5 ACCESS TO RECORDS**

The Vendor agrees to provide the state of Montana, Legislative Auditor, or their authorized agent's access to any records necessary to determine contract compliance (*Section 18-1-118, MCA*).

### **4.6 NO GUARANTEE OF USE AND TIME UNDER HIRE**

DNRC makes no guarantee of use during the term of this Price Agreement. DNRC personnel may utilize this Price Agreement at their discretion and may opt to enter into other price agreements and/or use aircraft from other Vendors, whichever is deemed by DNRC personnel to be in the best interest of the state of Montana. The time under hire shall start at the time the equipment begins traveling to an incident after being ordered by DNRC, and end at the estimated time of arrival back to the point of hire after being released from the incident by DNRC. DNRC may release the equipment and personnel described in this agreement from an incident at its discretion and/or based on resource needs. DNRC does not guarantee that it will utilize the equipment and personnel described in this agreement on an incident for a specific period of time.

## **4.7 PAYMENTS**

Payment will be made at the rates shown in this Price Agreement. When a daily availability is charged the aircraft and support equipment along with all necessary personnel will be in a state of readiness for operations within a fifteen (15) minute notice (see *ATTACHMENT I - Payment Procedures*).

RATES: (This table is for example purposes only. Please only fill out and submit ATTACHMENT A – Aviation Price Agreement Submittal)

	Aircraft/Vehicle Make	Model	Registration or License #	Rental Cost per Hour (Aircraft) dry rate or Mileage/Daily (Fuel Servicing and/or Mixing Unit vehicle)	Daily Availability *
1					
2					
3					
4					
5					

\*The awarded Daily Availability Rate shall include all fixed and variable costs (depreciation, salaries, overhead, permanent shop facilities, etc.) incurred in providing continuous service exclusive of those costs directly attributed to actual flight.

**4.7.1 Withholding of Payment.** DNRC may withhold payments to the Vendor if the Vendor has not performed in accordance with this agreement. Such withholding cannot be greater than the additional costs to the DNRC caused by the lack of performance.

**4.7.2 Method of Measurement and Basis of Payment for Flight.**

Compensation for flight time will be paid at the bid flight rate.

Flight time will be measured in hours and tenths of hours, recorded by a direct reading, electronically-driven hour meter in each aircraft. If the hour meter becomes inoperative or inaccurate, the Pilot in Charge will use clock time of each takeoff and landing.

All flights will be recorded on a Daily Invoice; start and stop times must be recorded. Hour meter readings will be recorded in hours and tenths. Clock times must be converted to hours and hundredths. The Daily Invoice must be approved by a Aviation Manager at the conclusion of each day.

On days when the aircraft is flown, the pilot will be responsible for recording on the Daily Invoice the following:

1. Flight date.
2. Contract number/name.
3. FAA registration.
4. Contractor name.
5. Incident number and name.
6. Name of pilot.
7. Number of passengers, gallons of water dropped, and pounds of cargo delivered.
8. Location from which flight time for the day commenced and beginning of time.
9. Location at which flight time for the day ended and time flight ended
10. Flight rate
11. Any other items pertinent to the establishing the net sum earned by the Contractor (per diem, etc.)

Each Daily Invoice shall be completed and signed by the Pilot in Charge and the Aircraft Manager. Any erasures or other corrections shall be initialed by the Pilot in charge or the Aircraft Manager as



appropriate. To process payment, all approved invoices must be mailed to the Contracting Officer. The mailing address is the Fire Protection Bureau, 2705 Spurgin Road, Missoula, MT 59804.

#### **4.8 COMPLIANCE WITH LAWS**

The Vendor must, in performance of work under this contract, fully comply with all applicable Federal, State, or local laws, rules, and regulations, including, but not limited to, the *Montana Human Rights Act*, the *Civil Rights Act of 1964*, the *Age Discrimination Act of 1975*, the *Americans with Disabilities Act of 1990*, and *Section 504 of the Rehabilitation Act of 1973*. Any subletting or subcontracting by the Vendor subjects subcontractors to the same provision. In accordance with *Section 49-3-207, MCA*, the Vendor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing the contract.

#### **4.9 REDUCTION OF FUNDING**

DNRC must terminate this agreement if funds are not appropriated or otherwise made available to support the State's continuation of performance of this agreement in a subsequent fiscal period (see *Section 18-4-313(4), MCA*).

**4.9.1 Termination for Convenience.** The State may, by written notice to Contractor, terminate this contract without cause and without incurring liability to Contractor. The State shall give notice of termination to Contractor at least **(10)** days before the effective date of termination. The State shall pay Contractor only that amount, or prorated portion thereof, owed to Contractor up to the date the State's termination takes effect. This is Contractor's sole remedy. The State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

#### **4.10 CHOICE OF LAW AND VENUE**

This agreement is governed by the laws of Montana. The parties agree that any litigation concerning this bid, proposal or subsequent agreement must be brought in the First Judicial District in and for the County of Lewis and Clark, state of Montana and each party shall pay its own costs and attorney fees (see *Section 18-1-401, MCA*).