



Commonwealth of Kentucky

MASTER AGREEMENT

CONTRACT INFORMATION

MASTER AGREEMENT NUMBER: MA 758 PUNC1900000002

Effective Date: 7/1/18

Record Date:

Expiration Date: 6/30/19

Procurement Folder: 6727

Document Description: PunchOut Grainger MRO MA

Procurement Type: Special Authority Goods & Svcs

Cited Authority: Intergovernmental Purchases

Version Number: 1

CONTACT INFORMATION

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VENDOR INFORMATION

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COMMODITY / SERVICE INFORMATION

| Line | Quantity | UOM | Unit Price | Service Amount | Service From | Service To | Line Total |
|------|----------|-----|------------|----------------|--------------|------------|------------|
| 1 | 0.00000 | | \$0.000000 | \$0.00 | | | \$0.00 |

PunchOut Grainger MRO MA

Extended Description:

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**MASTER AGREEMENT # 8496
Form Participating Addendum**



**Facilities Maintenance and Repair & Operations (MRO) and Industrial Supplies
Lead by the State of Oregon**

Master Agreement #: MA 758 PUNC1900000002
Contractor: **W.W. Grainger, Inc. (Contractor)**
Participating Entity: **State of Kentucky**

The following Goods or services are included in this Addendum:

** All Goods and accessories listed on the Contractor page of the NASPO ValuePoint website and available through the Contractors Punchout Website with the exception of goods or services listed below.*

The following Goods or services are not included in this Addendum and shall not be available for purchase either through the Contractors Punchout website or through the Contractors store locations:

- * Light Bulbs and Ballasts*
- * Air Filters*
- * Janitorial Supplies*
- * Paint*
- * Equipment Lease Agreements*
- * Special order items without prior approval of the Finance Cabinet Office of Procurement Services*

Master Agreement Terms and Conditions:

Section 1

Scope of Contract

This addendum covers the **Facilities Maintenance and Repair & Operations and Industrial Supplies** led by the State of Oregon for use by state agencies and other entities located in the Commonwealth of Kentucky authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.

Section 2

Purpose

The purpose of this master agreement is to provide the items under contract to agencies as needed.

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Section 3

Initial Contract Period

The contract shall be for the initial period of **one (1) year** from the date of award in line with NASPO ValuePoint Master Agreement Terms.

Section 4

Renewal Clause – Optional Renewal Period

This contract may be extended at the completion of the initial contract period for **four (4) additional one-year periods** in line with NASPO ValuePoint Master Agreement Terms. This extension must have the written approval by all parties. The Commonwealth of Kentucky reserves the right to renegotiate any terms and/or conditions as may be necessary to meet requirements for the extended period. The vendor will be advised of any proposed revisions prior to the renewal periods. In the event proposed revisions cannot be agreed upon, either party shall have the right to withdraw without prejudice from either exercising the option or continuing the contract in an extended period.

Section 5

Procurement Card Acceptance

Vendor is required to accept the Commonwealth's Procurement Card (ProCard) as an optional payment method.

Section 6

Exclusion of Items/Categories

The Commonwealth reserves the right, at their discretion, to exclude the sale of specific items from both the contractor's NASPO ValuePoint Market Basket and or the contractor's complete catalog offering.

The Commonwealth buyer of record will specify the items to be excluded and the items will be removed from the Data Template containing the Grainger NASPO ValuePoint market basket. In addition the Contractor will identify the items to be excluded within Contractor's Kentucky's online custom catalog.

Section 7

Recycle Requirements

Prospective bidders are required to comply with Recycle Requirements for the purchase of goods, supplies, equipment, materials and printing with a minimum recycled content to the extent practicable per 200 KAR 5:330. This regulation can be viewed on the Internet at <http://www.lrc.state.ky.us/kar/200/005/330.htm>.

Section 8

Agencies to be Served

This contract shall be for use by the following agency of the Commonwealth of Kentucky:

ALL STATE AGENCIES

Political Subdivisions

Under Kentucky Statutes, political subdivisions of this State including cities of all classes, counties, and school districts may participate in All State Agency Master Agreements to the same extent as agencies of the Commonwealth.

Section 9

Tax Exempt Status

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Do not include Federal Excise Tax, Kentucky Sales or Use Tax in prices quoted in response to this master agreement.

Section 10

Basis of Price Revisions

Pricing is based on the Grainger NASPO ValuePoint Master Pricing Agreement # 8496.

Pricing may be changed only when Grainger NASPO ValuePoint Master Pricing Agreement #8496 pricing changes. A copy of any approved price changes must be delivered to the buyer of record, Office of Procurement Services 30 days prior to proposed effective date. If specified notification is timely provided, changes will become effective concurrent with the Grainger NASPO ValuePoint Master Pricing Agreement # 8496 price change effective date. Pricing may never exceed Grainger NASPO ValuePoint Master Pricing Agreement # 8496 pricing.

Section 11

Vendor Terms and Conditions

The Commonwealth of Kentucky shall not be bound by any part(s) of the bidder's response to the master agreement that contains information, options, conditions, terms, or prices neither requested nor required. In the event of any conflicts between the specifications, terms and conditions indicated by the Commonwealth and those indicated by the contractor, those of the Commonwealth take precedence. The contract supersedes all bids or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

Section 12

Post Contract Agreements

The resulting contract shall constitute the entire agreement between the State and awarded contractor. **Unless contractually provided, State agencies utilizing this contract will not be required to enter into nor sign further agreements, leases, company orders or other documents to complete or initiate the terms of a contract or offer.** Any such documents so obtained will be non-binding on the State and agents of the State and will be cause for breach of contract.

Section 13

Equipment

It is understood and agreed that any item offered or shipped shall be new and the latest or current year model and be in first class condition. Any unit failing to meet the foregoing requirements shall be returned to the contractor, at their expense, and replaced with a new unit.

The Commonwealth recognizes the rapid advancement of technology. If the bidder can provide new equipment of advanced technology after the award of the contract, the Commonwealth and the bidder may choose by mutual agreement to install such equipment. The price of the new technology equipment cannot exceed the cost of the award contract.

Section 14

Quantity Basis of Contract – Estimated Quantities

Any and all quantities mentioned are purely estimates, and are not to be implied nor inferred as being guarantees. The State is obligated to buy only that quantity needed by its agencies during the term of the contract. Requirements may exceed the quantities shown and the contractor will be required to furnish all requirements shown on Delivery Orders dated during the life of the contract.

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Section 15

Manuals and Distribution of Literature

Instruction and operating manuals shall be furnished for all equipment installed. Upon request, the vendor shall furnish State agencies and other public bodies with descriptive literature and service information for items awarded.

Section 16

Vendor's Report

The vendor(s) may be asked to furnish the buyer, Office of Procurement Services, a report showing volume which has been sold to the Commonwealth and its using agencies each six (6) months of the contract period. The report will include political subdivisions and university purchases. This report may be the vendor's computer printout sheet or form. This shall apply to all items, which are to become a part of this contract. This report must reference usage by brief description, product number or other format designated by the Office of Procurement Services.

Section 17

FOB Basis of Shipment – Vendor Responsible

Quotations of unit prices shall be **F.O.B. Destination Freight Prepaid and Allowed**. The vendor shall be fully responsible for all shipments and freight charges involved to the ordering agency.

Section 18

Cancellation Clause – 30 Days Notice

The Commonwealth may cancel the contract established by giving written notice thirty (30) days prior to effective cancellation date. In the event such action is taken, the contract shall be null and void upon receipt of a Modification from the Office of Procurement Services canceling the contract. The renewal of the NASPO ValuePoint Master Agreement does not require the Commonwealth to renew the participating addendum.

Section 19

Exception to Required Use of Contract

The establishment of this Master Agreement is not intended to preclude the use of similar products when requested by the agency. The Commonwealth of Kentucky reserves the right to contract for large requirements by using a separate solicitation.

Section 20

Service Performance

All services performed under this contract, if applicable, shall be in accordance with the terms and provisions of the contract. It will be the agency's responsibility to ensure that such services rendered are performed and are acceptable.

The relationship between the State and the Contractor is that of client and independent contractor. No agent, employee, or servant of the contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this contract.

Major deviations of services performed will not be made without the written approval of the Office of Procurement Services. Problems that arise under any aspect of performance should first be resolved between the vendor and the agency. Either party

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should refer in writing any such problems and/or disagreements that cannot be resolved to the Office of Procurement Services for settlement.

Section 21

Addition or Deletion of Items or Services

The Office of Procurement Services reserves the right to add new and similar items, or open restricted categories with the consent of the vendor. The Office of Procurement Services to effect this change will issue a contract Modification. Until such time as the vendor receives a Modification, the vendor shall not accept Delivery Orders from any agency referencing such items or services.

Section 22

Agreement between Parties

The contractor agrees that a resulting contract is the complete and exclusive statement of the agreement between the parties, which supersedes all prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this master agreement. It is further agreed between the parties, that any valid modification of contractual agreement must be formalized by issuance of a Contract Modification from the Office of Procurement Services.

Purchase or Sales Agreements, supplied by the contractor making an offer, will not be accepted. The only terms and conditions acceptable to the Commonwealth of Kentucky are as outlined in the contract.

Section 23

Governmental Restrictions

In the event any Governmental restrictions may be imposed which would necessitate alteration of the material, quality, workmanship, or performance of the items offered on this proposal prior to delivery, it shall be the responsibility of the successful bidder to notify the Office of Procurement Services in writing, indicating the specific regulation which requires such alterations. The Commonwealth reserves the right to accept any such alterations, including any subsequent price adjustments, or to cancel the contract.

Section 24

Payments

The vendor shall be paid, upon the submission of proper invoices to the receiving agency at the prices stipulated for the supplies delivered and accepted, or services rendered. Unless otherwise specified, payment will not be made for partial deliveries accepted. Payments will be made within thirty (30) working days after receipt of goods or a vendor's invoice in accordance with KRS 45.453 and KRS 45.454.

Section 25

Inspection

All supplies, equipment and services shall be subject to inspection or tests by the Commonwealth prior to acceptance. In the event supplies, equipment or services are defective in material or workmanship or otherwise not in conformity with specified requirements, the Commonwealth shall have the right to reject the items or services or require acceptable correction at the Vendor's expense.

Section 26

Federal Tax Exempt Purchases by the Commonwealth of Kentucky

Contracts Direct With Manufacturer: In the event a manufacturer bids direct and is awarded a contract, the Office of Procurement Services shall request the contractor to furnish evidence of registration with the U.S. Internal Revenue Service. This registration

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shall be in accordance with the "Temporary Rules, 1958 Excise Tax Act". After such registration, individual Excise Tax Exemption Certificates are not necessary on each individual order issued against the contract by the Office of Procurement Services. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Contract With Other Than Manufacturer: If successful bidder is other than the manufacturer, the Office of Procurement Services will furnish a Tax Exemption Certificate with each individual order issued against this contract. Therefore, quoted prices must be exclusive of Federal Excise Taxes.

Section 27 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

<http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx>

Section 28 Governing Law

This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on the contract, including but not limited to actions either for breach of contract or for enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

Section 29 Kentucky Tax Registration Application

Revenue Form 10A100, Kentucky Tax Registration Application effective July 2008, is a form to be completed by any person or entity wishing to contract with the Commonwealth to provide goods or services subject to sales and use tax pursuant to KRS 139.200. The form is located at this web-link as Attachment 5:

<http://finance.ky.gov/services/eprocurement/Pages/VendorServices.aspx>

In accordance with administrative regulation 200 KAR 5:390, this form has to be completed and submitted, before a contract can be awarded. Section 2 of the regulation also notes: "Failure to submit the required documentation or to remain registered and in compliance with the sales and use tax filing and remittance requirements of KRS 139.540 and KRS 139.550 throughout the duration of the contract shall constitute a material breach of the contract and the contract may be terminated."

Section 30 Access to Records

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

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Section 31

Registration with the Secretary of State by a Foreign Entity

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by [KRS 14A.9-010](#) to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under [KRS 14A.9-030](#). **Therefore, foreign entities should submit a copy of their certificate with their response.** If the foreign entity is not required to obtain a certificate as provided in [KRS 14A.9-010](#), the foreign entity should identify the applicable exception in its response. Foreign entity is defined within [KRS 14A.1-070](#).

Businesses can register with the Secretary of State at <https://secure.kentucky.gov/sos/ftbr/welcome.aspx> .

Section 32

Accessibility

Vendor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Vendor further warrants that the products or services to be provided under this contract comply with existing federal standards established under Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1193, to the extent the vendor's products or services may be covered by that act. Vendor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention.

Section 33

Consolidated Quarterly Administrative Fee

The Contractor agrees to provide a quarterly administrative fee to the Commonwealth of Kentucky as part of the Contractor's unit prices and is not to be charged directly to the customer in the form of a separate line item. The administrative fee percentage is only applicable to the actually received by the contractor during the quarter and is not applicable to the amounts ordered by customers but not yet paid. The administrative fee shall be paid in the form of a check payable to the Commonwealth of Kentucky – Office of Procurement Services for an amount equal to one percent (1%) of the net sales (less any returns, credits, or adjustments) under this PA for the period. Fees shall be paid 45 days after the close of the quarter. Check to be mailed to the Office of Procurement Services, 702 Capitol Avenue, New Capitol Annex, Room 095, Frankfort, Kentucky 40601.

Section 34

Provisions for Termination of the Contract

The contract shall be subject to the termination provisions set forth in 200 KAR 5:312.

Section 35

Disclosure of Violation of Statutes

Pursuant to KRS 45A.485, contractors are required to reveal final determinations of violation of certain statutes incurred within the last five (5) years and be in continuous compliance with those statutes during the contract. Where applicable, the vendor is required to complete and submit Report of Prior Violations of Tax and Employment Laws.

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Section 36

Discrimination (Effective April 8, 2015)

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

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7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Section 37

ALL PROVISIONS OF OF FAP-110-10-00 SHALL BE PART OF THE MASTER AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Contractor: W.W. Grainger, Inc.

Signature: Megan Burke

Name: Megan Burke

Title: Government Sales Manager

Date: 6/11/18

Participating Entity: Commonwealth of Kentucky

Signature: Joan Graham

Name: Joan Graham

Title: Executive Director

Date: 6/12/18