



State of New Mexico General Services Department

Statewide Price Agreement Cover Page

Awarded Vendor:
0000014480
Pierce Manufacturing, Inc.
2600 American Drive
Appleton Drive, WI 59414

Kristina Spang
Email: KSpang@piercemfg.com
Office: 920-832-3683 | Cell: 920-858-5646

Price Agreement Number: 70-000-16-00034AF

Master Agreement Number: 8200027988

Payment Terms: Net 30

F.O.B.: Destination

Delivery: Per Master Agreement

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public
bodies allowed by law.

Procurement Specialist: Travis Dutton-Leyda

Telephone No.: 505-827-0477

Email: travis.dutton-leyda@state.nm.us

Invoice:
As Requested

Title: Fire Trucks and Fire Apparatus

Term: January 10, 2020 thru August 31, 2021

This Statewide Price Agreement is made subject to the “terms and conditions” as indicated on the attached Participating Addendum.

Supporting documentation including pricing and the Master Agreement can be found here:
<https://www.naspovaluepoint.org/portfolio/fire-apparatus-trucks-2016-2020/>

PARTICIPATING ADDENDUM
NASPO ValuePoint
Fire Trucks and Fire Apparatus
Administered by the State of Mississippi (hereinafter "Lead State")

MASTER AGREEMENT
Pierce Manufacturing Inc.
Master Agreement No: 8200027988
(hereinafter "Contractor")

And

State of New Mexico
(hereinafter "Participating State or Participating Entity")

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1. Scope: This addendum covers the **Fire Trucks and Fire Apparatus** led by the State of Mississippi for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state/entity contracts with the prior approval of the state's chief procurement official.

2. Participation: Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state/entity contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

- a. Under the terms and conditions of this Price Agreement all State of New Mexico Agencies, Commissions, Institutions, Political Sub-divisions and Local Bodies allowed by law may issue orders for items and/or services described herein. The terms and conditions of this Price Agreement shall form a part of each other issued hereunder.

3. Participating State Modifications or Additions to Master Agreement:

(These modifications or additions apply only to actions and relationships within the Participating Entity.)

Participating State to check one box.

No changes to the terms and conditions of the Master Agreement are required

The following changes are modifying or supplementing the Master Agreement terms and conditions.

4. Term: This Participating Addendum will be neither effective nor binding until signed by the State Purchasing Agent and continue through the expiration or termination of the master agreement. The contract term, including extensions and renewals, shall not exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

5. Indemnification

- a. The Contractor shall defend, indemnify and hold harmless the Participating State, along with their officers, agents, and employees as well as any person or entity for which they may be liable, from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Participating Addendum.
- b. Indemnification – Intellectual Property. The Contractor shall defend, indemnify and hold harmless the State of New Mexico along with their officers, agents, and employees as well as any person or entity for which they may be liable ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim").
 - (1) The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
 - (a) provided by the Contractor or the Contractor's subsidiaries or affiliates;
 - (b) specified by the Contractor to work with the Product; or
 - (c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or
 - (d) It would be reasonably expected to use the Product in combination with such product, system or method.
 - (2) The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. Unless otherwise agreed in writing, this section is not subject to any limitations of liability in this Participating Addendum or in any other document executed in conjunction with this Participating Addendum.

6. Insurance

- a. Contractor and Authorized Dealers shall, during the term of this Participating Addendum, maintain in full force and effect, the insurance described in this section. Contractor and Authorized Dealers shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Participating Addendum's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:
 - (1) Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal industry (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
 - (2) Property Coverage at an amount commensurate with the value of the Participating Entity's property in the care, custody or control of the Contractor.
 - (3) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- c. Contractor and Authorized Dealers shall pay premiums on all insurance policies. All policies shall provide a 30-day notice of cancellation to the named insured. The Certificate of Insurance shall provide the following cancellation clause: Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
- d. Prior to commencement of performance, Contractor and Authorized Dealers shall provide to the Lead State a certificate of insurance that (1) includes the Participating States identified in the Request for Proposal as additional insureds, on the Commercial General Liability Policy (2) All policies shall provide a 30 day notice of cancellation to the named insured. The Certificate of Insurance shall provide the following cancellation clause: Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Unless otherwise agreed in any Participating Addendum, the Participating Entity's rights and Contractor's obligations are the same as those specified in the first sentence of this subsection. Before performance of any Purchase Order issued after execution of a Participating Addendum authorizing it, the Contractor shall provide to a Purchasing Entity or Participating Entity who requests it the same information described in this subsection.
- e. Contractor and Authorized Dealers shall furnish to the Lead State, Participating Entity, and, on request, the Purchasing Entity copies of certificates of all required insurance within thirty (30) calendar days of the execution of this Master Agreement, the execution of a Participating Addendum, or the Purchase Order's effective date and prior to performing any work. The insurance certificate shall provide the following information: the name and address of the insured; name, address, telephone number and signature of the authorized agent; name of the

insurance company (authorized to operate in all states); a description of coverage in detailed standard terminology (including policy period, policy number, limits of liability, exclusions and endorsements); and an acknowledgment of the requirement for notice of cancellation. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after any renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at sole option of the State, result in this Participating Addendum's termination.

- f. Coverage and limits shall not limit Contractor's liability and obligations under this Participating Addendum, or any Purchase Order.

7. Applicable Law

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

8. New Mexico Administration Reporting and Fees

All contracts and Purchase Orders arising out of this agreement shall be deemed to include an Administrative Fee assessment at the rate of **percent (1.00 %)**, **but not to exceed \$2,000 per order** for the gross total sales and other revenues (including commissions and fees charged). This assessment shall apply to all New Mexico state agencies and local public bodies. "**Gross total sales**" means any invoiced amount less any applicable state and local taxes.

For reporting purposes: list payments received for the issued invoice during the applicable quarter by state agency, local public body and invoice number. The Quarters are as follows.

<u>Quarter:</u>	<u>Period End:</u>	<u>Report Due:</u>
First	September 30	October 31
Second	December 31	January 31
Third	March 31	April 30
Fourth	June 30	July 31

Even if contractor experiences zero sales during the quarter, a report is still required. This will also apply if the contract starts partial within a Quarter. Reports and Administrative Fee shall be due no later than thirty (30) days following the end of the quarter. Only submit one payment and one report for each quarter, do not combine payments or reports.

Payment shall be made by check payable to the "*State Purchasing Division.*" This contract number **70-000-16-00034AF** must be included on all payments and Quarterly Sales Reports.

Remit Checks to:

State Purchasing Division
1100 St. Francis Drive, Room 2016
PO Box 6850
Santa Fe, NM 87505
Attn: Compliance Officer

Sample Reports can be found at:

<http://www.generalservices.state.nm.us/statepurchasing/resourcesandinformation.aspx#Vendors>

Email completed reports to: GSD.QuarterlyUsageR@state.nm.us

For questions regarding the Administrative Fees and Quarterly Sales Reports contact the Compliance Officer at (505) 827-0472.

9. Distributors; Sub-Contractors or Authorized Dealers: The parties acknowledge and agree that Authorized Dealers of Contractor may perform as the Contractor pursuant to the Master Agreement and this Participating Addendum. Contractor agrees to take complete responsibility for all actions of its Subcontractors. Subcontractors include Authorized Dealers. In accordance with the terms & conditions set forth in the Master Agreement.

Additionally, the Contractor must receive approval in writing, from New Mexico's State Purchasing Agent before any Authorized Dealer is used during the term of this agreement.

Distributors are classified as follows, and their role shall be specified in Contractor's request for approval.

a. Contractor Authorized Dealers

- (1) Contract Authorized Dealers shall provide quotes, accept purchase order, and accept payment from entities ordering under this Participating Addendum.
- (2) Authorizes Dealers are responsible for sending a copy of all purchase orders and invoices to the Contractor for compliance with quarterly usage reporting and administrative requirements.
- (3) All purchase documents to Authorized Dealers shall reference the participating addendum number and Pierce Manufacturing Inc. as the contractor.

10. Records Administration and Audit: Participating State's right as specified in Section 25 of the Master Agreement shall survive for a period of six (6) years following termination of this Participating Addendum or final payment for any order placed by a Purchasing Entity against this Participating Addendum, which is later, to assure compliance with the terms hereof or to evaluate performance hereunder.

11. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

12. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name	Kristina Spang
Address	2600 American Drive, Appleton, WI 59414
Telephone	(920) 832-3000
Fax	
E-mail	kspang@piercemfg.com

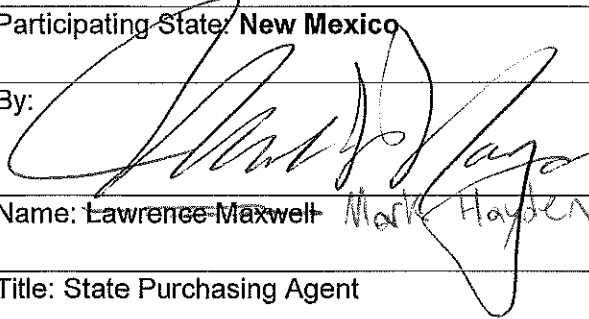
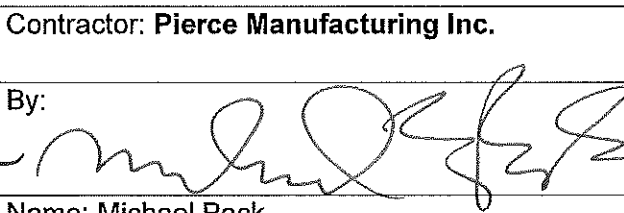
Participating Entity

Name	Travis Dutton-Leyda
Address	PO Box 6850, Santa Fe, NM 87502
Telephone	505-827-0477/505-795-1076
Fax	505-827-2484
E-mail	Travis.dutton-leyda@state.nm.us

13. Subcontractors: All Authorized Dealers authorized in the State of New Mexico, as shown on Appendix E of the Master Agreement, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The Authorized Dealer's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

14. Orders: Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the Order agree in writing that another contract or agreement applies to such Order.

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

Participating State: New Mexico	Contractor: Pierce Manufacturing Inc.
By: 	By: 
Name: Lawrence Maxwell Mark Hayden	Name: Michael Pack
Title: State Purchasing Agent	Title: Vice President, Finance
Date: 1-14-2020	Date: 1/10/20

[Additional signatures as required by Participating State]

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	thay@naspovaluepoint.org

[Please email fully executed PDF copy of this document to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases]