

**STATE OF ILLINOIS  
CONTRACT**

Department of Central Management Services  
JPMC Lab Supplies, Chemicals & Equipment  
19-416CMS-BOSS4-P-12458

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The Parties to this contract are the State of Illinois acting through the undersigned Agency (collectively the State) and the Vendor. This contract, consisting of the signature page and numbered sections listed below and any attachments referenced in this contract, constitute the entire contract between the Parties concerning the subject matter of the contract, and in signing the contract, the Contractor affirms that the Certifications and Financial Disclosures and Conflicts of Interest attached hereto are true and accurate as of the date of the Contractor's execution of the contract. This contract supersedes all prior proposals, contracts and understandings between the Parties concerning the subject matter of the contract. This contract can be signed in multiple counterparts upon agreement of the Parties.

Contract includes BidBuy Purchase Order? (The Agency answers this question prior to contract filing.)

☐ Yes

☒ No

Contract uses Illinois Procurement Gateway Certifications and Disclosures?

☒ Yes (IPG Certifications and Disclosures including FORMS B)

☐ No

1. DESCRIPTION OF SUPPLIES AND SERVICES
2. PRICING
3. TERM AND TERMINATION
4. STANDARD BUSINESS TERMS AND CONDITIONS
5. STATE SUPPLEMENTAL PROVISIONS
6. STANDARD CERTIFICATIONS
7. FINANCIAL DISCLOSURES AND CONFLICTS OF INTEREST
8. CONTRACT SPECIFIC CERTIFICATIONS AND DISCLOSURES – "FORMS B" (IF APPLICABLE)
9. PURCHASE ORDER FROM BIDBUY (IF APPLICABLE)

In consideration of the mutual covenants and agreements contained in this contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree to the terms and conditions set forth herein and have caused this contract to be executed by their duly authorized representatives on the dates shown on the following CONTRACT SIGNATURES page

# STATE OF ILLINOIS CONTRACT

Department of Central Management Services  
JPMC Lab Supplies, Chemicals & Equipment  
19-416CMS-BOSS4-P-12458

## VENDOR

Vendor Name: Fisher Scientific Company L.L.C.	Address (City/State/Zip): 300 Industry Drive Pittsburgh, PA 15275
Signature:	Phone: 724.517.1500 (not for ordering – corp. office) 800.766.7000 Customer Service
Printed Name: Mike Fuchs	Fax: 800.926.1166 Customer Service
Title: Regional Vice President	Email: Mike.Fuchs@thermofisher.com
Date: April 14, 2019	

## STATE OF ILLINOIS

Procuring Agency: Central Management Services	Phone: 217-782-0001
Street Address: 1000 E Converse Street	Fax: 217-782-5187
City, State ZIP: Springfield, IL 62702	
Official Signature	ate: 11/22/19
Printed Name: Valerie E. Forde, Acting Director by Krysti Rinaldi,	
Official's Title: Agency Purchasing Officer	
Legal Signature:	Date:
Legal Printed Name:	
Legal's Title:	
Fiscal Signature:	Date:
Fiscal's Printed Name:	
Fiscal's Title:	

AGENCY USE ONLY

NOT PART OF CONTRACTUAL PROVISIONS

- Agency Reference #: 19-416CMS-BOSS4-R-14816
- Project Title: JPMC Lab Supplies, Chemicals & Equipment
- Contract #:
- Procurement Method (IFB, RFP, Small Purchase, etc.): IFB
- BB Reference #: 19-416CMS-BOSS4-B-6070
- BB Publication Date: 3/15/19
- Award Code: A
- Subcontractor Utilization? ☐ Yes ☒ No      Subcontractor Disclosure? ☐ Yes ☐ No  
*does not meet contract definition but prime is utilizing*
- Funding Source: *2 subcontractors to meet 19% goal.*
- Obligation #:
- Small Business Set-Aside? ☐ Yes ☒ No      Percentage:
- Minority Owned Business? ☐ Yes ☒ No      Percentage:
- Women Owned Business? ☐ Yes ☒ No      Percentage:
- Persons with Disabilities Owned Business? ☐ Yes ☒ No      Percentage:
- Veteran Owned Small Business? ☐ Yes ☒ No      Percentage:
- Other Preferences?

## **1. DESCRIPTION OF SUPPLIES AND SERVICES**

**1.1. GOAL:** The purpose of this solicitation is to establish a Joint Purchase Master Contract to enable governmental units and qualified not-for-profit agencies to purchase lab supplies, chemicals and equipment on an as needed basis during the contract period.

### **1.2. SUPPLIES AND/OR SERVICES REQUIRED:**

**1.2.1.** There is no minimum order amount.

**1.2.2.** While the purpose of this contract is to provide the State of Illinois laboratories with a primary source of supply for equipment, supplies and chemicals, this contract is not to be interpreted as an "exclusive" agreement with respect to all requirements for such items. The State of Illinois anticipates that certain items or categories of items will be excepted or excluded from the contract. These exceptions and / or exclusions include, but may not be limited to:

**1.2.2.1 Laboratory Furniture:** While the respondent has been given the opportunity to quote on several categories of laboratory furniture and related items, it is generally expected that any such items purchase will be on a fill-in basis only and that large volume laboratory furniture requirements for capital construction and / or remodeling will be accomplished via a separate bidding procedure. The exclusion will not apply to miscellaneous requirements for minor remodeling or additions to an existing laboratory layout.

**1.2.2.2 Equipment Purchases over \$50,000:** Equipment, any combination of equipment or equipment systems with a combined net cost of \$50,000 or more are excluded from this contract.

**1.2.2.3 Precious Metals, Pharmaceuticals and Radio Chemicals** are excluded from this contract

**1.2.2.4 Specialty Items:** Specialty glassblowing supplies, specialty chemicals, diagnostic and/or clinical products, enzymes and certain medical products which are specifically covered by other contracts are exempted from the contract.

**1.2.2.5 Proprietary Products:** Any proprietary product (not available in like kind from another source) or products required to insure the integrity or continuity of specific on-going research project(s) are exempted from the contract.

**1.2.3. ACCESS TO PRODUCTS / MANUFACTURERS:** It is anticipated that in order to fulfill the State of Illinois' requirements for laboratory supplies, equipment and chemicals that the vendor should have access to a broad array of laboratory products from a large base of manufacturers and the vendor must have a catalog of products of sufficient breadth and product characteristics to meet the State's laboratory needs and quantities sufficiently available to meet the State's delivery requirements.

**1.2.4. GENERAL CATALOG:** The State of Illinois laboratories require that a current full-line printed or electronic catalog sufficient to meet each department's needs shall be made available. There should be no limit to the number of individuals who have access to the printed or electronic catalog. In the event a printed catalog is necessary, it is expected that the vendor will supply the catalog within 30 days.

**1.2.4.1 Catalog Net Price:** Catalogs are expected to show net prices. When the price lists show several price columns due to differences in quantities, the vendor shall clearly indicate on the price list the column to which the discount applies. Multi-discounts for different sections of the catalog are not acceptable. The net prices shown shall reflect all applicable discounts per the contract or special manufacturers' discounts which apply to particular products covered under the contract. Copies of net price lists/books sufficient to meet each agency's needs must be provided. The actual quantity of net price lists/books required may be impacted by the vendor's ability to provide a net price list on electronic format.

The quoted discount must remain firm for the entire contract period. Vendors will be entitled to one (1) revised catalog price sheet per 12 month period. If the vendor issues a revised edition to the catalog used in the quote, the awarded discount will then be applied to the revised catalog. It shall be the responsibility of the vendor to inform the Department of Central Management Services/Bureau of Strategic Sourcing (CMS/BOSS) in writing of any such revisions 30 days in advance. Orders placed prior to the price sheet revision, or prior to CMS/BOSS being informed of a revision, the discount will be taken from the previous price sheet.

Printed catalogs reflecting any permitted price adjustment/escalations are expected to be supplied within 15 days and electronic catalogs reflecting these updates should be available to Central Management Services immediately upon the effective date of said changes.

