



ALBUQUERQUE PUBLIC SCHOOLS

Procurement Division

Winston Brooks
SUPERINTENDENT

Mark Heckart, CPM
DIRECTOR/PROCUREMENT OFFICER

March 15, 2012

BID: 12-051SC-SL Pesticide/Herbicide Chemicals on Demand
for APS Maintenance and Operations

DATE: March 29, 2012

TIME: 11:00 a.m.

LOCATION: Albuquerque Public Schools
(Address for Procurement Department
Hand or Courier 6400 Uptown Blvd NE, Suite 600W
Delivery) Albuquerque, NM 87110

U.S. MAIL Albuquerque Public School
DELIVERY: Procurement Department
P.O. Box 25704
Albuquerque, NM 87125
(Allow appropriate time for delivery to the Procurement
Department location before the deadline time and date.)

CONTACT: Steven L. Carpenter, District Buyer
carpenter_st@aps.edu, 505-878-6121

SPECIAL INSTRUCTIONS: Complete Bid/RFP documents as required. Your response must be received in the APS Procurement Department prior to the specified date and time regardless of delivery option selected. **Late bids are not accepted and will be returned unopened.** To ensure proper identification and handling, clearly indicate the Bid/Proposal Number and the Opening Date and Time on the outside of the sealed response envelope.

sls

BID: Pesticide/Herbicide Chemicals on Demand for APS Maintenance and Operations**INFORMATION FOR BIDDERS**

1. **Intent:** Albuquerque Public Schools (APS) invites you to bid on **Requirements Contract for Pesticide/Herbicide Chemicals on Demand for APS Maintenance and Operations**. Specifications, terms, and conditions follow.
2. **Contract documents:** The bidding information included in this packet and listed below constitutes the contract documents. The bidder's signature signifies his full understanding of the terms and conditions of this bid. The award of the contract shall be made by a Price Agreement Order issued by APS to the contractor and shall bind the contractor to the terms of the Contract Documents.
 - Information for Bidders
 - General Operating Conditions
 - Specifications Exceptions Form
 - Specifications and Pricing
 - Terms and Conditions (Signature pages – 2)
 - Conflict of Interest
3. **Preparation of Bids:** Each bid must be submitted on the prescribed form. All blank spaces for bid prices must be filled in with ink or typewritten. Corrections shall be initialed in ink by person signing the bid. Each bid must be submitted in a sealed envelope bearing on the outside the name and address of the bidder and the bid number as listed on the Bid Invitation. Improper identification may result in premature opening of, or failure to open bid. **An authorized representative of the company must sign the bid. Bids not signed and returned with bid submittal will be considered non-responsive and will be rejected.**
4. **Receipt and Opening of Bids:** Bids must be prepared and submitted in accordance with the provisions hereof. The owner reserves the right to reject all bids if all bids exceed the available funds. Any bid may be modified or withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the specified time for the opening of bids shall not be considered.

Procurement law requires sealed bids or proposals. Therefore, APS cannot accept bids which are transmitted using facsimile equipment. This may not apply to amendments or addenda which do not refer to pricing or to the transmittal of supplemental product literature, drawings and the like. Please refer the specific situation to the buyer for clarification before proceeding.
5. **Qualification of Bidder:** APS may make such investigations as necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the owner all such information and data for this purpose as APS may request. APS reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy APS that such bidder is qualified to carry out the obligations of the contract and to complete the work described therein.

Bidder shall also construe this provision to incorporate any necessary investigation and/or monitoring during the life of the contract to enforce any current policy of the Board of Education such as, but not limited to, no smoking or alcoholic beverages on APS property. As a general rule, any such regulation or law applying to APS personnel shall be deemed to be in force for contractor's work force occupying any work site.
6. **Familiarity With Conditions:** Clarification of bidding procedures for this Contract may be made by contacting Steven Carpenter at the APS Procurement Office, telephone (505) 878-6121; clarification of the technical aspects of this contract may be made by contacting Jerry Lee Ebner, APS Grounds and Landscaping Manager, telephone (505) 765-5950, ext. 290 or Fred Montano, Building Services Manager, telephone 765-5950, ext. 205. **Bidders must have acquainted themselves with all conditions affecting this contract before submitting a bid.** No claim shall be made nor will one be allowed the contractor for negligence, misunderstanding, or error in this regard.

