

Sole Source Notification #00414

Biodiesel Fuel from Pier 15

The Washington State Department of Enterprise Services, Master Contracts and Consulting Unit (DES), issues this Sole Source Notification under the authority of the Revised Code of Washington (RCW) [39.26](#). DES reserves the right to modify dates and times. Any changes will be sent electronically as amendments to all users of Washington's Electronic Business Solution (WEBS) who download this notification.

Posting date August 20, 2014

Capability Statements are due ... August 27, 2014-, 2 p.m.

Anticipated start date..... September 5, 2014

Procurement coordinator..... Keith M. Farley
(360) 407-9419
keith.farley@des.wa.gov

Deliver Capability Statements to Washington State Department of Enterprise Services
Master Contracts and Consulting
1500 Jefferson St. SE
Olympia, WA 98501

Attention: Keith Farley, Master Contracts and Consulting Unit

OR by

Email keith.farley@des.wa.gov

IMPORTANT: Capability Statements must be delivered in a sealed package and should have the following information on the outside:

- Sole Source Notification number 00414
- Due date and time
- Procurement coordinator's name
- Name and address of Offer's company

CONTRACT 00414

Biodiesel Fuel from Pier 15

CONTENTS

1	CONTRACT OVERVIEW	4
1.1	Parties	4
1.2	Recitals	4
1.1	Contract Term	4
1.2	Estimated Usage	4
2	CONTRACT OVERVIEW	5
2.1	Legal Notices	5
2.2	Incorporated Documents and Order of Precedence	5
2.3	Severability	6
2.4	Independent Status Of Contractor	6
2.5	Entire Agreement	6
2.6	Changes	6
2.7	Governing Law/Venue	6
2.8	Retention of Records	6
2.9	Right Of Inspection	7
2.10	Authority To Bind	7
2.11	Counterparts	7
2.12	Contract Usage Report	7
2.13	Cost Mitigation Strategies	7
3	PRICING	7
3.1	Pricing Overview	7
3.2	Service Fee	9
3.3	DES Fuel Pricing Page and OPIS Reference Numbers	9
3.4	Price Checking	9
3.5	OPIS and OPIS Unavailability	9
3.6	Price Protection	10
3.7	Price Adjustments	10
4	FUEL PRODUCT TYPES, ORDERING, DELIVERY SERVICES AND SEGMENTATION	10
4.1	Ordering Procedures	10
4.2	Fuel Product Types	10
4.3	Fuel Specifications	10
4.4	Additional Biodiesel Specifications	10
4.5	Feedstock Source	11
4.6	Deliveries	11
4.7	Invoices, Billing Statements And Payment Terms	12
4.8	Scheduling and Fuel Requirements	14
4.9	Marine Fuel Terminal Operations	14
4.10	Spill Clean-Up	15
4.11	Exclusive Contract and Vessel Addition and Deletion	15
4.12	Tax Exempt Forms	15
4.13	Fuel Allocations	16
4.14	Federal Restrictions On Lobbying	16
4.15	Federal Debarment and Suspension	16
5	CONTRACT ADMINISTRATION	16
5.1	Administration of Contract	16
5.2	Contractor Supervision And Coordination	16

5.3 Contract Management 17

5.4 Changes 17

5.5 Statewide Vendor Payment Registration 17

5.6 Sales Report 17

5.7 Other Required Report(s) 18

5.8 Washington’s Electronic Business Solution (WEBS) 18

6 INFORMATION AND COMMUNICATIONS 18

6.1 Advertising 18

6.2 Retention of Records 18

6.3 Non-Endorsement and Publicity 19

6.4 Contractor’s Proprietary or confidential information and waiver 19

6.5 Contractor’s Protection of Confidential and Personal Information 19

7 APPENDICES 20

Appendix A: Master Contract Terms and Conditions 21

Appendix B Fuel Specifications 21

8 CERTIFICATIONS AND ASSURANCES 22

9 CONTRACT SIGNATURE PAGE 23

1 CONTRACT OVERVIEW

1.1 Parties

This Contract ("Contract") is entered into by and between the state of Washington, acting by and through the, Master Contracts and Consulting (MCC), Department of Enterprise Services(DES), an agency of Washington State government, ("State") located at 1500 Jefferson St. SE, Olympia, Washington 98501 and Rainier Petroleum Corporation, a Maxum Petroleum Company, licensed to conduct business in the state of Washington ("Contractor"), located at 1711 – 13th Avenue SW, Seattle, Washington 98134 for the purpose of providing diesel fuel from a Seattle Harbor marine fuel dock (Pier 15) to marine vessels of the Washington State Department of Transportation, Ferries Division (WSF). Other products, services, and customers may be added by mutually agreed amendment. This contract does not include any truck delivered fuel services.

1.2 Recitals

The state of Washington, acting by and through MCC, in accordance with its authority under Chapter 39.26 RCW, is interested in entering into a contract for the purpose of purchasing diesel fuel from a Seattle Harbor marine fuel dock to meet the fuel requirements of numerous marine ferry vessels operated by the WSF.

The Contractor's, Pier 15, marine fueling dock has been identified as the only Seattle Harbor, marine fueling facility to have the necessary fender pilings/dolphins to accommodate WSF.

The State has determined these fuelings fall under an exception to the state's competitive bid requirements and therefore this directly negotiated contract will be established under the rules for sole source contracts. (Reference [RCW 39.26.125\(2\)](#)).

