STATE OF ARKANSAS

Term Contract

Vendor No. 100082332
Contact Nicole Carey 800-645-2031 x201
Your reference SP-14-0053

CARSWELL ACQUISITION INC
OEI
PO Box 1759
GREENWOOD AR 72936

Contract No. 4600031213
Date 12/02/2013

Contact Anna Hawthorne
Telephone 501-371-6054
Fax 501-324-9311

Our ref. st
Incoterms FOB
DESTINATION

Send Invoice To:
Ordering Entity as Specified on Purchase Order

Ship To:
STATEWIDE DELIVERY
LITTLE ROCK AR 72201

Valid from: 12/05/2013
Valid to: 12/04/2014

VENDOR: CARSWELL OEI / SCHILLER
AWARD NO: SP-14-0053
COMMODITY: COMMERICAL LAWN CARE EQUIPMENT

Vendor Contact: Nicole Carey
Phone: 800-645-2031 ext 201
E-mail: ncarey@carswelloei.com

THIS IS A TERM CONTRACT ISSUED BY THE OFFICE OF STATE PROCUREMENT. THIS DOES NOT REPRESENT YOUR AUTHORITY TO SHIP. THE ORDERING AGENCY WILL ISSUE A PURCHASE ORDER TO AUTHORIZE SHIPMENT. THIS CONTRACT CONSTITUTES ACCEPTANCE OF YOUR BID ALONG WITH ALL TERMS AND CONDITIONS THERIN AND SIGNIFIES THE OFFERER'S KNOWLEDGE AND ACCEPTANCE OF ALL TERMS AND CONDITIONS SET FORTH WITHIN THE INVITATION FOR BID.

CONTRACT PERIOD
The contract will be a one (1) year term contract from the date of award. Upon mutual agreement by the contractor and OSP, the contract may be renewed on a year-to-year basis, for up to six (6) additional one (1) year terms or a portion thereof. In no event shall the total contract term be more than seven (7) years.

SCOPE
This is a non-mandatory term contract with Product Manufacturers to purchase Commercial Lawn Care Equipment, replacement parts, and attachments for all State entities and cooperative purchasing program participants within Arkansas.

GENERAL CONDITIONS AND INSTRUCTIONS TO VENDOR:
All purchasing rules and regulations defined by the State of Arkansas apply to this document.

_____ _____
Purchasing Official/Fiscal Officer **Date**

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Item	Material/Description	Target Qty	UM	Unit Price	Amount
0001	10024206 LAWN EQUIPMENT, MISC,LUMP SUM Commercial grade Zero Turn Mid-Mount Mowers	100,000.00	Lump Sum	1.00	$ 100,000.00
0002	10024206 LAWN EQUIPMENT, MISC,LUMP SUM Commercial grade Zero Turn Mid-Mount Mower Accessories	25,000.00	Lump Sum	1.00	$ 25,000.00
0003	10024206 LAWN EQUIPMENT, MISC,LUMP SUM Commercial grade Zero Turn Mid-Mount Mower Parts	25,000.00	Lump Sum	1.00	$ 25,000.00

Estimated Net Value **150,000.00**

AGENCY CONTACT:
Anna Hawthorne
501-371-6054
Anna.Hawthorne@dfa.arkansas.gov

INTRODUCTION
This contract is issued by the Office of State Procurement (OSP) for All State Entities to obtain pricing and contracts with Product Manufacturers for Commercial Lawn Care Equipment.

COOPERATIVE PURCHASING PROGRAM PARTICIPATION:
Arkansas' Purchasing Law provides that local public procurement units (counties, municipalities, school districts, certain nonprofit corporations, etc.) may participate in state procurement contracts. The contractor therefore agrees to sell to Cooperative Procurement Program participants at the option of the program participants. Unless otherwise stated, all standard and special terms and conditions listed within the contract must be equally applied to such participants.

PAYMENT AND INVOICE PROVISIONS
All invoices shall be forwarded to the:
Ordering Entity as Specified

An itemized invoice must be addressed to the ordering State entity reflecting the entities purchase order number, State contract number (ex. SP-14-0053), quantity, description, and unit price of the product(s).

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Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance by the entity. The State may not be invoiced in advance of delivery and acceptance of any equipment. Payment will be made only after the Vendor has successfully satisfied the entity as to the equipment purchased.

It is the intent of the State to make payment to the manufacturer.

RECORD RETENTION
The Contractor shall be required to maintain all pertinent financial and accounting records and evidence pertaining to the contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Arkansas. Access will be granted upon request, to State or Federal Government entities or any of their duly authorized representatives.