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Bidders shall carefully examine the proposed contract documents to obtain first-hand knowledge of all proposed work. Contractors will not be entitled to any additional compensation or any extension of the contract time for conditions which can be determined by examining current work requirements and the proposed contract documents. Submission of a bid constitutes a representation by the bidder that the bidder has made all appropriate examinations, investigations and analyses and has made provision as to the cost thereof in his bid.

7. **Records:** Records shall be maintained by the contractor in compliance with municipal, federal or state laws, ordinances, codes, and this contract. At any time during normal business hours and as APS may deem necessary, there shall be made available to APS for examination all of Contractor's records with respect to all matters covered by this agreement. APS may audit, examine and/or make excerpts or transcripts from such records, including but not limited to, invoices, materials, and payrolls, records of personnel, conditions of employment or any other such data as may be pertinent.
8. **Multiple Offers:** APS will not select from multiple offers on a single document. If bidder offers more than one brand and/or price per item, the (1) as specified or the (2) most expensive will be considered as the primary bid. Other offers will not be evaluated unless the primary bid is low bid in its own right. If you wish to offer an alternate bid in addition to your regular bid, make extra copies of the necessary pages (including signature pages) and submit as Bid #2. Each bid must stand alone and comply with the terms and conditions of the contract.
9. **Conditional Bids:** Bids in which acceptance is in some manner restricted or conditioned by the bidder will be reviewed by APS. If the limitations imposed are not in the best interest of APS or are prejudicial to other bidders, bid will be rejected.
10. **Taxes:** APS holds a Class 9 Nontaxable Transaction Certificate and is exempt from payment of taxes on tangible personal property. A NTTC will be issued on request. Bid is for product only.
11. **Awards:** APS reserves the right (1) to award bid received on the basis of individual items, or groups of items, or on the entire list of items; (2) to reject any or all bids or any part thereof; (3) to waive any informality in the bids; and (4) to accept the bid that is in the best interest of APS. It is the responsibility of the bidder to inquire as to bid results and the status of any subsequent award.
12. **Cancellation:** Failure to comply with the terms of the contract documents and/or unsatisfactory performance on the job will constitute grounds for cancellation of the contract. If, after consultation between APS using departments, APS Procurement Division, and the contractor, grounds for cancellation still exist, immediate notification of cancellation will be provided in writing by the Procurement Division. Upon such notification, the contractor shall cease work immediately and shall submit an invoice for work satisfactorily completed to date. No allowance will be made for anticipated profits.

APS may by written notice stating the extent and effective date, cancel the contract for convenience, in whole or in, at any time. APS shall pay contractor as full compensation for performance until such cancellation (1) the unit or prorate order price for the delivered and accepted portion and (2) a reasonable amount, not otherwise recoverable from other sources by contractor as approved by APS with respect to the undelivered or unaccepted portion of the order; provided compensation shall in no event exceed the total contract price.
13. **Contract Modification:** No oral statement by any person shall modify or otherwise affect the terms, conditions, specifications, or price agreements stated in this contract. This contract is the final expression of the agreement between parties unless amended in writing by the Procurement Officer.

Submit all questions about the proposed contract specifications including any discrepancies, omissions, or ambiguities noted by any bidder. If appropriate, APS Procurement Division will issue a written addendum which shall thereafter become part of the bid documents and proposed contract documents. Nor oral interpretations shall be given by APS and, if given, such shall not be binding unless reduced to a written addendum issued prior to bid opening. All bids shall be responsive to and include any addenda issued prior to bid opening.

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14. **Protest:** Any bidder, offeror, or contractor who is aggrieved in connection with procurement may protest to the Procurement Division, Albuquerque Public Schools. The protest shall be submitted in writing within 15 calendar days after the fact or occurrences giving rise thereto.
15. **The Procurement Code:** The Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kick-backs.
16. **Terms and Conditions:** The submission of a bid will indicate that the bidder has read the terms and conditions, understands the requirements and that bidder can supply item(s)/perform work as specified.

