

State of Nebraska - INVITATION TO BID CONTRACT

Date	11/29/22	Page	1 of 1
Solicitation Number	6744 OF		
Opening Date and Time	12/19/22	2:00 pm	
Buyer	CHRISTIE KELLY (AS)		

DESTINATION OF GOODS
GAME & PARKS COMMISSION
WILDLIFE DIV
2200 N 33RD ST
LINCOLN NE 68503-0370

Per Nebraska's Transparency in Government Procurement Act, DAS is required to collect statistical information regarding the number of contracts awarded to Nebraska contractors. This information is for statistical purposes only and will not be considered for contract award purposes.

XOC NEBRASKA CONTRACTOR AFFIDAVIT: Bidder hereby attests that bidder is a Nebraska Contractor. "Nebraska Contractor" shall mean any bidder who has maintained a bona fide place of business and at least one employee within this state for at least the six (6) months immediately preceding the posting date of this ITB.

_____ I hereby certify that I am a Resident disabled veteran or business located in a designated enterprise zone in accordance with Neb. Rev. Stat. §73-107 and wish to have preference, if applicable, considered in the award of this contract.

Contract to supply and deliver Adult Pen Reared Rooster Pheasants to the State of Nebraska as per the attached specifications for a one (1) year period from date of award. The contract may be renewed for four (4) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska.

(11/28/22 sc)

INVITATION

Line	Description	Quantity	Unit of Measure	Unit Price	Extended Price
1	ADULT ROOSTER PHEASANTS FOR TWO RELEASES AT 19 SITES IN LATE OCTOBER	9,110.0000	EA	<u>22.48</u>	<u>Lump sum</u>
2	ADULT ROOSTER PHEASANTS FOR TWO RELEASES AT 19 SITES IN LATE NOVEMBER	7,390.0000	EA	<u>22.48</u>	<u>Lump sum</u>

*All or none
Terms: NET 15 days*

BIDDER MUST COMPLETE THE FOLLOWING

DISCOUNT PAYMENT TERMS: _____ % _____ DAYS

By signing this Invitation to Bid form, the bidder guarantees compliance with the provisions stated in this Invitation to Bid, agrees to the terms and conditions unless otherwise agreed to and certifies that bidder maintains a drug free work place environment. Vendor will furnish the items requested within 1 days after receipt of order. Failure to enter Delivery Date may cause quotation to be REJECTED.

Sign Dustin C
 Here (Authorized Signature Mandatory - Form must be signed manually in ink or by DocuSign)

Enter Contact Information Below

VENDOR# _____
 VENDOR: Double Barrel Game Farm & Hatchery
 Address: 1609 R1 M550
McCool Jct NE 68401

Contact Dustin Chrisman
 Telephone 402-366-0034
 Email chrismandustin@doublebarrel.com

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II. TERMS AND CONDITIONS

Bidders should complete Section II through VI as part of their bid. Bidder is expected to read the Terms and Conditions and must initial either accept, reject, or reject and provide alternative language for each clause. The Bidder should also provide an explanation of why the Bidder rejected the clause or rejected the clause and provided alternate language using "Track Changes". Upon request an electronic copy of the bid with "Track Changes" must be submitted in an editable Word format. By signing the solicitation, Bidder is agreeing to be legally bound by all the accepted terms and conditions, and any proposed alternative terms and conditions submitted with the bid. The State reserves the right to negotiate rejected or proposed alternative language. If the State and Bidder fail to agree on the final Terms and Conditions, the State reserves the right to reject the bid. The State is soliciting bids in response to the solicitation. The State reserves the right to reject bids that attempt to substitute the Bidder's commercial contracts and/or documents for this solicitation.

The Bidder should submit with their bid any license, user agreement, service level agreement, or similar documents that the Bidder wants incorporated in the Contract. Upon notice of Intent to Award, the Bidder must submit a copy of these documents in an editable Word format. The State will not consider incorporation of any document not submitted with the Bidder's bid. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the addendums have been negotiated and agreed to, the addendums shall be interpreted as follows:

1. If only one (1) Party's document has a particular clause, then that clause shall control;
2. If both Party's documents have a similar clause, but the clauses do not conflict, the clauses shall be read together;
3. If both Party's documents have a similar clause, but the clauses conflict, the State's clause shall control.

A. GENERAL

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The contract resulting from this solicitation shall incorporate the following documents:

1. Invitation to Bid and Addenda;
2. Amendments to the solicitation;
3. Questions and Answers;
4. Bidder's bid response;
5. The executed Contract and any Addenda, if applicable, and properly submitted documents; and,
6. Amendments to the Contract

These documents constitute the entirety of the contract.