NOW THEREFORE, DES awards to Rainier Petroleum Corporation, a Maxum Petroleum Company this Contract, the terms and conditions of which shall govern Contractor's supply of diesel fuel from its Pier 15 Seattle Harbor marine fuel dock to vessels from WSF. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

1.1 Contract Term

The initial term of this contract is one year from the award's effective date (first actual day of performance) with the option to extend for additional term(s) or portions thereof. Extensions for each additional term(s) or portion thereof shall be exercised at the sole discretion of MCC upon written notice to the Contractor. The total contract term, including the initial term and all subsequent extensions, shall not exceed ten (10) years unless an emergency exists and/or special circumstances require a partial term extension. Further, the contract by mutual agreement may be extended past the 10-year maximum for a six-month period to deal with administrative matters and for any reasonable period of time to deal with exceptional circumstances and/or emergencies.

1.2 Estimated Usage

Purchases over the initial one-year term of the contract could approximate 6,000,000 gallons of fuel purchased by WSF. Purchase potential from other customers is unknown.

DES does not represent or guarantee any minimum purchase.

2 CONTRACT OVERVIEW

2.1 Legal Notices

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid, or via facsimile, or by electronic mail, to the parties at the addresses, fax numbers, and/or e-mail addresses provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a "writing," such communication shall be considered to be "in writing" or "written" to an extent no less than if it were in paper form.

To Contractor at:	To DES/MCC at:
Rainier Petroleum Corporation a Maxum Petroleum Corporation	State of Washington Dept of Enterprise Services
Attn: Dan Kovacich Vice President	Attn: Keith Farley Contract Administrator
1711 13 th Avenue S.W.	Post Office Box 41401
Seattle, WA 98134	Olympia, WA 98504-1401
Phone: (206) 613-1449	Phone: (360) 417-9419
Fax: (206) 624-5792	Fax: (360) 586-2426
E-mail: dkovacich@Maxumpetroleum.com	E-mail: keith.farley@des.wa.gov

Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to this Contract is served upon Contractor or MCC/DES, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and MCC/DES further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

2.2 Incorporated Documents and Order of Precedence

In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

- a. Applicable federal and state of Washington statutes and regulations
- b. Mutually agreed written amendments to the resulting contract
- c. This Contract, Number 00414

Conflict: To the extent possible, the terms of the contract must be read consistently.

Conformity: If any provision of the contract violates any federal or state of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

2.3 Severability

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

2.4 Independent Status Of Contractor

In the performance of this Contract, the parties will be acting in their individual, corporate, or governmental capacities and not as agents, employees, partners, joint ventures', or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under Chapter 41.06 RCW, or Title 51 RCW.

2.5 Entire Agreement

This Contract document and all subsequently issued amendments comprise the entire agreement between MCC/DES and the Contractor. No other statements or representations, written or oral, shall be deemed a part of the Contract.

2.6 Changes

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract Amendment by the Contract Administrator.

2.7 Governing Law/Venue

This contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

2.8 Retention of Records

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by the MCC/DES, personnel duly authorized by MCC/DES, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

2.9 Right Of Inspection

Contractor shall provide right of access to its facilities to MCC/DES, or any of MCC/DES's officers, WSF or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

2.10 Authority To Bind

The signatories to this contract represent that they have the authority to bind their respective organizations to this contract.

2.11 Counterparts

This contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate will be deemed an original copy of this contract signed by each party, for all purposes.

2.12 Contract Usage Report

Total contract usage (sales) must be reported quarterly by the contractor in the [Contract Sales Reporting System](#). A login password and a required DES Vendor Number will be provided by DES.

Reports must be submitted electronically within 30 days after the end of the calendar quarter, i.e., no later than April 30, July 31, October 31 and January 31.

2.13 Cost Mitigation Strategies

The state reserves the right to employ various cost mitigation strategies (i.e. Hedging) in acquiring fuel via our contractors.

3 PRICING

3.1 Pricing Overview

Contract pricing only includes the cost of fuel and every other costs driver must be rolled into the costs of fuel. So as to insulate the Contractor(s) from the impact of any modifications to fuel related taxes and fees (i.e. first possessor fees or hazmat fees), all fees are to be added to invoices on a pass-through basis and identified as a separate line item. Below is an overview of how fuel prices will be calculated and how the service fees will be applied.

FUEL PRODUCTS AND THE CORRESPONDING OPIS REFERENCE POINT AND BID MARGIN

- A. **Product OPIS References:** Product reference references are designated references reported by the Oil Price Information Service (OPIS).

ULSD #2: The product reference price for "Ultra-Low Red Diesel" is Seattle, "OPIS Contract Average"

Biodiesel, B5, Dyed: The product reference price for Biodiesel B5 is Seattle, "OPIS Gross Wholesale B5 SME Biodiesel Prices", LSN2D Ultra, Contract Average. (The contractor shall provide blends up to B20 in any increment.)

B. **Biodiesel, B6 to B20, Dyed:** During the life of this contract there may be the need for WSF to conduct a testing or pilot program for higher blends of biodiesel. Prior to any start date for any such testing, Maxum, DES and WSF shall mutually agree upon the contract methodology for biodiesel fuel type to be used during the testing period. (At this time WSF does not have enough information on the testing requirements to negotiate additional biodiesel pricing (B6-B20).