Financial and accounting records shall be made available, upon request, to the State of Arkansas' designee(s) at any time during the contract period and any extension thereof, and for five (5) years from expiration date and final payment on the contract or extension thereof.

PRIME CONTRACTOR RESPONSIBILITY
The vendor will be required to assume prime contractor responsibility for the contract and will be the sole point of contact with regard to all commodities, services and support. The Prime Contractor may delegate facilitation of contract orders to their "Authorized/Certified Dealers" only. This delegation will in no way relieve the vendor of any contractual obligations.

CONTRACT INFORMATION
1. The State of Arkansas may not contract with another party:
a. Upon default, to pay all sums to become due under a contract.
b. To pay damages, legal expenses or other costs and expenses of any party.
c. To continue a contract once the equipment has been repossessed.
d. To conduct litigation in a place other than Pulaski County, Arkansas
e. To agree to any provision of a contract which violates the laws or constitution of the State of Arkansas.
1. A party wishing to contract with the State of Arkansas should:
a. Remove any language from its contract which grants to it any remedies other than:
i. The right to possession.
ii.The right to accrued payments.
iii. The right to expenses of deinstallation.
iv. The right to expenses of repair to return the equipment to normal working order, normal wear and tear excluded.
v. The right to recover only amounts due at the time of repossession and any unamortized nonrecurring cost as allowed by Arkansas Law.
b. Include in its contract that the laws of the State of Arkansas govern the contract.
c. Acknowledge that contracts become effective when awarded by the State Procurement Official.
2. The State of Arkansas may contract with another party:
a. To accept the risk of loss of the equipment and pay for any destruction, loss or damage of the equipment while the State has such risk, when the extent of liability for such risk is based upon the purchase price of the equipment at the time of any loss and the contract has required the State to carry insurance for such risk.

CONDITIONS OF CONTRACT

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The contractor shall at all times observe and comply with federal and State laws, local laws, ordinances, orders, and regulations existing at the time of or enacted subsequent to the execution of this contract which in any manner affect the completion of the work. The contractor shall indemnify and save harmless the State entity and all its officers, representatives, agents, and employees against any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order or decree by an employee, representative, or subcontractor.

STATEMENT OF LIABILITY
The State will demonstrate reasonable care but shall not be liable in the event of loss, destruction, or theft of contractor-owned items to be delivered or to be used in the installation of deliverables. The vendors are required to retain total liability until the deliverables have been accepted by the "authorized entity official." At no time will the State be responsible for or accept liability for any vendor-owned items.

DELEGATION AND/OR ASSIGNMENT
The vendor shall not assign the contract in whole or in part or any payment arising there from without the prior written consent of the State Procurement Official.

LENGTH OF PRICE GUARANTEE
Pricing shall be firm for a twelve (12) month period. Price increases are not allowed during the term of the contract.

ACCEPTANCE STANDARDS
Inspection and acceptance/rejection of product(s) shall be made within 30 days of receipt. Ordering entity shall have the option to return any product(s) within the 30 days.

Return Requirements:
Ordering entity shall coordinate returns with the Contractor. Ordering entities reserve the right to return products for defects in material and/or workmanship. In the event of product return, the ordering entity reserves the right to accept either a full refund for the returned product or a replacement of the product.

CANCELLATION
In the event the State no longer needs the service or commodity specified in the contract or purchase order due to program changes, changes in laws, rules, or regulations, relocation of offices, or lack of appropriated funding, the State may cancel the contract or purchase order by giving the contractor written notice of such cancellation 30 days prior to the date of cancellation.

SECTION 2 - SPECIFIC REQUIREMENTS

Equipment classifications:

A) Commercial grade Zero-Turn Mid-Mount Mowers, parts, and attachments.

B) Commercial grade Zero-Turn Front-Mount Mowers, parts, and attachments.

C) Commercial grade Stand-on Mowers, parts, and attachments.

DISCOUNT CHANGE CLAUSE: The Product Manufacturer may offer larger discount percentages for products at

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any time during the contract. The overall price structure and discount levels shall remain firm for the term of the contract. Volume discounts and promotions above the bid discounts are acceptable and encouraged. Promotional discounts will not necessitate and contract modification of the bid discounts.

MINIMUM ORDER QUANTITY
The State makes no commitment to purchase any minimum or maximum quantity, or dollar volume of products from the selected manufacturers. Utilization of this agreement will be on an as needed basis by State Agencies and/or Cooperative Participants. Manufacturers recognize that the State will reserves the right to purchase like and similar products from other suppliers as necessary to meet operation requirements.