Unless otherwise specifically stated in a future contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to the executed Contract with the most recent dated amendment having the highest priority, 2) executed Contract and any attached Addenda, 3) Amendments to solicitation and any Questions and Answers, 4) the original solicitation document and any Addenda, and 5) the Bidder's submitted Bid.

Any ambiguity or conflict in the contract discovered after its execution, not otherwise addressed herein, shall be resolved in accordance with the rules of contract interpretation as established in the State.

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B. NOTIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

Communication regarding the executed contract shall be given in writing and deemed to have been delivered via email to the specified Contract Contact information provided on the submitted ITB form with the submitted bid(s). The Vendor should send written notice to the SPB. The State will send notices to the authorized contact provided on the ITB form.

Either party may change its address for notification purposes by giving notice of the change and setting forth the new address and an effective date.

C. PCO REPRESENTATIVE

The State reserves the right to appoint a PCO's Representative to manage [or assist the PCO in managing] the contract on behalf of the State. The PCO's Representative will be appointed in writing, and the appointment document will specify the extent of the PCO's Representative authority and responsibilities. If a PCO's Representative is appointed, the Bidder will be provided a copy of the appointment document and is expected to cooperate accordingly with the PCO's Representative. The PCO's Representative has no authority to bind the State to a contract, amendment, addendum, or other change or addition to the contract.

D. GOVERNING LAW (Statutory)

Notwithstanding any other provision of this contract, or any amendment or addendum(s) entered into contemporaneously or at a later time, the parties understand and agree that, (1) the State of Nebraska is a sovereign state and its authority to contract is therefore subject to limitation by the State's Constitution, statutes, common law, and regulation; (2) this contract will be interpreted and enforced under the laws of the State of Nebraska; (3) any action to enforce the provisions of this contract must be brought in the State of Nebraska per state law; (4) the person signing this contract on behalf of the State of Nebraska does not have the authority to waive the State's sovereign immunity, statutes, common law, or regulations; (5) the indemnity, limitation of liability, remedy, and other similar provisions of the final contract, if any, are entered into subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity; and, (6) all terms and conditions of the final contract, including but not limited to the clauses concerning third-party use, licenses, warranties, limitations of liability, governing law and venue, usage verification, indemnity, liability, remedy or other similar provisions of the final contract are entered into specifically subject to the State's Constitution, statutes, common law, regulations, and sovereign immunity.

The Parties must comply with all applicable local, state, and federal laws, ordinances, rules, orders, and regulations.

E. AMENDMENT

This Contract may be amended in writing, within scope, upon the agreement of both parties.

F. SUBSTITUTIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

In the event any product is discontinued or replaced upon mutual consent during the contract period or prior to delivery, the State reserves the right to amend the contract or purchase order to include the alternate product at the same price.

*****Bidder will not substitute any item that has been awarded without prior written approval of SPB*****

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G. VENDOR PERFORMANCE REPORT(S)

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DL			

The State may document any instance(s) of products or services delivered or performed which exceed or fail to meet the terms of the purchase order, contract, and/or solicitation specifications. The State Purchasing Bureau may contact the Vendor regarding any such report. Vendor performance report(s) will become a part of the permanent record of the Vendor.

H. NOTICE OF POTENTIAL BIDDER BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DL			

If Bidder breaches the contract or anticipates breaching the contract, the Bidder shall immediately give written notice to the State. The notice shall explain the breach or potential breach, a proposed cure, and may include a request for a waiver of the breach if so desired. The State may, in its discretion, temporarily or permanently waive the breach. By granting a waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

I. BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DL			

Either Party may terminate the contract, in whole or in part, if the other Party breaches its duty to perform its obligations under the contract in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of contract does not waive the right to immediately terminate the contract for the same or different contract breach which may occur at a different time.

In case of breach by the Bidder, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or contract to purchased goods in substitution of those due from the bidder. The State may recover from the Bidder as damages the difference between the costs of covering the breach. Notwithstanding any clause to the contrary, the State may also recover the contract price together with any incidental or consequential damages defined in UCC Section 2-715, but less expenses saved in consequence of Bidder's breach. OR In case of default of the Bidder, the State may contract the service from other sources and hold the Bidder responsible for any excess cost occasioned thereby.

The State's failure to make payment shall not be a breach, and the Bidder shall retain all available statutory remedies.

J. NON-WAIVER OF BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DL			

The acceptance of late performance with or without objection or reservation by a Party shall not waive any rights of the Party nor constitute a waiver of the requirement of timely performance of any obligations remaining to be performed.

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K. SEVERABILITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

If any term or condition of the contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the provision held to be invalid or illegal.

L. INDEMNIFICATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

1. GENERAL

The Bidder agrees to defend, indemnify, and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses ("the claims"), sustained or asserted against the State for personal injury, death, or property loss or damage, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the Bidder, its employees, Subcontractors, consultants, representatives, and agents, resulting from this contract, except to the extent such Bidder liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2. PERSONNEL

The Bidder shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker's compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel, including subcontractor's and their employees, provided by the Bidder.

3. SELF-INSURANCE (Statutory)

The State is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this contract, Bidder may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 through 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this contract to the extent provided by law.

M. ATTORNEY'S FEES

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

In the event of any litigation, appeal, or other legal action to enforce any provision of the contract, the Parties agree to pay all expenses of such action, as permitted by law and if ordered by the court, including attorney's fees and costs, if the other party prevails.

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N. ASSIGNMENT, SALE, OR MERGER

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

Either party may assign the contract upon mutual written agreement of the other party. Such agreement shall not be unreasonably withheld.

The Bidder retains the right to enter into a sale, merger, acquisition, internal reorganization, or similar transaction involving Bidder's business. Bidder agrees to cooperate with the State in executing amendments to the contract to allow for the transaction. If a third party or entity is involved in the transaction, the Bidder will remain responsible for performance of the contract until such time as the person or entity involved in the transaction agrees in writing to be contractually bound by this contract and perform all obligations of the contract.

O. CONTRACTING WITH OTHER POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The Bidder may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. § 81-145, to use this contract. The terms and conditions, including price, of the contract may not be amended. The State shall not be contractually obligated or liable for any contract entered into pursuant to this clause.

The Bidder may, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this contract. The terms and conditions, including price, of this contract shall apply to any such contract, but may be amended upon mutual consent of the Parties. The State of Nebraska shall not be contractually or otherwise obligated or liable under any contract entered into pursuant to this clause. The State shall be notified if a contract is executed based upon this contract.

P. FORCE MAJEURE

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

Neither party shall be liable for any costs or damages, or for default resulting from its inability to perform any of its obligations under the contract due to a natural or man-made event outside the control and not the fault of the affected party ("Force Majeure Event"). The Party so affected shall immediately make a written request for relief to the other party and shall have the burden of proof to justify the request. The other Party may grant the relief requested; relief may not be unreasonably withheld. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event.

Q. CONFIDENTIALITY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

All materials and information provided by the Parties or acquired by a Party on behalf of the other Party shall be regarded as confidential information. All materials and information provided or acquired shall be handled in accordance with federal and

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state law, and ethical standards. Should said confidentiality be breached by a Party, the Party shall notify the other Party immediately of said breach and take immediate corrective action.

It is incumbent upon the Parties to inform their officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable by 5 U.S.C. 552a (m)(1), provides that any officer or employee, who by virtue of his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.00.

R. EARLY TERMINATION

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The contract may be terminated as follows:

1. The State and the Bidder, by mutual written agreement, may terminate the contract at any time.
2. The State, at its sole discretion, may terminate the contract for any reason upon thirty (30) calendar day's written notice to the Bidder. Such termination shall not relieve the Bidder of warranty or other service obligations incurred under the terms of the contract. In the event of termination, the Bidder shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
3. The State may terminate the contract immediately for the following reasons:
 - a. if directed to do so by statute;
 - b. Bidder has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
 - c. a trustee or receiver of the Bidder or of any substantial part of the Bidder's assets has been appointed by a court;
 - d. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its Bidder, its employees, officers, directors, or shareholders;
 - e. an involuntary proceeding has been commenced by any party against the Bidder under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) calendar days; or (ii) the Bidder has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the Bidder has been decreed or adjudged a debtor;
 - f. a voluntary petition has been filed by the Bidder under any of the chapters of Title 11 of the United States Code;
 - g. Bidder intentionally discloses confidential information;
 - h. Bidder has or announces it will discontinue support of the deliverable; and,
 - i. In the event funding is no longer available.

S. CONTRACT CLOSEOUT

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

Upon termination of the contract for any reason the Bidder shall within thirty (30) days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State;
2. Transfer ownership and title to all completed or partially completed deliverables to the State;
3. Return to the State all information and data unless the Bidder is permitted to keep the information or data by contract or rule of law. Bidder may retain one copy of any information or data as required to comply with applicable work

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III. BIDDER DUTIES

A. INDEPENDENT BIDDER / OBLIGATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

It is agreed that the Bidder is an independent bidder and that nothing contained herein is intended or should be construed as creating or establishing a relationship of employment, agency, or a partnership.

The Bidder is solely responsible for fulfilling the contract. The Bidder or the Bidder's representative shall be the sole point of contact regarding all contractual matters.

The Bidder shall secure, at its own expense, all personnel required to perform the services under the contract. The personnel the Bidder uses to fulfill the contract shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights, or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Bidder's bid shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

The Bidder warrants that all persons assigned to the project shall be employees of the Bidder or a Subcontractor and shall be fully qualified to perform the work required herein. Personnel employed by the Bidder or a subcontractor to fulfill the terms of the contract shall remain under the sole direction and control of the Bidder or the subcontractor respectively.

With respect to its employees, the Bidder agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Bidder's employees, including all insurance required by state law;
3. Damages incurred by Bidder's employees within the scope of their duties under the contract;
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Bidder's employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Bidder, its officers, agents, or subcontractors or subcontractor's employees).

If the Bidder intends to utilize any subcontractor, the Subcontractor's level of effort, tasks, and time allocation must be clearly defined in the Bidder's bid. The Bidder shall agree that it will not utilize any Subcontractors not specifically included in its bid in the performance of the contract without the prior written authorization of the State.

The State reserves the right to require the Bidder to reassign or remove from the project any Bidder or Subcontractor employee.

Bidder shall insure that the terms and conditions contained in any contract with a sub-contractor does not conflict with the terms and conditions of this contract.

The Bidder shall include a similar provision, for the protection of the State, in the contract with any Subcontractor engaged to perform work on this contract.

B. EMPLOYEE WORK ELIGIBILITY STATUS

The Bidder is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing work within the State. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Bidder is an individual or sole proprietorship, the following applies:

1. The Bidder must complete the United States Citizenship Attestation Form, available on the DAS website at <http://das.nebraska.gov/materiel/purchasing.html>

The completed United States Attestation Form should be submitted with the solicitation response.

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2. If the Bidder indicates on such attestation form that he or she is a qualified alien, the Bidder agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Bidder's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Bidder understands and agrees that lawful presence in the United States is required, and the Bidder may be disqualified, or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

C. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)

The Bidder shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Bidders of the State, and their Subbidders, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §§ 48-1101 through 48-1125). The Bidder guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The Bidder shall insert a similar provision in all Subcontracts for goods or services to be covered by any contract resulting from this solicitation.

D. COOPERATION WITH OTHER BIDDERS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

Bidder may be required to work with or in close proximity to other bidders or individuals that may be working on the same or different projects. The Bidder shall agree to cooperate with such other bidders or individuals and shall not commit or permit any act which may interfere with the performance of work by any other bidder or individual. Bidder is not required to compromise Bidder's intellectual property or proprietary information unless expressly required to do so by this contract.

E. COST CLARIFICATION

The State reserves the right to review all aspects of cost for reasonableness and to request clarification of any bid where the cost component shows significant and unsupported deviation from industry standards or in areas where detailed pricing is required.

F. PERMITS, REGULATIONS, LAWS

Accept (Initial)	Reject (Initial)	Reject & provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The contract price shall include the cost of all royalties, licenses, permits, and approvals, whether arising from patents, trademarks, copyrights or otherwise, that are in any way involved in the contract. The Bidder shall obtain and pay for all royalties, licenses, and permits, and approvals necessary for the performance of the contract. The Bidder must guarantee that it has the full legal right to the materials, supplies, equipment, software, and other items used to execute this contract.

G. NOTICE OF POTENTIAL BIDDER BREACH

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

If Bidder breaches the contract or anticipates breaching the contract the Bidder shall immediately give written notice to the State. The notice shall explain the breach or potential breach and may include a request for a waiver of the breach if so desired. The State may, at its discretion, temporarily or permanently waive the breach. By granting a temporary waiver, the State does not

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forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

H. ANTITRUST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The Bidder hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

I. CONFLICT OF INTEREST

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

By submitting a bid, bidder certifies that no relationship exists between the bidder and any person or entity which either is, or gives the appearance of, a conflict of interest related to this ITB or project.

Bidder further certifies that bidder will not employ any individual known by bidder to have a conflict of interest nor shall bidder take any action or acquire any interest, either directly or indirectly, which will conflict in any manner or degree with the performance of its contractual obligations hereunder or which creates an actual or appearance of conflict of interest.

If there is an actual or perceived conflict of interest, bidder shall provide with its bid a full disclosure of the facts describing such actual or perceived conflict of interest and a proposed mitigation plan for consideration. The State will then consider such disclosure and proposed mitigation plan and either approve or reject as part of the overall bid evaluation.

J. STATE PROPERTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The Bidder shall be responsible for the proper care and custody of any State-owned property which is furnished for the Bidder's use during the performance of the contract. The Bidder shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

K. SITE RULES AND REGULATIONS

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The Bidder shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Bidder must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Bidder.

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L. ADVERTISING

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The Bidder agrees not to refer to the contract award in advertising in such a manner as to state or imply that the company or its goods and services are endorsed or preferred by the State. Any publicity releases pertaining to the project shall not be issued without prior written approval from the State.

M. DISASTER RECOVERY/BACK UP PLAN

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

The Bidder shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of goods and services as specified under the specifications in the contract in the event of a disaster.

N. DRUG POLICY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

Bidder certifies it maintains a drug free workplace environment to ensure worker safety and workplace integrity. Bidder agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

O. WARRANTY

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

Despite any clause to the contrary, the Bidder represents and warrants that its services hereunder shall be performed by competent personnel and shall be of professional quality consistent with generally accepted industry standards for the performance of such services and shall comply in all respects with the requirements of this Contract. For any breach of this warranty, the Bidder shall, for a period of ninety (90) days from performance of the service, perform the services again, at no cost to Customer, or if Bidder is unable to perform the services as warranted, Bidder shall reimburse Customer the fees paid to Bidder for the unsatisfactory services. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees, and costs.

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IV. PAYMENT

A. PROHIBITION AGAINST ADVANCE PAYMENT (Statutory)

Neb. Rev. Stat. § 81-2403 states, "[n]o goods or services shall be deemed to be received by an agency until all such goods or services are completely delivered and finally accepted by the agency."

B. TAXES (Statutory)

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Bidder may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Bidder's equipment which may be installed in a state-owned facility is the responsibility of the Bidder.

C. INVOICES

Invoices for payments must be submitted by the Bidder to the agency requesting the services with sufficient detail to support payment. Invoices are to be sent to:

Nebraska Game and Parks Commission
Wildlife Division
2200 N 33rd Street
Lincoln, NE 68503

The terms and conditions included in the Bidder's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

D. PAYMENT (Statutory)

Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. § 81-2403). The State may require the Bidder to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any goods and services provided by the Bidder prior to the Effective Date of the contract, and the Bidder hereby waives any claim or cause of action for any such services.

E. LATE PAYMENT (Statutory)

The Bidder may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §§ 81-2401 through 81-2408).

F. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal year following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Bidder written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Bidder shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Bidder be paid for a loss of anticipated profit.

G. RIGHT TO AUDIT (First Paragraph is Statutory)

The State shall have the right to audit the Bidder's performance of this contract upon a thirty (30) day written notice. Bidder shall utilize generally accepted accounting principles, and shall maintain the accounting records, and other records and information relevant to the contract (Information) to enable the State to audit the contract. (Neb. Rev. Stat. § 84-304 et seq.) The State may audit, and the Bidder shall maintain the information during the term of the contract and for a period of five (5) years after the completion of this contract or until all issues or litigation are resolved, whichever is later. The Bidder shall make the Information available to the State at Bidder's place of business or a location acceptable to both Parties during normal business hours. If this is not practical or the Bidder so elects, the Bidder may provide electronic or paper copies of the Information. The State reserves the right to examine, make copies of, and take notes on any Information relevant to this contract, regardless of the form or the Information, how it is stored, or who possesses the Information. In no circumstances will bidder be required to create or maintain documents not kept in the ordinary course of bidder's business operations, nor will bidder be required to disclose any information, including but not limited to product cost data, which is confidential or proprietary to bidder.

Accept (Initial)	Reject (Initial)	Reject & Provide Alternative Response (Initial)	NOTES/COMMENTS:
DC			

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VI. TECHNICAL SPECIFICATIONS

A. BIDDER INSTRUCTIONS

Bidder must respond to each of the following statements. Specifications listed are minimum conditions that must be met in order for a Bidder to qualify for the award.

"YES" response means the Bidder guarantees they can meet this condition.

"NO" response means the Bidder cannot meet this condition and will not be considered.

"NO & PROVIDE ALTERNATIVE" responses should be used only with a narrative response in the NOTES/COMMENTS section explaining in detail any deviation from the Bidder's ability to meet the condition, and an explanation of how this would be determined to be an acceptable alternative to meeting the condition. Alternatives must be detailed in such a way that allows such deviations to be fully evaluated. The State shall determine at its sole discretion whether or not the Bidder's alternative is an acceptable alternative.

B. NON-COMPLIANCE STATEMENT

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. Read these specifications carefully.
DC			2. Any and all exceptions to these specifications must be written on or attached to the bid.
DC			3. Any noncompliance may void your bid.
DC			4. Non-compliance to any single specification can void your bid.
DC			5. It is the responsibility of Bidders to obtain information and clarifications as provided below.
DC			6. The State is not responsible for any erroneous or incomplete understandings or wrongful interpretations of this solicitation by any Bidder.
DC			7. No interpretation related to the meaning of Bid Specifications or other Pre-Bid documents will be made orally to any Bidder by the State.
DC			8. Any request for Bid interpretation must be put in writing and submitted to the SPB per the Schedule of Events.
NOTES/COMMENTS:			

C. ADULT PEN-REARED ROOSTER PHEASANTS

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. Roosters must be marked either with a leg band provided by NGPC or by deformation of the nares resulting from being raised with an anti-pecking device inserted in the nares.
DC			2. Roosters must be at least eighteen (18) weeks old as determined by NGPC staff upon receipt of Roosters.
DC			3. Roosters must be fully feathered with adult plumage.
NOTES/COMMENTS:			

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D. TRANSPORTATION OF ROOSTERS

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. A guarantee of satisfactory performance by the bidder and meeting due dates are an integral part of the contract resulting from this bid.
DC			2. Roosters must be alive and in good health upon receipt of birds.
		DC	3. In the event of Rooster mortality during delivery to sites (if applicable), re-delivery of birds will occur as determined by NGPC staff.
		DC	4. In the event that inclement weather or habitat conditions prevents one (1) or more sites from being conducive for release NGPC will coordinate with the awarded bidder(s) to re-distribute these Roosters to alternate sites as determined by NGPC.
DC			5. If Roosters have been delivered and re-deliveries or re-distribution of Roosters are required for any reason this will be at the expense of the awarded bidder(s).

NOTES/COMMENTS: #3, Redelivery birds will be within 75 miles of York, NE.
 #4- changes will need to be made at least 24 hrs in advance - one hour of free unload time will be allotted per site, after one hour, a fee of \$150/hour will be added.

E. ANNUAL USAGE, ESTIMATED

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. Annual usage figures provided are estimates and are not to be construed as either a minimum or maximum purchase quantity.
DC			2. Bidder shall not impose minimum order requirements.
DC			3. See Sections "D" and "E" below for estimated annual usage.

NOTES/COMMENTS:

F. TRANSPORTATION, LOCATIONS, AND ESTIMATED ANNUAL USAGE OF ADULT ROOSTER PHEASANTS FOR LATE OCTOBER EACH YEAR:

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. A TOTAL of Nine thousand one hundred ten (9,110) adult roosters, at least eighteen (18) weeks of age, to nineteen (19) sites as listed below with the first due date being in late October of each year:
DC			a. 684 Roosters to Bordeaux WMA, five (5) miles East and one (1) mile South of Chadron in Dawes County, NE.
DC			b. 300 Roosters to Arnold Trupp WMA, six (6) miles North and one (1) mile West of Bayard in Morrill County, NE.
DC			c. 736 Roosters to N-CORPE (NRD), ten (10) miles North and four (4) miles West of Wellfleet in Lincoln County, NE.
DC			d. 407 Roosters to Pressey WMA, five (5) miles North of Oconto in Custer County, NE.
DC			e. 763 Roosters to Sherman Reservoir WMA, 4 miles east of Loup City in Sherman County, Nebraska
DC			f. 381 Roosters to Cornhusker State WMA, two (2) miles North of Alda in Hall County, NE.

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DC			g. 324 Roosters to George Syas WMA, two (2) miles East of Genoa in Nance County, NE.
DC			h. 547 Roosters to Wilkinson WMA, two and one half (2.5) miles South of Platte Center in Platte County, NE.
DC			i. 300 Roosters to Oak Valley WMA, two and one half (2.5) miles South and one (1) mile West of Battle Creek in Madison County, NE.
DC			j. 300 Roosters to Powder Creek WMA, four and one half (4.5) miles North of Martinsburg in Dixon County, NE.
DC			k. 300 Roosters to Kirkpatrick Basin North WMA, seven (7) miles Southwest of York in York County, NE.
DC			l. 899 Roosters to Branched Oak WMA, three (3) miles North of Malcolm in Lancaster County, NE.
DC			m. 386 Roosters to Yankee Hill WMA, three (3) miles East and one (1) mile South of Denton in Lancaster County, NE.
DC			n. 300 Roosters to Arrowhead WMA, three (3) miles East of Diller in Gage County, NE.
DC			o. 300 Roosters to Hickory Ridge WMA, three (3) miles East and two (2) miles South of Crab Orchard in Johnson County, NE.
DC			p. 506 Roosters to James N Douglas WMA (formerly Twin Oaks WMA), two (2) miles East and two (2) miles South of Tecumseh in Johnson County, NE.
DC			q. 885 Roosters to Randall W. Schilling WMA, two and one third (2.1/3) miles North of Plattsmouth in Cass County, NE.
DC			r. 492 Roosters to Peru Bottoms WMA, one (1) mile North of Peru in Nemaha County, NE.
DC			s. 300 Roosters to Rakes Creek WMA, three (3) miles East and three (3) miles South of Murray in Cass County, NE.

G. TRANSPORTATION, LOCATIONS, AND ESTIMATED ANNUAL USAGE OF ADULT ROOSTER PHEASANTS FOR LATE NOVEMBER EACH YEAR:

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. A TOTAL of Seven thousand three hundred and ninety (7,390) Adult Roosters, at least eighteen (18) weeks of age, to nineteen (19) sites as listed below, with the second delivery being in late November of each year.:
DC			a. 566 Roosters to Sherman Reservoir WMA, four (4) miles East of Loup City in Sherman County, NE.
DC			b. 302 Roosters to Pressey WMA, five (5) miles North of Oconto in Custer County, NE.
DC			c. 300 Roosters to Cornhusker State WMA, two (2) miles North of Alda in Hall County, NE.
DC			d. 300 Roosters to George Syas WMA, two (2) miles East of Genoa in Nance County, NE.
DC			e. 406 Roosters to Wilkinson WMA, two and one half (2.5) miles South of Platte Center in Platte County, NE.
DC			f. 300 Roosters to Oak Valley WMA, two one half (2.5) miles South and one (1) mile West of Battle Creek in Madison County, NE.
DC			g. 300 Roosters to Powder Creek WMA, four and one half (4.5) miles North of Martinsburg in Dixon County, NE.
DC			h. 300 Roosters to Kirkpatrick Basin North WMA, seven (7) miles Southwest of York in York County, NE.
DC			i. 667 Roosters to Branched Oak WMA, three (3) miles North of Malcolm in Lancaster County, NE.
DC			j. 300 Roosters to Yankee Hill WMA, three (3) miles East and one (1) mile South of Denton in Lancaster County, NE.
DC			k. 300 Roosters to Arrowhead WMA, three (3) miles East of Diller in Gage County, NE.

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DC			l. 300 Roosters to Hickory Ridge WMA, three (3) miles East and two (2) miles South of Crab Orchard in Johnson County, NE.
DC			m. 374 Roosters to James N. Douglas (formerly Twin Oaks WMA), two (2) miles East and two (2) miles South of Tecumseh in Johnson County, NE.
DC			n. 657 Roosters to Schilling WMA, two and one third (2 1/3) miles North of Plattsmouth in Cass County, NE.
DC			o. 364 Roosters to Peru Bottoms WMA, one (1) mile North of Peru in Nemaha County, NE.
DC			p. 300 Roosters to Rakes Creek WMA, three (3) miles East and three (3) miles South of Murray in Cass County, NE.
DC			q. 300 Roosters to Arnold Trupp WMA, six (6) miles North and one (1) mile West of Bayard in Morrill County, NE.
DC			r. 508 Roosters to Bordeaux WMA, five (5) miles East and one (1) mile South of Chadron in Dawes County, NE.
DC			s. 546 Roosters to N-CORPE (NRD), 10 miles north and 4 miles west of Wellfleet in Lincoln County, Nebraska
NOTES/COMMENTS:			

H. TRANSPORTATION AFTER RECEIPT OF ORDER

YES	NO	NO & PROVIDE ALTERNATIVE				
DC			1.	See schedule below for due dates.		
DC			2.	Dates are subject to change if youth or regular pheasant dates are modified.		
YEAR	FIRST DUE DATE (FRIDAY PRIOR TO YOUTH SEASON)	YOUTH SEASON DATES	REGULAR SEASON OPENER	SECOND DUE DATE (THURSDAY PRIOR TO THANKSGIVING)	THANKSGIVING DATE	
2023	October 20	October 21-22	October 28	November 21	November 23	
2024	October 18	October 19-20	October 26	November 26	November 28	
2025	October 17	October 18-19	October 25	November 25	November 27	
2026	October 23	October 24-25	October 31	November 24	November 26	
2027	October 22	October 23-24	October 30	November 23	November 25	
NOTES/COMMENTS:						

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I. REQUIRED TESTING

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. Bidder agrees to work with their local Department of Agriculture to complete any required testing (e.g., Avian Influenza) prior to transporting birds from their facility.
NOTES/COMMENTS:			

J. USAGE REPORT

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. The Bidder shall, provide a usage report(s) of the resulting contract(s) by State Agencies and political subdivisions upon request by the State.
DC			2. Information will include, at a minimum, the procuring entity's name, contract number, purchase order number, item, item number, quantities, and dollar amounts.
DC			3. Usage Reports must be provided within five (5) Business days after receipt of request from the State.
NOTES/COMMENTS:			

K. INVOICING

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. Upon receipt of Roosters a designated State employee will sign the "invoice/packing slip" which indicates only that the order has been received and that the items delivered agree with the "invoice/packing slip".
		DC	2. A signature on the "invoice/packing slip" does not indicate all items were received in good condition and/or that there is not possible hidden damage.
DC			3. Invoices are to be sent to the "Invoice to" address on the purchase order.
NOTES/COMMENTS: #2 - persons unloading birds will sign & validate the quality & quantity.			

L. ORDERS

YES	NO	NO & PROVIDE ALTERNATIVE	
DC			1. Orders will be placed either by, phone, e-mail, or Internet (if available and not to the exclusion of the other methods).
DC			2. The orders shall be for the actual quantities of each item ordered by or for any agency during the life of the contract.
DC			3. All orders must reference the contract number and purchase order number.
DC			4. The purchase order number must be referenced on the packing slip, and invoice.

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<i>DC</i>			5. Invoices are to be sent to the "Invoice to" address on the purchase order.
NOTES/COMMENTS:			

M. QUALITY

YES	NO	NO & PROVIDE ALTERNATIVE	
<i>DC</i>			1. Product quality must meet specifications and be consistent for the term of the contract. All materials must be of first quality, under standard production by the manufacturer and be of standard design, complete as regularly advertised and marketed and be of proven performance.
<i>DC</i>			2. Products are to be fully guaranteed and may be returned for full credit or replacement (at the State's option) for any reason during the initial warranty period with no additional charges for shipping or restocking.
NOTES/COMMENTS:			

N. PACKAGING

YES	NO	NO & PROVIDE ALTERNATIVE	
<i>DC</i>			1. Roosters shall be packaged in crates of suitable size and of sufficient strength to protect the birds during transportation.
<i>DC</i>			2. Crates shall be marked conspicuously with each destination location.
NOTES/COMMENTS: <i>- Large crates will be used at some locations - due to large trucks & trailers some birds may be unloaded from the Road or parking lot.</i>			

O. QUALITY

YES	NO	NO & PROVIDE ALTERNATIVE	
<i>DC</i>			1. Product quality must meet specifications and be consistent for the term of the contract. All materials must be of first quality, under standard production by the manufacturer and be of standard design, complete as regularly advertised and marketed and be of proven performance.
<i>DC</i>			2. A guarantee of satisfactory performance by the bidder and meeting delivery dates are an integral part of the purchase contract resulting from this bid.
NOTES/COMMENTS:			

P. WARRANTY

YES	NO	NO & PROVIDE ALTERNATIVE	
<i>DC</i>			1. The Vendor warrants for a period of one (1) year from the date of Acceptance that:

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DC			a. The Products perform according to all specific claims that the Vendor made in its response to the ITB,
DC			b. The product is suitable for the ordinary purposes for which such product is used; and,
DC			c. The product is suitable for any special purposes identified in the ITB or for which the State has relied on the Vendor's skill or judgment.
DC			2. Upon Breach of the warranty, the Vendor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the Vendor.
DC			3. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the Vendor will refund the full amount of any payments that have been made.
DC			4. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation actual damages, and, as applicable and Awarded under the law, to a prevailing party, reasonable attorneys' fees, and costs.
NOTES/COMMENTS:			

LINE #	LOCATIONS	QUANTITY (1st RELEASE)	BID PRICE DELIVERED (1st RELEASE)	BID PRICE NO DELIVERY (1st RELEASE)	QUANTITY (2nd RELEASE)	BID PRICE DELIVERED (2nd RELEASE)	BID PRICE NO DELIVERY (2nd RELEASE)
1	Arnold Trupp WMA	300			300		
2	Arrowhead WMA	300			300		
3	Bordeaux WMA	684			508		
4	Branched Oak WMA	899			667		
5	Cornhusker	381			300		
6	George D. Syas WMA	324			300		
7	Hickory Ridge WMA	300			300		
8	James N. Douglas WMA	506			374		
9	Kirkpatrick Basin (North) WMA	300			300		
10	N-CORPE (east tract)	736			546		
11	Oak Valley WMA	300			300		
12	Peru Bottoms WMA	492			364		
13	Powder Creek WMA	300			300		
14	Pressey WMA	407			302		
15	Rakes Creek WMA	300			300		
16	Randall W. Schilling WMA	885			657		
17	Sherman Reservoir WMA	763			566		
18	Wilkinson WMA	547			406		
19	Yankee Hill WMA	386			300		
20	Lump Sum Bid for All 19 Locations	9,110	\$204,792.80		7,390	\$166,127.20	

\$22.48 each - Lump sum
- all or none

- Dustin