C. **Changes to Reference City:** Changes to the reference city or the reference within the target city may be changed by mutual agreement of DES/WSF and the Contractor. However, it is DES's expectation that the Contractors bid profit margins does not increase as a result of such action.

D. **Bid Margin:**

The bid margin is an amount added to the OPIS reference point to determine the per gallon fuel cost for any given day of delivery. Calculation: OPIS reference point + Fuel Adder + Infrastructure Reimbursement Adder (if applicable) = Per Gallon Costs of Fuel.

1. Fuel Adder: \$_____0.09 per gallon_____

2. Infrastructure Reimbursement Adder: \$_____.025 per gallon_____.

2.1 The Infrastructure Reimbursement Adder ends once the contract sales reach 14,000,000 gallons sold (Contractor and WSF agreed upon a reimbursement of \$350,000.00 for the infrastructure).

2.2 The data in table below is deemed a floating figure; prior to execution of this contract all parties shall agree upon a remaining balance in gallons to be purchased for completion of the reimbursement agreement.

Cost of Reimbursement	Reimbursement Price per Gallon	Gallons to be Purchased	Gallons Purchased as of 5.31.14	Remaining Gallons
\$350,000.00	\$0.025	14,000,000	7,990,687	6,009,313

E. **Pre- Booming *Class 3/ Rate A:**

Per the required rules and regulations set by Department of Ecology in WAC 173-180 and WAC 173-184 and WAC 317-40. The price for boom deployment at Pier 15 is \$750 per fuel delivery.

*Class 3 – facilities that transfer to non-recreational vessels with a total oil capacity of 10,500 gallons or more.

Rate A – Operations transferring oil over 500 gallons per minute.

3.2 Service Fee

None. All cost drivers are rolled into the cost of fuel. Federal Fees will be identified separately in the invoice.

3.3 DES Fuel Pricing Page and OPIS Reference Numbers

DES will not post OPIS reference points. DES posts fuel pricing on the DES fuel pricing page. This function is provided as a courtesy and may be removed at any time. If the Contractor or customer needs greater reliability, they must make arrangements with OPIS to secure the same subscription as is used by DES. The pricing posted on the DES website is delayed and lags by approximately 24 hours. If it appears that an error has occurred with regard to an OPIS component, the state shall contact the publisher for clarification and the correct average price shall be applicable. Contractor shall be required to maintain their own subscription to OPIS in order to correctly calculate contract fuel prices.

3.4 Price Checking

DES creates master contracts for use by contract customers. Contract pricing is posted on the DES Website Contract Portal as a courtesy. DES does not and will not sample check or monitor customer invoices or the pricing charged by the Contractor to the customer. If the customer needs guidance interpreting the DES Contract Portal the customer may contact DES. If the customer believes the Contractor invoice is inaccurate and the customer cannot resolve the issue at their level, the customer may contact DES for assistance. Otherwise, the customer ordering and the Contractor billing practices are blind to DES and DES will only become involved if contacted by the customer or Contractor.

3.5 OPIS and OPIS Unavailability

OPIS publishes many reports, such as, a morning, mid-day, and evening report. DES receives a report from OPIS usually from 1pm to 3pm. The report DES receives does to display a report title. The report DES receives is deemed the official OPIS report for contract actions. DES's OPIS report will be used for calculating the fuel price.

The Oil Price Information Service (OPIS) is what DES uses for product pricing coupled with a Fuel Adder and Infrastructure Reimbursement. Should OPIS become unavailable or if the OPIS reference DES uses for pricing become unavailable, the DES may totally or partially terminate the contract. The DES reserves the right to negotiate a substitute pricing mechanism with the Contractor that results in a mutually agreed contract amendment.

OPIS Error: If it appears that an error has occurred on an OPIS issue, the Contract Administrator shall contact the publisher for clarification and the correct average price shall be applicable.

Contractor shall be required to have its own subscription to OPIS in order to determine the contract prices in a timely manner.

3.6 Price Protection

For the life of the Contract, pricing and OPIS Adders for all Products will be no greater than those quoted in the response to the solicitation. If, however, during any term of the contract lower prices and rates become effective for like quantities of products under similar terms and conditions, through reduction in contractor's list prices, promotional discounts, or other circumstances, purchasers must be given immediate benefit of such lower prices and rates.

3.7 Price Adjustments

Contractor understands that except as stated herein, no other price increases will be considered. However, DES reserves the right to waive this condition for good cause.

4 FUEL PRODUCT TYPES, ORDERING, DELIVERY SERVICES AND SEGMENTATION

4.1 Ordering Procedures

Orders may be placed with the Contractor either by telephone, by fax, in writing, or electronically from an authorized agency representative.

4.2 Fuel Product Types

The contract products to be supplied to WSF vessels shall be:

(a) Ultra-Low Sulfur Dyed Diesel #2 (ULSD #2)

Or,

(b) A dyed biodiesel fuel product, up to and including B20.

4.3 Future Fuel Types

The OPIS price index coupled with the OPIS multiplier will serve as the basis for establishing contract pricing. Future fuel types will be added by mutual negotiation.

4.4 Fuel Specifications

ULSD #2 must meet ASTM D975.

Biodiesel blends of up to 5 volume percent (B5) must meet the ASTM D975 diesel fuel specification. Biodiesel blends of 6 to 20 volume percent (B6 to B20) are to meet the ASTM D7467 specification. Any biodiesel used for blending must meet ASTM D6751 specifications. Diesel fuel used for blending must meet ASTM D975 specifications. Reference [Appendix B](#)

The state reserves the right to test fuel samples to verify specification compliance. Failure to supply fuel that meets the minimum specifications may result in contract termination.

4.5 Additional Biodiesel Specifications

Contractor shall ensure the biodiesel provided to the state adheres to government and industry quality standards, and also meets the following conditions:

1. **Biodiesel Manufacture:** The facility manufacturing the biodiesel must be BQ-9000 certified or shall strictly adhere to a quality systems program that includes storage, sampling, testing, blending, shipping, distribution, and fuel management practices as if it were a BQ-9000 certified facility.

2. **Feedstock:** The biodiesel may be made from multiple feedstock's or from a single feedstock.
3. Be free of contamination resulting in bacteria or condensation. If bacteria are present, the appropriate treatment shall be applied to the biodiesel at contractor's expense.
4. Be filter-cleaned to 10 microns or less at time of delivery.
5. Cloud Point: Biodiesel used for blending must have a cloud point of no more than 38 degrees Fahrenheit before blending or before the addition of any additives.
6. **Biodiesel Product Age:** The state seeks to obtain as fresh a product as practical but in no case shall the product be older than four months from the date of manufacture.
7. **Biodiesel Blending:** The blending of the biodiesel product and the diesel product must be accomplished using a computer controlled in-line injection system. Unless otherwise specified, the blending and handling of biodiesel must conform to the most current Biodiesel Handling and Use Guidelines as published by the U.S. Department of Energy. The most current guide as of December 2010 is: NREL/TP-540-43672, Revised December 2009, <http://www.nrel.gov/docs/fy09osti/43672.pdf>.
8. **Clean Hoses:** The biodiesel is to be transferred using clean hoses. Contractor must ensure hoses used will not contaminate the fuels or tanks and contractor shall use cleaning techniques that prevents contamination, such as but not limited to, purging.

4.6 Feedstock Source

State law (RCW 43.19. 646 and .647) provides for DES to use long-term contracts to secure biodiesel manufactured from predominately in-state feedstock (51% or more) for state agencies and to secure a sufficient and stable supply of alternative fuels for state and local government. Therefore, the Contractor must provide biodiesel made from at least 51 percent in-state (Washington State) feedstock and/or biodiesel produced in-state (Washington State).

Feedstock Record Keeping: It is the Contractor's responsibility to assemble and maintain records for compliance verification. The Contractor shall provide DES a quarterly report (calendar quarter) detailed in numerical form with a written summary. The report shall describe the amount of biodiesel supplied over the quarter to state agencies and political subdivisions, the amount that was manufactured from in-state feedstock or produced in-state, and general information about the supply chain origin (in-state feedstock source and in-state production).

4.7 Deliveries

- A. **Minimum Order Quantities:** There shall be no minimum order quantities. WSF shall make an effort to order reasonable volumes based on vessel scheduling and size of vessel's fuel tank(s) and vessel's fuel consumption rate.
- B. **Delivery Completion:** Delivery will be completed only when the fuel has been shipped FOB Destination and placed into the vessel's fuel tank(s).
- C. **Quantity Delivered:** The Contractor shall provide a stamped meter ticket or meter readings to certify the actual volume delivered based upon US gallons. Delivery volumes over 8,000 gallons shall be temperature corrected at the time of loading to a standard temperature of 60 degrees F in accordance with Table 6 of ASTM D 1250-80 ASTM-IP Petroleum Measurement Tables. Upon request, the temperature corrected volume calculations and the method used should be made available to the Person in Charge (PIC) of fueling and must appear on each invoice ([Sec 4.7.b](#)). The gravity value necessary to determine the correct group classification to be used shall be determined in accordance with ASTM D 287, API

Gravity of Crude Petroleum and Petroleum Products. For delivery volumes less than 8,000 gallons the Contractor is not required to temperature correct delivery volumes and may invoice for the gross volume delivered; or Contractor may choose to also temperature correct these delivery volumes.

- D. **Delivery Delays:** WSF will make every reasonable effort to assure their vessels are on time to receive fuel deliveries. However, unexpected or unavoidable delays will occasionally occur. Any charges arising from a vessel being late will be the responsibility of the Contractor and no "standby" or other charges will be allowed.
- E. **Emergency Deliveries:** Contractor must guarantee delivery within four (4) hours of notification of an emergency. Contractor shall provide WSF and shall keep current emergency telephone numbers. Contractor may charge a reasonable service charge for emergency deliveries in addition to normal fuel charges, based on the nature of the emergency and extent of extra costs involved. An emergency situation shall be as determined by one of the following WSF people:
 1. Vessel Department Director
 2. Operations Director
 3. Watch Supervisor
 4. Port Engineer
 5. Terminal Agent and
 6. Port Captain

4.8 Invoices, Billing Statements And Payment Terms

Given the complexity of contract pricing and the need for WSF's accountants to verify the accuracy of each invoice and billing statement prior to approving for payment, Contractor must comply with the following example:

A. Contract Pricing Shown on Invoices:

Description	Diesel Fuel
Base Price (OPIS reference product per gallon price)	\$X.XXXX
Plus, Bid Margin (per gallon)	\$0.09
Infrastructure Reimbursement	\$0.025
Exclude, Federal Excise Tax (1)	N/A
Plus, Federal Oil Spill Recovery Fee	(2)
Plus, Federal LUST Tax (3)	\$0.001/gal
Plus, Applicable WA State Fuel Tax (4)	N/A
Plus, Washington State Oil Spill Tax (5)	\$0.001/gal
Plus, WA State Hazardous Substance Tax	(6)
Plus, Pre -Boom Deployment service	\$750.00
Plus, Applicable Washington State & Local Sales Tax	(7)
(1) Exclude, Federal Excise Tax	Federal Excise Tax shall be excluded from the invoice:
(2) Plus, Federal Oil Spill Recovery Fee	Effective April 1, 2006, the Federal Oil Spill Recovery Fee (which may also be referred to as the federal Oil Spill Liability Fund Tax) was reinstated at an effective rate of \$0.0019/gallon. This fee applies to all governmental purchasers. However, a lower rate may apply to the purchase of blended fuels.

(3) Plus, Federal LUST Tax	The current the Federal Liquid Underground Storage Tank (LUST) Tax is \$.001/gallon. The LUST tax applies all governmental purchasers and applies to dyed diesel.
(4) Washington State Fuel Tax	Some contract users may be exempted from the Washington State Highway (Special) Fuel Tax, such as highway maintenance vehicles, publicly owned firefighting equipment, and public transportation (reference RCW 82.38.080). However, such diesel fuel purchases (except for public transportation, reference RCW 82.08.0255) are subject to the payment of state and local sales taxes. To claim an exemption user must possess a special fuel tax license issued by the Washington State Department of Licensing (DOL). Contact the DOL in Olympia, at (206) 753-6860 for further information.
(5) Plus, Washington State Oil Spill Tax	A tax imposed on the off-loading from a waterborne vessel at marine terminals in Washington. Contact Dept. of Revenue (206) 753-1971 with questions. This tax may be listed by some Contractors but not by others at the rate of \$.001/gallon. Purchasers should only pay this tax when listed by Contractor on its invoice.
(6) Washington Hazardous Substance Fee	The Washington Hazardous Substances Tax is an excise tax imposed on the first possessor of hazardous substances or products (including fuel) in the state of Washington. The current tax rate is 0.7% on the wholesale selling price and is listed on the invoice as a per gallon tax.
(7) Washington State & Local Sales Tax	Washington State & Local Sales Tax applies to the purchase of red dyed diesel fuel.(if applicable)

- B. Delivery Receipts: The PIC or their designee must sign the delivery receipt for all fuel deliveries. At a minimum, the following information must be listed on the delivery receipt: name of contractor, name of vessel, time and date of delivery, and gallons delivered (identified as to either temperature corrected or non-temperature corrected). If delivery was temperature corrected, provide a copy of the calculations and the method used. The original delivery receipt (not carbon copy) is to be attached to the invoice.
- C. Account Numbers: Contractor may assign a separate number to each vessel for identification purposes. Each invoice shall identify only one vessel.
- D. Invoices: All invoices are to be accompanied with the supporting documentation needed to readily verify that contract prices have been correctly calculated and delivery terms have been met. This may include but may not be limited to:
- A copy of the applicable daily OPIS City gross average rack price for the delivered product.
 - A copy of the meter ticket or bill of lading, as applicable.
 - Delivery receipt signed by the appropriate customer representative.

The Contractor shall submit a separate invoice for each delivery and at a minimum identify the following:

- Contract number
- Customer name
- Customer account number
- Invoice number
- Delivery location

- Date of invoice
- Date and time of fuel delivery
- Amount of fuel delivered (in gallons)
- Description of type of fuel delivered
- OPIS Reference Point + Fuel Adder + Infrastructure Reimbursement Adder
- Containment boom deployment charge
- Fuel tax credits (if applicable)
- Applicable fuel related fees (i.e. Washington Hazardous Substance Fee)

Semi-Monthly Billing Statements / Include Original Invoices: Contractor shall semi-monthly (twice per month) list all invoices and deliveries made (the 1st through the 15th, and the 16th through 31st) to each vessel on a statement, and shall submit this billing statement to WSF by the next business day following the billing period (for example, for the period 1st through the 15th, the statement will be submitted on the 16th, for the period 16th through 31st, the statement will be submitted on the 1st of the following month). WSF will process payment by Electronic Funds Transfer (EFT) within fifteen calendar days from receipt (for example, if contractor submits the statement on the 16th, WSF will process payment by EFT by the 2nd day of the following month and for statements delivered on the 1st, WSF will process payment by EFT by the 16th of that month). Due date for processing payment by EFT will be extended by an equal number of days due to any state holidays incurred during the business cycle. This process shall occur twice per month.

4.9 Scheduling and Fuel Requirements

Estimated weekly schedules showing vessel docking dates, times, vessel class, and approximate delivery quantity are listed below:

Seattle/Bainbridge Run:

Vessel #1: Jumbo Mark II Class	Every other Sunday at 0640	70,000 to 80,000 gallons
Vessel #2: Jumbo Mark II Class	Alternate Sundays from Vessel #1 at 0640	70,000 to 80,000 gallons

When one of these vessels is in lay-up, it is normally replaced by a Jumbo Mark I Class vessel and the same fueling schedule is used and approximately the same gallons are loaded.

Edmonds/Kingston Run:

Vessel #1: Jumbo Mark II Class	Every other Saturday at 0230	65,000 to 70,000 gallons
Vessel #2: Jumbo Mark I Class	Alternate Saturdays from Vessel #1 at 0230	50,000 to 55,000 gallons

When one of these vessels is in lay-up, it is normally replaced by a Jumbo Mark I Class vessel.

Extras:

Other vessels on other routes are normally fueled by a tank truck fuel contract but may occasionally need to fuel at the Contractor's marine fuel terminal.

4.10 Marine Fuel Terminal Operations

The minimum criteria for Contractor's marine fuel terminal operations are as follows:

- A. Fender Pilings: Contractor's terminal must have adequate fender piles or other dock protection to prevent damage to WSF vessel hulls in all tidal and weather conditions. Fender piles must reach a minimum of twenty-four (24) inches above the vessel's car deck. The maximum freeboard of the vessel is:

Issaquah Class	9'9"
----------------	------

Jumbo Class Mark I	9'5"
Jumbo Class Mark II	9'10"
Kwa-di Tabil Class	9'1"
Super Class	8'4"
Evergreen State Class	9'3"
Olympic Class	9'3"-9'6" (estimated)

- B. Governmental Approvals and Certification Requirements: Contractor's terminal must have the required approvals and certifications from the following governmental agencies.
1. U.S. Environmental Protection Agency
 2. U.S. Coast Guard OPA 90 compliance
 3. Washington State Department of Ecology facility Oil Spill Contingency plan approval ([WAC 173-180C](#))
 4. Washington State Department of Ecology Facility Personnel Oil Handling Training and Certification ([WAC 173-180C](#))
 5. Seattle Fire Department Master Transfer Permit
- C. Hose Sizes and Fuel Pumping Rates: There are variable costs and scheduling problems associated with fuel pumping rates. Therefore, the minimum pumping rate of 900 gallons per minute through a four (4) inch fuel line with female camlock coupling is required to accommodate large ferries with a variable rate of flow to accommodate the request of each vessel's PIC is required.
- D. Fueling Times and Staffing Requirements: Contractor's terminal operations must be on a twenty-four (24) hour basis and operations staff should be HAZWOPPER trained. Based on 2012 fueling records, approximately 5% of vessel fuelings occurred during normal business hours (0600 to 1800 hours) and about 95% of the fuelings occurred at other hours of the day. All vessels will require two terminal employees to ensure operation safety during fuel operations. Future fueling times and staffing levels should be consistent with these schedules.

4.11 Spill Clean-Up

The Contractor shall be responsible for fuel spillage attributable to their negligence which may occur during fueling operations. They shall immediately report and clean up any spillage. Upon failure to do so, the purchaser shall take corrective action and back charge the Contractor for all related clean-up costs.

4.12 Exclusive Contract and Vessel Addition and Deletion

This Contract is an exclusive contract whereby the state may substitute or request reclaimed, recycled, synthetic, or alternative fuels available through this Contract. Estimated schedules notwithstanding, WSF does not promise or designate any number of vessels that will be fueled using the Contractor's services. WSF may add or delete vessels that utilize this contract. The fuel requirements of vessels will be supplied under this contract only when the vessels are brought to the Contractor's marine fuel terminal. All vessel assignments and points of fueling will be the sole discretion of WSF.

4.13 Tax Exempt Forms

Contractor should provide necessary tax exemption forms (state or federal) to WSF for completion and return when such forms are required for tax exempt diesel fuel purchases.

4.14 Fuel Allocations

If fuel supplies should be rationed (whether the result of government or company action) the Contract Administrator shall authorize and direct WSF participation in Contractor's allocation program. Contractor is to contact the Contract Administrator in the event of fuel shortages and the implementation of rationing program.

4.15 Federal Restrictions On Lobbying

Contractor certifies by signing this Contract, that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

4.16 Federal Debarment and Suspension

Contractor certifies, by signing this Contract, that neither it nor its "principals" (as defined in 49 CFR. 29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

5 CONTRACT ADMINISTRATION

5.1 Administration of Contract

DES will maintain Contract information and pricing and make it available on the DES web site. The Contract prices are the maximum price Contractor can charge. The Contractor may also offer volume discounts and voluntary price reductions to contract Customers.

A Contractor may propose a revision to its offerings to reflect changed Products appropriate to the scope of the Contract, and may propose such new Products with associated prices to the DES Contract Administrator for approval. Contract Administrator has the sole discretion in approval of addition of revised offerings and pricing. New or changed Products proposed by Contractor must meet the requirements established in this solicitation document or subsequent revisions. If approved by DES, the new Products will be added to the Contract by written amendment. For the life of the Contract, the "Fuel Adder" will remain firm and fixed and the "Infrastructure Reimbursement Adder" will remain firm and fixed until the agreed upon reimbursement has been completed.

