



**QUESTIONS & RESPONSES #02**

RFP / TITLE  
 CONTACT  
 EMAIL  
 PHONE NUMBER  
 SUBMITTAL DUE DATE  
 Q&A ISSUE DATE

PA000000331 - Remanufactured 3300 Class PUP Chase Tamper  
 Alex Compton, Manager, Contracts & Purchasing  
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 253.888.4841  
 6/17/2025 14:00  
 6/10/2025 10:30

Question ID	Submission Date	Question	Answer
Q-003088	5/29/2025	<p>1) Will the Port please confirm that bids will not be rejected for bidders that offer alternative(s) to the Port's technical specification? [Ref: Page 6, Section D, Do Not Submit Extra Comments...Changes.]</p> <p>2) Will the Port please confirm that they'll accept bids for new equipment if it meets and/or exceeds the Port's requirements and is competitively priced?</p> <p>3) If the Port confirms they'll accept bids for new equipment, will the Port please remove the requirements for bidders to provide information on Repair Facilities, Maintenance Records, and Distributor or Dealer Authorization? New equipment will be accompanied with a new-equipment warranty and a commissioning &amp; training phase, and will negate the need for those requirements. [Reference: Page 3, Section C, Repair Facilities; Maintenance Records; Warranty Service and Performance.]</p> <p>4) If the Port confirms they'll accept bids for new equipment, will the Port please remove the warranty requirements noted in the ITB and replace with the below language? New equipment will be accompanied with a new-equipment warranty and will negate the need for those requirements. [Reference: Page 3, Section C, Warranty Service and Performance.]</p> <p>LIMITED WARRANTY. Harsco Rail warrants products of its manufacture to be free of defects in material and workmanship, under normal use and service for a period of X (X) months from date of delivery to the original user. The obligation of Harsco Rail under this warranty is limited to repairing or replacing at its factories, or other location designated by it, any part or parts thereof which are returned within thirty (30) days of the date when failure occurs or defect is noted, with transportation charges prepaid by Buyer, and which upon examination appears to the satisfaction of Harsco Rail to have been defective. Such free repair or replacement does not include transportation charges, the cost of installing the new part or any other expense incident thereto. Harsco Rail will not be liable for other loss, damage, or expense directly or indirectly arising from the use of its product, nor will Harsco Rail be liable for special, incidental, or consequential damages. Ordinary wear and tear and damage from abuse, misuse, neglect or alteration are not covered by this warranty. Harsco Rail assumes no liability for expense incurred or repairs made outside its factories except by written consent. This warranty is null and void if instructions and operating procedures are not followed. Equipment and parts not manufactured by Harsco Rail, but which are furnished in connection with Harsco Rail products, are covered directly by the warranty of the manufacturer supplying them. THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY DISCLAIMED AND OF ANY OTHER OBLIGATION OR LIABILITY OF HARSCO RAIL. THE REMEDY SET FORTH ABOVE IS BUYER'S EXCLUSIVE REMEDY FOR A BREACH OF THE WARRANTY.</p> <p>5) Will a crane be required to unload the machine at the Port's delivery site?</p>	<p>1) Alternatives may be offered in Attachment "C" Specification Sheet.</p> <p>2) New equipment bids will be accepted.</p> <p>3) See addendum 1, now uploaded to procurement page.</p> <p>4) We are unable to accept these terms. The warranty terms are our standard, and require transportation and labor charges to be covered for warranty repair items.</p> <p>5) A crane is not required. The Port is able to unload the equipment at the delivery site.</p>
Q-003098	6/5/2025	<p>1. Would the Port incorporate the following into Section C, Warranty Services and Performance of the ITB: "Notwithstanding anything to the contrary herein, this warranty is in lieu of all other warranties expressed or implied including any implied warranties of merchantability or fitness for a particular purpose, which are hereby disclaimed and of any other obligation or liability of Supplier. The remedy set forth above is the Port's exclusive remedy for a breach of the warranty."</p> <p>2. Would the Port modify Attachment B Standard Terms and Conditions, Section 26 of the ITB to incorporate a reasonable cure period?</p> <p>3. Would the Port modify Attachment B Standard Terms and Conditions, Section 22 of the ITB as follows: "Seller shall protect, indemnify, and save the Buyer harmless from and against any damage, cost or liability for any injuries to persons or property arising from negligent acts or omissions, or willful misconduct, of Seller, its employees, agents or subcontractors."</p> <p>4. Would the Port incorporate the following into the ITB No. PA000000331: "IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE CONTRACT, WHETHER CAUSED BY A BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED ONE HUNDRED (100) PERCENT OF THE TOTAL PRICE PAID BY THE PORT FOR THE PRODUCT(S) SOLD HEREUNDER PRIOR TO THE DATE OF SUCH CLAIM."</p> <p>5. Would the Port incorporate the following into the ITB No. PA000000331: "IN NO EVENT SHALL SELLER BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE ARISING OUT OF OR RELATING TO THE CONTRACT, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE."</p> <p>6. Would the Port incorporate the following into the ITB No. PA000000331: "All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "Intellectual Property Rights") in and to all products, documents, work product and other materials that are delivered to Buyer hereunder or prepared by or on behalf of Seller in the course of performing hereunder (collectively, the "Deliverables") shall be owned by Seller. Buyer shall not acquire any ownership interest in any of the Intellectual Property Rights. Seller hereby grants Buyer a limited, nonexclusive, non-transferable, no-charge license to use the Intellectual Property Rights solely as necessary to make reasonable use of the products purchased hereunder."</p>	<p>1. We will not be able to incorporate this request. Merchantability or fitness are still required.</p> <p>2. Yes, see addendum 2.</p> <p>3. We will not be able to incorporate this request.</p> <p>4. We will not be able to incorporate this request.</p> <p>5. We will not be able to incorporate this request.</p> <p>6. Yes, see addendum 2.</p>