**1.2.4.2 Cross Reference Capability:** The vendor's catalog should "cross reference" manufacturers as well as major scientific distributors' (Fisher,

VWR) catalog numbers to vendor's own catalog numbers. The vendor shall be able to provide such "cross reference" capability both through its internal customer service representative(s) as well as "on-line" in conjunction with the required "on-line" ordering system. If requested, the vendor shall be able to furnish a hard copy printout or list of catalog numbers which cross reference, at minimum, the major scientific distributor's catalog numbers to vendor's catalog numbers.

- 1.2.5. **ORDER PLACEMENT:** It is expected that the vendor will be able to accept multiple order formats, including but not limited to Standard Purchase Orders and online BidBuy purchase orders in addition orders place electronically through an on-line ordering system.
- 1.2.6. **LOCK-OUT CAPABILITY ON ORDER PLACEMENT:** The State of Illinois laboratories expect to have the capability to lock out the purchases of a specific product or group of products either in total or selectively by Department. This lock-out capability should also permit the department to prohibit on-line order entry by individuals and/or agencies that have not been designated by the laboratory's purchasing division/department to place such orders. This lock-out capability should permit a laboratory to provide the vendor with a list of specific catalog numbers that are locked out for purchase by one or more departments. This lock-out will include an ability to prohibit the look up of pricing in any vendor provided on-line ordering system. When locked-out items are searched for in the vendor's on-line ordering system or by the vendor's inside customer service representative, the vendor should have the ability to have a message displayed which indicates the item is not available for that department / customer or be able to display an alternate message regarding access to the product in question.
- 1.2.7. **ON-LINE ORDERING SYSTEM:** The Vendor must have an on-line ordering system by which designated State of Illinois using departments can use to place their orders on-line to the vendor's computer system.

The system must have the ability to enter orders by "fill-in-the-blank" on a formatted screen. The system should provide real-time access to the net contract price (except on any items identified as lock-out items by a State of Illinois departments), availability, and cross-referencing by manufacturer or major distributor catalog number. The system must have the ability to review the shipment status of items ordered, including anticipated ship date on back order items. The system must have the ability to recall an interrupted order. The system must have the ability to accept orders with a limit set at a given dollar amount per item and/or per order. The system must have a view only mode

which permits designated department to look up information but prohibits the actual placement of orders.

Note: Each State of Illinois department's laboratory purchasing division will designate which of its laboratories are authorized to place orders on-line. The vendor shall not permit on-line ordering from those laboratories that have not been specifically authorized by the State of Illinois department's purchasing division. The number of using laboratories authorized to place on-line orders may vary for each department.

Upon entry of an order via the on-line system, an order confirmation shall be transmitted to the ordering laboratory within one hour to insure receipt and accuracy of the order.

- 1.2.8. BIDBUY INTERFACE PUNCH-OUT:** It is the desire for the contract resulting from this bid to be able to be interfaced to the State of Illinois eProcurement System (known as "BidBuy") for ordering usage for all State users of this contract. Attached to the solicitation, is a white paper titled, "Vendor Guide for Implementing G2B PunchOuts in BidBuy" which discusses the technical requirements for the PunchOut to the State's system. Please allow your technical staff to review this document to determine your capability to interface to the State of Illinois' eProcurement System. The Vendor will be responsible for any programming costs associated with the buildout of the interface necessary from the Vendor side.

Has the document "Vendor Guide for Implementing G2B PunchOuts in BidBuy" been reviewed by technical staff?

☒ YES ☐ NO

Do you feel that your company has the ability to interface to the State's eProcurement system for ordering?

☒ YES ☐ NO

If yes, and given all the parameters of the testing required per the white paper document titled, "Vendor Guide for Implementing G2B PunchOuts in BidBuy", how soon after this testing do you anticipate that your company will be capable of launching this on-line ordering system to the State's eProcurement System?

Please fill in the number of calendar days required after testing : N/A

- 1.2.9. PACKING LISTS:** All shipments must be accompanied by a packing list including a complete word description, catalog number, quantity of each item shipped, the

order number, the ship to address, and any individual's and/or department name given as an attention line at the time of order placement. All packages must have the order number clearly marked on the outside. Additionally, any attention line information provided at the time of order placement should be included on the shipping label. All chemicals must be labeled in accordance with any special labeling requirements imposed by state and/or federal regulations or requirements. Shipments received without the appropriate packing list or labeling information may be refused and returned at the vendor's expense.

- 1.2.10. **PACKAGING:** All packaging must comply with applicable federal and state laws regulating the handling and transportation of the specific materials. All packages must have the order number clearly marked on the outside.

All chemicals and hazardous materials must be packaged and labeled in accordance with any requirements imposed by state and/or federal regulations or requirements

- 1.2.10. **HAZARDOUS MATERIAL MONITORING:** The vendor shall provide material safety data sheets for all chemicals or other products requiring such documentation either based on state or federal statute or the laboratory's requirements. Any required material safety data sheets will be provided to the environmental health and safety officer and/or any other address and/or individual specified by each laboratory's purchasing division. The vendor must track and report on a monthly basis all hazardous materials purchased by each laboratory under the contract. This monthly report shall be provided at no cost to the State. The report format must be in accordance with and provide the information required under any state or federal statutes.

- 1.2.11. **CHEMICAL QUALITY/PURITY:** Because of the highly technical nature of the research for which these chemicals will be used, the containers for the chemicals to be supplied under this contract must include labels with the following information:

- 1) Label must have one or more of the following: actual lot analysis, typical lot analysis or maximum limit of impurities and/or specifications
- 2) Label must have the appropriate hazard warning
- 3) Each individual bottle/container, as well as case packaging, must be labeled with the corresponding hazardous material identification number, United Nations number or North American number.

Failure to provide this information on the label of each container where applicable may result in shipment being refused. The highest technical control of specifications and grades must be maintained and guaranteed at all times.

**1.2.12. SHELF LIFE:** No chemical, or other limited life product, with a shelf life of less than 120 days from the date of delivery shall be shipped under this contract without prior written authorization from the ordering laboratory's purchasing division.

**1.2.13. AUTHORIZED DEALER:** The vendor must either be an authorized distributor for the products offered or be able to show evidence, if requested, of an uninterrupted source of inventory for the product categories or items listed in this procurement.

**BB** For procurements conducted in BidBuy, the State may include in this contract the BidBuy Purchase Order as it contains the agreed Supplies and/or Services.

☒ If checked, see the BidBuy Purchase Order for a Description of Supplies and/or Services.

**1.3. MILESTONES AND DELIVERABLES:** The vendor must furnish management and related reports pertinent to purchasing activity under the contract. In addition to the reports indicated below, the vendor may be required to furnish other miscellaneous reports regarding contract activity as requested by a laboratory. The State shall have final approval on the format of reports covered under this contract. The following reports shall be provided on the reporting schedule indicated below unless requested on a more frequent basis by a laboratory:

**1.3.1. USAGE REPORTS:** Vendor must provide quarterly usage reports, including information regarding total usage during the quarter. Each laboratory will advise the vendor as to how such usage information is to be sorted for reporting purposes. At a minimum, the vendor should be able to sort the usage report by dollar volume, by item, by manufacturer, and/or by order number. If the department has separate account designations for each laboratory, then the vendor should also be able to report usage by each laboratory.

In addition to the quarterly usage report, the vendor must provide a report on total usage during the fiscal year (July 1st through June 30th) for each laboratory as well as total usage for all state laboratories. At a minimum, such annual reports shall include:

1) Order numbers

2) Catalog number for each item purchased

- 3) Aggregate totals of items purchased
- 4) Unit list price
- 5) Unit discounted prices:
- 6) Total price paid and:
- 7) Grand total of all purchases for the reporting period.

This annual report must also be able to be sorted by dollar volume, by item, by manufacturer, and/or by order number. Please submit reports to: [cms.boss.sourcing@illinois.gov](mailto:cms.boss.sourcing@illinois.gov)

**1.3.2. SERVICE LEVEL REPORTS:** Vendor must provide quarterly service level reports, providing information regarding the fill rate on all orders placed during the quarter. For the purpose of the contract, fill rate will be defined to mean percent of line items shipped from a single location. Line items shipped from multiple locations will not qualify in determining the fill rate. The vendor should be able to separately monitor the fill rate for selected catalog or stock items. For example, the vendor should be able to monitor the fill rate on shipments of core list items and report such fill rate separately. The service level report for a laboratory will be sent to that laboratory's purchasing division. The report will be addressed to an individual that will be specified by the laboratory's purchasing division prior to contract implementation. Additionally, a quarterly service level report showing the fill rate on orders for all laboratories will be sent to Central Management Services, Bureau of Strategic Sourcing, attention: Matthew Armitage, 1000 E Converse St, Springfield, IL 62702 or [cms.boss.sourcing@illinois.gov](mailto:cms.boss.sourcing@illinois.gov).

**1.3.3. BACK-ORDER REPORT:** Vendor must provide a back-order report to each laboratory on at least a monthly basis. If requested by a laboratory, the back-order report must be submitted more frequently, possibly as often as weekly. This report must, at a minimum, include the following information:

- 1) Order number
- 2) Date order was placed
- 3) Vendor catalog number
- 4) Item description
- 5) Quantity on back order

6) Anticipated date of delivery

7) Ordering department (or if unknown, shipping location).

The report will be addressed to the individual(s) that will be specified by the State of Illinois laboratory's purchasing division.

**1.3.4. MANAGEMENT REPORTS:** The successful vendor shall have the ability to provide regular management reports to Central Management Services detailing contract activity. The reporting requirements must include, but are not limited to:

- 1) Detail of purchases from businesses owned by minorities, businesses owned by females, and businesses owned by persons with disabilities
- 2) Recycled products purchased
- 3) Details of purchases by agency
- 4) Details of purchases by item description

The management reports should be provided during the second week the month for the previous month. Reports should be made available in both electronic format or hard copy to the State. Additionally, the vendor shall provide a report annually that reflects the dollar amount of cost reduction achieved under the contract. This report will show the total dollar value of purchased items at list price as well as the total dollar value of purchases based on the discounted price on an annual basis.

If the vendor's firm can provide other relevant reports not listed in this solicitation, the vendor expected to offer these reports with the other reports provided to the State. Please submit reports to:

[cms.boss.sourcing@illinois.gov](mailto:cms.boss.sourcing@illinois.gov).

#### **1.4. VENDOR / STAFF SPECIFICATIONS:**

**1.4.1. CUSTOMER SERVICE REQUIREMENTS:** The State of Illinois considers good customer service an essential requirement of contractual agreements. The State, therefore, expects that at least one dedicated contact person in the vendor's customer service department and one or more in sales will be assigned to each agency's account. (note: the same persons may be assigned to more than one agency's account as long as adequate coverage is provided.) Additionally, each dedicated internal customer service representative should have a fully informed equally well-trained back-up person that can interface with the assigned laboratory in the case of vacation and/or absence. The assigned dedicated

customer service representative and back-up person should be familiar with all aspects of the contract and be empowered to make decisions as needed to comply with the contract. A "group" approach to customer service, whereby anyone answering the phone will handle an inquiry or take an order, will be acceptable provided that the dedicated internal customer service representative will be available for consultation. The vendor shall be responsible for insuring that the customer service representatives' workload will allow for convenient and effective interaction with each laboratory's personnel.

- 1.4.2. SALES REPRESENTATIVE AND CALL SCHEDULE:** The vendor must have an established sales department. The vendor must have a salesperson(s) assigned to call on each laboratory. While the actual sales call schedule is anticipated to vary by laboratory, it is expected that the assigned sales representative would call at least once a month on each assigned laboratory and be available on site the next day if specifically requested by the laboratory.

**1.5. TRANSPORTATION AND DELIVERY:**

- 1.5.1. ORDERS:** All orders shall be delivered FOB to the destination except for orders less than \$100.00.
- 1.5.2. ORDERS LESS THAN \$100.00:** The vendor may add the difference of the freight charges if applicable to the invoice on orders less than \$100.00 as a separate line item. If it is the vendor's intent to add such charges, it shall be the responsibility of the vendor to first notify the requesting agency of such and provide them the opportunity to cancel or adjust the order to negate the additional freight surcharge.
- 1.5.3. SPECIAL HANDLING CHARGES:** Any additional charges for shipping or handling of hazardous chemicals must be absorbed by the vendor. Any additional charges for ice or cooling of temperature sensitive or perishable products must be absorbed by the vendor.
- 1.5.4. RISK OF LOSS:** Title to and risk of loss and damage for all shipments under this contract shall remain in and be the responsibility of the vendor until delivery and acceptance of the items by the State.
- 1.5.5. DELIVERY TIME AND GUARANTEED FILL RATE:** For the purpose of this contract, fill rate will be defined to mean percent of the line items shipped from a single location. Line items shipped from multiple locations will not qualify in determining the fill rates for an order. Cataloged items value at \$500 or under shall be delivered with a minimum of 97% fill rate within one day (24 hours) after receipt of an order for orders placed before 2:00 PM CST. Orders placed after

2:00 PM CST will fall into the next day's shipping schedule with the same fill rate requirement. The balance of any such orders for cataloged items of \$500 or less shall be delivered within seven (7) working days. Core list items will be delivered at a 100% fill rate within 24 hours after receipt of order. The 2:00 PM CST order placement cutoff will apply as above. Failure to meet guaranteed fill rates as stated above will be considered authorization for the order laboratory to cancel the order with the vendor and purchase the item(s) elsewhere and the vendor shall be liable for any additional cost over the vendor's net contract price of the item(s).

If the vendor is aware of item(s) that normally will not be furnished within seven (7) or one (1) working day as per the preceding paragraph, the vendor should furnish a list of such item(s) or categories of item(s) along with their bid response.

If a critical item is out of stock at the time the order is to be placed and cannot be delivered with the time frame required by the user, even if to be delivered within the allowable number of working day(s) as noted above, the State reserves the right to place the order with an alternate source. In such an instance, the vendor will not be liable for any additional cost over the vendor's net cost price of the item.

On all items, the vendor will not be held accountable for delays in delivery resulting from acts of nature (blizzards, tornados, etc.). On cataloged items over \$500 and on non-cataloged items, the vendor will not be held accountable for delays in delivery solely attributable to failure of the manufacturer to make an item available (work stoppage, quality or sterility control, shortage of parts or raw material, etc.).

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- 1.5.6. DELIVERY REQUIREMENTS AND CHARGES:** Periodically, Departments may place orders for cataloged items valued at more than \$500.00 or non-core list items for which they request special shipping arrangements, such as either next day (less than 24 hour) delivery or air freight. When such orders are placed, the supplier shall either prepay and enter the freight and handling charge on the invoice as a separate line item, or, if requested by the ordering laboratory, ship such orders by the laboratory's selected carrier on a freight collect basis referencing any specified state carrier account number.

The State of Illinois expressly prohibits the inclusion of shipping charges for the vendor's or manufacturer's convenience or where the method of shipment is standard for the item ordered. For example, the State will not pay shipping charges on drop shipments of merchandise from manufacturers when that is the customary method of delivery or if such drop shipments are made for the

convenience of the vendor (I.E. to meet required delivery time). The laboratory will authorize payment only for special charges it has explicitly requested.

**1.5.7. CUSTOMER DETERMINED DELIVERY SCHEDULE:** Purchases under the contract will be made on an as needed basis. Each laboratory expects to have the ability to establish its own deliver schedules with the vendor. Additionally, each laboratory will be able to specify to the vendor the specific locations to which shipments will be made. Furthermore, each laboratory will be permitted to establish with the vendor the delivery schedule for making such deliveries. For example, the laboratory may require that the deliveries be made to certain locations at certain times of day or on specific days. The vendor will be held accountable for maintaining any agreed upon or reasonably requested delivery schedules and/or timetables. Failure of the vendor to meet agreed upon delivery schedules or timetables will be considered in assessing the vendor's performance and may be considered in any decision related to continuation or cancellation of the contract.

