

Massachusetts Snow and Ice Contractors Association, Inc.

Office of the President:
PO Box 1079 North Eastham, MA 02651

August 4, 2010

Massachusetts Department of Transportation
Mr. Scott Wilson
Director of Roadway Operations
10 Park Plaza
Boston, MA 02116

RE: Snow and Ice Rental Agreement

Dear Scott,

Again, it was a pleasure meeting with you and your staff on Wednesday July 28th at the Transportation Building concerning the next MassDOT Snow and Ice Equipment Rental Agreement (contract) offered to snow and ice vendors throughout the Commonwealth.

As promised, our Board has drafted a list of proposals for the upcoming contract.

Since last Wednesday when we met I have had some additional time to think and re-think pertaining to the conversation we had, along with Paul brown, concerning the departments desire to implement closed loop ground speed control devices (CLGSC) in hired spreaders. While we do believe that technology is knocking on the door of the snow and ice industry in more respects than just ground speed devices, we simply are not able to endorse Paul Browns plan to install these units in the equipment of hired contractors at this time.

We understand as a result of meeting with you that the ground speed control device, while not being made 100% mandatory this coming winter season, will be mandatory by the winter season 2012/2013. We further understand that the department will offer a per-hour incentive for installing and maintaining this device, albeit that the monetary incentive will be available to those contractors who install the device(s) for the winter season 2010/2011 and the winter season 2011/2012. Paul Brown also stated that if installed after the winter season 2010/2011, but prior to the 2011/2012 season, a contractor would enjoy the benefits of the incentive for the 2011/2012 winter season only. It was made clear that no financial incentive would be included in any subsequent contract offers.

The term of the contract as you explained will be one year, and will include an option to renew for one additional year. We must ask, how can you assure a two year financial benefit to contractors with out the assurance of a two year contract? Is there some other contractual vehicle that the second year of this incentive is tied to?

Unless a two year contract is offered, we would suggest that your incentive to install CLGSC is a one year incentive available only to those contractors who in fact install it for the winter season 2011/2012. We would further assert that any contract term less than two years is an impossible financial feat for contractors who will be forced to make substantial upgrades to there fleet in regards to wing plows and/ or ground speed devices and liquid tanks, in short, this offer is *un bankable* to the hundreds of contractors who must borrow money to affect these upgrades.

If the true purpose of CLGSC is to better control salt inventories via salt conservation during salt application, we would suggest, as we did at our July 28th meeting that putting less salt on the roads per application will deliver one very sure result; both hired and state owned equipment working longer hours and the over all cost to the taxpayers increasing by millions of dollars per winter season as the result of increased hours worked, coupled with the hourly financial incentive to install the device.

Pertaining to the information collected by the CLGSC; how will you down load that data? Paul Brown has stated that his desire is for Passive AVL GPS drive by down load, which will necessitate hundreds of thousands of dollars in additional taxpayer monies spent on soft wear, drive-by antennas, hardware, and perhaps even additional state personnel and consultants to design, implement, and administer this new system.

We are all aware of a certain small number of snow and ice contractors already providing services to Mass DOT who have installed CLGSC in one or more of there trucks. Upon reaching out to more than one of those contractors we have learned that these contractors have never been asked for any logged information from there CLGSC devices which could ultimately begin the collection of critical salt usage data and be precipitous of a pilot program.

Our organization is asking you today to immediately remove any mandatory installation of CLGSC from the next snow and ice agreement with vendors, while seeking a select amount of vendors to voluntarily install CLGSC in a pre determined amount of vehicles as part of a pilot program.

What we are asking for is similar to our requests in 2003 when Mass Highway unilaterally implemented and issued portable GPS tracking devices to hundreds of hired snow and ice contractor's state wide with out first establishing a pilot program to test the relatively new technology. As a result of not first testing the equipment in this particular application, the department wasted nearly \$9 million dollars of taxpayer's money; this according to Chief Engineer Frank Tramontozzi in his interview with FOX 25 News reporter Mike Baudette.

Simply stated, we believe that the department is once again placing the cart before the horse in this situation. We would suggest again a pilot program with the proper antennas, soft wear, and related computer hardware being installed at a select number of Mass DOT salt depots, and contractors selected from these particular depots to purchase and install the CLGSC.

Our organization would also offer to be part of the future success of any such pilot program by distributing information about this program and being a partner of sorts to the Mass DOT on the future implementation of CLGSC. We certainly believe that by working together we are able to make progress move more quickly, help people understand the technological advancements, and assist the DOT in securing funding for such programs through our acquaintances in the State Legislature.

In the arena of the fuel adjustment formula you informed our group that .81 cents would be added to the benchmark date of August 2004, in effect decreasing the amount of financial aid to contractors in an ever changing and extremely volatile fuel market.

While we are well aware that a fuel adjustment surcharge is meant to assist contractors with the ever-changing cost of fuel, we find your proposed adjustment to the benchmark an extremely radical and bold move given the fact that you are offering no rate increases, have removed the fee paid for liquid saddle tanks while making them 100% mandatory, abandoned the *Boston Rate* paid to equipment dispatched from certain depots, along with your own department lobbying hard last year for a 33.3% increase in commercial vehicle registrations which affected each and every snow and ice contractor at the beginning of the second year of a two year contract with locked in rates for equipment now costing hundreds of dollars more to register.

An additional concern we brought to the fore-front of our meeting was the lack of information from Mass DOT on many snow and ice related issues affecting contractor's pocket books. In short, when will those contractors affected by the formation of the new District 6 be notified as to their future with Mass DOT? Will these contractors have ample time to secure work for their equipment if it is Mass DOT's desire to cut them from the snow and ice work force? Thousands of dollars are required each and every year to ready one piece of equipment for winter work. The department is levying an injustice upon each and every contractor who goes through this process this summer/fall only to find out in the 11th hour that their services are no longer required, and that it is now too late to find other snow and ice work.

Of paramount concern to our organization is the Department's lack of compassion towards aggrieved snow and ice vendors who feel wronged by the department and its staff. During contract discussions in the spring and summer of 2008 our group offered up several ideas to better manage a dispute and hear grievances submitted by contractors. Our Executive Board submitted multiple written proposals pertaining to the Dispute Resolution system as it pertained to snow and ice contractors.

While ultimately the department authored its own version of a dispute resolution policy, including said policy in the 2008-2010 snow and ice agreement, the department did so with no input from contractors.

The policy adopted by the department in 2008 was one sided and unfair. It called for the formation of a resolution of issues committee which would include the seating of a department attorney on it, this committee was never formed.

While several contractors aggrieved by certain decisions of department staff reached out to various members of our Executive Board in the last two years, not one contractor was willing to appeal any decision handed to him/her on any issue to the so called resolution of issues committee. The make-up of this committee alone exuded a disingenuous tone towards contractors, and was found as discriminatory towards those contractors who are unable to embrace retaining their own attorney so as to feel well represented in front of a panel comprised of Mass Highway top brass and their legal counsel.

Our group lobbied the department hard and fast for a seat on this committee. We remain steadfastly focused on the placement of un-biased disinterested snow and ice vendors, at least one from the ranks of the MSICA Executive Board joining this yet to be formed committee.

The only alternative to a well balanced and fair committee committed to an open and fair grievance process would be the adoption of a policy which would include both the department and our group subscribing to the services of the Massachusetts Office of Dispute Resolution (MODR). This state agency was directed by Executive Order in the year 2000 by then Governor Paul A. Cellucci to hear grievances against or between all state agencies.

This process was lauded by the Governor's office as fair, less costly, timelier, and less contentious. The Governor's Office has also claimed this process to have been used with great success in both the public and private sectors of Massachusetts, as well as throughout the country. Our group floated this idea to Mass Highway personnel in 2008 and we were laughed at. Staff from the MODR contacted Mass Highway Staff to schedule a meeting where MODR would introduce Mass Highway staff to the MODR process, Mass Highway would not commit to a meeting.

Although we are mindful that additional issues were covered at the meeting on the 28th, we are confident that between the issues discussed at that meeting, concerns raised in this cover letter, and the attached proposals, that we have provided the department with a substantial footing for contract discussions with our group. Please contact me at your earliest convenience to discuss scheduling additional meetings either by telephone or email, both of which are listed below.

Truly,

Matthew A. Frazier, President
MSICA

MAF/lhb

cc: Executive Board