No contract exists on the part of Albuquerque Public Schools until a written Price Agreement Order (PA) is executed which will bind the bidder to the terms and conditions of the bid. Issuance of a PA will be considered sufficient notice of acceptance of contract.

Failure to examine any specifications and/or instructions will be at bidder's risk.

17. **Insurance:** The contractor shall, at his own expense, carry and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance listed:

A. **Workers' Compensation Insurance:** As required by the Labor Laws and the New Mexico Statutes.

B. **Public Liability Insurance:** At the time of the Contractor's execution of the contract, Contractor shall deliver to Owner a certificate(s) of insurance testifying that he has obtained full Workers' Compensation and Employer's Liability insurance coverage for all persons whom he employs or may employ during the course of the project. Such coverage shall be maintained for the duration of the contract and the warranty period and shall meet the most current requirements.

Liability Insurance: The Contractor shall procure and maintain during the life of the contract, an Owner's Protective Liability Insurance Policy written with APS, its officers, agents and employees as named insured with the following limits.

\$1,000,000 Bodily Injury and Property Damage per occurrence
\$1,000,000 Bodily Injury and Property Damage aggregate

General Liability Insurance shall be provided with the following limits.

\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury and Advertising Injury
\$1,000,000 Each Occurrence
\$50,000 Fire Damage (any one fire)
\$5,000 Medical Expense (any one person)

If coverage is provided under Comprehensive General Liability prior to 11/85 ISO policy limits shall be:

\$1,000,000 Bodily Injury and Property Damage combined per occurrence
\$1,000,000 Bodily Injury and Property Damage combined aggregate.

This policy must include premises/operations, independent contractors, products and completed operations, contractual liability covering the contract, broad form property damage including completed operations, personal injury

The Contractor shall procure and maintain during the life of the contract, Automobile Liability Insurance with the following limits. Excess insurance or umbrella liability insurance will be acceptable in attaining the required limits.

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\$1,000,000 combined single limit bodily injury or property damage per occurrence. Coverage must be on an "any Auto" basis or must include owned, hired and non-owned automobile coverage.

The contractor shall, at his own expense, carry and maintain during the entire performance period of this contract at least the kinds and minimum amounts of insurance listed:

Successful contractor must furnish proof of coverage to the APS Procurement Officer prior to official award. If any policy changes occur during the life of contract, it is the contractor's responsibility to provide updated proof of coverage to the APS Procurement Department.

GENERAL OPERATING CONDITIONS

1. **Contract Time:** Any contract issued as a result of this solicitation will be in effect for a period of one (1) year from date of award with option to renew for three (3) additional one year periods. Renewal is contingent upon mutual agreement of the parties and appropriation of funding. Pricing must remain firm for the life of the contract or any extension thereof. There is no provision for escalation of pricing. Contractor may decline renewal with no penalty and APS will re-bid.
2. **Request(s) NOT Defined in Scope of Work:** Contractor shall be held responsible to NOT fill requests which are clearly beyond the defined scope of this contract. Should such requests occur, contractor has the responsibility of calling such violations to the attention of APS Procurement Officer.

APS does, however, reserve the right to negotiate with successful bidder(s) for pricing on items related to this contract but not specifically named herein. In the event a purchase is made as a result of such negotiations, the contract shall be amended to reflect the new item(s) and pricing structure.