5.2 Contractor Supervision And Coordination

Contractor shall:

- A. Competently and efficiently, supervise and coordinate the implementation and completion of all Contract requirements specified herein;
- B. Identify the Contractor's Representative, who will be the principal point of contact for the MCC/DES Contract Administrator concerning Contractor's performance under this Contract.
- C. Immediately notify the Contract Administrator in writing of any change of the designated Contractor's Representative assigned to this Contract; and
- D. Be bound by all written communications given to or received from the Contractor's Representative.

information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

"Personal information" including, but not limited to, "Protected Health Information" (PHI) under Health Insurance Portability And Accountability Act (HIPAA), individuals' names, addresses, phone numbers, birth dates, and social security numbers collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss.

HIPAA establishes national minimum standards for the use and disclosure of certain health information. The Contractor must comply with all HIPAA requirements and rules when determined applicable by the Purchaser. If Purchaser determines that (1) Purchaser is a "covered entity" under HIPAA, and that (2) Contractor will perform "business associate" services and activities covered under HIPAA, then at Purchaser's request, Contractor agrees to execute Purchaser's business associate Contract in compliance with HIPAA.

Contractor shall ensure its directors, officers, employees, Subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Agency or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the State of Washington and the Purchaser for any damages related to both: (1) the Contractor's unauthorized use of personal information and (2) the unauthorized use of personal information by unauthorized persons as a result of Contractor's failure to sufficiently protect against unauthorized use, disclosure, modification, or loss.

Contractor shall maintain a log documenting the following: the Confidential Information received in the performance of this Contract; the purpose(s) for which the Confidential Information was received; who received, maintained and used the Confidential Information; and the final disposition of the Confidential Information. Contractor's records shall be subject to inspection, review or audit in accordance with Retention of Records.

Purchaser reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties. Immediately upon expiration or termination of this Contract, Contractor shall, at Purchaser's option: (i) certify to Purchaser that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Contractor to protect Purchaser's Confidential Information.

7 APPENDICES

bids, estimates, or proposals submitted to the Contractor by all businesses seeking to participate as subcontractors or suppliers in this contract. The State shall have the right to inspect and copy such records. If this contract involves federal funds, Contractor shall comply with all record keeping requirements set forth in any federal rules, regulations, or statutes included or referenced in the contract documents

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

6.3 NON-ENDORSEMENT AND PUBLICITY

Neither MCC/DES nor WSF are endorsing the Contractor's Products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to MCC/DES, WSF or the state of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of MCC/DES.

6.4 Contractor's Proprietary or confidential information and waiver

The state of Washington has a very robust public records act that is codified in statute [RCW 42.56](#). Further, DES believes that Washington's citizens are served best when public contract records are immediately available for public inspection and public dissemination. And, DES does not see any meaningful need for disclosure protections and safeguards for a contract of this type. Therefore, **no contractor document** involved with state of Washington, Department of Enterprise Services (DES) contract #00414 – Biodiesel Fuel From Pier 15 (contract) will be deemed confidential, proprietary, or other similar term.

As a condition of this contract, the contractor understands and agrees that *the contract documents that make up the contract or other contractor documents in the state's possession*, whether known, unknown, or developed in the future are neither confidential or proprietary and may be immediately publically inspected or publically disseminated with no notice to the contractor.

The state of Washington/DES recognizes that many businesses routinely mark documents as confidential, proprietary or similar term. Should DES have in its possession or receive a document marked in this manner, contractor understands and agrees that it is an error by the contractor that may be ignored by state of Washington/DES and does not require any notification to the contractor, and the contractor grants to state of Washington/DES a waiver to any disclosure protections and notifications and shall hold the state of Washington/DES harmless.

6.5 Contractor's Protection of Confidential and Personal Information

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either [Chapter 42.56 RCW](#) or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or information identifiable to an individual that relates to any of these types of information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30th, July 31st, October 31st and January 31st.

B. State Contract Administrator Required Report

This report will be designed by the State Contract Administrator. At a minimum, the contractor must have the information available to report (in an electronic spreadsheet format) on a quarterly (calendar quarter) basis the following:

1. Gallons delivered (per fuel type) per quarter (within 15 days following any calendar quarter).
2. Data shall be customized for WSF
3. Delivery Location
4. Date of delivery
5. Gallons delivered
6. Fuel type: i.e., gas, diesel, biodiesel, heating oil, whether it was clear or dyed.

5.7 Other Required Report(s)

All reports required under this contract must be delivered to the Contract Administrator. Contractor may be required to provide a detailed annual contract sales history report that may include but is not limited to products description, part number, per unit quantities sold, contract price in an electronic format that can be read by MS Excel. Other required reports will be designed and approved by the parties by mutual agreement.

5.8 Washington's Electronic Business Solution (WEBS)

Contractor shall be registered in the Contractor registration system, Washington's Electronic Business Solution (WEBS) www.ga.wa.gov/webs, maintained by DES. Contractors already registered need not re-register.

It is the sole responsibility of Contractor to properly register with WEBS and maintain an accurate Contractor profile in WEBS.

6 INFORMATION AND COMMUNICATIONS

6.1 Advertising

Contractor shall not publish or use any information concerning this contract in any format or media for advertising or publicity without prior written consent from the Contract Administrator.

6.2 Retention of Records

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by, personnel duly authorized by the MCC/DES, WSF the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

This shall include, but not be limited to, all records pertaining to actual contract performance from the date of contract award. It shall also include information necessary to document the level of utilization of MWBE's and other businesses as subcontractors and suppliers in this contract as well as any efforts the contractor makes to increase the participation of MWBE's. The contractor shall also maintain, for at least six (6) years after completion of this contract, a record of all quotes,

- E. Violation of any provision of this paragraph may be considered a material breach establishing grounds for Contract termination.

5.3 Contract Management

Upon award of this contract, the contractor shall:

- A. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
- B. Promote and market the use of this contract to all authorized contract Purchasers.
- C. Ensure that those who endeavor to utilize this contract are authorized Purchasers under this Contract.
- D. The contractor shall designate a customer service representative who will be responsible for addressing Purchaser issues including, but not limited to:
 - 1. Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.
 - 2. Providing Purchasers with regular and timely status updates in the event of an order or repair fulfillment delay.
 - 3. Acting as the lead and liaison between the manufacturer and Purchaser in resolving warranty claims for contract items purchased.

5.4 Changes

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract Amendment by the Contract Administrator. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract Amendment.

5.5 Statewide Vendor Payment Registration

Contractors are required to be registered in the Statewide Vendor Payment system, prior to submitting a request for payment under this Contract. Purchasers who are Washington state agencies require registration to be completed prior to payment.

The Washington State Office of Financial Management (OFM) maintains a central contractor registration file for Washington State agencies to process contractor payments.

To obtain registration materials go to <http://www.ofm.wa.gov/accounting/vendors.asp> the form has two parts; Part 1 is the information required to meet the above registration condition. Part 2 allows the state to pay invoices electronically with direct deposit and is the state's most efficient method of payment and you are encouraged to sign up for this form of payment.

5.6 Sales Report

- A. Sales and Subcontractor Required Report

DES is self-funded and normally generates revenue from the contract based on accurate Contractor sales (aka usage) reporting. Following contract award, the Contractor shall designate a primary and alternate Usage Reporting point of contact that will ensure this provision is properly satisfied. The point of contact shall be reasonably available with no lengthy delays. DES cannot tolerate delinquent or inaccurate reporting by the Contractor. Failure of this provision is grounds for immediate contract suspension or immediate contract termination without opportunity to cure, in addition to other remedies that may be allowed by the contract or law.

The Contractor shall provide a Sales and Subcontractor Report to the Office of State Procurement on a quarterly basis in the electronic format provided by the Office of State Procurement at:

<https://fortress.wa.gov/ga/apps/CSR/Login.aspx>.

8 CERTIFICATIONS AND ASSURANCES

We make the following Certifications and Assurances as a required element of this contract, affirming the truthfulness of the facts declared here and acknowledging that the continuing compliance with these statements and all requirements herein are conditions precedent to the award or continuation of the resulting contract.

1. We have read, understand, and agree to abide by all information contained in the contract, all appendices, and incorporated documents.
2. The prices in this bid have been arrived at independently, without engaging in collusion, bid rigging, or any other illegal activity, and without for the purpose of restricting competition any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered. The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before contract award unless otherwise required by law. No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit an offer for the purpose of restricting competition. However, we may freely join with other persons or organizations for the purpose of presenting a bid.
3. In preparing this contract, we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to the state's IFB, or prospective contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this bid. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)
4. We understand that the state will not reimburse us for any costs incurred in the preparation of this contract. All contract documents become the property of the state, and we claim no proprietary right to the ideas, writings, items or samples unless so stated in the contract.
5. We have no exceptions with this contract.
6. Signatures notwithstanding; RCW 39.26.140(2) require that DES must approve sole source contracts before any such contract becomes binding and before any services may be performed or goods provided under the terms of the contract.

Appendix A: Master Contract Terms and Conditions.....	 Master Contract Terms and Conditions
Appendix B Fuel Specifications	 Fuel Specs WSF

9 CONTRACT SIGNATURE PAGE

In signing this contract, the signatory below acknowledges having read and understood the entire contract and agree to comply with its terms and conditions, as written, including the Certifications and Assurances. The authorized signatory also agrees to fulfill the awarded contract.

In witness whereof, the parties hereto, having read this contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

This contract is effective as of Month September 5th, 2014, or date of last signature, whichever is later.

APPROVED (MCC)	
Department of Enterprise Services Master Contracts and Consulting 1500 Jefferson Building 1500 Jefferson Street SE Olympia, WA 98501 <small>Washington State Department of Enterprise Services</small>	
<small>Signature</small>	<small>Date</small>
Michael Maverick, Unit Manager <small>Typed or Printed Name, Title</small>	
	8/29/14
<small>Manager Signature (if applicable)</small>	<small>Date</small>
Christine Warnock, Purchasing Manager <small>Manager's Typed or Printed Name, Title</small>	
Contact Information	
Contact:	Keith Farley
Title:	Procurement Coordinator
Phone:	(360) 407-9419
Fax:	360-586-2426
Email:	keith.farley@des.wa.gov

APPROVED (BIDDER)	
<u>Rainier Petroleum Corporation</u> <u>A Maxum Petroleum Company</u> <u>1711 13th Ave SW</u> <u>Seattle, WA 98134</u>	
<small>Bidder's Company Name & Address</small>	
	8-20-14
<small>Signature</small>	<small>Date</small>
Dan Kovacich, Vice President <small>Typed or Printed Name, Title</small>	
Contact Information	
Contact:	-Dan Kovacich
Title:	-Vice President
Phone:	(206) 613-1449
Fax:	(206) 623-5185
Email:	dkovacich@maxumpetroleum.com

