



**State of New Mexico
General Services Department**

Price Agreement

Awarded Vendor
000005984
Waters Technologies Corporation
34 Maple St.
Milford, MA 01757

Telephone No. (800) 252-4752

Price Agreement Number: **80-805-18-16685**

Payment Terms: **Net 30**

F.O.B.: **Destination**

Delivery: **As Requested**

Ship To:
New Mexico Department of Transportation
General Office Materials Laboratory
1120 Cerrillos Road
Santa Fe, N.M. 87505

Procurement Specialist: **Mark Lujan**

Telephone No.: **(505) 827-0564**

Invoice:
New Mexico Department of Transportation
State Materials Bureau
P.O. Box 1149
1005 West Cordova Road
Santa Fe, New Mexico 87504

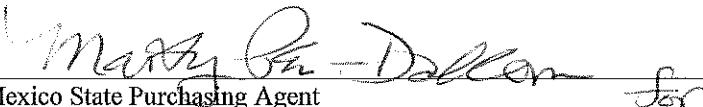
For questions regarding this contract please contact:
James Ortega (505)827-5135

Title: High Performance Liquid Chromatography (HPLC) System

Term: May 30, 2018 – May 29, 2019

This Price Agreement is made subject to the “terms and conditions” shown on the reverse side of this page, and as indicated in this Price Agreement.

Accepted for the State of New Mexico


 New Mexico State Purchasing Agent

Date: 05/31/2018

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Terms and Conditions

(Unless otherwise specified)

1. **General:** When the State Purchasing Agent or his/her designee issues a purchase document in response to the Vendor's bid, a binding contract is created.
2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.
3. **Assignment:**
 - a. Neither the order, nor any interest therein, nor any claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in Subparagraph 3b or as expressly authorized in writing by the State Purchasing Agent or his/her designee. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this order.
 - b. Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. **State Furnished Property:** State furnished property shall be returned to the State upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.
5. **Discounts:** Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within twenty (20) days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise invoice, whichever is later.
6. **Inspection:** Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for nonconformance with specifications shall be removed at the Vendor's risk and expense, promptly after notice of rejection.
7. **Inspection of Plant:** The State Purchasing Agent or his/her designee may inspect, at any reasonable time, the part of the Contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.
8. **Commercial Warranty:** The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. **Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.**
9. **Taxes:** The unit price shall exclude all state taxes.
10. **Packing, Shipping and Invoicing:**
 - a. The State's purchasing document number and the Vendor's name, user's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The user's count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.
 - b. The Vendor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.
 - c. Invoices must be submitted to the using agency and NOT the State Purchasing Agent.
11. **Default:** The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor, such causes include but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government,

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fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.

12. **Non-Collusion:** In signing this bid the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or his/her designee.

13. **Nondiscrimination:** Vendor doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev. 1979) and the Americans with Disabilities Act of 1990 (Public Law 101-336).

14. **The Procurement Code:** Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

15. **Items:** All bid items are to be NEW and of most current production, unless otherwise specified.

16. **Payment for Purchases:** Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in Section 13-1-158 NMSA 1978.

17. **Workers' Compensation:** The Contractor agrees to comply with state laws and rules pertaining to Workers' Compensation benefits for its employees. If the Contractor fails to comply with Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the contracting agency.

18. **Submission of Bid:** Bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left hand side of the front of the envelope. Failure to label bid envelope will necessitate the premature opening of the bid in order to identify the bid number.

19. **Contractor Personnel:** Personnel proposed in the Contractor's written bid to the Procuring Agency are considered material to any work performed under this Price Agreement. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

20. **Subcontracting:** The Contractor shall not subcontract any portion of the Price Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Price Agreement, nor shall any subcontracting obligate payment from the Agency.

21. **Records and Audit:** The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during this Price Agreement's term and effect, and retain them for a period of three (3) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the Agency, State Purchasing Division, Department of Finance and Administration, and for Information Technology contracts, State Chief Information Officer. The Agency shall have the right to audit billings, both before and after payment. Payment for services under this Price Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

22. **Subcontracts:** The foregoing requirements for Contractor Personnel, Subcontracting, and Audit shall be inserted into all subcontracts from the prime contractor to the subcontractor.

New Mexico Employees Health Coverage

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for its New Mexico Employees and offer that health insurance to its New Mexico Employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceeds \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of its New Mexico Employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all of its New Mexico Employees of the availability of State publicly financed health care coverage programs by providing each of its New Mexico Employees with, as a minimum, the following web site link to additional information: <http://www.insurenemexico.state.nm.us/>.

D. For purposes of this Paragraph, the following terms have the following meanings:

- (1) "New Mexico Employee" means any resident of the State of New Mexico employed by Contractor who performs the majority of the employee's work for Contractor within the State of New Mexico, regardless of the location of Contractor's office or offices; and
- (2) "offer" means to make available, without unreasonable restriction, enrollment in one or more health coverage plans and to actively seek and encourage participation in order to achieve the goals of Executive Order 2007-049. This could include State publicly financed public health coverage programs such as *Insure New Mexico!*

New Mexico Pay Equity Initiative

Contractor agrees, if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees, contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts that are up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report it self.

Two (2) copies of the Pay Equity Worksheet shall be submitted prior to Award by the prospective Awarded Vendor.

The PE10-249 and PE250 worksheet is available at the following website:
http://www.generalservices.state.nm.us/statepurchasing/Pay_Equity.aspx

Department Price Agreement

Article I – Statement of Work

Under the terms and conditions of this Price Agreement, the using agency may issue orders for items and/or services described herein.

The terms and conditions of this Price Agreement shall form a part of each order issued hereunder.

The items and/or services to be ordered shall be listed under Article IX – Price Schedule. All orders issued hereunder will bear both an order number and this Price Agreement number. It is understood that no guarantee or warranty is made or implied by either the New Mexico State Purchasing Agent or the user that any order for any definite quantity will be issued under this Price Agreement. The Contractor is required to accept the order and furnish the items and/or services in accordance with the articles contained hereunder for the quantity of each order issued.

Article II –Term

The term of this Price Agreement for issuance of orders shall be as indicated in specifications.

Article III –Specifications

Items and/or services furnished hereunder shall conform to the requirements of specifications and/or drawings applicable to items listed under Article IX - Price Schedule. Orders issued against this schedule will show the applicable price agreement item(s), number(s), and price(s); however they may not describe the item(s) fully.

Article IV – Shipping and Billing Instructions

Contractor shall ship in accordance with the instructions of this form. Shipment shall be made only against specific orders which the user may place with the contractor during the term indicated in Article II – Term. The Contractor shall enclose a packing list with each shipment listing the order number, price agreement number and the commercial parts number (if any) for each item. Delivery shall be made as indicated on page 1. If vendor is unable to meet stated delivery the State Purchasing Agent must be notified.

Article V - Termination

The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Agency does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach. Termination of this Contract, however, shall not affect any outstanding orders. This provision is not exclusive and shall not waive other rights and remedies afforded either party in the event of breach of contract or default. In such instances the contract may be cancelled effective immediately.

Article VI – Amendment

This Price Agreement may be amended by mutual agreement of the New Mexico State Purchasing Agent or his/her designee and the Contractor upon written notice by either party to the other. An amendment to this Price Agreement shall not affect any outstanding orders issued prior to the effective date of the amendment as mutually agreed upon, and as published by the New Mexico State Purchasing Agent or his/her designee. Amendments affecting price adjustments and/or the extension of a price agreement expiration date are not allowed unless specifically provided for in the bid and price agreement specifications.

Article VII -- Issuance or Orders

Only written signed orders are valid under this Price Agreement.

Article VIII – Packing (if applicable)

Packing shall be in conformance with standard commercial practices.

Article IX – Price Schedule

Prices as listed in the price schedule hereto attached are firm.

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Awarded Vendors:

0000005984
Waters Technologies Corporation
34 Maple St.
Milford, MA 01757
800-252-4752
customerservice@waters.com

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Establish a contract for the purchase of one (1) complete High Performance Liquid Chromatography (HPLC) system, ready for operation. The system shall include a complete HPLC system; complete PC with analysis software, installation of system, and training for the New Mexico Department of Transportation (NMDOT).

Terms:

The term of this Contract shall be for one (1) year from date of award with the option to extend for a period of one (1) additional year by mutual agreement of all parties and approval of the New Mexico State Purchasing Agent at the same price, terms and conditions. This Contract shall not exceed two (2) years.

Specifications:

Part 1 – General

The intent of this procurement is to provide for purchase of one (1) complete HPLC system, ready for operation. The system shall be capable of performing the separation and analysis of the components of polymerized asphalt binder, as recommended by Western Research Institute in the document "AUTOMATED HPLC SAR-AD SEPARATION". The system shall include a complete HPLC system; complete PC with analysis software, installation of system, and training.

All equipment shall be of new model, at time of delivery in current production complete with standard equipment and accessories as ordinary furnished to the general public except as otherwise specified herein.

These specifications are not written to be restrictive due to any patent for material or manufacturing practices, but are a result of research and review of available technologies and manufacturers. All items, parts, warranties and stipulations included in these specifications shall be met or exceeded by the bidder.

Any exceptions to the specification shall be fully explained in detail. Statements that equipment meets intent will not be acceptable. Detailed explanations of deviations shall be listed on separate sheet of paper if needed.

All invoices, bills of sale, title applications, warranty, service contract forms, operating, service, and maintenance manuals for equipment that is being furnished shall be delivered with the equipment.

1. SCOPE OF WORK

- a. Supply one (1) complete HPLC System including
 - i. Autosampler capable of:
 1. 20 μ L injection containing partial loop in needle overflow mode
 2. Operation at altitude of >2000m
 - ii. Multisolvent Delivery System capable of:
 1. Four (4) solvents:
 - a. Heptane
 - b. Cyclohexane
 - c. Toluene
 - d. Methylene chloride: methanol (98:2 v:v)
 2. Flow rate of 2 mL/min
 - iii. Automated 4 and 6 port electronic actuated switching valves
 1. activated by the pump and detector
 - iv. Column Oven capable of:
 1. Holding four (4) 250mm x 7mm i. D columns
 2. Thermostat at 30°C
 - v. Four (4) HPLC columns
 1. One(1) 250mm x 7mm i.d. column packed with ground 40-60 mesh polytetrafluoroethylene (PTFE)
 2. One(1) 250mm x 7mm i.d. column packed with 150-212 μ m glass beads
 3. One(1) 250mm x 7mm i.d. column packed with 15-35 μ m 9mm pore size amino propyl bonded silica gel
 4. One(1) 250mm x 7mm i.d. column packed with 37-70 μ m 150 Å silica gel activated at 120°C overnight
 - vi. Evaporative Light Scatter Detector (ELSD) capable of:
 1. 35 psi nitrogen flow
 2. 60° drift flow
 3. Nebulizer set to cool
 - vii. UV/Visible Detector
 1. Set at 500nm and 700nm
 - viii. Computer system including and software capable of:
 1. Qualitative and Quantitative analysis of HPLC results
 2. Computer workstation and monitor
- b. Delivery of complete system to: **General Office Materials Laboratory**
1120 Cerrillos Road
Santa Fe, N.M. 87505
- c. Installation of System
- d. Training on System to include:
 - i. Use of system
 - ii. Calibration of system
 - iii. Preventative maintenance of system
- e. One (1) year warranty

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2. PARTS AND SERVICE

- a. All prospective bidders must have a manufacturer's authorized service provider. Provide service provider's information.
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3. SUBMITTALS

- a. Bidders shall furnish the following with their bid responses to this request:
- i. Copies of warranty statements for all primary components.
 - ii. Technical data sheets, brochures, and supporting documentation for all primary components.
 - iii. Examples of test reports generated by the system.
 - iv. Photographs of system assembled with physical dimensions listed.

Contractor Agrees to:

- A. Furnish all equipment, material, labor and tools, required to perform the work specified.
- B. Is responsible for all clean-up of materials at the job site resulting from the performance of any work.
- C. Provide competent supervision and skilled personnel to carry on all work in progress.
- D. Comply with all applicable codes and regulations pertaining to work performed and materials used.
- E. Provide all safeguards, safety devices and protective equipment, and take any other needed actions necessary to protect the life and health of employees on-the-job, the safety of the public, and to protect state property in connection with the performance of the work covered by the contract.
- F. Limit use of the premises to the work indicated. Confine operations at the site to the areas permitted. Portions of the site beyond areas on which work is indicated are not to be disturbed.
- G. Is responsible for loading/unloading all materials required to perform the work in this contract. Contractor will schedule deliveries to minimize long-term storage at the project point.

Tax Note:

Price shall not include state gross receipts tax or local option tax(es). Such tax or taxes shall be added at time of invoicing at current rate, and shown as a separate item to be paid by user.

The prices quoted herein represent the total compensation to be paid by the State for goods and/or services provided. It is understood that the party providing said goods and/or services to the state is responsible for payment of all costs of labor equipment, tools, materials, federal tax, permits, licenses, fees, and any other items necessary to complete the work provided the prices quoted in this contract include an amount sufficient to cover such cost.

Successful vendor(s) shall provide to the NMDOT a copy of any inspections reports/permits completed by any local officials/agency as approval for use of item within local area. This information shall accompany the invoice and will be used as supportive documentation prior to payment.

Contracted vendor(s) shall deliver to destination as requested:

**General Office Materials Laboratory
1120 Cerrillos Road
Santa Fe, N.M. 87505**

The State of New Mexico intends to award this procurement to the lowest responsible bidder(s). The State of New Mexico reserves the right to reject any and all bids, to waive technical irregularities, and to award the contract to the bidder(s) whose bid it deems to be in the best interest of the State of New Mexico.

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In submitting this bid, each bidder must satisfy all terms and conditions of the bidding documents.

Public Works Minimum Wage Act:

This is a Public Works contract subject to the provisions of the Public Works Minimum Wage Act, Section 13-4-11 through 13-4-17, et sep. NMSA 1978 as amended. Minimum Wage Rates as determined and published by the New Mexico Department of Workforce Solutions, Public Works Bureau, Santa Fe, New Mexico, shall be in effect and utilized by the vendor(s) during the life of this price agreement.

You are hereby advised that wherever differences exist between the minimum wage rates shown under wage decisions of the New Mexico Department of Workforce Solutions, Public Works Bureau, Santa Fe, New Mexico, and those shown under U.S. Department of Labor Wage Decision and any modification thereto noted in the contract assembly, the higher wage rates shall govern.

If a Contractor or subcontractor is willfully paying his laborers, mechanics, or operators less than the rates required by the agreement for the work the laborers, mechanics, and operators are performing, the contractor or subcontractor may lose his right to proceed with the work.

Hold Harmless Clause:

Contractor shall indemnify and hold harmless the State, its officers and employees against liability, claims, damages, losses or expenses arising out of bodily injury to persons or damage to properties caused by, or resulting from, Contractor's and/or its employees, own negligent acts or omissions while Contractor, and/or its employees perform or fail to perform its obligations and duties under the terms and conditions of this Price Agreement. This Save Harmless and Indemnification Clause is subject to the immunities, provisions, and limitations of the Tort Claims Act (Section 41-4-1, et seq., NMSA 1978 Comp. and Section 56-7-1 NMSA 1978 Comp.) and any amendments thereto.

It is specifically agreed between the parties executing this Contract that it is not intended by any of the provisions of any part of the Contract to create the public or any member hereof a third party beneficiary or to authorized anyone not a party to the Contract to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to properties and/or other claims whatsoever pursuant to the provision of this Contract.

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Item	Approx. Qty.	Unit	Article and Description	Price
001	1	Ea.	High Performance Liquid Chromatography (HPLC) System (to include delivery).	<u>\$99,724.88</u>
002	1	Ea.	Installation of High Performance Liquid Chromatography (HPLC) System	<u>\$4,803.75</u>
003	1	Ea.	Training, to include use of system, calibration of system, and Preventative Maintenance of system.	<u>\$7,441.75</u>
004	1	Ea.	One (1) Year Warranty for HPLC System.	<u>\$55.26</u>

*** 4 Items Awarded ***