**1.5.8. RETURNED GOODS:** If an item is mistakenly shipped due to a vendor's error or is received damaged or defective, the vendor shall pay return shipping or shall pick up the item from the laboratory and waive any restocking fee. Pick-up of the item shall be made within ten (10) working days of notification. If the error in shipment is the fault of the State, the vendor shall offer the State a "no hassle" return policy. The State shall be able to return purchased merchandise for whatever reason, whether customer or vendor error, within a reasonable time period at no cost, following the specifications listed above. A reasonable time period would be considered to be 30 days or less after delivery of the merchandise. This "no hassle" return policy will be subject to some restrictions including:

- 1) Merchandise must not have been used, except in the case of hidden defects.
- 2) Original packaging must be used to return the item if this is required by the manufacturer.
- 3) Vendor must be notified within 30 days of receipt that the item(s) are being returned.
- 4) Returns will be arranged by authorized personnel as specified by each laboratory's purchasing.

In the event brand name or equal requirements are required to ensure compatibility with existing equipment and systems, and it is later determined that an awarded product fails operational compatibility, the product will be returned,

and the vendor shall pay for the return of all rejected items and issue full return credit to the user agency. This shall in no way limit the rights of the State as stated in Section 3.3 of this contract.

## 1.6. SUBCONTRACTING

Subcontractors are allowed.

1.6.1. Will subcontractors be utilized? ☐ Yes ☒ No

A subcontractor is a person or entity that enters into a contractual agreement with a total value of \$50,000 or more with a person or entity who has a contract subject to the Illinois Procurement Code pursuant to which the person or entity provides some or all of the goods, services, real property, remuneration, or other monetary forms of consideration that are the subject of the primary State contract, including subleases from a lessee of a State contract.

All contracts with subcontractors must include Standard Certifications completed and signed by the subcontractor.

1.6.2. Please identify below subcontracts with an annual value of \$50,000 or more that will be utilized in the performance of the contract, the names and addresses of the subcontractors, and a description of the work to be performed by each.

- Subcontractor Name: Click here to enter text

Amount to Be Paid: Click here to enter text

Address: Click here to enter text

Description of Work: Click here to enter text

- Subcontractor Name: Click here to enter text

Amount to Be Paid: Click here to enter text

Address: Click here to enter text

Description of Work: Click here to enter text

If additional space is necessary to provide subcontractor information, please attach an additional page.

1.6.3. All contracts with the subcontractors identified above must include the Standard Certifications completed and signed by the subcontractor.

1.6.4. If the annual value of any the subcontracts is more than \$50,000, then the Vendor must provide to the State the Financial Disclosures and Conflicts of Interest for that subcontractor.

1.6.5. If at any time during the term of the Contract, Vendor adds or changes any subcontractors, Vendor is required to promptly notify, in writing, the State Purchasing Officer or the Chief Procurement Officer of the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to this Contract. Any subcontracts entered into prior to award of this Contract are done at the sole risk of the Vendor and subcontractor(s).

**1.7. SUCCESSOR VENDOR**

☐ Yes ☒ No This contract is for services subject to 30 ILCS 500/25-80. Heating and air conditioning service contracts, plumbing service contracts, and electrical service contracts are not subject to this requirement. Non-service contracts, construction contracts, qualification-based selection contracts, and professional and artistic services contracts are not subject to this requirement.

If yes is checked, then the Vendor certifies:

- (i) that it shall offer to assume the collective bargaining obligations of the prior employer, including any existing collective bargaining agreement with the bargaining representative of any existing collective bargaining unit or units performing substantially similar work to the services covered by the contract subject to its bid or offer; and
- (ii) that it shall offer employment to all employees currently employed in any existing bargaining unit who perform substantially similar work to the work that will be performed pursuant to this contract.

This certification supersedes a response to certification 4, Form F, of the Illinois Procurement Gateway (IPG).

**1.8. WHERE SERVICES ARE TO BE PERFORMED:** Unless otherwise disclosed in this section all services shall be performed in the United States. If the Vendor performs the services purchased hereunder in another country in violation of this provision, such action may be deemed by the State as a breach of the contract by Vendor.

Vendor shall disclose the locations where the services required shall be performed and the known or anticipated value of the services to be performed at each location. If the Vendor received additional consideration in the evaluation based on work being performed in the United States, it shall be a breach of contract if the Vendor shifts any such work outside the United States.

- Location where services will be performed: Hanover Park, IL

Value of services performed at this location: Varies per agency

- Location where services will be performed: Click here to enter text

Value of services performed at this location: Click here to enter text

## 2. PRICING

### 2.1 FORMAT OF PRICING:

- 2.1.1 Vendor shall submit pricing in the format shown below, based on the terms and conditions set forth in section 1 of this Contract.
- 2.1.2 Pricing shall be submitted in the following format: Priced by line item in BidBuy or on the downloaded Attachment A Line Items.
- 2.1.3 Discount percentages for all items listed on Attachment B for BidBuy line item 679 shall be submitted by completing Attachment B and submitting it online through BidBuy or with a paper bid.

### 2.2 TYPE OF PRICING: The Illinois Office of the Comptroller requires the State to indicate whether the contract value is firm or estimated at the time it is submitted for obligation. The total value of this contract is estimated.

### 2.3 EXPENSES ALLOWED: Expenses are not allowed.

### 2.4 DISCOUNT: The State may receive a 0 % discount for payment within 0 days of receipt of correct invoice. This discount will not be a factor in making the award.

### 2.5 VENDOR'S PRICING: Attach additional pages if necessary or if the format of pricing specified above in Section 2.1 requires additional pages.

2.5.1. Vendor's Price for the Initial Term: \$2,213,106.57 *MT 6-21-19*

**BB** For procurements conducted in BidBuy, the State may include in this contract the BidBuy Purchase Order as it contains the agreed Pricing.

☐ If checked, see the BidBuy Purchase Order for the Vendor's Price for the Initial Term.

2.5.2. **Renewal Compensation:** If the contract is renewed, the price shall be at the same rate as for the initial term unless a different compensation or formula for determining the renewal compensation is stated in this section.

#### 2.5.3. Economic Adjustment Clause:

2.5.3.1. **Core Items (Line Items #1- #678) -** The prices in this contract must remain firm for one (1) year after the execution date of the contract. Thereafter, requested adjustments will be limited to once during any given twelve (12) month period.

All adjustment requests shall be made in writing. Vendor shall not be entitled to apply an upward price adjustment without first obtaining approval of such request from the Bureau of Strategic Sourcing (BOSS).

In the event a downward adjustment is warranted, the State reserves the right to adjust once during any given twelve (12) month period for this decrease. It will be the responsibility of the vendor to notify BOSS of any such decrease.

Maximum allowable adjustments shall be governed by the U.S. Bureau of Labor Statistics Consumer Price Index (CPI) item number(s), including but not limited to:

**PPI Index: 157**

**PPI Category: Miscellaneous Products: Other Industrial Safety Equipment**

**PPI Index: 0613**

**PPI Category: Chemicals and Allied Products: Basic Inorganic Chemicals**

**PPI Index: 0614**

**PPI Category: Chemicals and Allied Products: Basic Organic Chemicals**

**PPI Index: 118603**

**PPI Category: Machinery and Equipment: Laboratory Analytical Instruments**

**PPI Index: 1185**

**PPI Category: Machinery and Equipment: Engineering and Scientific Instruments**

**PPI Index: 1189**

**PPI Category: Machinery and Equipment: Measuring and Controlling Devices, n.e.c.**

**PPI Index: 13130117**

**PPI Category: Nonmetallic Mineral Products: All Other Machine-Made Pressed and Blown Glassware**

**PPI Index: 0728**

**PPI Category: Rubber and Plastic Products: Consumer, Institutional, and Commercial Products, n.e.c.**

The base CPI published index will be determined by the month of the bid opening date. If the bid opening date occurs in May, then the base CPI will be May's published index.

The published CPI Index at the time of requested adjustment will be determined by the month and day the adjustment was submitted to BOSS regardless of whether it is a preliminary or final index publication.

No further adjustments will be made once the maximum allowable adjustment has been calculated for the given 12 months.

The maximum allowable adjustment shall be calculated as follows:

Maximum Allowable Price =  $A / B * C$

A = Bid Price

B = Base PPI index (defined by time of bid opening)

C = Published CPI index at time of requested adjustment

The U.S. Bureau of Labor Statistics web site can be located at [HTTP://WWW.BLS.GOV/PPI](http://www.bls.gov/ppi).