3. **Pricing Structure/Estimated Quantity:** Bids should be submitted according to the structure on pages 8-9. A per item estimated quantity is stated on these pages for award purposes. These values are proportional to expected usage of other items on the contract. This is not a commitment to purchase.
4. **Safety:** The contractor shall take all necessary precautions to protect the site occupants from hazardous conditions. The contractor shall abide by all Occupational Safety and Health Administration (OSHA) regulations and all State of New Mexico Environmental Improvements Board Occupational Health and Safety regulations that apply to this contract. The contractor shall defend, indemnify, and hold the Board of Education and its agents, officers, administrators, and employees free and harmless against all claims, loss, liability, and expense resulting from any alleged violation(s) of said regulation(s) including, but not limited to, fines or penalties, judgments, court costs, and attorneys' fees. The contractor also shall be responsible for damage to persons or property that occurs as a result of his fault or negligence, or that of his employees, agents, and/or Subcontractors, in connection with this contract.
5. **Invoice and Purchase Order Procedures:** Upon award, APS will issue a price agreement order which will be in effect for the duration of the contract, and which will accommodate multiple billings as work is completed. SPO's or direct purchase orders will not be used. Each pick up/delivery shall be ticketed separately, showing the APS price agreement order number, work order number, delivery location, and the full signature with printed name and APS employee number underneath of employee picking up/receiving the material(s). Initials only are not acceptable and will not be processed for payment.

A Price Agreement Order (PA) issued as a result of this Bid (Or RFP) has no dollar value associated with it and there are no guarantees that APS will require services or goods under the PA. The PA is an agreement on terms and conditions and pricing for possible future releases based on the needs of APS during the contract period.

Some orders will be placed for warehouse stock; MSDS will be required with **each** warehouse delivery. Delivery will be to the Maintenance and Operations Warehouse Facility at 919 Locust SE, Albuquerque, NM 87106. Contractor may, on occasion, be required to deliver to a particular job site.

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Some pallet delivery will be required. Pallets will remain the property of the supplier and will be returned by APS. Deliveries to the M&O Warehouse shall be scheduled by calling 765-5950, ext. 218. Warehouse receiving hours are 9AM-2:30PM, Monday through Friday (excluding holidays). **All like items are to be packaged separately and packaging is to be labeled to identify product and quantity.**

Some of the trade will be "walk-in". Employees picking up materials must present proper identification. In addition, Maintenance and Operations workmen wear distinctive uniforms. Employees signing for materials which will be billed to APS must sign full name legibly and also write their employee number, location name, and work order number below the signature. Initials are not acceptable.

Contractor must satisfy himself as to the validity of the transaction beyond a reasonable doubt. APS is not responsible for unauthorized purchases or those which cannot be identified. Credits will be issued to the APS account.

Itemized invoices, clearly referencing appropriate bid pricing item number and contract number shall be submitted in duplicate to APS Maintenance and Operations, Support Services, 915 Locust SE, Albuquerque, NM 87106. Copies of delivery tickets, signed by the receiving employees, and other information needed to substantiate changes shall be attached to the invoice for auditor tracking purposes.

APS will strive to meet or exceed prompt payment terms as may be established by statute. Late payment charges may be assessed on any unpaid balance due over 60 days in arrears at the rate of one and one-half percent (1.5%) per month. APS will not automatically include late charges in your payment. Late charges must be properly documented with separate invoice showing invoice numbers, amount, date and computation to verify charges. Typically our payment schedule will be 30-45 days.

After the sixtieth day from the date that written certification of acceptance by APS is issued, late payment charges may be assessed on the unpaid balance due on the contract to the contractor at the rate of one and one-half percent per month.

When applicable, final invoice for each project shall be accompanied by all required guarantees, releases of lien and/or other submittal required by the contract.

6. **Post Award Conference:** After bid award, the contractor shall meet with APS Procurement and APS Grounds Maintenance Manager to outline procedures outlined under item 5 and other relevant paper flow etc.
7. **Promotional Gifts and Activities:** APS policy prohibits the distribution of jackets, shirts, caps or any other clothing items with company or product logo or any other form of advertising to its employees. Furthermore, APS employees are prohibited from entering drawings, contests, or other promotional/advertising activities with vendors or potential vendors in connection with a procurement action.

TECHNICAL SPECIFICATIONS

1. **Scope of Work:** The purpose of the bid is to establish pricing for product on demand.

Brand names as may appear are for the bidder's reference as to level of quality, content analysis and characteristics desired. This is not a preference or an endorsement on the part of APS. APS will consider and evaluate "or equal" offers.

Samples may be required for bid evaluation and testing purposes. If this becomes necessary, bidders in the competitive range will be contacted with delivery instructions. Samples will be supplied at no charge to APS. Quantities called for will not be more than required for immediate testing.

APS and contractor will agree at time of delivery as to the number of pallets involved. Contractor will invoice accordingly and credit promptly when pallets are returned. If pallets are not returned by APS, charges will be paid as billed. Pallet charges will not be considered in bid award.

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All pricing will be F.O.B. destination including cost, insurance, and freight. Specify any minimum order quantity either in product or dollars which may apply. If nothing is stated, it will be assumed that no minimums are required. APS will conform to the vendor's packaging as to even pallets etc.

Please specify your pallet charge. \$ _____

What is your minimum order? _____

What is your current lead time? _____

APS reserves the right to make multiple awards as may be in the District's best interest or necessary for product coverage.

IMPORTANT: Pesticide chemicals require special handling as hazardous material. For each item bid, a Material Safety Data Sheet (MSDS), Form OSHA-20 must be submitted. APS must have these sheets prior to award. It is suggested that they be enclosed with your return bid. Please note if the information is being sent under separate cover and, if so, reference this bid number for identification. APS will not delay award pending receipt of required information.

Firm Name

NM Preference #
 Bid No. 12-051SC-SL

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ITEM NO	STOCK NUMBER	DESCRIPTION	ESTIMATED QUANTITY	UNIT	BID PRICE	TOTAL AMOUNT
1	11331	Isopropylamine salt of glyphosate 41.0% a.i., inert ingredient 59.0%, 2.5 gallon bottle To be Roundup or equal.	150	Each	_____ Manufacturer	_____ Brand/Model #
2	11343	Tetrahydro-5, 5-dimethyl-2 (1H)-pyrimidinone (3-4 trifluoromethyl phenyl)-ethenyl)-2 propenylidene-hydrazone)-,88%, Inert ingredient 99.12%, 1 lb. bottle. To be Seige Pro or equal	100	Each	_____ Manufacturer	_____ Brand/Model#
3	11330	Oryzaline (3.5-dinitro-N4,N4-dipropylsulfanilamide) 40.4% a.i., 549.6% Inert ingredients, 2.5 gallon. To be Surflan A.S. or equal.	25	Each	_____ Manufacturer	_____ Brand/Model #
4	11340	Merit 75 WSP Insecticide (Specifically) 6.4 oz. bag 4 bags per box	100	Bag	_____ Manufacturer	_____ Brand/Model #
5	11344	Krovar DF (Specifically), 6 pound box	25	Box	_____ Manufacturer	_____ Brand/Model #
6	11337	Cyfluthrin, cyano(4-flouro-3-phenoxphenyl)-methyl 3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropanecarboxv late 20%, Inert ingredients 80% 420 gram jar. To be Tempo 20 WP or equal.	10	Jar	_____ Manufacturer	_____ Brand/Model #
7	11334	BRUSHMASTER HERBICIDE (Specifically) 1 qt., 12 quarts per case	175	Quart	_____ Manufacturer	_____ Brand/Model #
8	11342	Pendimethalin, N-(1-ethylpropyl)-3,4 dimethy-2, 6-dinitrobenzenamine 38.7%, Inert ingredients 61.3%, 2.5 Gal Jug. Pendulum AQUA CAP or equal.	150	Each	_____ Manufacturer	_____ Brand/Model #
9	142071	Orthoboric Acid 99%, Inert ingredlent 1%. 10 oz. bottle. To be Roach Kill or equal.	10	Bottle	_____ Manufacturer	_____ Brand/Model #
10	11338	Brodifacoum; 3-[3-(4-bromo-[1, 1-biphenyl]-4-yl)-1,2,3,4-tetrahydro-1-naphthalenyl]-4hydroxyl]-2H-1-benzopyran-2-one .005%. Inert ingredients 99.995%, 200 – 25 gram packets per box. To be Talon-G Rodenticide Mini Pellets or equal.	10	Box	_____ Manufacturer	_____ Brand/Model #
11	11335	Whitmire PT 280 (Specifically) 1% Orthene, 28 oz. can	25	Can	_____ Manufacturer	_____ Brand/Model #
12	N/A	Invader HPX Insect Repellent (Specifically) 17.5 oz can	75	Can	_____ Manufacturer	_____ Brand/Model #
13	11333	ClIne Buckner Wasp & Hornet Jet Freeze (Specifically) 075% Pyrethrin, .5% Carbaryl. 16 oz. can	150	Can	_____ Manufacturer	_____ Brand/Model #

**ALBUQUERQUE PUBLIC SCHOOLS
BOARD OF EDUCATION
TERMS AND CONDITIONS
Bid No. 12-051SC-SL**

Preparation of Bids

Bidders are to comply with all instructions and provide the information requested in the appropriate spaces. Bid prices must be entered in ink or typewritten. Mistakes may be corrected prior to bid opening, but shall be initiated by the person signing the bid. Corrections and/or modifications received after the bid opening time will not be accepted. Bids must be submitted by the date and at, or prior to, the time specified for consideration. Late bids will not be accepted. All bids must be signed by an authorized representative of the company.

Improper identification may result in premature opening of or failure to consider the bid. Bids must be submitted in a sealed envelope. Procurement law requires sealed bids. Therefore, APS cannot accept bids which are transmitted using facsimile equipment.

Albuquerque Public Schools holds a Class 9 Tax Exemption Certificate and is exempt from paying sales tax on tangible personal property. A non-taxable transaction certificate (NTTC) will be provided upon request. Services (including construction or materials that become part of a construction project) are not exempt. The Contractor shall comply with all requirements of the State of New Mexico Gross Receipts Law and shall require all subcontractors to comply with same. Do not include tax in your bid price. Tax must be shown as a separate item on all invoices.

General
Brand Names: It is intended that bid specifications admit maximum competition. Brand names or model numbers, where used, are for reference as to standard of character, quality and/or operation and are not indicative of preference on the part of APS. Equal item(s) will be considered, provided the bid clearly describes the item by brand, model number, level of quality or any other appropriate criteria. Descriptive literature must be included for bid evaluation purposes. Include sample(s) if specifically requested. Failure to provide this information may disqualify your bid. Determination by APS as to what item(s) are equal shall be final and conclusive. When brand, model or other identification is not stated, it shall be understood that the bidder is quoting as specified.

Qualifications of Bidders: APS may make such investigations as necessary to determine the ability of the bidder to perform the work required. Bidder shall furnish all necessary information and data as may be requested. APS reserves the right to reject any bid if the evidence submitted or the investigation of a bidder fails to satisfy APS that the bidder is qualified to perform the obligation of the contract.

Award
Award(s) will be made to the low responsible and responsive bid(s) taking into consideration prior qualifications and capabilities of the bidder, availability of funds and any other relevant factors.

APS reserves the right: (1) to award bids received on the basis of individual item(s), or groups of items, or on the entire list of items; (2) to reject any or all bids, or any part thereof; (3) to waive any informality in the bid(s) and (4) to accept the bid(s) that is in the best interest of APS.

APS will take advantage of prompt payment discounts whenever possible; however, these will not be used as award criteria.

New Mexico procurement law provides for a five percent (5 %) residential preference. A bidder who meets state requirements shall be awarded a contract in preference to a non-resident bidder whenever the resident contractor, whose bid is nearest to the low bid of the non-residential contractor, is made lower when multiplied by a factor of .95. This does not apply when federal funds are being used. Any New Mexico firm claiming preference will insert its residential reference number as issued by the State Purchasing Department in the appropriate space. Provision of the number will be the responsibility of the contractor.

Any bidder, offeror or contractor who is aggrieved in connection with a procurement action may protest to the Albuquerque Public Schools Procurement Department. The protest shall be submitted in writing within fifteen (15) calendar days after the facts or occurrences giving rise thereto.

Bidders are informed that initial orders must be furnished at prices submitted. Albuquerque Public Schools reserves the right to make award(s) within (90) days after the date of bid opening unless bidder distinctly specifies that acceptance must be within a shorter time.

Time of delivery may be a consideration in bid award(s) and shall be defined as the number of calendar days following receipt of the order, either verbally or in writing until receipt of materials, supplies or services by APS.

Packing, Shipping and Invoicing
Bidder agrees to deliver all item(s) inclusive of all cost, insurance, freight, drayage, express or other charges. Title to materials or supplies shall pass directly from bidder to APS at the F.O.B. point shown, subject to the right of APS to reject upon inspection. All bids must be F.O.B. destination.

The purchase order number, vendor's name and user's name and location shall be shown on each packing and delivery ticket, pack-age, bill of lading and any other correspondence in connection with any shipment. The user's count will be accepted by the Seller as final and conclusive on all shipments not accompanied by a packing list. All invoices shall reference the order number, description of supplies or services, quantities, unit prices and extended totals. Separate invoices are required for each shipment.

Bidder shall be paid upon submission of acceptable invoices for materials, supplies or services delivered and accepted. Invoices must be accompanied by transportation receipts or facsimiles, if transportation is payable and charged as a separate item.

Patent Indemnity
Seller shall pay all royalty and license fee(s) relating to the item(s) covered hereby. In the event any third party shall claim the manufacture, use and sale of goods covered hereby to be infringement of any copyright, trademark or patent, Seller shall indemnify and hold APS harmless from any cost, expense, damage or loss incurred in any manner by APS because of any such alleged infringement.

Warranties
Materials, supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Seller gives to any customer for the same or substantially similar materials, supplies or services. The rights and remedies provided herein shall extend to APS and are in addition to and do not limit any rights afforded to APS by any other clause of this order. Seller agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

Inspection

Bid No. 12-051SC-SL

Materials, supplies or services shall be furnished exactly as specified, free from all defects in workmanship, materials, and design. Final inspection and acceptance will be made at the destination. If, prior to final acceptance, any item(s) or service(s) are found to be defective or not as specified, APS may reject them, require the Seller to correct without charge or require delivery at a reduction in price which is equitable under the circumstances. If Seller is unable or refuses to correct such item(s) within a time deemed reasonable by APS, APS may terminate the order in whole or in part. Seller shall bear all risks as to rejected materials, supplies or services and, in addition to any other costs for which the Seller may become liable to APS under other provisions in these terms and conditions, shall reimburse APS for all transportation costs, other related costs incurred, or payments to Seller for unaccepted materials, supplies and services. Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud or such gross mistakes as amount to fraud. Any test programs and procedures required by the specifications are in addition to, and do not limit, APS rights provided in this section.

Assignment

Neither the order nor any interest therein, nor claim thereunder shall be assigned or transferred by the Seller except as authorized in writing by APS. No assignment or transfer shall relieve the Seller from its obligations and liabilities.

Non-discrimination

Sellers doing business with APS must be in compliance with Federal Civil Rights Act of 1964 and Title VII of the Act. Rev. 1979.

Changes

APS may make changes within the general scope of this order by giving notice to the Seller and subsequently confirming such changes in writing. If such changes affect the cost and/or the time required for performance of this order, an equitable adjustment in the price or delivery or both shall be made. No change by the Seller shall be recognized without written approval of APS. Any claim of Seller for any adjustment must be made in writing within thirty (30) days from date of receipt by Seller of notification of such change unless APS shall waive this condition. Nothing in this section shall excuse Seller from proceeding with performance of the order as changed hereunder.

Kickback Statement

The Procurement Code, Sections 13-1-21 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for this violation. In addition, New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kick-backs.

Termination

APS may, by written notice stating the extent and effective date, terminate this order for convenience in whole or in part, at any time. APS shall pay Seller as full compensation for performance until such termination (1) the unit or prorata order price for the delivered and accepted portion; and (2) a reasonable amount, not otherwise recoverable from other sources by Seller as approved by APS with respect to the undelivered or unaccepted portion of the order; provided compensation shall in no event exceed the total order price.

APS may by written notice terminate this order for Seller's default in whole or in part, at anytime, if Seller refuses or fails to comply, with the provisions of this order, or so fails to make progress as to endanger performance and does not cure such failure within a reasonable period of time, or fails to make deliveries of the item(s) or service(s) or to perform the service(s) within the time specified or any written extension thereof. In such event, APS may purchase or otherwise secure item(s) or service(s) and except as may be otherwise provided, Seller shall be liable to APS for any excess costs occasioned thereby.

If after notice of termination for default, APS determines that the Seller was not in default or that the failure to perform was due to causes beyond the control and without the fault or negligence of the Seller, termination shall be deemed for the convenience of APS, unless APS shall determine that the item(s) or service(s) were obtainable from other sources in sufficient time to meet required delivery schedule.

If APS determines that Seller has been delayed due to causes beyond the control and without the fault and negligence of the Seller, APS may extend the time for completion when promptly applied for in writing by the Seller. If such delay is due to failure of APS, not caused or contributed to by Seller, to perform services or deliver property in accordance with the terms of the order, the time and price of order shall be subject to change under the Changes section. Sole remedy of Seller in event of delay by failure of APS to perform shall be limited to any money actually and necessarily expended in the work during the period of delay, solely by reason of delay. No allowance will be made for anticipated profits. 'Seller' is defined as the Seller and his suppliers at any tier.

Contingency

Seller warrants that no person or selling agency has been employed or retained to solicit or secure this order upon an agreement or understanding for a commission, percentage, brokerage or contingent fee excepting bona-fide employees or bona-fide established commercial or selling agencies maintained or utilized by Seller for the purpose of securing business. For violation or breach of this warranty, APS shall have the right to annul this order without liability or, at its discretion, to deduct from this order price or consideration or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

Other Applicable Laws

Any provisions required to be included in a contract of this type by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

Non-Collusion

The undersigned certifies that he or she has not either directly or indirectly entered into any action in restraint of free competitive bidding in connection with this solicitation and agrees to furnish the materials, supplies or services as required within the time specified under the conditions imposed and at the price indicated.

Signature of Authorized Representative _____

Contractor's License No: _____
(If Applicable)

Type or print name of above _____

Resident Certification No: _____
(If Applicable)

Name of Firm _____

Address _____

Fax No: _____

Wats Line (If available) _____

Area Code and Telephone No. _____

Federal ID No.: _____

**CONFLICT OF INTEREST AND
DEBARMENT/SUSPENSION CERTIFICATION FORM
PESITCIDE/HERBICIDE CHEMICALS ON DEMAND
12-051SC-SL**

CONFLICT OF INTEREST

As utilized herein, the term "Vendor" shall mean that entity submitting a proposal to Albuquerque Public Schools in response to the above referenced request for proposals.

The authorized Person, Firm and/or Corporation states that to the best of his/her belief and knowledge: No employee or board member of Albuquerque Public Schools (or close relative), with the exception of the person(s) identified below, has a direct or indirect financial interest in the Vendor or in the proposed transaction. Vendor neither employs, nor is negotiating to employ, any Albuquerque Public Schools employee, board member or close relative, with the exception of the person(s) identified below. Vendor did not participate, directly or indirectly, in the preparation of specifications upon which the quote or offer is made. If the Vendor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in Vendor, please identify the legislator:

_____ List below the name(s) of any Albuquerque Public Schools employee, board member or close relative who now or within the preceding 12 months (1) works for the Vendor; (2) has an ownership interest in the Vendor (other than as an owner of less than 1% of Vendor's stock, if Vendor is a publicly traded corporation); (3) is a partner, officer, director, trustee or consultant to the Vendor; (4) has received grant, travel, honoraria or other similar support from Vendor; or (5) has a right to receive royalties from the vendor.

DEBARMENT/SUSPENSION STATUS

The Vendor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Federal Government, or any State agency or local public body, or in receipt of a notice or proposed debarment from any Federal or State agency or local public body. The vendor agrees to provide immediate notice to Albuquerque Public School's Purchasing Department in the event of being suspended, debarred or declared ineligible by any department or agency of the Federal government, or any agency of local public body of the State of New Mexico, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named **and that the information contained in this document is true and accurate to the best of their knowledge.**

Signature:

Name of Person Signing (typed or printed):

Title:

Date:

Name of Company (typed or printed):

Address:

City/State/Zip:

Telephone No:

Fax No.:

Email Address: