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NEW

State of Maine



Master Agreement

Effective Date: 02/07/20

Expiration Date: 02/06/22

Master Agreement Description: Breast Pumps and Related Accessories

Buyer Information

Justin Franzose 207-624-7337 ext. justin.franzose@maine.gov

Issuer Information

Justin Franzose 207-624-7337 ext. justin.franzose@maine.gov

Requestor Information

Justin Franzose 207-624-7337 ext. justin.franzose@maine.gov

Agreement Reporting Categories

Authorized Departments

ALL

Vendor Information

Vendor Line #: 1

Vendor ID

VC0000143864

Vendor Name

HYGEIA II MEDICAL GROUP INC

Alias/DBA

Vendor Address Information

6241 YARROW DRIVE STE A

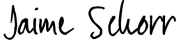
CARLSBAD, CA 92011

US

Vendor Contact Information

Each signatory below represents that the person has the requisite authority to enter into this Contract.
The parties sign and cause this Contract to be executed.


State of Maine - Department of Administrative and Financial Services

DocuSigned by:
 1/31/2020

Signature Date

Jaime C. Schorr, Chief Procurement Officer

Vendor

DocuSigned by:
 1/31/2020

Signature Date

Tom Dempski National WIC Director

Print Representative Name and Title

RIDERS

| | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | The following riders are hereby incorporated into this Contract and made part of it by reference: (check all that apply) |
| <input checked="" type="checkbox"/> | Rider A – Scope of Work and/or Specifications |
| <input checked="" type="checkbox"/> | Rider B – Terms and Conditions |
| <input type="checkbox"/> | Rider C - Exceptions |
| <input checked="" type="checkbox"/> | Bid Cover Page and Debarment Form |
| <input checked="" type="checkbox"/> | Debarment, Performance, and Non-Collusion Certification |
| <input checked="" type="checkbox"/> | Price sheet (attach excel spreadsheet to post on website) |
| <input type="checkbox"/> | Other – Included at Department's Discretion |

RIDER A
Scope of Work and/or Specifications

This master agreement is for breast pumps and related accessories. The vendor agrees to supply the quoted commodities at the agreed upon unit prices. The items will be required on an as needed basis by various government and State agencies throughout the State of Maine, which may or may not elect to participate in the resulting contract. Delivery Orders (DOs) may be submitted as needed until the expiration date. All DOs will be subject to the prices, terms, and conditions of this master agreement. Prices shall remain firm until the expiration date of the master agreement.

ADDITION / DELETION OF PRODUCTS: The supplier is responsible for notifying the State of all new and discontinued products in a timely manner. Additional line items may be added to the Master Agreement for breast pumps and related accessories through mutual agreement of the Supplier and the State of Maine.

INVOICES: Separate invoices are required for each order number. All invoices must reference Master Agreement Number, the Agency/Entity Order Number and the specified shipment quantity and date. Failure to do so could cause lengthy delays of payment of invoices. All invoices should be issued within 30 days of delivery and paid in a timely manner agreed upon between the using agency and the contractor.

REPORT OF PURCHASES: Contractor will be required to furnish to the Director of Procurement Services a detailed summary of the total purchases made under this contract. This total may be requested yearly or at any time during the contract period.

CANCELLATION OF CONTRACT: The Division of Procurement Services reserves the right to cancel a contract upon a thirty-day written notice, or cancel immediately if the contractor does not conform to the terms and conditions of this contract.

Master Agreement Term

In addition to any mutually agreed upon delivery dates for purchases of goods, the contract resulting from this RFQ will have a term, or "Period of Performance", during which the contract is considered to be in effect. The anticipated contract term is defined in the table below. Please note that the dates below are estimated and may be adjusted as necessary in order to comply with all procedural requirements associated with this RFQ and the contracting process. The actual contract start date will be established by the completed and approved contract.

Contract Renewal: Following the initial term of the contract, the Division may opt to renew the contract for two renewal periods of one year each, subject to continued availability of funding and satisfactory delivery/performance.

The term of the anticipated contract, resulting from this RFQ, is defined as follows:

| Period | Start Date | End Date |
|-------------------------------|------------|----------|
| Initial Period of Performance | 2/7/2020 | 2/6/2022 |
| Renewal Period #1 | 2/7/2022 | 2/6/2023 |
| Renewal Period #2 | 2/7/2023 | 2/6/2024 |

1. TOXIC MATERIALS

The provider must be in compliance with current federal and state standards; i.e. Federal standards Consumer Product Safety Commission (CPSC) Reform Act HR404, Title 1, Section 101 Children's products Containing lead. Lead Paint rule, Lead Limits 600 parts per million (ppm) and 300 ppm, certain products or materials excluded, and CA State standards AB1108, Chapter 672 Children's Products - Phthalates, Section 1, Chapter 11 - #108935, #108937, and #108939 for products submitted with bid package. Some manufacturers have voluntarily begun to provide information about toxic substances in the products they produce. Maine State agencies may request information about toxic substances in products before procuring. If the manufacturer cannot provide the required testing data, the manufacturer or supplier must have samples tested by an independent accredited laboratory using the analytical procedures specified below. By having products tested prior to purchase, State agencies limit the possibility of buying products that do not comply with existing standards. If the manufacturer refuses to provide the data requested, or if the data show that the product is not compliant with federal and State laws that regulate toxic substances in products, State agencies shall reject the product.

A summary of existing requirement for products is included in the Table. "PPM" means "parts per million."

TEST METHOD TABLE

| If the product is | Toxics in packages |
|--|--|
| <p>Package: carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, tubs and bottles</p> | <p>Toxics in Packaging</p> <ul style="list-style-type: none"> . Intentional introduction of lead, cadmium, mercury, or hexavalent chromium ("regulated metals") is prohibited. . Lead in paint or applied ceramic decoration must be less than 600 ppm. . Sum of incidental regulated metals is limited to no more than 100 ppm total. . A Certificate of Compliance must be provided by the manufacturer and or supplier to the purchaser. |
| <p>Child care articles: means all products designed or intended by the manufacturer to facilitate sleep, relaxation, or the feeding of children, or to help children with sucking or teething</p> | <p>Phtalates--in products for young children On and after January 1, 2009</p> <ul style="list-style-type: none"> * Prohibits the manufacturing, selling, or distribution of any toy or child care article that contains di-(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP), in concentrations exceeding 0.1 percent (1000 ppm). * Prohibits the manufacturing, selling, or distribution of any toy or child care article intended for use by a child under three years of age if that product can be placed in the child's mouth and contains diisononyl phthalate (DINP), diisodecyl phthalate (DIDP), or di-n- octyl phthalate (DnOP), in concentrations exceeding 0.1 percent (1,000 ppm) after Jan. |

TEST METHOD TABLE

| Substance of Concern | Product Component | Digestion Method | Analysis Method | Regulatory limit |
|-----------------------|------------------------------|------------------|-----------------|--------------------|
| Chromium (Hexavalent) | Packaging/Bottles | 3060A | 7196A1719 | 100 ppm |
| Lead | Packaging/Bottles | 3050B | 6010B | 100 ppm |
| DEHP | Child Care Articles: 0-3 yrs | 3540 | 8061A | 0.1% (1000 ppm) |
| DBP | Child Care Articles: 0-3 yrs | 3540 | 8061A | 0.1% (1000 ppm) |
| BBP | Child Care Articles: 0-3 yrs | 3540 | 8061A | 0.1% (1000 ppm) |

Method may not work for all matrices. Lab must validate performance of test procedure.

- a. Incidental
- b. Combined
- c. Requires Proposition 65 notification

2. PRODUCT LITERATURE/INSTRUCTIONS

Printed materials shall be provided with each ordered pump and pump kit and shall:

- Include clear graphical illustrations for pump kit assembly, usage, and cleaning.
 - Include guidelines for safe collection, handling and storage of pumped milk.
 - Be written in both English and Spanish at the 6th grade reading level or lower.
 - Be free of mention or advertisement of infant feeding supplements (this not only applies to printed material but entire pump and all accessories).
 - Indicate if pump is meant for multiple users or a single user.
 - List model numbers that match model numbers on the products.
 - Include contact information that includes a technical assistance toll-free number.
 - An abbreviated pictorial version of the multi-user instructions shall be permanently affixed to the pump (required for multi-user pumps only).

An instructional DVD, or access to an online video, shall be included with each Personal-Use Pump. If an online format is used, information on how to access the video(s) shall be included with the printed materials enclosed with the pump. The DVD or online video shall include:

- Instructions for pump assembly, attachment of collection kit, use of pump and cleaning of pump
- Guidelines for the safe handling and storage of pumped milk
- Both English and Spanish* versions
- Information appropriate for WIC clients of varying educational levels
- No mention or advertisement of infant feeding supplements

NOTE: If an online video is used, a DVD shall still be available upon request.

Vendor shall also supply an instructional DVD, or access to online videos, for use by Maine agencies as a training aid that includes usage instructions for all breast pumps available under the resulting Contract. The DVD's will include, at a minimum, the following information:

- Instructions for pump assembly, attachment of collection kit, use of pump and cleaning the pumps
- Guidelines for the safe handling and storage of pumped milk
- Both English and Spanish* versions
- Information is appropriate for WIC clients of varying educational levels

NOTE: If an online video is used, a DVD shall still be available upon request.

*Instructions and materials are to be available in languages other than English and Spanish upon request, as well as in large print and alternative formats. These materials shall be available in print and by electronic download.

3. DELIVERY

Contractor shall complete delivery within 30 calendar days of receipt of order. All deliveries shall be F.O.B. Destination with all transportation and handling charges prepaid and included in unit pricing by the Contractor. Product will be purchased on an "as needed" basis with delivery to the ship to locations on the request form.

4. PRODUCTS OFFERED

Orders shall be for new first quality goods.

5. EQUIPMENT ELECTRICAL CERTIFICATION

As required by RCW 19.28.010 and WAC 296-24-956, all electrical equipment purchased shall conform to the applicable standard(s) or be otherwise certified by Underwriters Laboratories, Inc. or other recognized laboratory facility acceptable to the OSP. Unless indicated in the bid document, the above certification shall apply to the equipment as a whole, not the individual components of that equipment.

6. TRAINING

Upon request by a Maine agency, Contractor shall provide a minimum of one (1) hour training for local agency/ WIC staff on assembly, use and cleaning of equipment and handling and storage of pumped milk. Locations and times will be designated by each Maine/WIC office. Any costs for training shall be paid by the Contractor and will not be reimbursed by Maine. Training materials shall be provided by the Contractor. Such assistance shall be available within 60 calendar days after delivery of product upon request. Contractor shall provide appropriate training documentation or operating documentation covering all functionalities and required operator maintenance issues. A training video may replace the in-person training.

7. MINIMUM ORDERS

The provider may not specify any minimum order requirements.

8. WARRANTY

Bidders must include the factory and/or manufacturer's warranty, which shall cover 100% parts and labor for the entire unit offered. This warranty must be honored by all authorized factory and/or manufacturer's dealerships. Minimum warranty period for each item was listed in the Technical Specifications Table of the solicitation. Should product fail to function, and it is reported prior to the expiration date of the warranty, the Contractor shall make repairs as necessary or replace the unit at the Contractor's option. Shipping costs to and from the repair facility shall be paid by the Contractor. Contractor shall provide loaners or replacement equipment if equipment cannot be repaired or replaced and returned to the user within 30 days of receipt. All shipping costs for the loaners shall be paid by the Contractor.

9. REPAIR SERVICES

Repair services shall be available to all Maine agencies. Repair services shall be provided within a time period to be mutually agreed upon between the Contractor and Maine. Bidder shall provide a minimum of 100 free pump cleanings annually due to insect infestations. Maine shall be responsible for payment of product shipping to the repair facility. Bidder shall be responsible for payment of return shipping to Maine.

10. REPLACEMENT PARTS

Replacement parts for Multi-user Double Electric Breast Pump, Manual Breast Pump and Personal Double Electric Breast Pump should be easily accessible via a local distributor or through the manufacturer. Information concerning how to obtain replacement parts shall be placed with each pump prior to delivery. Phone support including a toll-free phone line shall be available no less than 40 hours per seven-day week.

All prices of breast pumps and related accessories are per the catalog attached and hereby incorporated into this contract. All quoted prices are in effect until 1/30/2022.

**RIDER B
TERMS AND CONDITIONS**

- 1. DEFINITIONS:** The following definitions are applicable to these standard terms and conditions:
 - a. The term “Buyer” or “State” shall refer to the Government of the State of Maine or a person representing the Government of the State of Maine.
 - b. The term “Department” or “DAFS” shall refer to the State of Maine Department of Administrative and Financial Services.
 - c. The term “Bureau” or “BGS” shall refer to the State of Maine Bureau of General Services.
 - d. The term “Division” shall refer to the State of Maine Division of Purchases.
 - e. The term “Contractor”, “Vendor”, or “Provider” shall refer to the organization that is providing goods and/or services through the contract to which these standard terms and conditions have been attached and incorporated.
 - f. The term “Contract” or “Agreement” shall refer to the contract document to which these standard terms and conditions apply, taking the format of a Buyer Purchase Order (BPO) or Master Agreement (MA) or other contractual document that is mutually agreed upon between the State and the Contractor.

- 2. WARRANTY:** The Contractor warrants the following:
 - a. That all goods and services to be supplied by it under this Contract are fit and sufficient for the purpose intended, and
 - b. That all goods and services covered by this Contract will conform to the specifications, drawing samples, symbols or other description specified by the Division, and
 - c. That such articles are merchantable, good quality, and free from defects whether patent or latent in material and workmanship, and
 - d. That all workmanship, materials, and articles to be provided are of the best grade and quality, and
 - e. That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this agreement or relieve the Contractor liability in respect of any warranties or responsibility for faulty material or workmanship. The Contractor shall remedy any defects in the work and pay any damage to other work resulting therefrom, which shall appear within one year from the date of final acceptance of the work provided hereunder. The Division of Purchases shall give written notice of observed defects with reasonable promptness.

3. TAXES: Contractor agrees that, unless otherwise indicated in the order, the prices herein do not include federal, state, or local sales or use tax from which an exemption is available for purposes of this order. Contractor agrees to accept and use tax exemption certificates when supplied by the Division as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Contractor, Contractor agrees to notify the Division and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to the Division.

4. PACKING AND SHIPMENT: Deliveries shall be made as specified without charge for boxing, carting, or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest transportation cost and to conform to the requirements of common carriers and any applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills of lading, and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists.

5. DELIVERY: Delivery should be strictly in accordance with delivery schedule. If Contractor's deliveries fail to meet such schedule, the Division, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the order routing costs shall be paid by the Contractor. Articles fabricated beyond the Division's releases are at Contractor's risk. Contractor shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule, and, unless otherwise specified herein, no deliveries shall be made in advance of the Division's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to the causes beyond its control and without its fault or negligence, provided, however, that when the Contractor has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to the Division. If the Contractor's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Contractor and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

6. FORCE MAJEURE: The State may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The State may, at its discretion, extend the time period for performance of the obligation excused under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

7. INSPECTION: All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. The Division of Purchases, at its option, may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Contractor's expense. The Division may reject the entire shipment where it consists of a quantity of similar articles and sample inspection discloses that ten (10%) percent of the articles inspected are defective, unless Contractor agrees to reimburse the Division for the cost of a complete inspection of the articles included in such shipment. Rejected material may be returned at Contractor's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective articles or work shall be made unless specified by the Division.

8. INVOICE: The original and duplicate invoices covering each and every shipment made against this order showing Contract number, Vendor number, and other essential particulars, must be forwarded promptly to the ordering agency concerned by the Vendor to whom the order is issued. Delays in receiving invoice and also errors and omissions on statements will be considered just cause for withholding settlement without losing discount privileges. All accounts are to be carried in the name of the agency or institution receiving the goods, and not in the name of the Division of Purchases.

9. ALTERATIONS: The Division reserves the right to increase or decrease all or any portion of the work and the articles required by the bidding documents or this agreement, or to eliminate all or any portion of such work or articles or to change delivery date hereon without invalidating this Agreement. All such alterations shall be in writing. If any such alterations are made, the contract amount or amounts shall be adjusted accordingly. In no event shall Contractor fail or refuse to continue the performance of the work in providing of articles under this Agreement because of the inability of the parties to agree on an adjustment or adjustments.

10. TERMINATION: The Division may terminate the whole or any part of this Agreement in any one of the following circumstances:

- a. The Contractor fails to make delivery of articles, or to perform services within the time or times specified herein, or
- b. If Contractor fails to deliver specified materials or services, or
- c. If Contractor fails to perform any of the provisions of this Agreement, or
- d. If Contractor so fails to make progress as to endanger the performance of this Agreement in accordance with its terms, or
- e. If Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed because of its insolvency, or
- f. Whenever for any reason the State shall determine that such termination is in the best interest of the State to do so.

In the event that the Division terminates this Agreement in whole or in part, pursuant to this paragraph with the exception of 8(f), the Division may procure (articles and services similar to those so terminated) upon such terms and in such manner as the Division deems appropriate, and Contractor shall be liable to the Division for any excess cost of such similar articles or services.

11. NON-APPROPRIATION: Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

12. COMPLIANCE WITH APPLICABLE LAWS: Contractor agrees that, in the performance hereof, it will comply with applicable laws, including, but not limited to statutes, rules, regulations or orders of the United States Government or of any state or political subdivision(s) thereof, and the same shall be deemed incorporated herein by reference. Awarding agency requirements and regulations pertaining to copyrights and rights in data. Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United

States, or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. Retention of all required records for three years after grantees or subgrantees make final payments and all other pending matters are closed. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act, (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000). Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

13. INTERPRETATION: This Agreement shall be governed by the laws of the State of Maine as to interpretation and performance.

14. DISPUTES: The Division will decide any and all questions which may arise as to the quality and acceptability of articles provided and installation of such articles, and as to the manner of performance and rate of progress under this Contract. The Division will decide all questions, which may arise as to the interpretation of the terms of this Agreement and the fulfillment of this Agreement on the part of the Contractor.

15. ASSIGNMENT: None of the sums due or to become due nor any of the work to be performed under this order shall be assigned nor shall Contractor subcontract for completed or substantially completed articles called for by this order without the Division's prior written consent. No subcontract or transfer of agreement shall in any case release the Contractor of its obligations and liabilities under this Agreement.

16. STATE HELD HARMLESS: The Contractor agrees to indemnify, defend, and save harmless the State, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, material men, laborers and other persons, firm or corporation furnishing or supplying work, services, articles, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Contractor in the performance of this Agreement.

17. SOLICITATION: The Contractor warrants that it has not employed or written any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement, and it has not paid, or agreed to pay any company, or person, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Division shall have the absolute right to annul this agreement or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gifts, or contingent fee.

18. WAIVER: The failure of the Division to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this order or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant, or condition or the future exercise of such right, but the obligation of Contractor with respect to such future performance shall continue in full force and effect.

19. MATERIAL SAFETY: All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current Material Safety Data Sheet (MSDS) for any hazardous chemical to their direct purchasers of that chemical.

20. COMPETITION: By accepting this Contract, Contractor agrees that no collusion or other restraint of free competitive bidding, either directly or indirectly, has occurred in connection with this award by the Division of Purchases.

21. INTEGRATION: All terms of this Contract are to be interpreted in such a way as to be consistent at all times with this Standard Terms and Conditions document, and this document shall take precedence over any other terms, conditions, or provisions incorporated into the Contract.

RIDER C
EXCEPTIONS

NA