Should the referenced consumer price index (CPI) become discontinued during the contract, it will be replaced by an appropriate alternative CPI chosen by CMS and all adjustments will be calculated based on the same methodology as outlined above, but with data from the new replacement index.

Requested adjustments shall include the contract number, commodity number, line number, bid price and requested price adjustment.

In all cases the contractor must file a claim for such adjustment prior to the delivery of the goods. In any event, the claim for such adjustment will not apply to release orders executed prior to the date the Bureau of Strategic Sourcing received the Economic Adjustment request.

If the contractor has unresolved complaints filed against him for non-delivery or poor quality, his request may be denied until such time as all past complaints are resolved.

**2.5.3.2. Catalog Items (Line #679):** The quoted discount must remain firm for the entire contract period. If the manufacturer issues a revised edition to the catalog or price sheet used in the quote, the awarded discount will then be applied to the revised price sheet.

Changes to Price sheets / Catalogs will be allowed one adjustment per year upon approval from Central Management Services, Bureau of Strategic Sourcing. It shall be the responsibility of the vendor to inform the Bureau of Strategic Sourcing (BOSS) in writing, of any such revisions 30 days in advance. The vendor shall apply their quoted discount to the manufacturer's price sheet and furnish the State with a net price sheet. Orders placed prior to the price sheet revision, or prior to CMS/BOSS being informed of a revision, the discount will be taken from the previous price sheet.

**2.5.4. AUDITING:** The vendor agrees that the State will audit net prices for reasonableness of pricing. Contract prices will be compared with current market prices available from competitors. Audits may be performed periodically throughout the contract period.

If during the course of the contract and/or as a result of an audit, the price of contract items is discovered to be unreasonably higher than current market prices, the State reserves the right to require price adjustments by the vendor. All adjustments shall be made to bring prices in line with competitive pricing for such items in the marketplace.

**2.5.5 RECLASSIFICATION OF ITEMS:** When the contract items and/or their pricing codes are reclassified for the convenience of the vendor, the reclassification shall not result in a reduction of the discount off those items. The new pricing code(s) for the items must have the same or higher percentage discount.

**2.6 MAXIMUM AMOUNT:** The total payments under this contract is not applicable as this is an indefinite quantity master contract.

### 3. TERM AND TERMINATION

- 3.1 TERM OF THIS CONTRACT:** This contract has an initial term of three (3) years. If a start date is not identified, the term shall commence upon the last dated signature of the Parties.

**BB** For procurements conducted in BidBuy, the State may include in this contract the BidBuy Purchase Order as it contains the agreed term.

☐ If checked, see the BidBuy Purchase Order for the Term of this Contract.

- 3.1.1** In no event will the total term of the contract, including the initial term, any renewal terms and any extensions, exceed ten (10) years. 30 ILCS 500/20-60

- 3.1.2** Vendor shall not commence billable work in furtherance of the contract prior to final execution of the contract except when permitted pursuant to 30 ILCS 500/20-80.

#### 3.2 RENEWAL:

- 3.2.1.** Any renewal is subject to the same terms and conditions as the original contract unless otherwise provided in the pricing section. The State may renew this contract for any or all of the option periods specified, may exercise any of the renewal options early, and may exercise more than one option at a time based on continuing need and favorable market conditions, when in the best interest of the State. The contract may neither renew automatically nor renew solely at the Vendor's option.

- 3.2.2.** Pricing for the renewal term(s), or the formula for determining price, is shown in the pricing section of this contract.

- 3.2.3.** The State reserves the right to renew for a total of three (3) years in any one of the following manners:

**3.2.3.1** One renewal covering the entire renewal allowance;

**3.2.3.2** Individual one-year renewals up to and including the entire renewal allowance; or

**3.2.3.3** Any combination of full or partial year renewals up to and including the entire renewal allowance.

- 3.3 TERMINATION FOR CAUSE:** The State may terminate this contract, in whole or in part, immediately upon notice to the Vendor if: (a) the State determines that the actions or

inactions of the Vendor, its agents, employees or subcontractors have caused, or reasonably could cause, jeopardy to health, safety, or property, or (b) the Vendor has notified the State that it is unable or unwilling to perform the contract.

If Vendor fails to perform to the State's satisfaction any material requirement of this contract, is in violation of a material provision of this contract, or the State determines that the Vendor lacks the financial resources to perform the contract, the State shall provide written notice to the Vendor to cure the problem identified within the period of time specified in the State's written notice. If not cured by that date the State may either: (a) immediately terminate the contract without additional written notice or (b) enforce the terms and conditions of the contract.

For termination due to any of the causes contained in this Section, the State retains its rights to seek any available legal or equitable remedies and damages.

- 3.4 TERMINATION FOR CONVENIENCE:** The State may, for its convenience and with thirty (30) days prior written notice to Vendor, terminate this contract in whole or in part and without payment of any penalty or incurring any further obligation to the Vendor.

Upon submission of invoices and proof of claim, the Vendor shall be entitled to compensation for supplies and services provided in compliance with this contract up to and including the date of termination.

- 3.5 AVAILABILITY OF APPROPRIATION:** This contract is contingent upon and subject to the availability of funds. The State, at its sole option, may terminate or suspend this contract, in whole or in part, without penalty or further payment being required, if (1) the Illinois General Assembly or the federal funding source fails to make an appropriation sufficient to pay such obligation, or if funds needed are insufficient for any reason (30 ILCS 500/20-60), (2) the Governor decreases the Agency's funding by reserving some or all of the Agency's appropriation(s) pursuant to power delegated to the Governor by the Illinois General Assembly, or (3) the Agency determines, in its sole discretion or as directed by the Office of the Governor, that a reduction is necessary or advisable based upon actual or projected budgetary considerations. Contractor will be notified in writing of the failure of appropriation or of a reduction or decrease.

#### **4. STANDARD BUSINESS TERMS AND CONDITIONS**

##### **4.1 PAYMENT TERMS AND CONDITIONS:**

- 4.1.1 Late Payment:** Payments, including late payment charges, will be paid in accordance with the State Prompt Payment Act and rules when applicable. 30 ILCS 540; 74 Ill. Adm. Code 900. This shall be Vendor's sole remedy for late payments by the State. Payment terms contained in Vendor's invoices shall have no force or effect.
- 4.1.2 Minority Contractor Initiative:** Any Vendor awarded a contract of \$1,000 or more under Section 20-10, 20-15, 20-25 or 20-30 of the Illinois Procurement Code (30 ILCS 500) is required to pay a fee of \$15. The Comptroller shall deduct the fee from the first check issued to the Vendor under the contract and deposit the fee in the Comptroller's Administrative Fund. 15 ILCS 405/23.9.
- 4.1.3 Expenses:** The State will not pay for supplies provided or services rendered, including related expenses, incurred prior to the execution of this contract by the Parties even if the effective date of the contract is prior to execution.
- 4.1.4 Prevailing Wage:** As a condition of receiving payment Vendor must (i) be in compliance with the contract, (ii) pay its employees prevailing wages when required by law, (iii) pay its suppliers and subcontractors according to the terms of their respective contracts, and (iv) provide lien waivers to the State upon request. Examples of prevailing wage categories include public works, printing, janitorial, window washing, building and grounds services, site technician services, natural resource services, security guard and food services. The prevailing wages are revised by the Illinois Department of Labor (DOL) and are available on DOL's official website, which shall be deemed proper notification of any rate changes under this subsection. Vendor is responsible for contacting DOL at 217-782-6206 or (<http://www.state.il.us/agency/idol/index.htm>) to ensure understanding of prevailing wage requirements.
- 4.1.5 Federal Funding:** This contract may be partially or totally funded with Federal funds. If Federal funds are expected to be used, then the percentage of the good/service paid using Federal funds and the total Federal funds expected to be used will be provided to the awarded Vendor in the notice of intent to award.
- 4.1.6 Invoicing:** By submitting an invoice, Vendor certifies that the supplies or services provided meet all requirements of this contract, and the amount billed, and expenses incurred are as allowed in this contract. Invoices for supplies purchased, services performed, and expenses incurred through June 30 of any year must be submitted to the State no later than July 31 of that year; otherwise Vendor may have to seek payment through the Illinois Court of Claims. 30 ILCS 105/25. All invoices are subject to statutory offset. 30 ILCS 210.
- 4.1.6.1** Vendor shall not bill for any taxes unless accompanied by proof that the State is subject to the tax. If necessary, Vendor may request the

applicable Agency's Illinois tax exemption number and Federal tax exemption information.

- 4.1.6.2 Vendor shall invoice at this completion of the contract unless invoicing is tied in this contract to milestones, deliverables, or other invoicing requirements agreed to in the contract.

Send invoices to:

Agency:	Requesting Agency/Entity
Attn:	Requesting Agency/Entity
Address:	Requesting Agency/Entity
City, State Zip	Requesting Agency/Entity

☒ See resulting BidBuy Purchase Order

**BB** For procurements conducted in BidBuy, the Agency may include in this contract the BidBuy Purchase Order as it contains the Bill To address.

- 4.2 **ASSIGNMENT:** This contract may not be assigned or transferred in whole or in part by Vendor without the prior written consent of the State.
- 4.3 **SUBCONTRACTING:** For purposes of this section, subcontractors are those specifically hired to perform all or part of the work covered by this contract. Vendor must receive prior written approval before use of any subcontractors in the performance of this contract. Vendor shall describe, in an attachment if not already provided, the names and addresses of all authorized subcontractors to be utilized by Vendor in the performance of this contract, together with a description of the work to be performed by the subcontractor and the anticipated amount of money that each subcontractor is expected to receive pursuant to this contract. If required, Vendor shall provide a copy of any subcontracts within fifteen (15) days after execution of this contract. All subcontracts must include the same certifications that Vendor must make as a condition of this contract. Vendor shall include in each subcontract the subcontractor certifications as shown on the Standard Certification form available from the State. If at any time during the term of the Contract, Vendor adds or changes any subcontractors, then Vendor must promptly notify, by written amendment to the Contract, the State Purchasing Officer or the Chief Procurement Officer of the names and addresses and the expected amount of money that each new or replaced subcontractor will receive pursuant to the Contract. 30 ILCS 500/20-120.
- 4.4 **AUDIT/RETENTION OF RECORDS:** Vendor and its subcontractors shall maintain books and records relating to the performance of this contract and any subcontract necessary to support amounts charged to the State pursuant this contract or subcontract. Books and records, including information stored in databases or other computer systems, shall be maintained by the Vendor for a period of three (3) years from the later of the date of

final payment under the contract or completion of the contract, and by the subcontractor for a period of three (3) years from the later of final payment under the term or completion of the subcontract. If Federal funds are used to pay contract costs, the Vendor and its subcontractors must retain their respective records for five (5) years. Books and records required to be maintained under this section shall be available for review or audit by representatives of: the procuring Agency, the Auditor General, the Executive Inspector General, the Chief Procurement Officer, State of Illinois internal auditors or other governmental entities with monitoring authority, upon reasonable notice and during normal business hours. Vendor and its subcontractors shall cooperate fully with any such audit and with any investigation conducted by any of these entities. Failure to maintain books and records required by this section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under this contract or any subcontract for which adequate books and records are not available to support the purported disbursement. The Vendor or subcontractors shall not impose a charge for audit or examination of the Vendor's or subcontractor's books and records. 30 ILCS 500/20-65.

- 4.5 **TIME IS OF THE ESSENCE:** Time is of the essence with respect to Vendor's performance of this contract. Vendor shall continue to perform its obligations while any dispute concerning this contract is being resolved unless otherwise directed by the State.
- 4.6 **NO WAIVER OF RIGHTS:** Except as specifically waived in writing, failure by a Party to exercise or enforce a right does not waive that Party's right to exercise or enforce that or other rights in the future.
- 4.7 **FORCE MAJEURE:** Failure by either Party to perform its duties and obligations will be excused by unforeseeable circumstances beyond its reasonable control and not due to its negligence, including acts of nature, acts of terrorism, riots, labor disputes, fire, flood, explosion, and governmental prohibition. The non-declaring Party may cancel this contract without penalty if performance does not resume within thirty (30) days of the declaration.
- 4.8 **CONFIDENTIAL INFORMATION:** Each Party to this contract, including its agents and subcontractors, may have or gain access to confidential data or information owned or maintained by the other Party in the course of carrying out its responsibilities under this contract. Vendor shall presume all information received from the State or to which it gains access pursuant to this contract is confidential. Vendor information, unless clearly marked as confidential and exempt from disclosure under the Illinois Freedom of Information Act, shall be considered public. No confidential data collected, maintained, or used in the course of performance of this contract shall be disseminated except as authorized by law and with the written consent of the disclosing Party, either during the period of this contract or thereafter. The receiving Party must return any and all data collected, maintained, created or used in the course of the performance of this contract, in whatever form it is maintained, promptly at the end of this contract, or earlier at the request of the disclosing Party, or notify the disclosing Party in writing of its destruction.

The foregoing obligations shall not apply to confidential data or information lawfully in the receiving Party's possession prior to its acquisition from the disclosing Party; received in good faith from a third Party not subject to any confidentiality obligation to the disclosing Party; now is or later becomes publicly known through no breach of confidentiality obligation by the receiving Party; or that is independently developed by the receiving Party without the use or benefit of the disclosing Party's confidential information.

- 4.9 USE AND OWNERSHIP:** All work performed, or supplies created by Vendor under this contract, whether written documents or data, goods or deliverables of any kind, shall be deemed work for hire under copyright law and all intellectual property and other laws, and the State of Illinois is granted sole and exclusive ownership to all such work, unless otherwise agreed in writing. Vendor hereby assigns to the State all right, title, and interest in and to such work including any related intellectual property rights, and/or waives any and all claims that Vendor may have to such work including any so-called "moral rights" in connection with the work. Vendor acknowledges the State may use the work product for any purpose. Confidential data or information contained in such work shall be subject to the confidentiality provisions of this contract.
- 4.10 INDEMNIFICATION AND LIABILITY:** The Vendor shall indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of: (a) any breach or violation by Vendor of any of its certifications, representations, warranties, covenants or agreements; (b) any actual or alleged death or injury to any person, damage to any real or personal property, or any other damage or loss claimed to result in whole or in part from Vendor's negligent performance; (c) any act, activity or omission of Vendor or any of its employees, representatives, subcontractors or agents; or (d) any actual or alleged claim that the services or goods provided under this contract infringe, misappropriate, or otherwise violate any intellectual property (patent, copyright, trade secret, or trademark) rights of a third party. In accordance with Article VIII, Section 1(a),(b) of the Constitution of the State of Illinois, the State may not indemnify private parties absent express statutory authority permitting the indemnification. Neither Party shall be liable for incidental, special, consequential, or punitive damages.
- 4.11 INSURANCE:** Vendor shall, at all times during the term of this contract and any renewals or extensions, maintain and provide a Certificate of Insurance naming the State as an additionally insured for all required bonds and insurance. Certificates may not be modified or canceled until at least thirty (30) days' notice has been provided to the State. Vendor shall provide: (a) General Commercial Liability insurance in the amount of \$1,000,000 per occurrence (Combined Single Limit Bodily Injury and Property Damage) and \$2,000,000 Annual Aggregate; (b) Auto Liability, including Hired Auto and Non-owned

Auto (Combined Single Limit Bodily Injury and Property Damage), in amount of \$1,000,000 per occurrence; and (c) Worker's Compensation Insurance in the amount required by law. Insurance shall not limit Vendor's obligation to indemnify, defend, or settle any claims.

**4.12 INDEPENDENT CONTRACTOR:** Vendor shall act as an independent contractor and not an agent or employee of, or joint venturer with the State. All payments by the State shall be made on that basis.

**4.13 SOLICITATION AND EMPLOYMENT:** Vendor shall not employ any person employed by the State during the term of this contract to perform any work under this contract. Vendor shall give notice immediately to the Agency's director if Vendor solicits or intends to solicit State employees to perform any work under this contract.

**4.14 COMPLIANCE WITH THE LAW:** The Vendor, its employees, agents, and subcontractors shall comply with all applicable Federal, State, and local laws, rules, ordinances, regulations, orders, Federal circulars and all license and permit requirements in the performance of this contract. Vendor shall be in compliance with applicable tax requirements and shall be current in payment of such taxes. Vendor shall obtain at its own expense, all licenses and permissions necessary for the performance of this contract.

**4.15 BACKGROUND CHECK:** Whenever the State deems it reasonably necessary for security reasons, the State may conduct, at its expense, criminal and driver history background checks of Vendor's and subcontractor's officers, employees or agents. Vendor or subcontractor shall immediately reassign any individual who, in the opinion of the State, does not pass the background check.

**4.16 APPLICABLE LAW:**

**4.16.1 PREVAILING LAW:** This contract shall be construed in accordance with and is subject to the laws and rules of the State of Illinois.

**4.16.2 EQUAL OPPORTUNITY:** The Department of Human Rights' Equal Opportunity requirements are incorporated by reference. 44 ILL. ADM. CODE 750.

**4.16.3 COURT OF CLAIMS; ARBITRATION; SOVEREIGN IMMUNITY:** Any claim against the State arising out of this contract must be filed exclusively with the Illinois Court of Claims. 705 ILCS 505/1. The State shall not enter into binding arbitration to resolve any dispute arising out of this contract. The State of Illinois does not waive sovereign immunity by entering into this contract.

**4.16.4 OFFICIAL TEXT:** The official text of the statutes cited herein is incorporated by reference. An unofficial version can be viewed at ([www.ilga.gov/legislation/ilcs/ilcs.asp](http://www.ilga.gov/legislation/ilcs/ilcs.asp)).

- 4.17 ANTI-TRUST ASSIGNMENT:** If Vendor does not pursue any claim or cause of action it has arising under Federal or State antitrust laws relating to the subject matter of this contract, then upon request of the Illinois Attorney General, Vendor shall assign to the State all of Vendor's rights, title and interest to the claim or cause of action.
- 4.18 CONTRACTUAL AUTHORITY:** The Agency that signs this contract on behalf of the State of Illinois shall be the only State entity responsible for performance and payment under this contract. When the Chief Procurement Officer or authorized designee or State Purchasing Officer signs in addition to an Agency, he/she does so as approving officer and shall have no liability to Vendor. When the Chief Procurement Officer or authorized designee or State Purchasing Officer signs a master contract on behalf of State agencies, only the Agency that places an order or orders with the Vendor shall have any liability to the Vendor for that order or orders.
- 4.19 EXPATRIATED ENTITIES:** Except in limited circumstances, no business or member of a unitary business group, as defined in the Illinois Income Tax Act, shall submit a bid for or enter into a contract with a State agency if that business or any member of the unitary business group is an expatriated entity.
- 4.20 NOTICES:** Notices and other communications provided for herein shall be given in writing via electronic mail whenever possible. If transmission via electronic mail is not possible, then notices and other communications shall be given in writing via registered or certified mail with return receipt requested, via receipted hand delivery, via courier (UPS, Federal Express or other similar and reliable carrier), or via facsimile showing the date and time of successful receipt. Notices shall be sent to the individuals who signed this contract using the contact information following the signatures. Each such notice shall be deemed to have been provided at the time it is actually received. By giving notice, either Party may change its contact information.
- 4.21 MODIFICATIONS AND SURVIVAL:** Amendments, modifications and waivers must be in writing and signed by authorized representatives of the Parties. Any provision of this contract officially declared void, unenforceable, or against public policy, shall be ignored and the remaining provisions shall be interpreted, as far as possible, to give effect to the Parties' intent. All provisions that by their nature would be expected to survive, shall survive termination. In the event of a conflict between the State's and the Vendor's terms, conditions and attachments, the State's terms, conditions and attachments shall prevail.
- 4.22 PERFORMANCE RECORD / SUSPENSION:** Upon request of the State, Vendor shall meet to discuss performance or provide contract performance updates to help ensure proper performance of this contract. The State may consider Vendor's performance under this contract and compliance with law and rule to determine whether to continue this contract, suspend Vendor from doing future business with the State for a specified period

of time, or whether Vendor can be considered responsible on specific future contract opportunities.

**4.23 FREEDOM OF INFORMATION ACT:** This contract and all related public records maintained by, provided to, or required to be provided to the State are subject to the Illinois Freedom of Information Act (FOIA) notwithstanding any provision to the contrary that may be found in this contract. 5 ILCS 140.

**4.24 SCHEDULE OF WORK:** Any work performed on State premises shall be performed during the hours designated by the State and performed in a manner that does not interfere with the State and its personnel.

**4.25 WARRANTIES FOR SUPPLIES AND SERVICES:**

4.25.1. Vendor warrants that the supplies furnished under this contract will: (a) conform to the standards, specifications, drawing, samples or descriptions furnished by the State or furnished by the Vendor and agreed to by the State, including but not limited to all specifications attached as exhibits hereto; (b) be merchantable, of good quality and workmanship, and free from defects for a period of twelve months or longer if so specified in writing, and fit and sufficient for the intended use; (c) comply with all federal and state laws, regulations and ordinances pertaining to the manufacturing, packing, labeling, sale and delivery of the supplies; (d) be of good title and be free and clear of all liens and encumbrances and; (e) not infringe any patent, copyright or other intellectual property rights of any third party. Vendor agrees to reimburse the State for any losses, costs, damages or expenses, including without limitations, reasonable attorney's fees and expenses, arising from failure of the supplies to meet such warranties.

4.25.2. Vendor shall ensure that all manufacturers' warranties are transferred to the State and shall provide to the State copies of such warranties. These warranties shall be in addition to all other warranties, express, implied or statutory, and shall survive the State's payment, acceptance, inspection or failure to inspect the supplies.

4.25.3. Vendor warrants that all services will be performed to meet the requirements of this contract in an efficient and effective manner by trained and competent personnel. Vendor shall monitor performances of each individual and shall immediately reassign any individual who does not perform in accordance with this contract, who is disruptive or not respectful of others in the workplace, or who in any way violates the contract or State policies.

4.25.4. All equipment items sold under this contract will have a minimum of one-year parts and labor warranty or the manufacturer's full warranty whichever is longer.

In the case of bona fide warranty claims, the State's laboratories expect the vendor to act as their representative in dealings with the manufacturer and will handle all returns or on-site repair arrangements through the vendor's sales or customer service representative. There will be no additional cost to the State for the vendor's acting in this capacity. Contract expiration shall not relieve the vendor from these responsibilities.

- 4.26 REPORTING, STATUS AND MONITORING SPECIFICATIONS:** Vendor shall immediately notify the State of any event that may have a material impact on Vendor's ability to perform this contract.
- 4.27 EMPLOYMENT TAX CREDIT:** Vendors who hire qualified veterans and certain ex-offenders may be eligible for tax credits. 35 ILCS 5/216, 5/217. Please contact the Illinois Department of Revenue (telephone #: 217-524-4772) for information about tax credits.

## 5. STATE SUPPLEMENTAL PROVISIONS



### Agency Definitions

- 5.1.1 "Chief Procurement Officer" means the chief procurement officer appointed pursuant to 30 ILCS 500/10-20(a)(4).
- 5.1.2 "Governmental unit" means State of Illinois, any State agency as defined in Section 1-15.100 of the Illinois Procurement Code, officers of the State of Illinois, any public authority in Illinois which has the power to tax or any other public entity created by Illinois statute.
- 5.1.3 "Qualified not-for-profit agency" means any not-for-profit agency that qualifies under Section 45-35 of the Illinois Procurement code and that either (1) acts pursuant to a board established by or controlled by a unit of local government or (2) receives grant funds from the State or from a unit of local government.



### Required Federal Clauses, Certifications and Assurances



Public Works Requirements (construction and maintenance of a public work) 820 ILCS 130/4.



Prevailing Wage (janitorial cleaning, window cleaning, building and grounds, site technician, natural resources, food services, security services, and printing, if valued at more than \$200 per month or \$2,000 per year) 30 ILCS 500/25-60.



### Agency Specific Terms and Conditions

- 5.1.4 The Chief Procurement Officer for General Services makes this contract available to all governmental units and qualified not-for-profit agencies.
- 5.1.5 Vendor agrees to extend all terms and conditions, specifications, and pricing or discounts specified in this contract for the items in this contract to all governmental units and qualified not-for-profit agencies.
- 5.1.6 The supplies or services subject to this Contract shall be distributed or rendered directly to each governmental unit or qualified not-for-profit agency.
- 5.1.7 Vendor shall bill each governmental unit or qualified not-for-profit agency separately for its actual share of the costs of the supplies or services purchased.

5.1.8 The credit or liability of each governmental unit or qualified not-for-profit agency shall remain separate and distinct.

5.1.9 Disputes between vendors and governmental units or qualified not-for-profit agencies shall be resolved between the affected parties.

5.1.10 All terms and conditions in this Contract apply with full force and effect to all purchase orders.



Other (describe)

Governmental units and qualified not-for-profit agencies will be responsible for submitting their orders to the vendor using their own purchase order document until required to submit purchase orders through BidBuy.

**STATE OF ILLINOIS**  
**EXCEPTIONS TO SOLICITATION AND CONTRACT TERMS AND CONDITIONS**

**SECTION 3.**

**C. EXCEPTIONS TO SOLICITATION AND CONTRACT TERMS AND CONDITIONS**

Fisher Scientific Company L.L.C. agrees with the terms and conditions set forth in the State of Illinois Invitation for Bid, including the standard terms and conditions, the Agency supplemental provisions, certifications, and disclosures, with the following exceptions:

	Excluding certifications required by statute to be made by the Vendor, both Parties agree that all of the duties and obligations that the Vendor owes to the Agency for the work performed shall be pursuant to the solicitation and resulting contract, and Vendor's exceptions accepted by the State thereto as set forth below.
	<b>STANDARD TERMS AND CONDITIONS</b>
<b>Section / Subsection #</b>	State the exception such as "add," "replace," and/or "delete."
3.3	Delete in entirety. Add verbiage. The State does not accept this as proposed. The State has included a counter proposal in the section below. Please review New Provision(s) Section 3.3.
3.4	Add verbiage. The State accepts the addition of the first paragraph. The State does not accept the addition of the second paragraph. See Section 3.4 below.
4.4	Add verbiage. The State does not accept this addition. The State has included a counter proposal in the section below. Please review New Provisions Section 4.4.
4.5	Deleted in entirety. The State accepts the deletion of this section.
4.9	Deleted in entirety. The State accepts the deletion of this section.
4.10	Add / delete verbiage. The State does not accept this addition/deletion.
4.25.1	Add verbiage. The State accepts addition.
4.25.2	Add verbiage. The State accepts addition.
4.26	Add / delete verbiage. The State accepts this addition and deletion.
	<b>ADDITIONAL VENDOR TERMS AND CONDITIONS</b>
<b>New Provision(s), # et. seq.</b>	<b>Section/Subsection New Number, Title of New Subsection:</b> State the new additional term or condition.
3.3	<p>Add In the event that one party (whether Fisher Scientific, or State) breaches a material provision of this Agreement and fails, within sixty (60) days of written notice specifying the nature of the breach, to cure such breach, then the non-breaching party may terminate this Agreement by subsequent written notice to the breaching party.</p> <p>Indirect and consequential loss is to be excluded in full and Fisher Scientific's liability for direct damages be limited to \$1 million per event. The State does not accept this verbiage.</p> <p>Replace Section 3.3 original verbiage with:</p> <p>The State may terminate this contract, in whole or in part, immediately upon notice to the Vendor if: (a) the State determines that the actions or inactions of the Vendor, its agents, employees, or subcontractors have caused, or reasonably could cause,</p>

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	<p>jeopardy to health, safety, or property, or (b) the Vendor has notified the State that it is unable or unwilling to perform the contract.</p> <p>If Vendor fails to perform to the State's satisfaction any material requirement of this contract, is in violation of a material provision of this contract, or the State determines that the Vendor lacks the financial resources to perform the contract, the State shall provide written notice to the Vendor to cure the problem identified within sixty (60) days. If not cured within sixty (60) days the State may either: (a) immediately terminate the contract without additional written notice or (b) enforce the terms of the contract.</p>
3.4	<p>Add Due to the significant investment of labor, time and finances in implementing an agreement of this type, we would request that any termination by Buyer (other than in the case of demonstrated breach by the Seller) be preceded by a minimum of ninety (90) days written notice. The State accepts the addition of this paragraph.</p> <p>Fisher Scientific may terminate the resulting contract in or whole in part for convenience with a 90 days prior written notice. The State does not accept the addition of this paragraph.</p>
4.4	<p>Add Fisher Scientific respectfully requests that the State will provide Successful Vendor with reasonable prior written notice before such audit or examination. Any reviews shall be limited to once per year and shall cover the prior twelve month period. Identified undercharges shall be set off against identified overcharges. If the State engages external consultants to review invoice accuracy, Vendor reserves the right to charge a reasonable fee for support provided to such party. The disclosure of information to an external third party auditor shall also be subject to them agreeing reasonable obligations of confidentiality with Vendor.</p> <p>The State does not accept this verbiage. The State has included a counter proposal and accepts the following addition:</p> <p>Fisher Scientific respectfully requests that the State and others named in Section 4.4 will provide Successful Vendor with reasonable prior written notice before such audit or examination.</p>
4.5	Deleted in entirety. The State accepts the deletion of this section.
4.9	Deleted in entirety. The State accepts the deletion of this section.
4.10	<p>Changes in red text below.</p> <p><b>4.10 INDEMNIFICATION AND LIABILITY:</b> The Vendor shall indemnify and hold harmless the State of Illinois, its agencies, officers, employees, agents and volunteers from any and all third party claims for costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, arising out of: (a) any breach or violation by Vendor of any of its certifications, representations, warranties, covenants or agreements; (b) any actual or alleged death or injury to any person, damage to any real or personal property, or any other damage or loss claimed to result in whole or in part from Vendor's negligent performance; <del>(c) any act, activity or omission of Vendor or any of its employees, representatives, subcontractors or agents; or</del> (d) any actual or alleged claim that the services or goods provided under this</p>

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	<p>contract infringe, misappropriate, or otherwise violate any intellectual property (patent, copyright, trade secret, or trademark) rights of a third party. In accordance with Article VIII, Section 1(a),(b) of the Constitution of the State of Illinois, the State may not indemnify private parties absent express statutory authority permitting the indemnification. Neither Party shall be liable for incidental, special, consequential, or punitive damages.</p> <p>Add Fisher Scientific requests that the above modifications to Section 4.10 in red are added to language. Fisher Scientific further requests, to the extent allowable by Illinois State law, a cap on liability accrued under the contract to \$1,000,000.</p> <p>The State does not accept this addition/deletion.</p>
4.25.1	<p>Add Vendor shall pass along to the State the manufacturer's warranty where permissible, in addition to Vendor's one year warranty on products sold. For any defective product received by the State (not caused by the fault or negligence of the State), the State's sole remedy is repair or replacement of the product, pursuant to Vendor's Return of Goods policy.</p> <p>The State accepts addition.</p>
4.25.2	<p>Add Vendor shall pass along to the State the manufacturer's warranty where permissible, in addition to Vendor's one year warranty on products sold. For any defective product received by the State (not caused by the fault or negligence of the State), the State's sole remedy is repair or replacement of the product, pursuant to Vendor's Return of Goods policy.</p> <p>The State accepts addition.</p>
4.26	<p><b>Add / Delete 4.26 REPORTING, STATUS AND MONITORING SPECIFICATIONS:</b> Vendor shall immediately as soon as reasonably practicable notify the State of any event that may have a material impact on Vendor's ability to perform this contract.</p> <p>The State accepts this addition and deletion.</p>

Central Management Services hereby agrees to the exceptions provided by Fisher Scientific Company LLC and to the Additional Terms and Conditions provided by Fisher Scientific Company LLC.

Agreed: Fisher Scientific Company LLC	Agreed: Central Management Services
By: <i>Michael Fuchs</i>	By: _____
Signed: _____	Sign: _____
Position: <i>V101 Sales Central Region</i>	Position: <i>Strategic Sourcing Manager</i>
Date: <i>6-14-2019</i>	Date: <i>6-19-2019</i>