



Department of Administration  
Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

# State of West Virginia Master Agreement

Order Date: 06-05-2024

CORRECT ORDER NUMBER MUST  
APPEAR ON ALL PACKAGES, INVOICES,  
AND SHIPPING PAPERS. QUESTIONS  
CONCERNING THIS ORDER SHOULD BE  
DIRECTED TO THE DEPARTMENT  
CONTACT.

Order Number:	CMA 0506 2937 CME2400000001 1	Procurement Folder:	1027613
Document Name:	CONSUMABLE LABORATORY PRODUCTS	Reason for Modification:	
Document Description:	CONSUMABLE LABORATORY PRODUCTS		
Procurement Type:	Central Sole Source		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2024-04-15
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2025-04-14

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: 000000100857 WATERS TECHNOLOGIES CORPORATION 34 Maple Street  Milford MA 01757 US Vendor Contact Phone: 8002524752 Extension:	Requestor Name: Billie S Hancock Requestor Phone: 304-356-4097 Requestor Email: billie.s.hancock@wv.gov																				
Discount Details:	<b>24</b> FILE LOCATION _____																				
<table><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>No</td><td></td><td></td></tr><tr><td>#3</td><td>No</td><td></td><td></td></tr><tr><td>#4</td><td>No</td><td></td><td></td></tr></table>			Discount Allowed	Discount Percentage	Discount Days	#1	No	0.0000	0	#2	No			#3	No			#4	No		
		Discount Allowed	Discount Percentage	Discount Days																	
#1		No	0.0000	0																	
#2		No																			
#3	No																				
#4	No																				

INVOICE TO	SHIP TO
PURCHASING DIRECTOR 304-356-4116 HEALTH AND HUMAN RESOURCES  BUREAU FOR PUBLIC HEALTH OFFICE CHIEF MEDICAL EXAMINER 619 VIRGINIA ST WEST  CHARLESTON WV 25302  US	PURCHASING DIRECTOR 304-356-4116 HEALTH AND HUMAN RESOURCES  BUREAU FOR PUBLIC HEALTH OFFICE CHIEF MEDICAL EXAMINER 619 VIRGINIA ST W  CHARLESTON WV 25302  US

6-6-2466

Purchasing Division's File Copy

Total Order Amount:

Open End

PURCHASING DIVISION AUTHORIZATION

DATE: *Tamara 4/6/24*  
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM

DATE: *John L. Gray*  
ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION

DATE: *Don 6-24-24*  
ELECTRONIC SIGNATURE ON FILE

**Extended Description:**

THE VENDOR, WATERS TECHNOLOGIES CORPORATION, AGREES TO ENTER WITH THE AGENCY, WEST VIRGINIA CHIEF MEDICAL EXAMINER'S OFFICE, INTO A CONTRACT TO PROVIDE CONSUMABLE LABORATORY PRODUCTS PER THE TERMS AND CONDITIONS AND THE VENDOR'S QUOTE DATED 06/04/2024, INCORPORATED HEREIN BY REFERENCE, AND MADE A PART OF HEREOF.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	41000000			EA	24.300000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 24-well collection plate, 10 ml square well 1/pk

**Extended Description:**

24-well collection plate, 10 ml square well 1/pk

186005586

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
2	41000000			EA	260.100000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 96-well collection plate, 350 ul 50/pk

**Extended Description:**

96-well collection plate, 350 ul 50/pk

WAT058943

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
3	41000000			EA	147.600000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 96-well collection plate, 700 ul 25/pk

**Extended Description:**

96-well collection plate, 7000 ul 25/pk

Round Well

186005837

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
4	41000000			EA	260.100000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 96-well collection plate, 1 ml 50/pk

**Extended Description:**

96-well collection plate, 1 ml 50/pk

WAT058957

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
5	41000000			EA	292.500000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 96-well collection plate, 2 ml 50/pk

**Extended Description:**

96-well collection plate, 2 ml 50/pk  
SQUARE WELL

186002482

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
6	41000000			EA	367.200000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 96-well collection plate, 2 ml 50/pk

**Extended Description:**

96-well collection plate, 2 ml 50/pk

WAT058958

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
7	41000000			EA	440.100000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 384-well Sample Collection Plate Square Well

**Extended Description:**

384-well Sample Collection Plate Square Well Polypropylene 100 ul 50/pk

186002631

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
8	41000000			EA	674.100000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** 384-well Sample Collection Plate Square Well

**Extended Description:**

384-well Sample Collection Plate Square Well Polypropylene 250 ul 50/pk

186002632

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
9	41000000			EA	180.000000
Service From		Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** Polypropylene cap mat round well for 96 well plate 50/pk

**Extended Description:**

Polypropylene cap mat round well for 96 well plate 50/pk

186002483

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
10	41000000			EA	180.000000
	Service From	Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Polypropylene cap mat square well for 96 well plate

**Extended Description:**

Polypropylene cap mat square well for 96 well plate

186002484

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
11	41000000			EA	168.300000
	Service From	Service To	Service Contract Amount		
			0.00		

**Commodity Line Description:** LCGC Certified Clear Glass 12X32 mm Screw Neck Max Recovery

**Extended Description:**

LCGC Certified Clear Glass 12X32 mm Screw Neck Max Recovery Vial with cap and PTFE Septum 1.5 mL Volume 100/pk

186007195C

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
12	41000000			EA	66.600000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** LCGC Certified Clear Glass 12X32 mm Screw Neck Vial

**Extended Description:**

LCGC Certified Clear Glass 12X32 mm Screw Neck Vial with cap and Preslit PTFE/ Silicone Septum 2 mL Volume 100/pk

186000307C

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
13	41000000			EA	140.400000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Clear Glass 12X32 mm Screw Neck Max Recovery Vial, 2 mL

**Extended Description:**

Clear Glass 12X32 mm Screw Neck Max Recovery Vial, 2 mL Volume, 100/ pk

186002802

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
14	41000000			EA	74.700000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** 50 Position vial holder for 12X32 mm vials 5/pk

**Extended Description:**

50 Position vial holder for 12X32 mm vials 5/pk

186004487

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
15	41000000			EA	161.100000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Certified Container 1000 mL Volume 1/pk

**Extended Description:**

Certified Container 1000 mL Volume 1/pk  
186007089

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
16	41000000			EA	161.100000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Certified Container 500 mL Volume 1/pk