Note: Issuance of a contract award does not guarantee an order.

USAGE REPORT
The vendor is required to submit QUARTERLY REPORTS reflecting usage activity.

The quarterly report is due the 10th of the month following the quarter's activity. The minimum information the report shall contain is: State contract number (ex.SP-14-0053), entity purchased, quantity ordered, and total cost per line item. Information shall be provided for both state agencies and cooperative entities. Information for state agencies and cooperative entities may be submitted on one report; however information shall be shown separately.

Failure to provide this information on time may be grounds for cancellation of contract or exclusion from award on future contracts due to vendor's past performance.

OUTLINE AGREEMENT AWARD TERMS AND CONDITIONS

1. GENERAL: All terms and conditions stated in the invitation for bid govern this contract.

2. PRICES: Prices are firm and not subject to escalation, unless otherwise specified in the invitation for bid.

3. DISCOUNTS: All cash discounts offered will be taken if earned.

4. TAXES: Most state agencies must pay state sales tax. Before billing, the contractor should contact the ordering agency to find out if that agency must pay sales tax. Itemize state sales tax when applicable on invoices.

5. BRAND NAME REFERENCES: The contractor guarantees that the commodity delivered is the same as specified in the bid.

6. GUARANTY: All items delivered are to be newly manufactured, in first- class condition, latest model and design, including, where applicable, containers suitable for shipment and storage unless otherwise indicated in the bid invitation. The contractor guarantees that everything furnished hereunder will be free from defects in design, workmanship, and material; that if sold by drawing, sample or specification, it will conform thereto and will serve the function for which furnished. The contractor further guarantees that if the items furnished hereunder are to be installed by the contractor, such items will function properly when installed. The contractor also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling, and registration. The contractor's obligations under this paragraph shall survive for a period of one year from the date of delivery, unless otherwise specified in the invitation for bid.

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7. AWARD: This contract award does not authorize shipment. Shipment against this contract is authorized by the receipt of a purchase order from the ordering agency. A written purchase order mailed or otherwise furnished to the contractor results in a binding obligation without further action by either party.

8. DELIVERY: The term of the contract is shown on the face of the contract award. The contractor is required to supply the state's needs during this term. The number of days required to place the commodity in the receiving agency's designated location under normal conditions is also shown. Consistent failure to meet delivery without a valid reason may cause removal from the bidders' list or suspension of eligibility for award.

9. BACK ORDERS OR DELAY IN DELIVERY: Back orders or failure to deliver within the time required may be default of the contract. The contractor must give written notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. If the reason is not acceptable, the contractor is in default. The Office of State Procurement has the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere.

10.DELIVERY REQUIREMENTS: No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery shall be made during agency work hours only, 8:00 a.m. to 4:30 p.m., unless prior approval for other delivery has been obtained from the agency. Packing memoranda shall be enclosed with each shipment.

11.STORAGE: The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.

12.DEFAULT: All commodities furnished will be subject to inspection and acceptance of the ordering agency after delivery. Default in promised delivery or failure to meet specifications authorizes the Office of State Procurement to cancel this contract or any portion of same and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor.

13.VARIATION IN QUANTITY: The state assumes no liability for commodities produced, processed or shipped in excess of the amount specified herein.

14.INVOICING: The contractor shall submit an original and two copies of an itemized invoice showing the bid number and purchase request number when itemized in the invitation for bid. Invoices must be sent to "Invoice to" point shown on the purchase order.

15.STATE PROPERTY: Any specifications, drawing, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for the use hereunder shall remain property of the state, be kept confidential, be used only as expressly authorized, and be returned at the contractor's expense to the F.O.B. point, properly identifying what is being returned.

16.ASSIGNMENT: This contract is not assignable nor the duties hereunder delegable by either party without the written consent of the other party to the contract.

17.OTHER REMEDIES: In addition to the remedies outlined herein, the contractor and the state have the right to pursue any other remedy permitted by law or in equity.

18.LACK OF FUNDS: The state may cancel this contract to the extent funds are no longer legally available for

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expenditures under this contract. Any delivered but unpaid for goods will be returned in normal condition to the contractor by the state. If the state is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission. If the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim.

19.QUANTITIES: The state may order more or less than the estimated quantity in the invitation for bid.

20.DISCLOSURE: Failure to make any disclosure required by the Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.