**Extended Description:**

Certified Container 500 mL Volume 1/pk  
186007090

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
17	41000000			EA	352.800000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Forensic Tox Installation Standards Kit

**Extended Description:**

Forensic Tox Installation Standards Kit  
186007361

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
18	41000000			EA	200.700000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Leucine Enkephalin

**Extended Description:**

Leucine Enkephalin  
186006013

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
19	41000000			EA	693.000000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Needle, 15uL SS w/Guide 18KPSI

**Extended Description:**

Needle, 15uL SS w/Guide 18KPSI  
700008977

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
20	41000000			EA	4275.000000
	<b>Service From</b>	<b>Service To</b>	<b>Service Contract Amount</b>		
				0.00	

**Commodity Line Description:** Acquity I-Class BSM Perform Maint Kit

**Extended Description:**

Acquity I-Class BSM Perform Maint Kit  
201000260

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
21	41000000			EA	26.100000
	<b>Service From</b>	<b>Service To</b>	<b>Service Contract Amount</b>		
				0.00	

**Commodity Line Description:** Acquity Sample Organizer PM Kit

**Extended Description:**

Acquity Sample Organizer PM Kit  
201000208

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
22	41000000			EA	3145.500000
	<b>Service From</b>	<b>Service To</b>	<b>Service Contract Amount</b>		
				0.00	

**Commodity Line Description:** I-Class Plus SM-FTM Perform Maint Kit

**Extended Description:**

I-Class Plus SM-FTM Perform Maint Kit  
201000316

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
23	41000000			EA	3226.500000
	<b>Service From</b>	<b>Service To</b>	<b>Service Contract Amount</b>		
				0.00	

**Commodity Line Description:** Acquity I-Class Smp Mgr-Ftn Perf Mnt Kit

**Extended Description:**

Acquity I-Class Smp Mgr-Ftn Perf Mnt Kit  
201000259

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
24	41000000			EA	3375.000000
	<b>Service From</b>	<b>Service To</b>	<b>Service Contract Amount</b>		
				0.00	

**Commodity Line Description:** XEVO TQ-S (Rotary) Performance Maint Kit

**Extended Description:**

XEVO TQ-S (Rotary) Performance Maint Kit  
201000236

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
25	41000000			EA	4977.000000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** XEVO QTOF LS (Scroll) Perform Maint Kit

**Extended Description:**

XEVO QTOF LS (Scroll) Perform Maint Kit  
201000204

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
26	41000000			EA	3384.000000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** Acquity Sample MGR Perform Maint Kit

**Extended Description:**

Acquity Sample MGR Perform Maint Kit  
201000174

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
27	41000000			EA	2630.700000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** XEVO G2-S LS (Rotary) Perfm Mnt Kit W/Chem

**Extended Description:**

XEVO G2-S LS (Rotary) Perfm Mnt Kit W/Chem 176003134  
TOF Instruments Service Sample Kit 186007091  
MS Cleaning Solution 186006846  
Xevo G2-S LS (Rotary) Perform Maint Kit 201000276

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
28	41000000			EA	4862.700000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** XEVO TQ-S (Rotary) Perf Maint Kit w/Chem

**Extended Description:**

XEVO TQ-S (Rotary) Perf Maint Kit w/Chem  
176002745  
Xevo TQ-S (Rotary Performance Maint Kit  
[Glu1] Fibrinopeptide B 700004729  
Xevo TQ-S Set-up Standard 700005331  
Xevo TQ-S Calibration and Resolution Standards 700005471  
MS Cleaning Solution 186006846

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
29	41000000			EA	572.400000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** XEVO TQ-S Calibration and Resolution Standards

**Extended Description:**

XEVO TQ-S Calibration and Resolution Standards  
700005471

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
30	41000000			EA	477.000000
	Service From	Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** XEVO TQ-S Set-up Standard

**Extended Description:**  
XEVO TQ-S Set-up Standard  
700005331

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
31	41000000			EA	1431.000000
	Service From	Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** XEVO TQ-S Qualification Standards Kit

**Extended Description:**  
XEVO TQ-S Qualification Standards Kit  
700005472

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
32	41000000			EA	1044.000000
	Service From	Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Acquity UPLC HSS C18 Colu,m 100A 1.8um 2.1 mm X 50mm 1/pk

**Extended Description:**  
Acquity UPLC HSS C18 Colu,m 100A 1.8um 2.1 mm X 50mm 1/pk  
186003532

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
33	41000000			EA	1134.000000
	Service From	Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Acquity UPLC HSS C18 Colu,m 100A 1.8um 2.1 mm X 100mm 1/pk

**Extended Description:**  
Acquity UPLC HSS C18 Colu,m 100A 1.8um 2.1 mm X 100mm 1/pk  
186003533

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
34	41000000			EA	1134.000000
	Service From	Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Acquity UPLC HSS C18 Colu,m 100A 1.8um 2.1 mm X 150mm 1/pk

**Extended Description:**  
Acquity UPLC HSS C18 Colu,m 100A 1.8um 2.1 mm X 150mm 1/pk  
186003534



Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
35	41000000			EA	803.700000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** VanGuard Pre-Column HSS C18 SB 3-pack kit

**Extended Description:**

VanGuard Pre-Column HSS C18 SB 3-pack kit contains three (3) Acquity UPLC HSS C18 SB 1.7 um 2.1mm x 5 mm Van-Guard Pre-Columns  
186004136

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
36	41000000			EA	803.700000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** VanGuard Pre-Column HSS C18 3-pack kit

**Extended Description:**

VanGuard Pre-Column HSS C18 3-pack kit contains three (3) Acquity UPLC HSS C18 1.7 um 2.1mm x 5 mm Van-Guard Pre-Columns  
186003981

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
37	41000000			EA	131.400000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** LCGC Certified Clear Glass 8X40 mm Snap Neck Total Recovery

**Extended Description:**

LCGC Certified Clear Glass 8X40 mm Snap Neck Total Recovery Vial with Polyethylene Septumless Cap 700 uL Volume 100/pk  
186000837C

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
38	41000000			EA	43.200000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** Red 12X32 mm Screw Neck Cap and Preslit PTFE/Silicone Septum

**Extended Description:**

Red 12X32 mm Screw Neck Cap and Preslit PTFE/Silicone Septum 100/pk  
186002128

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
39	41000000			EA	31.500000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** Green 12X32 mm Screw Neck Cap and PTFE/Silicone Septu

**Extended Description:**

Green 12X32 mm Screw Neck Cap and PTFE/Silicone Septum 100/pk  
186002130

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
40	41000000			EA	36.000000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Red 12X32 mm Screw Neck Cap and PTFE/Silicone Septu

**Extended Description:**

Red 12X32 mm Screw Neck Cap and PTFE/Silicone Septum 100/pk  
186002129

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
41	41000000			EA	40.500000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Green12X32 mm Screw Neck Cap and Preslit PTFE/Silicone Septu

**Extended Description:**

Green 12X32 mm Screw Neck Cap and Preslit PTFE/Silicone Septum 100/pk  
186002127

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
42	41000000			EA	17.100000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Sleeve, ESI Conductive

**Extended Description:**

Sleeve, ESI Conductive  
70000969

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
43	41000000			EA	0.000000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** Laboratory and Measuring and Observing and Testing Equipment

**Extended Description:**

Laboratory and Measuring and Observing and Testing Equipment Commodity with attached Quote.  
Quote must show original price and quoted 10% discount to use this commodity line.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
44	78121603			EA	0.000000
Service From		Service To		Service Contract Amount	
				0.00	

**Commodity Line Description:** FREIGHT

**Extended Description:**

FREIGHT

## **GENERAL TERMS AND CONDITIONS:**

**1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract. **as modified.**

**2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. ~~Additional definitions may be found in the specifications included with this Solicitation/Contract.~~

**2.1. "Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

**2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.

**2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

**2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.

**2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.

**2.6. "Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

**2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

**2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

**2.9. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

**3. CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

**Initial Contract Term:** The Initial Contract Term will be for a period of one year. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as \_\_\_\_\_), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to three successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

**Delivery Order Limitations:** In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within \_\_\_\_\_ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within \_\_\_\_\_ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

☐ the contract will continue for \_\_\_\_\_ years;

☐ the contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

☐ **One-Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as \_\_\_\_\_), and continues until the project for which the vendor is providing oversight is complete.

☐ **Other:** Contract Term specified in \_\_\_\_\_

**4. AUTHORITY TO PROCEED:** Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

**5. QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

Intentionally Omitted.

~~6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.~~

**7. REQUIRED DOCUMENTS:** All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

☐☐☐☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

**8. INSURANCE:** The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. ~~Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancellation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.~~

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☒ **Automobile Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: \_\_\_\_\_ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: \_\_\_\_\_ per occurrence.

☐ **Cyber Liability Insurance** in an amount of: \_\_\_\_\_ per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: \_\_\_\_\_ per occurrence.

☐ **Aircraft Liability** in an amount of: \_\_\_\_\_ per occurrence.

☐

☐

☐

☐

**9. WORKERS' COMPENSATION INSURANCE:** Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

Intentionally Omitted.

**10. VENUE:** ~~All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.~~

**11. LIQUIDATED DAMAGES:** This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ \_\_\_\_\_ for \_\_\_\_\_.

☐ Liquidated Damages Contained in the Specifications.

☒ Liquidated Damages Are Not Included in this Contract.

**12. ACCEPTANCE:** Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

**13. PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

**14. PAYMENT IN ARREARS:** Payments for goods/services will be made ~~in arrears~~ only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions ~~may~~ be paid annually in advance.  
shall

**15. PAYMENT METHODS:** Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

**16. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes. Receipt of a valid tax exemption certificate shall be sent to Vendor for exemption to apply.



**17. ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

**18. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

**19. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

**20. TIME:** ~~Time is of the essence regarding all matters of time and performance in this Contract.~~ Intentionally Omitted.

**21. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

Both parties

**22. COMPLIANCE WITH LAWS:** ~~Vendor~~ shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

**23. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

**24. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

**25. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

**26. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

**27. ASSIGNMENT:** <sup>either party</sup> Neither this Contract nor any monies due, or to become due hereunder, may be assigned by ~~the Vendor~~ without the express written consent of the ~~Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.~~ other party.

**28. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: ~~(a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.~~ be covered by Vendor's Statement of Coverage. Please see attached for our Statement of Coverage to include with this submission.

**29. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

**30. PRIVACY, SECURITY, AND CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. ~~Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.~~

**31. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

**DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.**

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

**32. LICENSING:** In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

**33. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

**34. VENDOR NON-CONFLICT:** Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

Revised 11/1/2022

**35. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Per applicable law, Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

**36. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

**37. NO DEBT CERTIFICATION:** In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

**38. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

Intentionally Omitted.

**39. REPORTS:** ~~Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:~~

☒ ~~Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.~~

☐ ~~Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing-division@wv.gov](mailto:purchasing-division@wv.gov).~~

**40. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

Intentionally Omitted.

**41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
  1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
  2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

Intentionally Omitted.

**42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

**43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

**44. PROHIBITION AGAINST USED OR REFURBISHED:** Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

**45. VOID CONTRACT CLAUSES:** This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

**46. ISRAEL BOYCOTT:** Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

**DESIGNATED CONTACT:** Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Alicia Shannon, Sr Contract Specialist

(Address) 34 Maple St, Milford, MA 01757

(Phone Number) / (Fax Number) 800-252-4752 / 508-482-8532

(Email address) americas\_contracts@waters.com

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

**Waters Technologies Corporation**

(Company) DocuSigned by:

*Timothy D'Souza*

(Signature of Authorized Representative)

Timothy D'Souza

Vice President, Americas Field Operations

23-Feb-2023

(Printed Name and Title of Authorized Representative) (Date)

800-252-4752 / 508-482-8532

(Phone Number) (Fax Number)

americas\_contracts@waters.com

(Email Address)



# Waters

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Dr. Tonya Mitchell  
State of West Virginia  
Office of Chief Medical Examiner  
619 Virginia St W  
Charleston WV 25302-2027

Telephone : 304 352 4370  
FAX : 304 558 8492  
Email : tonya.h.mitchell@wv.gov

Waters Technologies Corporation

DocuSigned by:

*Andy Qiu*

AA0B919B7F264AD...  
Andy Qiu

VP of Commercial, Clinical Business Unit

04-Jun-2024

## Sales Proposal

Please reference this Quotation when Purchase Order is issued

**Quotation No: 23623891 - Expiration Date: 12/27/2024**

Dear Dr. Tonya Mitchell,

Thank you for your interest in Waters! Please find the enclosed Sales Quotation for the products you inquired about. We look forward to working with you and your team for all of your laboratory needs.

To place an order for products on this quotation, there are two options:

- For digital eQuotes that have been generated via [waters.com](https://waters.com), please go to [waters.com/myaccount/quote/history](https://waters.com/myaccount/quote/history), choose quote, and click "Place Order" button. If a hard copy purchase order is required for the order, it can be attached digitally as part of the checkout on [waters.com](https://waters.com). This is the best option for eQuotes, as your Order and eQuotes will be accessible via [waters.com](https://waters.com) for future reference

- For all other quotes, please contact Waters Customer Service at 800 252 4752 Ext 8365. Orders placed by hard copy purchase order may be sent via email to [Customerservice@waters.com](mailto:Customerservice@waters.com). Please be sure to reference the Quote No. on your Purchase Order.

If you have any questions regarding this quotation, please contact your local Account Representative: Guy Boisvert. Guy may be reached by telephone at 800 252 4752, or via email at [Guy\\_Boisvert@Waters.com](mailto:Guy_Boisvert@Waters.com).

Waters Sales Support  
Tel: 800 252 4752  
Email: [customerservice@waters.com](mailto:customerservice@waters.com)

**Waters**

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Account : State of West Virginia  
 Quotation number : 23623891  
 Creation date : 03/18/2024  
 Expiration date : 12/27/2024

**Sales Proposal**  
 Please reference this Quotation when Purchase Order is issued

Item	Product#	Qty	Description	Unit Price	Discount	Net Price
1	186005586	1	24-well Collection Plate, 10 mL Square well, 1/pk	27.00	- 2.70	24.30
2	WAT058943	1	96-well Sample Collection Plate, 350 □, 50/pk	289.00	- 28.90	260.10
3	186005837	1	96-well Sample Collection Plate, 700 □ Round well, 25/pk	164.00	- 16.40	147.60
4	WAT058957	1	96-well Sample Collection Plate, 1 mL, 50/pk	289.00	- 28.90	260.10
5	186002482	1	96-well Sample Collection Plate, 2 mL Square well, 50/pk	325.00	- 32.50	292.50
6	WAT058958	1	96-well Sample Collection Plate, 2 mL, 50/pk	408.00	- 40.80	367.20
7	186002631	1	384-well Sample Collection Plate, Square well Polypropylene 100 □, 50/pk	489.00	- 48.90	440.10
8	186002632	1	384-well Sample Collection Plate, Square well, Polypropylene 250 □, 50/pk	749.00	- 74.90	674.10
9	186002483	1	Polypropylene Cap Mat Round Well for 96-well Plate, 50/pk	200.00	- 20.00	180.00
10	186002484	1	Polypropylene Cap Mat Square Well for 96-well Plate	200.00	- 20.00	180.00
11	186007195C	1	LCGC Certified Clear Glass 12 x 32 mm Screw Neck Max Recovery Vial, with Cap and PTFE Septum, 1.5 mL Volume, 100/pk	187.00	- 18.70	168.30
12	186000307C	1	LCGC Certified Clear Glass 12 x 32 mm Screw Neck Vial, with Cap and Preslit PTFE/Silicone Septum, 2 mL Volume, 100/pk	74.00	- 7.40	66.60
13	186002802	1	Clear Glass 12 x 32 mm Screw Neck Max Recovery Vial, 2 mL Volume, 100/pk	156.00	- 15.60	140.40
14	186004487	1	50 position vial holder for 12 x 32 mm vials, 5/pk	83.00	- 8.30	74.70
15	186007089	1	Certified Container, 1000 mL Volume, 1/pk	179.00	- 17.90	161.10
16	186007090	1	Certified Container, 500 mL Volume, 1/pk	179.00	- 17.90	161.10
17	186007361	1	Forensic Tox Installation Standards Kit	392.00	- 39.20	352.80
18	186006013	1	Leucine Enkephalin	223.00	- 22.30	200.70
19	700008977	1	Needle, 15uL SS w/ Guide 18KPSI	770.00	- 77.00	693.00
20	201000260	1	ACQUITY I-CLASS BSM PERFORM MAINT KIT	4,750.00	- 475.00	4,275.00
21	201000208	1	ACQUITY SAMPLE ORGANIZER PM KIT	29.00	- 2.90	26.10

**Waters**

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Account : State of West Virginia  
 Quotation number : 23623891  
 Creation date : 03/18/2024  
 Expiration date : 12/27/2024

**Sales Proposal**  
 Please reference this Quotation when Purchase Order is issued

Item	Product#	Qty	Description	Unit Price	Discount	Net Price
22	201000316	1	I-Class PLUS SM-FTN Perform Maint Kit	3,495.00	- 349.50	3,145.50
23	201000259	1	ACQUITY I-CLASS SMP MGR-FTN PERF MNT KIT	3,585.00	- 358.50	3,226.50
24	201000236	1	XEVO TQ-S (ROTARY) PERFORMANCE MAINT KIT	3,750.00	- 375.00	3,375.00
25	201000204	1	XEVO QTOF LS (SCROLL) PERFORM MAINT KIT	5,530.00	- 553.00	4,977.00
26	201000174	1	ACQUITY SAMPLE MGR PERFORM MAINT KIT	3,760.00	- 376.00	3,384.00
27	<b>176003134</b>	1	<b>XEVO G2-S LS(ROTARY)PERFM MNT KIT W/CHEM</b>	2,923.00	- 292.30	2,630.70
	186007091	1	TOF Instruments Service Sample Kit.			
	186006846	1	MS Cleaning Solution			
	201000276	1	XEVO G2-S LS (ROTARY)PERFORM MAINT KIT			
28	<b>176002745</b>	1	<b>XEVO TQ-S (ROTARY) PERF MAINT KIT W/CHEM</b>	5,403.00	- 540.30	4,862.70
	201000236	1	XEVO TQ-S (ROTARY) PERFORMANCE MAINT KIT			
	700004729	1	[Glu1]-Fibrinopeptide B			
	700005331	1	Xevo TQ-S Set-up Standard			
	700005471	1	Xevo TQ-S Calibration and Resolution Standards			
	186006846	1	MS Cleaning Solution			
29	700005471	1	Xevo TQ-S Calibration and Resolution Standards	636.00	- 63.60	572.40
30	700005331	1	Xevo TQ-S Set-up Standard	530.00	- 53.00	477.00
31	700005472	1	Xevo TQ-S Qualification Standards KIT	1,590.00	- 159.00	1,431.00
32	186003532	1	ACQUITY UPLC HSS C18 Column, 100□ 1.8 □m, 2.1 mm X 50 mm, 1/pk	1,160.00	- 116.00	1,044.00
33	186003533	1	ACQUITY UPLC HSS C18 Column, 100□ 1.8 □m, 2.1 mm X 100 mm, 1/pk	1,260.00	- 126.00	1,134.00
34	186003534	1	ACQUITY UPLC HSS C18 Column, 100□ 1.8 □m, 2.1 mm X 150 mm, 1/pk	1,260.00	- 126.00	1,134.00
35	186004136	1	VanGuard™ Pre-Column HSS C18 SB, 3-Pack Kit contains three (3) ACQUITY UPLC HSS C18 SB, 1.8µm, 2.1mm x 5mm Van- Guard Pre-Columns	893.00	- 89.30	803.70
36	186003981	1	VanGuard™ Pre-Column HSS C18, 3-Pack Kit contains three (3) ACQUITY UPLC HSS C18, 1.7µm, 2.1mm x 5mm Van-Guard	893.00	- 89.30	803.70

**Waters**

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Account : State of West Virginia  
 Quotation number : 23623891  
 Creation date : 03/18/2024  
 Expiration date : 12/27/2024

**Sales Proposal**  
 Please reference this Quotation when Purchase Order is issued

Item	Product#	Qty	Description	Unit Price	Discount	Net Price
			Pre-Columns.			
37	186000837C	1	LCGC Certified Clear Glass 8 x 40 mm Snap Neck Total Recovery Vial, with Polyethylene Septumless Cap, 700 $\mu$ L Volume, 100/pk	146.00	- 14.60	131.40
38	186002127	1	Green, 12 x 32 mm Screw Neck Cap and Preslit PTFE/Silicone Septum, 100/pk	45.00	- 4.50	40.50
39	186002128	1	Red, 12 x 32 mm Screw Neck Cap and Preslit PTFE/Silicone Septum, 100/pk	48.00	- 4.80	43.20
40	186002129	1	Red, 12 x 32 mm Screw Neck Cap and PTFE/Silicone Septum, 100/pk	40.00	- 4.00	36.00
41	186002130	1	Green, 12 x 32 mm Screw Neck Cap and PTFE/Silicone Septum, 100/pk	35.00	- 3.50	31.50
42	700000969	1	Sleeve, ESI Conductive	19.00	- 1.90	17.10

Net Total	<b>42,446.70</b>
Estimated Freight	<b>162.00</b>
Total Quotation in USD (Taxes are extra if applicable)	<b>42,608.70</b>

## Waters Standard Terms and Conditions

Freight Terms: FOB Shipping Point  
 Payment Terms: CASH IN ADVANCE  
 Payment Terms Subject to Credit Review



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**Detail Product Description(s)****Product# Description****700008977 Needle, 15uL SS w/ Guide 18KPSI**Needle, 15  $\mu$ L SS w/ Guide 18Kpsi**201000260 ACQUITY I-CLASS BSM PERFORM MAINT KIT**

ACQUITY I-Class Binary Solvent Manager Performance Maintenance Kit

**201000208 ACQUITY SAMPLE ORGANIZER PM KIT**

ACQUITY Sample Organizer Performance Maintenance Kit

**201000316 I-Class PLUS SM-FTN Perform Maint Kit**

ACQUITY I-Class PLUS Sample Manager -FTN Performance Maintenance Kit

**201000259 ACQUITY I-CLASS SMP MGR-FTN PERF MNT KIT**

ACQUITY I-Class Sample Manager -FTN Performance Maintenance Kit

**201000236 XEVO TQ-S (ROTARY) PERFORMANCE MAINT KIT**

Xevo TQ-S (Rotary) Performance Maintenance Kit

**201000204 XEVO QTOF LS (SCROLL) PERFORM MAINT KIT**

Xevo QTOF LockSpray (Scroll) Performance Maintenance Kit

**201000174 ACQUITY SAMPLE MGR PERFORM MAINT KIT**

ACQUITY Sample Manager Performance Maintenance Kit

**176003134 XEVO G2-S LS(ROTARY)PERFM MNT KIT W/CHEM**

Xevo G2-S LockSpray (Rotary) Performance Maintenance Kit with Chemical Kit

**201000276 XEVO G2-S LS (ROTARY)PERFORM MAINT KIT**

Xevo G2-S LockSpray (Rotary) Performance Maintenance Kit

**176002745 XEVO TQ-S (ROTARY) PERF MAINT KIT W/CHEM**

Xevo TQ-S (Rotary) Performance Maintenance Kit with Chemical Kit

**700000969 Sleeve, ESI Conductive**

ESI Conductive Sleeve

**Waters**

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**Sales Proposal**  
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**Waters General Sales Terms and Conditions**

**THIS TRANSACTION IS EXPRESSLY CONDITIONED UPON AND SUBJECT TO ALL OF THE FOLLOWING TERMS AND CONDITIONS:**

1. **Acceptance** - Buyer's acceptance of the offer to purchase the products and/or services set forth on the front page made by Waters Technologies Corporation d/b/a Waters Corporation (Waters) of this quotation shall create a contract subject to and expressly limited by the terms and conditions contained on this form. Acceptance of this quotation may only be made on the exact terms and conditions set forth on this quotation; if additional or different terms are proposed by Buyer, such additional or different terms shall not become a part of the contract formed by Buyer's acceptance of the quotation. Receipt of the products sold hereunder or commencement of the services provided hereunder shall be deemed acceptance of the terms and conditions of this quotation.
2. **Taxes and Payment** - Any tax, duty, custom or other fee of any nature imposed upon this transaction by any federal, state or local governmental authority shall be paid by Buyer in addition to the price quoted. In the event Waters is required to prepay any such tax or fee, Buyer will reimburse Waters. Payment terms shall be net thirty (30) days after shipment and are subject to credit approval. An interest charge equal to 1 1/2% per month (18% per year) will be added to quotations outstanding beyond 30 days after shipment. In addition, Waters reserves the right, in its sole discretion, to require C.O.D. payment terms from any Buyer. Waters may also refuse to sell to any person until all prior overdue accounts are paid in full.
3. **Delivery and Shipment** - Delivery terms shall be F.O.B. Waters shipping point; identification of the products shall occur when they leave Waters shipping point at which time title and risk of loss shall pass to Buyer. All shipment costs shall be paid by Buyer and if prepaid by Waters the amount thereof shall be reimbursed to Waters. Waters will make reasonable commercial efforts to ship the products or provide the services hereunder in accordance with the delivery date set forth on the reverse side hereof provided, that Waters accepts no liability for any losses or for general, indirect special or consequential damages arising out of delays in delivery.
4. **Warranty** - The products and/or services shall be covered by the applicable Waters standard warranty, a copy of which is supplied with the products and/or services or upon request. NO OTHER WARRANTY, WHETHER EXPRESS OR IMPLIED, IS MADE WITH RESPECT TO THE PRODUCTS AND/OR SERVICES. WATERS EXPRESSLY EXCLUDES THE IMPLIED WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. Any model or sample furnished to the Buyer is merely illustrative of the general types and quality of goods and does not represent that the products will conform to the model or sample. Buyer's remedies under Waters warranty shall be limited to repair or replacement of the product or component which failed to conform to Waters applicable standard warranty. WATERS SHALL NOT BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL OR ANY OTHER INDIRECT DAMAGES RESULTING FROM ECONOMIC LOSS OR PROPERTY DAMAGE SUSTAINED BY BUYER FROM THE USE OF ITS PRODUCTS OR SERVICES.
5. **Returned Goods** - Waters may, in its sole discretion, authorize product returns in appropriate circumstances, subject to such conditions as Waters may specify. Any such return shall be subject to the express prior authorization of Waters and payment by Buyer of a restocking charge. No returns will be authorized after one hundred twenty (120) days following shipment to Buyer.
6. **Technical Advice** - Waters may, at Buyer's request furnish technical assistance, advice and information with respect to the products if and to the extent that such advice, assistance and information is conveniently available. It is expressly agreed that there is no obligation to provide such information, which is provided without charge at the Buyer's risk, and which is PROVIDED WITHOUT WARRANTY OF ANY KIND AND IS SUBJECT TO THE WARRANTY DISCLAIMERS AND LIMITATION OF LIABILITY SET FORTH IN PARAGRAPH 4.
7. **Waters Right of Possession, etc.** - Buyer hereby grants Waters a purchase money security interest in the goods offered by this quotation to secure the due and punctual payment of the purchase price specified in this quotation. In the event of default by Buyer in any payment due Waters, Waters shall have the right, in addition to any other remedies it may have at law or in equity, to withhold shipment, to recall goods in transit and retake the same, to repossess any goods which may be stored with Waters for Buyer's account without the necessity of Waters initiating any other proceedings. In addition, Waters shall have all of the rights and remedies of a secured party under the Massachusetts Uniform Commercial Code and may exercise all such rights and remedies in accordance therewith. Buyer shall execute such documents as Waters may request to effectuate the foregoing security interest.
8. **Agents, etc.** - No agent, employee or other representative has the right to modify or expand Waters standard warranty applicable to the products and/or services or to make any representations as to the products other than those set forth in the applicable user or operator's guide delivered with the products, and any such affirmation, representation or warranty, if made, should not be relied upon by Buyer and shall not form a part of contract between Waters and Buyer for the purchase of the products or services.
9. **Fair Labor Standards** - The products or services provided hereunder were produced and/or performed in compliance with the requirements of all sections of the Fair Labor Standards Act of 1938 as amended.
10. **Equal Employment** - Waters is an Equal Opportunity Employer. It does not discriminate in any phase of the employment process against any person because of race, color, creed, religion, national origin, sex, age, veteran or handicapped status.
11. **Modifications, Waiver, Termination** - The contract formed by Buyer's acceptance of this quotation may be modified and any breach thereunder may be waived only by a written and signed document by the party against whom enforcement thereof is sought.
12. **Governing Law** - The contract formed by Buyer's acceptance of this quotation shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, U.S.A.
13. **Compliance with Laws** - Buyer shall at all times comply with all applicable federal, state and local laws and regulations, including, without limitation, the provisions of the United States Export Control Laws as may be in effect for any of the products or services, and, if products or services hereunder are used in clinical applications, all applicable rules and regulations of the United States Food and Drug Administration and/or other domestic or international agencies with respect to the application of, as the case may be, Good Clinical Practices ("GCP"), Good Laboratory Practices ("GLP") or good Manufacturing Practices ("GMP").
14. **Additional Terms and Conditions** - This quotation is also subject to any Waters Special Terms and Conditions applicable to the products or services offered by this quotation, which appear on the front of this quotation. Any variance from the terms and conditions of this quotation in any order or other written notification from Buyer, will be of no effect. Should Buyer order products or services through a Waters office located outside of the United States, the terms and conditions of the quotation issued by the office outside of the United States shall govern such order.
15. **Arbitration** - Any and all disputes or controversies arising in connection with the contract formed by Buyer's acceptance of this quotation or the sale of products and/or performance of the services shall be resolved by final and binding arbitration in Boston, Massachusetts, under the rules of the American Arbitration Association then obtaining. The arbitrators shall have no power to add to, subtract from or modify any of these terms or conditions of this contract. Any award rendered in such arbitration may be enforced by either party in either the courts of the Commonwealth of Massachusetts or in the United States District Court for the District of Massachusetts, to whose jurisdiction for such purposes Waters and Buyer each hereby irrevocably consents and submits.
16. **Software** - To the extent there is any software included with the products, the software is being licensed, not sold and all rights, title and interest therein shall remain with Waters. Use of the software shall be in accordance with the applicable software license delivered with the products. U.S. Government Restricted Rights - RESTRICTED RIGHTS LEGEND. Use, duplication or disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights clause at 48 CFR 52.227-19, as applicable.
17. **Force Majeure** - Waters shall have no liability for failure to perform, or delay in performance, in the delivery of any and all equipment manufactured or sold by Waters including instruments, supplies, components, systems, chemistry, accessories, replacement spare parts, or any and all services provided by Waters, caused by circumstances beyond its reasonable control including, but not limited to, acts of God, acts of nature, floods, fire, explosions, war or military mobilization, United States governmental action or inaction, request of governmental authority, delays of any kind in transportation or inability to obtain material or equipment, acts of other governments, strikes, or labor disturbances.
18. **Diagnostic Products** - Buyer acknowledges and agrees that only those products which are labeled and identified as in vitro diagnostic ("IVD")

# Waters

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Account : State of West Virginia  
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## Sales Proposal

Please reference this Quotation when Purchase Order is issued

## Waters General Sales Terms and Conditions

devices are intended to be used for IVD purposes. Buyer acknowledges and agrees that any products that are not labeled and identified as IVDs are general laboratory products intended for research and other general scientific uses and are not for use in IVD procedures.

19. Software as a Service (SaaS) - Notwithstanding any other term of this quotation to the contrary, all purchases of and access to Waters' SaaS offerings contained within this quotation are governed solely by the terms and conditions of the Software as a Service (SaaS) Agreement located at: <https://waters.policytech.com/dotNet/documents/?docid=1178&public=true>.

The terms and conditions of the Software as a Service (SaaS) Agreement are hereby incorporated into this quotation by reference. No other terms or conditions (including, without limitation, the other Waters General Sales Terms and Conditions in this quotation above, any terms in Buyer's purchase order, nor any license agreement) will apply to your order of Waters' SaaS offerings, unless expressly stated otherwise in the Software as a Service (SaaS) Agreement. By issuing a purchase order in response to this quotation or otherwise receiving, accessing, or using any of Waters' SaaS offerings, you confirm acceptance of the Software as a Service (SaaS) Agreement as the exclusive document governing your access and use of the Waters SaaS offering and the parties' relationship with regard to the same, without modification. Additional or different terms contained in Buyer's purchase order, any other Buyer document, or Waters' invoice will not be binding on the parties, are void and of no force or effect, and the parties hereby reject such additional or different terms. These conditions form part of the contract to the exclusion of all other terms and conditions (including any terms or conditions which Buyer purports to apply under any purchase order, confirmation of order, specification or other document) unless expressly stated otherwise in the Software as a Service (SaaS) Agreement.

WV-96  
1/1/2019

**STATE OF WEST VIRGINIA  
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"): West Virginia Chief Medical Examiner's Office

Vendor: Waters Technologies Corporation ("Waters")

Contract/Lease Number ("Contract"): CMA CME2400000001

Commodity/Service: Consumable Laboratory Products

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**

2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.

7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.

8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.

As mandated by the West Virginia State Constitution

9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.

10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.

11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.



WV-96  
1/1/2019

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.

Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.

19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. ~~The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.~~

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20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~striketrough~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: Department of Health, BPH & OSA

By: Heather White

Printed Name: Heather White

Title: Procurement Specialist, Senior

Date: 6/5/24

Vendor: Waters Technologies Corporation

By: Andy Qiu

AA0B919B7F264AD...  
Printed Name: Andy Qiu

Title: VP of Commercial, Clinical Business Unit

Date: 04-Jun-2024

Approved as to form this 24 day of

June, 2024  
Patrick Morrissey, Attorney General

By: John S. Gray

**FEDERAL FUNDS ADDENDUM**  
**2 C.F.R. §§ 200.317 – 200.327**

**Purpose:** This addendum is intended to modify the solicitation in an attempt to make the contract compliant with the requirements of 2 C.F.R. §§ 200.317 through 200.327 relating to the expenditure of certain federal funds. This solicitation will allow the State to obtain one or more contracts that satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

**Instructions:** Vendors who are willing to extend their contract to procurements with federal funds and the requirements that go along with doing so, should sign the attached document identified as: “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)”

Should the awarded vendor be unwilling to extend the contract to federal funds procurement, the State reserves the right to award additional contracts to vendors that can and are willing to meet federal funds procurement requirements.

**Changes to Specifications:** Vendors should consider this solicitation as containing two separate solicitations, one for state level procurement and one for county/local procurement.

**State Level:** In the first solicitation, bid responses will be evaluated with applicable preferences identified in sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” to establish a contract for both standard state procurements and state federal funds procurements.

**County Level:** In the second solicitation, bid responses will be evaluated with applicable preferences identified in Sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” omitted to establish a contract for County/Local federal funds procurement.

**Award:** If the two evaluations result in the same vendor being identified as the winning bidder, the two solicitations will be combined into a single contract award. If the evaluations result in a different bidder being identified as the winning bidder, multiple contracts may be awarded. The State reserves the right to award to multiple different entities should it be required to satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

**State Government Use Caution:** State agencies planning to utilize this contract for procurements subject to the above identified federal regulations should first consult with the federal agency providing the applicable funding to ensure the contract is compliant.

**County/Local Government Use Caution:** County and Local government entities planning to utilize this contract for procurements subject to the above identified federal regulation should first consult with the federal agency providing the applicable funding to ensure the contract is compliant. For purposes of County/Local government use, the solicitation resulting in this contract was conducted in accordance with the procurement laws, rules, and procedures governing the West Virginia Department of Administration, Purchasing Division, except that vendor preference has been omitted for County/Local use purposes and the contract terms contained in the document entitled “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)” have been added.

**FEDERAL FUNDS ADDENDUM**

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY  
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):**

The State of West Virginia Department of Administration, Purchasing Division, and the Vendor awarded this Contract intend that this Contract be compliant with the requirements of the Procurement Standards contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements found in 2 C.F.R. § 200.317, et seq. for procurements conducted by a Non-Federal Entity. Accordingly, the Parties agree that the following provisions are included in the Contract.

**1. MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR  
SURPLUS AREA FIRMS:**  
(2 C.F.R. § 200.321)

- a. The State confirms that it has taken all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Those affirmative steps include:
  - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
  - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
  - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.
- b. Vendor confirms that if it utilizes subcontractors, it will take the same affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

**2. DOMESTIC PREFERENCES:**  
(2 C.F.R. § 200.322)

- a. The State confirms that as appropriate and to the extent consistent with law, it has, to the greatest extent practicable under a Federal award, provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United

States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

- b. Vendor confirms that will include the requirements of this Section 2. Domestic Preference in all subawards including all contracts and purchase orders for work or products under this award.
- c. Definitions: For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**3. BREACH OF CONTRACT REMEDIES AND PENALTIES:**  
(2 C.F.R. § 200.327 and Appendix II)

- (a) The provisions of West Virginia Code of State Rules § 148-1-5 provide for breach of contract remedies, and penalties. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

**4. TERMINATION FOR CAUSE AND CONVENIENCE:**  
(2 C.F.R. § 200.327 and Appendix II)

- (a) The provisions of West Virginia Code of State Rules § 148-1-5 govern Contract termination. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

**5. EQUAL EMPLOYMENT OPPORTUNITY:**  
(2 C.F.R. § 200.327 and Appendix II)

Except as otherwise provided under 41 CFR Part 60, and if this contract meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, this contract includes the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**6. DAVIS-BACON WAGE RATES:**  
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this Contract includes construction, all construction work in excess of \$2,000 will be completed and paid for in compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must:

- (a) pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (b) pay wages not less than once a week.

A copy of the current prevailing wage determination issued by the Department of Labor is attached hereto as Exhibit B. The decision to award a contract or subcontract is conditioned upon the acceptance of the wage determination. The State will report all suspected or reported violations to the Federal awarding agency.

**7. ANTI-KICKBACK ACT:**  
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that it will comply with the Copeland Anti-KickBack Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Accordingly, Vendor, Subcontractors, and anyone performing under this contract are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The State must report all suspected or reported violations to the Federal awarding agency.

**8. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**  
(2 C.F.R. § 200.327 and Appendix II)

Where applicable, and only for contracts awarded by the State in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**9. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.**  
(2 C.F.R. § 200.327 and Appendix II)

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**10. CLEAN AIR ACT**  
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this contract exceeds \$150,000, Vendor is to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**11. DEBARMENT AND SUSPENSION**  
(2 C.F.R. § 200.327 and Appendix II)

The State will not award to any vendor that is listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**12. BYRD ANTI-LOBBYING AMENDMENT**  
(2 C.F.R. § 200.327 and Appendix II)

Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**13. PROCUREMENT OF RECOVERED MATERIALS**  
(2 C.F.R. § 200.327 and Appendix II; 2 C.F.R. § 200.323)

Vendor agrees that it and the State must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.**  
(2 C.F.R. § 200.327 and Appendix II; 2 CFR § 200.216)

Vendor and State agree that both are prohibited from obligating or expending funds under this Contract to:


- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
  - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

State of West Virginia

Vendor Name: Waters Technologies Corporation

By: 

By:   
DocuSigned by:  
1BE2C08A826B477...

Printed Name: Billie S. Hancock

Printed Name: Timothy D'Souza

Title: Procurement Supervisor

Title: Vice President, Americas Field Operations

Date: 4/3/2023

Date: 23-Feb-2023



**EXHIBIT A To:  
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY  
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):**

**W. Va. CSR § 148-1-5**

West Virginia Code of State Rules

Title 148. Department of Administration

Legislative Rule (Ser. 1)

Series 1. Purchasing

W. Va. Code St. R. § 148-1-5

§ 148-1-5. Remedies.

Currentness

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

**5.2. Contract Cancellation.**

5.2.1. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.1.a. The vendor agrees to the cancellation;

5.2.1.b. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.1.c. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.1.d. The existence of an organizational conflict of interest is identified;

5.2.1.e. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition;

5.2.1.f. Violation of any federal, state, or local law, regulation, or ordinance, and

5.2.1.g. The contract was awarded in error.

5.2.2. The Director may cancel a purchase or contract for any reason or no reason, upon providing

the vendor with 30 days' notice of the cancellation.

**5.2.3. Opportunity to Cure.** In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

**5.2.4. Re-Award.** The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

**5.2.4.a.** The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

**5.2.4.b.** The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

**5.3. Non-Responsible.** If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

**5.4. Suspension.**

**5.4.1.** The Director may suspend, for a period not to exceed 1 year, the right of a vendor to bid on

procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.1.a. The vendor has submitted a bid and then requested that its bid be withdrawn after bids have been publicly opened.

5.4.1.b. The vendor has exhibited poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; or failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.1.c. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.1.d. The vendor's actions have given rise to one or more of the grounds for debarment listed in W. Va. Code § 5A-3-33d.

5.4.2. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.2.a. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.2.b. A notice of suspension must inform the vendor:

5.4.2.b.1. Of the grounds for the suspension;

5.4.2.b.2. Of the duration of the suspension;

5.4.2.b.3. Of the right to request a hearing contesting the suspension;

5.4.2.b.4. That a request for a hearing must be served on the Director no later than 5 working days of the vendor's receipt of the notice of suspension;

5.4.2.b.5. That the vendor's failure to request a hearing no later than 5 working days of

the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.2.b.6. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.2.c. A vendor's failure to serve a request for hearing on the Director no later than 5 working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.

5.4.2.d. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.2.e. Within 5 working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.2.f. The hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.3. A vendor may appeal a decision of the Director to the Secretary of the Department of Administration. The appeal must be in writing and served on the Secretary no later than 5 working days of receipt of the Director's decision.

5.4.4. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.5. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

**5.5. Vendor Debarment.** The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in W. Va. Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

**5.5.1. Debarment proceedings** shall be conducted in accordance with W. Va. Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

**5.5.2. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached.** Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

**5.5.3. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor, including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated.**

**5.5.4. Pursuant to W.Va. Code § 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.**

**5.5.5. List of Debarred Vendors.** The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

**5.5.6. Related Party Debarment.** The Director may pursue debarment of a related party at the same time that debarment of the original vendor is proceeding or at any time thereafter that the Director determines a related party debarment is warranted. Any entity that fails to provide the Director with full, complete, and accurate information requested by the Director to determine related party

status will be presumed to be a related party subject to debarment.

#### **5.6. Damages.**

5.6.1. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.2. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.3. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

#### **Credits**

History: Filed 4-1-19, eff. 4-1-19; Filed 4-16-21, eff. 5-1-21.

Current through register dated May 7, 2021. Some sections may be more current. See credits for details.

W. Va. C.S.R. § 148-1-5, WV ADC § 148-1-5

**End of Document**

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**EXHIBIT B To:  
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY  
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):**

**Prevailing Wage Determination**

☒ – Not Applicable Because Contract Not for Construction

☐ – Federal Prevailing Wage Determination on Next Page