

**SUPPLEMENTAL CONTRACT INCORPORATING  
SOURCEWELL CONTRACT #063022-COK FOR  
PROCUREMENT OF KITCHEN EQUIPMENT AND DELIVERY**

This **Supplemental Contract Incorporating the Sourcewell Contract #063022-COK for Procurement of Kitchen Equipment and Delivery** (“**Contract**”) is entered into by and between the San José School District (“**District**”) and Cook’s Direct, Inc. (“**Vendor**”). District and Vendor may be referred to herein individually as a “**Party**” or collectively as the “**Parties.**”

**RECITALS**

**WHEREAS**, District has a need for Kitchen Equipment and Delivery (“**Equipment**”) for Schallenberger Elementary School and Williams Elementary School; and

**WHEREAS**, District desires to purchase the Equipment and enter into a procurement contract with Vendor for procurement of the Equipment in a cost-effective manner; and

**WHEREAS**, after a competitive solicitation and selection process by Sourcewell, a State of Minnesota local government unit and service cooperative, to establish a national cooperative purchasing contract (“**Sourcewell**”), Cook’s Direct, Inc. was awarded and entered into Contract #063022-COK (“**Master Contract**”) that is a current and valid contract through August 3, 2026; and

**WHEREAS**, Cook’s Direct, Inc. is an authorized dealer of the Equipment under the Master Contract; and

**WHEREAS**, Vendor wants to provide the Equipment to the District pursuant to and consistent with the terms of the Master Contract and this Contract; and

**WHEREAS**, the Master Contract allows any state and local governmental entities, including public and private schools, to purchase products at prices indicated in the Master Contract and enter into supplemental agreements to further define the materials and products to be provided; and

**WHEREAS**, use of the Master Contract is preceded by registration with Sourcewell as a participating public agency in Sourcewell’s cooperative purchasing program; and

**WHEREAS**, the District is a participating public agency;

**NOW, THEREFORE**, for and in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the Parties agree as follows:

**AGREEMENT**

1. This Contract fully incorporates by this reference the following documents:
  - 1.1. The Sourcewell Request for Proposal #063022, including without limitation, all provisions, documents and awarded proposal(s) incorporated therein by reference or operation of law, and attached hereto as **Exhibit A** and is also accessible at the following Sourcewell link:  
<https://files.sourcewell.org/public/Shared%20Documents/Solicitations/10554/Solicitation%20Documents/RFP%20and%20Addendum-Commercial%20Kitchen%20063022.pdf>
  - 1.2. Master Contract #063022-COK incorporated herein by reference or operation of law, and as may be further revised and updated during the term of this Contract, and attached hereto as **Exhibit B** and is also accessible at the following Sourcewell link:  
<https://files.sourcewell.org/public/Shared%20Documents/Solicitations/10554/00004469/Contract%20Documents/Cooks%20Contract%20063022.pdf>
  - 1.3. Vendor’s quote to the District (“**Quote**”), without any of the Quote’s terms or conditions, attached hereto as **Exhibit C**.
2. Vendor hereby extends to the District identical terms and conditions as those granted under the Master Contract as explained, modified and supplemented in this Contract.

3. **Order of Precedence.** To the extent any term or condition of this Contract is inconsistent with the Master Contract, this Contract shall control, especially with respect to the delivery, payment, venue, or jurisdiction provisions in this Contract which shall control over all other contradictory provisions. Unless otherwise provided, the order of preference is as follows: (i) the terms of this Contract, (ii) the terms and conditions of the Master Contract (except for delivery, payment, venue, jurisdiction, insurance and indemnity provisions), (iii) the terms and conditions of the Sourcwell RFP (except for delivery, payment, venue or jurisdiction, insurance and indemnity provisions,); and (iv) Vendor's Quote for the Equipment.
4. **California Law.** Vendor shall at all times comply with applicable California Law in performing any service, providing the Equipment and/or satisfying its obligations to the District under this Contract. The Parties further agree and acknowledge that the District is not subject to the laws of the state of Minnesota.
5. **Term.** The Parties agree that the "Term" section of the Master Contract is hereby deleted in its entirety and replaced with the following term: The term of this Contract shall begin on the Effective Date and continue until August 3, 2026. This Contract may be extended by mutual written agreement of the Parties on an annual basis to the extent permissible under the Master Contract and to the extent that the Master Contract is renewed. Either Party may terminate this Contract without cause upon thirty (30) days' prior written notice to the other Party. This Contract may be extended as agreed by the Parties in writing.
6. **Price and Payment.** District agrees to pay, and Vendor agrees to receive, the amount set forth in the Quote for the Equipment ("**Contract Price**"). District agrees to pay Vendor for Equipment received pursuant to this Contract, at the price indicated and as more specifically described in the Quote. District will pay Vendor all undisputed amounts within thirty (30) days after Vendor submits an approved invoice to the District for Equipment actually provided and services rendered (if any). Vendor hereby acknowledges and certifies that that the prices indicated herein and in any invoice are prices indicated and/or authorized pursuant to the Master Contract.
7. **Delivery/Freight.** Vendor shall deliver the Equipment as indicated in the Quote or as agreed to in writing between the Parties. Unless otherwise indicated the following conditions shall apply to the Equipment under this Contract:
  - 7.1. The Equipment shall be delivered by Vendor at Vendor's sole expense. Packing slips must accompany all shipments. Vendor shall strictly adhere to the delivery and completion schedules specified in this Contract.
  - 7.2. Time, if stated as a number of days, shall mean calendar days unless otherwise specified.
  - 7.3. The quantities specified in the Quote are the only quantities required, unless otherwise agreed to by the Parties in writing. If Vendor delivers in excess of the quantities specified in the Quote, the District shall not be required to make any payment for the excess equipment, materials, or supplies, and may return them to Vendor at Vendor's expense or utilize any other rights available to the District at law or in equity.
  - 7.4. The risk of loss or damage to the Equipment shall not pass to the District until the District receives physical possession of the Equipment.
  - 7.5. All line items shall be delivered to the District, complete as requested in one shipment. Partial line item delivery shall not be accepted without prior consent. Payment for partial line items shall be delayed until the complete quantity has been received by the District. NOTE: This does not mean that the District will not accept a partial purchase order delivery, as long as the total quantity requested for each line item is included in the shipment.
  - 7.6. All prices in the Quote are quoted F.O.B. destination, unpacked, assembled (if necessary) to the designated District site(s) at the time of order. No additional freight, drayage or labor charges will be permitted. All cartons and other packaging materials, to the extent unpacking occurs, must be removed from the site by Vendor or its agents.
8. **Insurance.** The Parties hereby acknowledge and agree that Vendor shall have and maintain insurance in force during the term of this Contract with minimum limits identified in the Master Contract. Vendor shall provide to the District certificate(s) of insurance and endorsements satisfactory to the District. The policy(ies) shall not be amended or modified and the coverage amounts shall not be reduced without thirty (30) calendar days'

written notice to the District prior to modification. Except for worker's compensation insurance, the District shall be named as an additional insured on all policies. Vendor's policy(ies) shall be primary; any insurance carried by the District shall only be secondary and supplemental. Vendor shall provide the District certificate(s) of insurance and endorsements at the time Vendor executes this Contract.

9. **Indemnification/Hold Harmless Clause.** To the furthest extent permitted by California law, Vendor shall defend, indemnify, and hold harmless the District, its agents, representatives, officers, consultants, employees, and volunteers (the "**indemnified parties**") from any and all demands, losses, liabilities, claims, suits, and actions (the "**claims**") of any kind, nature, and description, including, but not limited to, attorneys' fees and costs, directly or indirectly arising from personal or bodily injuries, death, property damage, or otherwise arising out of, connected with, or resulting from the performance of this Contract unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Vendor proposes to defend the District.
10. **Notice.** Any notice required or permitted to be given under this Contract shall be deemed to have been given, served and received if given in writing and personally delivered or sent by overnight delivery service addressed as follows:

**DISTRICT**

San José Unified School District  
855 Lenzen Avenue  
San José, CA 95126  
ATTN: Purchasing & Contract Management

**VENDOR**

Cook's Direct, Inc.  
27725 Diehl Road  
Warrenville, IL 60555  
ATTN: Al Wirthwein

11. **Right to Audit.** District retains the right to review and audit, and the reasonable right of access to Vendor's and any subcontractor's premises to review and audit, Vendor's compliance with the provisions of this Contract ("**District's Audit Right**"). The District's Audit Right includes the right to inspect, photocopy, and to retain copies, outside of Vendor's premises, of any and all Contract-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the District in its sole discretion. The District's Audit Right shall also include the right to interview current or former employees and subcontractors of Vendor with respect to matters or issues under audit. The information obtained pursuant to this section shall be disclosable to third parties as required by applicable law.
- 11.1. Vendor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Vendor transacted under this Contract. Vendor shall retain these books, records, and systems of account during the Term of this Contract and for three (3) years thereafter.
- 11.2. Vendor shall, without limitation, permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the services covered by this Contract. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Vendor and shall conduct audit(s) during Vendor's normal business hours, unless Vendor otherwise consents.
- 11.3. Vendor shall include audit provisions in any and all of its subcontracts and shall ensure that provision is binding upon all subcontractors.
- 11.4. Vendor shall comply with these provisions within fifteen (15) days of the District's written request to review and audit any or all of Vendor's Contract-related documents, records and information. The District's Audit Right and Vendor's compliance with the same, shall be at no additional cost to the District.
- 11.5. In the event the District's Audit Right, or an audit by the State Auditor, evidences payments to Vendor not in accordance with the provisions of this Contract, Vendor shall immediately pay District the amount of said payments not in compliance in addition to all costs reasonably incurred by District in conducting an audit hereunder.

12. **Termination for Non-Appropriation of Funds.** The continuation of this Contract is contingent upon the appropriation of funds to fulfill the requirements of this Contract by the District. If the District fails to appropriate sufficient monies to provide for the continuation of this Contract, or if appropriations to the District are reduced and the effect of such reduction is to provide insufficient monies for the continuation of this Contract, the Contract shall terminate on the date of the beginning of the first fiscal year for which funds have not been appropriated. Contractor will only be entitled to payment for deliverables that have been satisfactorily completed as of the termination date.
13. **Drug-Free / Tobacco Free / Smoke Free Policy.** No drugs, alcohol, tobacco, and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, consultants, or contractors are to use drugs on any District site.
14. **Safety And Security.** Vendor is responsible for maintaining safety in the performance of this Contract. Vendor shall be responsible for complying with the District's rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present. Vendor is responsible for complying with, and the Contract Price includes the costs of complying with, all applicable federal, state, and/or local statutes, orders, rules, regulations, ordinances, and/or directives relating to site safety in connection with COVID-19, and/or any similar virus or derivative strain.
15. **Fingerprinting.** If Vendor will have any interaction with District's students outside of the immediate supervision and control of a student's parent or guardian or a school employee or will perform any services or work of this Contract upon a District school site on any day Monday through Friday from 7:00 AM until 4:00 PM, Vendor shall comply at all times with the provisions of Education Code section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees, its subcontractor(s), and its subcontractors' employees. Verification of compliance with this section shall be provided in writing to the District prior to each individual's performance of the services or work hereunder and prior to permitting the individual to enter upon a District school site.
16. **Release.** Vendor acknowledges that it is voluntarily and freely entering into this Contract and deciding to perform the services and work hereunder may require Vendor to enter upon and into the District's school sites ("**Premises**") and that Vendor's use of the Premises includes the possible exposure to and illness from infectious disease including, but not limited to, MSRA, influenza and COVID19 (collectively "**Infectious Disease**"). Vendor further acknowledges the dangers involved and with full knowledge of these dangers, voluntarily agrees to assume all risks of bodily injury, death, or property damage, whether those risks are known or unknown. Vendor hereby releases the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers (the "**indemnified parties**") from any and all liabilities, causes of action, lawsuits, claims, demands, or damages of any kind whatsoever that Vendor, its staff, participants, relatives, children, spouse, partner, household members, family members, employees, guests, invitees, volunteers, agents, consultants and any other person tracing exposure or illness to Vendor, now have, or may have in the future, for injury, trauma, illness, loss, unwanted contact, harassment, disability, death or property damages related to being exposed to or contracting an Infectious Disease while using the Premises for the performance of the services and work required by this Contract.
17. **Conflict of Interest.** Vendor hereby certifies that no employee, officer, agent, consultant, or subcontractor of Vendor has any financial interest or business relationship with the District, District's staff or any individual member of the District's governing board; nor does Vendor have any actual knowledge or reason to know that any such District board member(s) or staff will obtain a financial interest or present or anticipated benefit from the agreement contemplated by this Contract that would constitute a conflict of interest under California Public Contract Code section 10365.5; Government Code sections 1090 et seq. or 87100 et seq., pertaining to conflicts of interest in public contracting.
18. **General Terms and Conditions.**
  - 18.1. The Parties acknowledge that each of them has fully discussed the contents of this Contract with their chosen representatives and/or legal counsel and has had the benefit of legal counsel in negotiating and

drafting the terms of this Contract. Accordingly, this Contract shall not be construed as having been drafted by one Party or the other.

- 18.2. This Contract and the attachments hereto and the documents specifically incorporated into the Contract by reference, constitute the entire Contract between the District and Vendor. No other promises, contracts, or statements between the Parties shall be binding unless made in writing and signed by all Parties hereto.
- 18.3. Each Party hereto shall bear its own costs and attorneys' fees incurred or connected with the drafting and signing of this Contract and the events leading up to this Contract.
- 18.4. This Contract and the rights and obligations of the Parties hereunder shall be construed and interpreted in accordance with the laws of the State of California. Any action or proceeding to enforce this Contract shall be commenced and maintained in the county in which the District administrative offices are located.
- 18.5. The Parties hereby agree to execute all such other documents and to take all such other action as may be reasonably necessary to effect the purposes of this Contract.
- 18.6. The Parties acknowledge that this Contract is only binding once it is approved by the District's governing board.
- 18.7. This Contract may be executed in several counterparts and shall be deemed legally effective at such time as counterparts thereof duly executed on behalf of each Party has been furnished and delivered to the other Party to this Contract. Signature of copies and facsimile versions of this Contract shall have the same force and effect as signature of the original.

**ACCEPTED AND AGREED** on the latest date indicated below ("**Effective Date**")

Dated: \_\_\_\_\_

Dated: 11/10/2025

**SAN JOSÉ UNIFIED SCHOOL DISTRICT**

**COOK'S DIRECT, INC.**

By: \_\_\_\_\_

By:  \_\_\_\_\_  
Signed by:  
Al Wirthwein  
2B9DAAE6805F4D8

Print Name: Tracy Morrison

Print Name: Name Al Wirthwein

Print Title: Director, Procurement

Print Title: Title Strategic Account Manager



**Information regarding Vendor:**

Type of Business Entity:

- Individual
- Sole Proprietorship
- Partnership
- Limited Partnership
- Corporation
- Limited Liability Company
- Other: \_\_\_\_\_

**Employer Identification and/or Social Security Number**

**NOTE:** United States Code, title 26, sections 6041 and 6109 require non-corporate recipients of \$600 or more to furnish their taxpayer identification number to the payer. The United States Code also provides that a penalty may be imposed for failure to furnish the taxpayer identification number. To comply with these rules, the District requires your federal tax identification number or Social Security number, whichever is applicable.

# EXHIBIT A



**RFP #063022**  
**REQUEST FOR PROPOSALS**  
**for**  
**Commercial Kitchen Equipment with Related Supplies and Services**

**Proposal Due Date: June 30, 2022, 4:30 p.m., Central Time**

Sourcewell, a State of Minnesota local government unit and service cooperative, is requesting proposals for Commercial Kitchen Equipment with Related Supplies and Services to result in a contracting solution for use by its Participating Entities. Sourcewell Participating Entities include thousands of governmental, higher education, K-12 education, nonprofit, tribal government, and other public agencies located in the United States and Canada. A full copy of the Request for Proposals can be found on the Sourcewell Procurement Portal [<https://proportal.sourcewell-mn.gov>]. Only proposals submitted through the Sourcewell Procurement Portal will be considered. Proposals are due no later than June 30, 2022, at 4:30 p.m. Central Time, and late proposals will not be considered.

## SOLICITATION SCHEDULE

Public Notice of RFP Published:	May 12, 2022
Pre-proposal Conference:	June 1, 2022, 10:00 a.m., Central Time
Question Submission Deadline:	June 22, 2022, 4:30 p.m., Central Time
<b>Proposal Due Date:</b>	<b>June 30, 2022, 4:30 p.m., Central Time</b> Late responses will not be considered.
Opening:	June 30, 2022, 6:30 p.m., Central Time See RFP Section V.G. "Opening"

## I. ABOUT SOURCEWELL

### A. SOURCEWELL

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that facilitates a competitive public solicitation and contract award process for the benefit of its 50,000+ participating entities across the United States and Canada. Sourcewell's solicitation process complies with State of Minnesota law and policies, conforms to Canadian trade agreements (including Canadian Free Trade Agreement, Ontario-Quebec Trade and Cooperation Agreement, and Canada-European Union Comprehensive Economic and Trade Agreement, as applicable), and results in cooperative purchasing solutions from which Sourcewell's Participating Entities procure equipment, products, and services.

Cooperative purchasing provides participating entities and suppliers increased administrative efficiencies and the power of combined purchasing volume that result in overall cost savings. At times, Sourcewell also partners with other purchasing cooperatives to combine the purchasing volume of their membership into a single solicitation and contract expanding the reach of contracted suppliers' potential pool of end users.

Sourcewell uses a website-based platform, the Sourcewell Procurement Portal, through which all proposals to this RFP must be submitted.

### B. USE OF RESULTING CONTRACTS

In the United States, Sourcewell's contracts are available for use by:

- Federal and state government entities<sup>1</sup>;
- Cities, towns, and counties/parishes;
- Education service cooperatives;
- K-12 and higher education entities<sup>2</sup>;
- Tribal government entities;
- Some nonprofit entities; and
- Other public entities.

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<sup>1</sup> Pursuant to HAR §3-128-2, the State of Hawaii, Department of Accounting and General Services, State Procurement Office, on behalf of the State of Hawaii and participating jurisdictions, has provided notice of its Intent to Participate in the solicitation as a participating entity.

<sup>2</sup> E&I Cooperative Services, Inc., has expressed intention to participate in this solicitation on behalf of its current and potential Members, with Sourcewell serving as the lead agency for the solicitation. E&I is a member-owned non-profit sourcing cooperative serving educational communities and related institutions, such as four-year colleges, universities, junior or community colleges, nonprofit teaching hospitals, healthcare facilities affiliated with a university, technical, or vocational school, and private, public, or charter schools providing educational programming for students in the primary and secondary grades.

In Canada, Sourcewell's contracts are available for use by:

- Provincial and territorial government departments, ministries, agencies, boards, councils, committees, commissions, and similar agencies;
- Indigenous self-governing bodies
- Regional, local, district, and other forms of municipal government, municipal organizations, school boards, and publicly funded academic, health, and social service entities referred to as MASH sector (this should be construed to include but not be limited to the Cities of Calgary, Edmonton, Toronto, Ottawa, and Winnipeg), as well as any corporation or entity owned or controlled by one or more of the preceding entities;
- Crown corporations, government enterprises, and other entities that are owned or controlled by these entities through ownership interest;
- Members of the Canoe procurement group of Canada, and their partner associations: Canoe members are regional, local, district or other forms of municipal government, school boards, publicly-funded academic, health and social service entities in Alberta and across Canada, as well as any corporation or entity owned or controlled by one or more of the preceding entities – as well as partner associations, including Saskatchewan Association of Rural Municipalities, Association of Manitoba Municipalities, Local Authorities Services/Association of Municipalities Ontario (excluding the cities of Toronto and Ottawa), Nova Scotia Federation of Municipalities, Federation of Prince Edward Island Municipalities, Municipalities Newfoundland Labrador, Union of New Brunswick Municipalities, North West Territories Association of Communities, CivicInfo BC, and their members.

For a listing of current United States and Canadian Participating Entities visit Sourcewell's website (note: there is a tab for each country): <https://www.sourcewell-mn.gov/sourcewell-for-vendors/agency-locator>.

Participating Entities typically access contracted equipment, products, or services through a purchase order issued directly to the contracted supplier. A Participating Entity may request additional terms or conditions related to a purchase. Use of Sourcewell contracts is voluntary and Participating Entities retain the right to obtain similar equipment, products, or services from other sources.

To meet Participating Entities' needs, Sourcewell broadly publishes public notice of all solicitation opportunities, including this RFP. In addition, where applicable, other purchasing cooperatives and procurement officials receive notice and are encouraged to re-post the solicitation opportunity.

Proof of publication will be available at the conclusion of the solicitation process.

## II. SOLICITATION DETAILS

### A. SOLUTIONS-BASED SOLICITATION

This RFP and contract award process is a solutions-based solicitation; meaning that Sourcewell is seeking equipment, products, or services that meet the general requirements of the scope of this RFP and that are commonly desired or are required by law or industry standards.

### B. REQUESTED EQUIPMENT, PRODUCTS, OR SERVICES

It is expected that proposers will offer a wide array of equipment, products, or services at lower prices and with better value than what they would ordinarily offer to a single government entity, a school district, or a regional cooperative.

1. Sourcewell is seeking proposals for Commercial Kitchen Equipment with Related Supplies and Services, primarily intended for use by K-12, higher education, city, county, and state entities, including schools, dorms, community centers, athletic facilities, and correctional institutions, for their food service, cafeteria, commissary, catering, concession, or teaching kitchen activities, such as:

- a. Kitchen and foodservice equipment and appliances;
- b. Components, accessories, and parts for the equipment and appliances described in Section 1. a. above;
- c. Foodservice small wares, tools, dispensers, supplies, and furnishings complementary to an offering of the solutions in Section 1.a. above;
- d. Services complementary to the acquisition, operation, and upkeep of the solutions described in Sections 1. a. – 1. c. above, including design, installation, removal, disposal, inspection, repair, maintenance, training, and support. However, this solicitation should NOT be construed to include “services only” solutions.

2. This solicitation does not include those equipment, products, or services covered under categories included in contracts currently maintained by Sourcewell:

- a. Janitorial Supplies and Equipment with Related Services (RFP #101320);
- b. Food Products and Distribution (School Food Authorities) with Related Supplies; Technology, and Services (RFP #111621), with the exception of a complementary offering of solutions identified in Section 1. c. above;
- c. Food Products and Distribution (other than School Food Authorities) with Related Supplies, Technology, and Services (RFP #040522), with the exception of a complementary offering of solutions identified in Section 1. c. above.

Proposers may include related equipment, accessories, and services to the extent that these solutions are complementary to the equipment, products, or service(s) being proposed.

Generally, the solutions for Participating Entities are turn-key solutions, providing a combination of equipment, products and services, delivery, and installation to a properly operating status. However, equipment-only or products-only solutions may be appropriate for situations where Participating Entities possess the ability, either in-house or through local third-party contractors, to properly install and bring to operation the equipment or products being proposed.

Sourcwell prefers suppliers that provide a sole source of responsibility for the equipment, products, and services provided under a resulting contract. If proposer is including the equipment, products, and services of its subsidiary entities, the proposer must also identify all included subsidiaries in its proposal. If proposer requires the use of distributors, dealers, resellers, or subcontractors to provide the equipment, products, or services, the proposal must address how the equipment, products or services will be provided to Participating Entities, and describe the network of distributors, dealers, resellers, and/or subcontractors that will be available to serve Participating Entities under a resulting contract.

Sourcwell encourages suppliers to offer the broadest possible selection of equipment, products, and services being proposed over the largest possible geographic area and to the largest possible cross-section of Sourcwell current and future Participating Entities.

#### C. REQUIREMENTS

It is expected that proposers have knowledge of all applicable industry standards, laws, and regulations and possess an ability to market and distribute the equipment, products, or services to Participating Entities.

1. Safety Requirements. All items proposed must comply with current applicable safety or regulatory standards or codes.
2. Deviation from Industry Standard. Deviations from industry standards must be identified with an explanation of how the equipment, products, and services will provide equivalent function, coverage, performance, and/or related services.
3. New Equipment and Products. Proposed equipment and products must be for new, current model; however, proposer may offer certain close-out equipment or products if it is specifically noted in the Pricing proposal.
4. Delivered and operational. Unless clearly noted in the proposal, equipment and products must be delivered to the Participating Entity as operational.
5. Warranty. All equipment, products, supplies, and services must be covered by a warranty that is the industry standard or better.

#### D. ANTICIPATED CONTRACT TERM

Sourcewell anticipates that the term of any resulting contract(s) will be four years, with an optional one-year extension that may be offered based on the best interests of Sourcewell and its Participating Entities.

**E. ESTIMATED CONTRACT VALUE AND USAGE**

Based on past volume of similar contracts, the estimated annual value of all transactions from contracts resulting from this RFP are anticipated to be USD \$30 Million; therefore, proposers are expected to propose volume pricing. Sourcewell anticipates considerable activity under the contract(s) awarded from this RFP; however, sales and sales volume from any resulting contract are not guaranteed.

**F. MARKETING PLAN**

Proposer's sales force will be the primary source of communication with Participating Entities. The proposer's Marketing Plan should demonstrate proposer's ability to deploy a sales force or dealer network to Participating Entities, as well as proposer's sales and service capabilities. It is expected that proposer will promote and market any contract award.

**G. ADDITIONAL CONSIDERATIONS**

1. Contracts will be awarded to proposers able to best meet the need of Participating Entities. Proposers should submit their complete line of equipment, products, or services that are applicable to the scope of this RFP.
2. A proposer may submit only one proposal. If related, affiliated, or subsidiary entities elect to submit separate proposals, rather than a single parent-entity proposal, each such proposal must be prepared independently and without cooperation, collaboration, or collusion.
3. If a proposer works with a consultant on its proposal, the consultant (an individual or company) may not assist any other entity with a proposal for this solicitation.
4. Proposers should include all relevant information in its proposal, since Sourcewell cannot consider information that is not included in the proposal. Sourcewell reserves the right to verify proposer's information and may request clarification from a proposer, including samples of the proposed equipment or products.
5. Depending upon the responses received in a given category, Sourcewell may need to organize responses into subcategories in order to provide the broadest coverage of the requested equipment, products, or services to Participating Entities. Awards may be based on a subcategory.
6. A proposer's documented negative past performance with Sourcewell or its Participating Entities occurring under a previously awarded Sourcewell contract may be considered in the evaluation of a proposal.

**III. PRICING**

**A. REQUIREMENTS**

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All proposed pricing must be:

1. Either Line-Item Pricing or Percentage Discount from Catalog Pricing, or a combination of these:
  - a. **Line-item Pricing** is pricing based on each individual product or services. Each line must indicate the proposer's published "List Price," as well as the "Contract Price."
  - b. **Percentage Discount from Catalog or Category** is based on a percentage discount from a catalog or list price, defined as a published Manufacturer's Suggested Retail Price (MSRP) for the products or services. Individualized percentage discounts can be applied to any number of defined product groupings. Proposers will be responsible for providing and maintaining current published MSRP with Sourcwell, and this pricing must be included in its proposal and provided throughout the term of any contract resulting from this RFP.
2. The proposer's not to exceed price. A not to exceed price is the highest price for which equipment, products, or services may be billed to a Participating Entity. However, it is permissible for suppliers to sell at a price that is lower than the contracted price.
3. Stated in U.S. and Canadian dollars (as applicable).
4. Clearly understandable, complete, and fully describe the total cost of acquisition (e.g., the cost of the proposed equipment, products, and services delivered and operational for its intended purpose in the Participating Entity's location).

Proposers should clearly identify any costs that are NOT included in the proposed product or service pricing. This may include items such as installation, set up, mandatory training, or initial inspection. Include identification of any parties that impose such costs and their relationship to the proposer. Additionally, proposers should clearly describe any unique distribution and/or delivery methods or options offered in the proposal.

#### B. ADMINISTRATIVE FEES

Proposers are expected to pay to Sourcwell an administrative fee in exchange for Sourcwell facilitating the resulting contracts. The administrative fee is normally calculated as a percentage of the total sales to Participating Entities for all contracted equipment, products, or services made during a calendar quarter, and is typically one percent (1%) to two percent (2%). In some categories, a flat fee may be an acceptable alternative.

### IV. CONTRACT

Proposers awarded a contract will be required to execute a contract with Sourcwell (see attached template). Only those modifications the proposer indicates in its proposal will be available for discussion. Much of the language in the Contract reflects Minnesota legal requirements and cannot be altered. Numerous and/or onerous exceptions that contradict Minnesota law may result in the proposal being disqualified from further review and evaluation.

To request a modification to the template Contract, a proposer must submit the Exceptions to Terms, Conditions, or Specifications table with its proposal. Only those exceptions noted at the time of the proposal submission will be considered.

Exceptions must:

1. Clearly identify the affected article and section.
2. Clearly note the requested modification; and as applicable, provide requested alternative language.

Unclear requests will be automatically denied.

Only those exceptions that have been accepted by Sourcewell will be included in the contract document provided to the awarded supplier for signature.

If a proposer receives a contract award resulting from this solicitation it will have up to 30 days to sign and return the contract. After that time, at Sourcewell's sole discretion, the contract award may be revoked.

## **V. RFP PROCESS**

### **A. PRE-PROPOSAL CONFERENCE**

Sourcewell will hold an optional, non-mandatory pre-proposal conference via webcast on the date and time noted in the Solicitation Schedule for this RFP and on the Sourcewell Procurement Portal. The purpose of this conference is to allow potential proposers to ask questions regarding this RFP and Sourcewell's competitive contracting process. Information about the webcast will be sent to all entities that have registered for this solicitation opportunity through their Sourcewell Procurement Portal Vendor Account. Pre-proposal conference attendance is optional.

### **B. QUESTIONS REGARDING THIS RFP AND ORAL COMMUNICATION**

All questions regarding this RFP must be submitted through the Sourcewell Procurement Portal. The deadline for submission of questions is found in the Solicitation Schedule and on the Sourcewell Procurement Portal. Answers to questions will be issued through an addendum to this RFP. Repetitive questions will be summarized into a single answer and identifying information will be removed from the submitted questions.

All questions, whether specific to a proposer or generally related to the RFP, must be submitted using this process. Do not contact individual Sourcewell staff to ask questions or request information as this may disqualify the proposer from responding to this RFP. Sourcewell will not respond to questions submitted after the deadline.

### C. ADDENDA

Sourcewell may modify this RFP at any time prior to the proposal due date by issuing an addendum. Addenda issued by Sourcewell become a part of the RFP and will be delivered to potential proposers through the Sourcewell Procurement Portal. Sourcewell accepts no liability in connection with the delivery of any addenda.

Before a proposal will be accepted through the Sourcewell Procurement Portal, all addenda, if any, must be acknowledged by the proposer by checking the box for each addendum. It is the responsibility of the proposer to check for any addenda that may have been issued up to the solicitation due date and time.

If an addendum is issued after a proposer submitted its proposal, the Sourcewell Procurement Portal will WITHDRAW the submission and change the proposer's proposal status to INCOMPLETE. The proposer can view this status change in the "MY BIDS" section of the Sourcewell Procurement Portal Vendor Account. The proposer is solely responsible to check the "MY BIDS" section of the Sourcewell Procurement Portal Vendor Account periodically after submitting its proposal (and up to the Proposal Due Date). If the proposer's proposal status has changed to INCOMPLETE, the proposer is solely responsible to:

- i) make any required adjustments to its proposal;
- ii) acknowledge the addenda; and
- iii) ensure the re-submitted proposal is received through the Sourcewell Procurement Portal no later than the Proposal Due Date and time shown in the Solicitation Schedule above.

### D. PROPOSAL SUBMISSION

Proposer's complete proposal must be submitted through the Sourcewell Procurement Portal no later than the date and time specified in the Solicitation Schedule. Any other form of proposal submission, whether electronic, paper, or otherwise, will not be considered by Sourcewell. **Late proposals will not be considered.** It is the proposer's sole responsibility to ensure that the proposal is received on time.

It is recommended that proposers allow sufficient time to upload the proposal and to resolve any issues that may arise. The time and date that a proposal is received by Sourcewell is solely determined by the Sourcewell Procurement Portal web clock.

In the event of problems with the Sourcewell Procurement Portal, follow the instructions for technical support posted in the portal. It may take up to 24 hours to respond to certain issues.

Upon successful submission of a proposal, the Sourcewell Procurement Portal will automatically generate a confirmation email to the proposer. If the proposer does not receive a confirmation email, contact Sourcewell's support provider at [support@bidsandtenders.ca](mailto:support@bidsandtenders.ca).

To ensure receipt of the latest information and updates via email regarding this solicitation, or if the proposer has obtained this solicitation document from a third party, the onus is on the proposer to create a Sourcewell Procurement Portal Vendor Account and register for this solicitation opportunity.

Within the Sourcewell Procurement Portal, all proposals must be digitally acknowledged by an authorized representative of the proposer attesting that the information contained in the proposal is true and accurate. By submitting a proposal, proposer warrants that the information provided is true, correct, and reliable for purposes of evaluation for potential contract award. The submission of inaccurate, misleading, or false information is grounds for disqualification from a contract award and may subject the proposer to remedies available by law.

E. GENERAL PROPOSAL REQUIREMENTS

Proposals must be:

- In substantial compliance with the requirements of this RFP or it will be considered nonresponsive and be rejected.
- Complete. A proposal will be rejected if it is conditional or incomplete.
- Submitted in English.
- Valid and irrevocable for 90 days following the Proposal Due Date.

Any and all costs incurred in responding to this RFP will be borne by the proposer.

F. PROPOSAL WITHDRAWAL

Prior to the proposal deadline, a proposer may withdraw its proposal.

G. OPENING

The Opening of proposals will be conducted electronically through the Sourcewell Procurement Portal. A list of all proposers will be made publicly available in the Sourcewell Procurement Portal after the Proposal Due Date, but no later than the Opening time listed in the Solicitation Schedule.

To view the list of proposers, verify that the Sourcewell Procurement Portal opportunities list search is set to "All" or "Closed." The solicitation status will automatically change to "Closed" after the Proposal Due Date and Time.

**VI. EVALUATION AND AWARD**

A. EVALUATION

It is the intent of Sourcewell to award one or more contracts to responsive and responsible proposers offering the best overall quality, selection of equipment, products, and services, and

price that meet the commonly requested specifications of Sourcewell and its Participating Entities. The award(s) will be limited to the number of proposers that Sourcewell determines is necessary to meet the needs of its Participating Entities.

Factors to be considered in determining the number of contracts to be awarded in any category may include the following:

- Total evaluation scores (giving consideration to natural breaks in the scoring of responsive proposals);
- The number and geographic location of highest-scoring proposers that offer:
  - A comprehensive selection of the requested equipment, products, or services;
  - A sales and service network ensuring availability and coverage for Participating Entities’ use; and
  - Other attributes of the proposer or contents of its proposal that assist Participating Entities in achieving environmental and social requirements, and goals.

Information submitted as part of a proposal should be as specific as possible when responding to the RFP. Do not assume Sourcewell has any knowledge about a specific supplier or product.

**B. AWARD(S)**

Award(s) will be made to the highest-scoring proposer(s) whose proposal conforms to all conditions and requirements of the RFP, and consistent with the award criteria defined in this RFP.

Sourcewell may request written clarification of a proposal at any time during the evaluation process.

Proposal evaluation will be based on the following scoring criteria and the Sourcewell Evaluator Scoring Guide (a copy is available in the Sourcewell Procurement Portal):

Conformance to RFP Requirements	50
Financial Viability and Marketplace Success	75
Ability to Sell and Deliver Service	100
Marketing Plan	50
Value Added Attributes	75
Warranty	50
Depth and Breadth of Offered Equipment, Products, or Services	200
Pricing	400
<b>TOTAL POINTS</b>	<b>1000</b>

**C. PROTESTS OF AWARDS**

Any protest made under this RFP by a proposer must be in writing, addressed to Sourcewell’s Executive Director, and delivered to the Sourcewell office located at 202 12th Street NE, P.O.

Box 219, Staples, MN 56479. All documents that comprise the complete protest package must be received, and time stamped at the Sourcewell office by 4:30 p.m., Central Time, no later than 10 calendar days following Sourcewell's notice of contract award(s) or non-award. and must be time stamped by Sourcewell no later than 4:30 p.m., Central Time. A protest must allege a procedural, technical, or legal defect, with supporting documentation. A protest that merely requests a re-evaluation of a proposal's content will not be entertained

A protest must include the following items:

- The name, address, and telephone number of the protester;
- Identification of the solicitation by RFP number;
- A precise statement of the relevant facts;
- Identification of the alleged procedural, technical, or legal defect;
- Analysis of the basis for the protest;
- Any additional supporting documentation;
- The original signature of the protester or its representative; and
- Protest bond in the amount of \$20,000 (except where prohibited by law or treaty).

Protests that do not address these elements will not be reviewed.

#### D. RIGHTS RESERVED

This RFP does not commit Sourcewell to award any contract, and a proposal may be rejected if it is nonresponsive, conditional, incomplete, conflicting, or misleading. Proposals that contain false statements or do not support an attribute or condition stated by the proposer may be rejected.

Sourcewell reserves the right to:

- Modify or cancel this RFP at any time;
- Reject any and all proposals received;
- Reject proposals that do not comply with the provisions of this RFP;
- Select, for contracts or for discussion, a proposal other than that with the lowest cost;
- Independently verify any information provided in a proposal;
- Disqualify any proposer that does not meet the requirements of this RFP, is debarred or suspended by the United States or Canada, State of Minnesota, Participating Entity's state or province; has an officer, or other key personnel, who have been charged with a serious crime; or is bankrupt, insolvent, or where bankruptcy or insolvency are a reasonable prospect;
- Waive or modify any informalities, irregularities, or inconsistencies in the proposals received;
- Clarify any part of a proposal and discuss any aspect of the proposal with any proposer; and negotiate with more than one proposer;
- Award a contract if only one responsive proposal is received if it is in the best interest of Participating Entities; and

- Award a contract to one or more proposers if it is in the best interest of Participating Entities.

E. DISPOSITION OF PROPOSALS

All materials submitted in response to this RFP will become property of Sourcewell and will become public record in accordance with Minnesota Statutes Section 13.591, after negotiations are complete. Sourcewell considers that negotiations are complete upon execution of a resulting contract. It is the proposer's responsibility to clearly identify any data submitted that it considers to be protected. Proposer must also include a justification for the classification citing the applicable Minnesota law. Sourcewell may reject proposals that are marked confidential or nonpublic, either substantially or in their entirety.

Sourcewell will not consider the prices submitted by the proposer to be confidential, proprietary, or trade secret materials. Financial information, including financial statements, provided by a proposer is not considered trade secret under the statutory definition.



6/23/2022

Addendum No. 1

Solicitation Number: RFP 063022

Solicitation Name: Commercial Kitchen Equipment with Related Supplies and Services

Consider the following Questions and Answers to be part of the above-titled solicitation documents. The remainder of the documents remain unchanged.

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**Question 1:**

We are a subsidiary of company which has other divisions and subsidiaries. Each of the divisions has its own distinct legal entity. What would be the best way to address this?

**Answer 1:**

In the competitive process, Sourcewell will not advise a proposer on the methods for its proposal. Each proposer, in its discretion, will determine the approach that aligns with its business methods and satisfies all requirements of the RFP. Each proposer then has the opportunity in Step 1, Table 1, of the response process to articulate the proposer's legal name, included subsidiary entities, and assumed names or DBA names. Each Proposal will be evaluated based on the criteria stated in the RFP.

**Question 2:**

How can we ensure our financial data is kept confidential? Is there a non-disclosure agreement regarding financial statements?

**Answer 2:**

Sourcewell complies with the Minnesota Government Data Practices Act and will not execute a nondisclosure agreement for a proposer. Reference Section VI. E. of the Sourcewell RFP.

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End of Addendum

Acknowledgement of this Addendum to RFP 063022 posted to the Sourcewell Procurement Portal on 6/23/2022, is required at the time of proposal submittal.

## EXHIBIT B



**Solicitation Number: RFP #063022**

### CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Cook's Direct Inc., 27725 Diehl Road, Warrenville, IL 60555 (Supplier).

Sourcewell is a State of Minnesota local government unit and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to eligible federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Commercial Kitchen Equipment with Related Supplies and Services from which Supplier was awarded a contract.

Supplier desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

#### 1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires August 3, 2026, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended one additional year upon the request of Sourcewell and written agreement by Supplier.
- C. **SURVIVAL OF TERMS.** Notwithstanding any expiration or termination of this Contract, all payment obligations incurred prior to expiration or termination will survive, as will the following: Articles 11 through 14 survive the expiration or cancellation of this Contract. All other rights will cease upon expiration or termination of this Contract.

#### 2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Supplier will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Supplier's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new and the current model. Supplier may offer close-out or refurbished Equipment or Products if they are clearly indicated in Supplier's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Supplier warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Supplier warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Supplier's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that extends beyond the expiration of the Supplier's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution and throughout the Contract term, Supplier must provide to Sourcewell a current means to validate or authenticate Supplier's authorized dealers, distributors, or resellers relative to the Equipment, Products, and Services offered under this Contract, which will be incorporated into this Contract by reference. It is the Supplier's responsibility to ensure Sourcewell receives the most current information.

### **3. PRICING**

All Equipment, Products, or Services under this Contract will be priced at or below the price stated in Supplier's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Supplier must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable

time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Supplier as soon as possible and the Supplier will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

Supplier must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcwell may declare the Supplier in breach of this Contract if the Supplier intentionally delivers substandard or inferior Equipment or Products.

B. SALES TAX. Each Participating Entity is responsible for supplying the Supplier with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Supplier may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Supplier determines it will offer Hot List Pricing, it must be submitted electronically to Sourcwell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcwell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

#### **4. PRODUCT AND PRICING CHANGE REQUESTS**

Supplier may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcwell Price and Product Change Request Form to the assigned Sourcwell Supplier Development Administrator. This approved form is available from the assigned Sourcwell Supplier Development Administrator. At a minimum, the request must:

- Identify the applicable Sourcwell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and

- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and will be incorporated by reference.

## **5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS**

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Supplier understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Supplier is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Supplier's employees may be required to perform work at government-owned facilities, including schools. Supplier's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

## **6. PARTICIPATING ENTITY USE AND PURCHASING**

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Supplier that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Supplier. Typically, a Participating Entity will issue an order directly to Supplier or its authorized subsidiary, distributor, dealer, or reseller. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration or cancellation of this Contract; however, Supplier performance, Participating Entity

payment obligations, and any applicable warranty periods or other Supplier or Participating Entity obligations may extend beyond the term of this Contract.

Supplier's acceptable forms of payment are included in its attached Proposal. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

**B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Supplier, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be negotiated directly between the Participating Entity and the Supplier or its authorized dealers, distributors, or resellers, as applicable. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

**C. SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements not addressed in this Contract (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements), the Participating Entity and the Supplier may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

**D. TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Supplier in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the equipment, products, or services to be purchased; or
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements.

**E. GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

## **7. CUSTOMER SERVICE**

**A. PRIMARY ACCOUNT REPRESENTATIVE.** Supplier will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;

- Timely response to all Sourcwell and Participating Entity inquiries; and
- Business reviews to Sourcwell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Supplier must perform a minimum of one business review with Sourcwell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, sales data reports, performance issues, supply issues, customer issues, and any other necessary information.

## **8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT**

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Supplier must provide a contract sales activity report (Report) to the Sourcwell Supplier Development Administrator assigned to this Contract. Reports are due no later than 45 days after the end of each calendar quarter. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Supplier must submit a report indicating no sales were made).

The Report must contain the following fields:

- Participating Entity Name (e.g., City of Staples Highway Department);
- Participating Entity Physical Street Address;
- Participating Entity City;
- Participating Entity State/Province;
- Participating Entity Zip/Postal Code;
- Participating Entity Contact Name;
- Participating Entity Contact Email Address;
- Participating Entity Contact Telephone Number;
- Sourcwell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Supplier.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcwell, the Supplier will pay an administrative fee to Sourcwell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Supplier may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Supplier will submit payment to Sourcwell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should

note the Supplier's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Supplier agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Supplier is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Supplier in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

## **9. AUTHORIZED REPRESENTATIVE**

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Supplier's Authorized Representative is the person named in the Supplier's Proposal. If Supplier's Authorized Representative changes at any time during this Contract, Supplier must promptly notify Sourcewell in writing.

## **10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE**

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant to this Contract are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither party may assign or otherwise transfer its rights or obligations under this Contract without the prior written consent of the other party and a fully executed assignment agreement. Such consent will not be unreasonably withheld. Any prohibited assignment will be invalid.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been duly executed by the parties.

D. **WAIVER.** Failure by either party to take action or assert any right under this Contract will not be deemed a waiver of such right in the event of the continuation or repetition of the circumstances giving rise to such right. Any such waiver must be in writing and signed by the parties.

E. **CONTRACT COMPLETE.** This Contract represents the complete agreement between the parties. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22 of this Contract, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

### **11. INDEMNITY AND HOLD HARMLESS**

Supplier must indemnify, defend, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any act or omission in the performance of this Contract by the Supplier or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. Sourcewell's responsibility will be governed by the State of Minnesota's Tort Liability Act (Minnesota Statutes Chapter 466) and other applicable law.

### **12. GOVERNMENT DATA PRACTICES**

Supplier and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, maintained, or disseminated by the Supplier under this Contract.

### **13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT**

#### **A. INTELLECTUAL PROPERTY**

1. *Grant of License.* During the term of this Contract:
  - a. Sourcewell grants to Supplier a royalty-free, worldwide, non-exclusive right and license to use the trademark(s) provided to Supplier by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Supplier.
  - b. Supplier grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Supplier's trademarks in advertising and promotional materials for the purpose of marketing Supplier's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to their respective subsidiaries, distributors, dealers, resellers, marketing representatives, and agents (collectively "Permitted Sublicensees") in

advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

*3. Use; Quality Control.*

a. Neither party may alter the other party's trademarks from the form provided and must comply with removal requests as to specific uses of its trademarks or logos.

b. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's trademarks only in good faith and in a dignified manner consistent with such party's use of the trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

*4. Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of suppliers which may be used until the next printing). Supplier must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Supplier individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Send all approval requests to the Sourcewell Supplier Development Administrator assigned to this Contract.

D. ENDORSEMENT. The Supplier must not claim that Sourcewell endorses its Equipment, Products, or Services.

#### **14. GOVERNING LAW, JURISDICTION, AND VENUE**

The substantive and procedural laws of the State of Minnesota will govern this Contract. Venue for all legal proceedings arising out of this Contract, or its breach, must be in the appropriate state court in Todd County, Minnesota or federal court in Fergus Falls, Minnesota.

## 15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

## 16. SEVERABILITY

If any provision of this Contract is found by a court of competent jurisdiction to be illegal, unenforceable, or void then both parties will be relieved from all obligations arising from that provision. If the remainder of this Contract is capable of being performed, it will not be affected by such determination or finding and must be fully performed.

## 17. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Supplier will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Supplier may escalate the resolution of the issue to a higher level of management. The Supplier will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Supplier must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Supplier fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, the Supplier will bear any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

The party claiming default must provide written notice of the default, with 30 calendar days to cure the default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

## 18. INSURANCE

A. REQUIREMENTS. At its own expense, Supplier must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

- \$500,000 each accident for bodily injury by accident
- \$500,000 policy limit for bodily injury by disease
- \$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Supplier will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

- \$1,000,000 each occurrence Bodily Injury and Property Damage
- \$1,000,000 Personal and Advertising Injury
- \$2,000,000 aggregate for products liability-completed operations
- \$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Supplier will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

- \$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Supplier will maintain umbrella coverage over Employer's Liability, Commercial General Liability, and Commercial Automobile.

Minimum Limits:  
\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Supplier will maintain coverage for all claims the Supplier may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Supplier's professional services required under this Contract.

Minimum Limits:  
\$2,000,000 per claim or event  
\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Supplier will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Supplier's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:  
\$2,000,000 per occurrence  
\$2,000,000 annual aggregate

Failure of Supplier to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Supplier must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Supplier Development Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Supplier to provide certificates of insurance, in no way limits or relieves Supplier of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Supplier agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Supplier's commercial

general liability insurance policy with respect to liability arising out of activities, “operations,” or “work” performed by or on behalf of Supplier, and products and completed operations of Supplier. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. **WAIVER OF SUBROGATION.** Supplier waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Supplier or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Supplier or its subcontractors. Where permitted by law, Supplier must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. **UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION.** The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

## **19. COMPLIANCE**

A. **LAWS AND REGULATIONS.** All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. **LICENSES.** Supplier must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Supplier conducts with Sourcewell and Participating Entities.

## **20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION**

Supplier certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Supplier declares bankruptcy, Supplier must immediately notify Sourcewell in writing.

Supplier certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Supplier certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Supplier further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

## **21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS**

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may have additional requirements based on specific funding source terms or conditions. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Supplier’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report

all suspected or reported violations to the federal awarding agency. Supplier must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Supplier certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Supplier must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Supplier certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R.

§180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Supplier certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Suppliers must file any required certifications. Suppliers must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Suppliers must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Suppliers must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Supplier must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Supplier further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Supplier must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Supplier must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Supplier agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Supplier that are directly pertinent to Supplier's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Supplier's personnel for the purpose of interview and discussion relating to such documents.

L. **PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322).** A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

M. **FEDERAL SEAL(S), LOGOS, AND FLAGS.** The Supplier cannot use the seal(s), logos, crests, or reproductions of flags or likenesses of Federal agency officials without specific pre-approval.

N. **NO OBLIGATION BY FEDERAL GOVERNMENT.** The U.S. federal government is not a party to this Contract or any purchase by a Participating Entity and is not subject to any obligations or liabilities to the Participating Entity, Supplier, or any other party pertaining to any matter resulting from the Contract or any purchase by an authorized user.

O. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.** The Contractor acknowledges that 31 U.S.C. 38 (Administrative Remedies for False Claims and Statements) applies to the Supplier's actions pertaining to this Contract or any purchase by a Participating Entity.

P. **FEDERAL DEBT.** The Supplier certifies that it is non-delinquent in its repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance, and benefit overpayments.

Q. **CONFLICTS OF INTEREST.** The Supplier must notify the U.S. Office of General Services, Sourcewell, and Participating Entity as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Supplier must explain the actual or potential conflict in writing in sufficient detail so that the U.S. Office of General Services, Sourcewell, and Participating Entity are able to assess the actual or potential conflict; and provide any additional information as necessary or requested.

R. **U.S. EXECUTIVE ORDER 13224.** The Supplier, and its subcontractors, must comply with U.S. Executive Order 13224 and U.S. Laws that prohibit transactions with and provision of resources and support to individuals and organizations associated with terrorism.

S. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. To the extent applicable, Supplier certifies that during the term of this Contract it will comply with applicable requirements of 2 C.F.R. § 200.216.

T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

**22. CANCELLATION**

Sourcwell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcwell may cancel this Contract immediately upon discovery of a material defect in any certification made in Supplier's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcwell

Cook's Direct Inc.

DocuSigned by:  
*Jeremy Schwartz*  
By: C0FD2A139D06489...  
Jeremy Schwartz  
Title: Chief Procurement Officer  
Date: 7/29/2022 | 12:56 PM CDT

DocuSigned by:  
*Teri Teclaw*  
By: 414DC065542E414...  
Teri Teclaw  
Title: Contracts Manager  
Date: 8/24/2022 | 2:22 PM CDT

Approved:

DocuSigned by:  
*Chad Coauette*  
By: 7E42B8F817A64CC...  
Chad Coauette  
Title: Executive Director/CEO  
Date: 8/24/2022 | 2:48 PM CDT

# RFP 063022 - Commercial Kitchen Equipment with Related Supplies and Services

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## Vendor Details

Company Name: Cook's Direct Inc.  
Does your company conduct business under any other name? If yes, please state: Cook's Correctional Kitchen Equipment  
Address: 27725 Diehl Rd.  
Warrenville, IL 60555  
Contact: Teri Teclaw  
Email: tteclaw@cooksdirect.com  
Phone: 630-821-0250  
Fax: 800-956-6822  
HST#: 364131384

## Submission Details

Created On: Tuesday June 21, 2022 21:38:03  
Submitted On: Wednesday June 29, 2022 12:42:33  
Submitted By: Teri Teclaw  
Email: tteclaw@cooksdirect.com  
Transaction #: b77ae12d-2c07-46c3-b01f-d2e9d6c33503  
Submitter's IP Address: 96.84.107.33

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**Specifications**

**Table 1: Proposer Identity & Authorized Representatives**

**General Instructions** (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (one legal entity only): (In the event of award, will execute the resulting contract as "Supplier")	Cook's Direct Inc.
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	None
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Cook's Correctional Kitchen Equipment
4	Provide your CAGE code or Unique Entity Identifier (SAM):	Cage Code:1UYMS Federal ID: 36-4131384
5	Proposer Physical Address:	27725 Diehl Road, Warrenville, IL 60555
6	Proposer website address (or addresses):	www.cooksdirect.com
7	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Teri Teclaw, Contracts Manager 27725 Diehl Road, Warrenville IL 60555 Email: tteclaw@cooksdirect.com Phone: 800-956-5571 Ext 127 OR 630-821-0250
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Teri Teclaw, Contracts Manager 27725 Diehl Road, Warrenville IL 60555 Email: tteclaw@cooksdirect.com Phone: 800-956-5571 Ext 127 OR 630-821-0250
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	See Attachment

**Table 2: Company Information and Financial Strength**

Line Item	Question	Response *
10	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	See Attachment
11	What are your company's expectations in the event of an award?	See Attachment
12	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	See Attachment
13	What is your US market share for the solutions that you are proposing?	US Market share of 25% in Government/Corrections Sector
14	What is your Canadian market share for the solutions that you are proposing?	0%
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	Our company has never petitioned for bankruptcy
16	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	See Attachment
17	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	See Attachment
18	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	No suspensions or debarments

**Table 3: Industry Recognition & Marketplace Success**

Line Item	Question	Response *
19	Describe any relevant industry awards or recognition that your company has received in the past five years	Good Design Award 2021: MyGo Containers Sustainability Award Supply and Equipment Food Alliance: 2020 High Achiever Award
20	What percentage of your sales are to the governmental sector in the past three years	35% of total Cook's Sales during last 3 Years
21	What percentage of your sales are to the education sector in the past three years	5% of total Cook's Sales during last 3 Years
22	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	See Attached
23	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	Cook's does not hold any GSA contracts

**Table 4: References/Testimonials**

**Line Item 24.** Supply reference information from three customers who are eligible to be Sourcewell participating entities.

Entity Name *	Contact Name *	Phone Number *
SCI Coal Township DOC 1 Kelley Drive Coal Township, PA 17866	Rob Kelley Correctional Food Service Manager robekelley@pa.gov	570-644-7890
South Woods State Prison 215 South Burlington Road Bridgeton, NJ 08302	Giancarlo Marcucci Food Service Supervisor Giancarlo.Marcucci@doc.nj.gov	856-45-7000 Ext 8124 OR 8113
Jessup Correctional Institution 7800 House of Correction Rd. Jessup, MD 20794	India D. White Correctional Dietary Manager india.white@maryland.gov	410-799-6100 Ext. 2878

**Table 5: Top Five Government or Education Customers**

**Line Item 25.** Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
State of Missouri	Government	Missouri - MO	Four state contracts with the State of Missouri to supply government facilities with heavy duty kitchen equipment and small wares.	Equipment for State: \$5000-\$80,000 per order Smallwares for State: \$200-\$2500	Approximately \$4,900,000
State of Oklahoma	Government	Oklahoma - OK	State contract with the State of Oklahoma to supply government facilities with heavy duty kitchen equipment.	Equipment for State: \$2500-\$60,000 per order	Approximately \$3,250,000
State of North Carolina	Government	North Carolina - NC	Two state contracts with the State of North Carolina to supply government facilities with heavy duty kitchen equipment and trays.	Equipment for State: \$1500-\$80,000 per order	Approximately \$1,171,000
State of Pennsylvania	Government	Pennsylvania - PA	Two state contracts with the State of Pennsylvania to supply government facilities with heavy duty kitchen equipment and Cook's Brand smallwares.	Equipment for State: \$2800-\$80,000 per order Smallwares for State: \$500-\$10,000	Approximately \$1,001,500
State of Florida	Government	Florida - FL	State contract with the State of Florida to supply government facilities with heavy duty kitchen equipment.	Equipment for State: \$3000-\$25,0000	Started in February 2022 Approximately \$650,000 to date.

**Table 6: Ability to Sell and Deliver Service**

Describe your company’s capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
26	Sales force.	See Attached
27	Dealer network or other distribution methods.	Cook's is an authorized dealer for over 100 heavy duty kitchen equipment and small ware manufacturers. We supply and deliver to all 50 states in the US.
28	Service force.	If contract users require warranty, maintenance or repair services for commercial food service equipment ordered on contract, Cook's dedicated support representative will coordinate between the participating agency and the local authorized manufacturer service agent for such services. Cook's will follow up with service agent to ensure service has been performed and invoiced properly between agency and service agent.
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	Cook's will accept orders directly by mail, phone, fax, email and online from the ordering agency via purchase order, or through the use of the state procurement card.
30	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Cook's Customer Service Team will be available Monday thru Friday 8AM-5PM Central Standard Time. They will assist with any product, warranty or delivery issues with products purchased from the Sourcewell Contract. They will respond within two business days. Cook's Direct phone message system is available 24 hours a day 7 days a week to leave messages which can be viewed by email to handle any issues outside of normal business hours.
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	Cook's will supply and deliver heavy duty kitchen equipment and small wares to participating entities within the United States.
32	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	Cook's does not have the ability to service Canada on contract.
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	Cook's will service most geographic areas of the United States. Some remote areas may not have logistic services available or have restricted delivery times. In this situation, Cook's will communicate at the time of the quote or order placement for alternate delivery or pickup options.
34	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Cook's may already supply some Sourcewell participating agencies on another state or county contract or through the current Buyboard coop contract. If this is the case, Cook's will allow the participating agency the option to choose which contract is most beneficial to order from.
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	Cook's may apply additional freight charges depending on the logistics required to deliver to Hawaii or Alaska agencies. This will be quoted to the participating agency at the time of the quote or order.

**Table 7: Marketing Plan**

Line Item	Question	Response *
36	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	See Attachment
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Cook's will market all available websites and social media platforms to the Sourcwell participants. This includes the Cook's Direct website, instagram and facebook platforms.
38	In your view, what is Sourcwell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcwell-awarded contract into your sales process?	Cook's will utilize the Sourcwell participant list to promote contract participation. They will email promotional contract flyers and the Sales Team will provide phone support calls. If Sourewell has other promotion suggestions, Cook's Marketing Manager will communicate with Sourcwell for ideas.
39	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Cook's can provide a dedicated Sourcwell e-procurement website portal for contract price groups and ordering. Currently, the State of Missouri and Oklahoma have dedicated or integrated websites showing MSRP price, discount, and net contract price with all the products offered on contract. The states are able to login into their portal to see their contract product options and price and place contract orders by PO or using an E-Card.

**Table 8: Value-Added Attributes**

Line Item	Question	Response *
40	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcwell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Upon request, the dedicated Sales Support representative will provide coordination between the local authorized manufacturer service agents and participating agencies for equipment operation training or maintenance.. This service will be provided when the manufacturer offers a start-up training option on the equipment purchased by the state agency. If start-up/training is not an option the Manufacturer offers, training may be coordinated with a manufacturing representative available in the State of the participating agency. Service agents and manufacturer representatives will provide professional expert training in the field. Service agent will provide a quote for the services requested and customer can order direct from the service agent or through Cook's.
41	Describe any technological advances that your proposed products or services offer.	Cook's Direct is an innovative company with products specifically designed to solve unique customer equipment requirements. We have quarterly meetings to discuss innovative solutions for problems discussed with our customer base. Based on our innovative team meetings, we design and manufacture the exclusive 'Cook's Brand' line and as a sole source provider. This includes safety products, portion control, storage, meal serving and many more. See Sole source letter attachment.
42	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Cook's has designed a My-Go food container as an alternative to disposable carry-outs for universities. Designed to replace Styrofoam and paper disposable products, this line of to-go containers can be utilized for a variety of menu items. Switching to a reusable container reduces dependence on single use products reducing waste and expenses. See attached flyer.
43	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	Cook's offers many Energy Star Rated Products for Institutions. Some states offer rebates to the end user if they purchase energy star rated products. They can find if their state offers this rebate to their institution by going to the website <a href="https://www.energystar.gov/rebate-finder">https://www.energystar.gov/rebate-finder</a> .
44	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	Cook's does not have any WMBE or SBE certifications. Cook's does partner with Veteran Owned California Veteran Supply to supply California State Facilities.
45	What unique attributes does your company, your products, or your services offer to Sourcwell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcwell participating entities?	Cook's provides expert product knowledge for heavy duty kitchen equipment with a team on hand to provide specific solutions for it's customers. Several team members are CFSP certified. (Certified Food Service Professional). They can answer questions on the spot within 24 hours. We specialize in high security kitchen solutions for corrections and also high volume operations such as universities.

**Table 9: Warranty**

**Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.**

Line Item	Question	Response *
46	Do your warranties cover all products, parts, and labor?	Cook's offers the standard manufacturer warranty for products, parts and labor. Each manufacturer warranty is specific to their products. Most equipment Cook's supplies comes with a manufacturer warranty. Cook's can provide the full warranty description document to the customer upon request and will be delivered along with the owners manual upon delivery. Customers have an option to purchase an extended warranty if the manufacturer offers one.
47	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	Warranties cover repairs due to manufacturing defect under normal wear and tear operation. Upon inspection of equipment by a manufacturer authorized service agent, if an issue is determined to be from abuse, maintenance neglect, improper installation by an outside party(not authorized manufacturer service agent) or improper use of the equipment, the warranty coverage may not apply.
48	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Warranties include technicians travel time and mileage if the standard manufacturer warranty includes it.
49	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	Cook's will service most geographic areas of the United States. Some remote areas may not have local authorized service agents available or have restricted repair/travel hours. If this is the case, Cook's will communicate the solutions the manufacturer may provide in repair, parts or replacement.
50	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	Warranty issues are passed on to the original equipment manufacturer.
51	What are your proposed exchange and return programs and policies?	See Attached.
52	Describe any service contract options for the items included in your proposal.	Cook's does not provide service contracts. We can provide the contact information of the local authorized manufacturer service agent. The participating agency can contact the local agent to see if they have a service contract available for the model purchased.

**Table 10: Payment Terms and Financing Options**

Line Item	Question	Response *
53	Describe your payment terms and accepted payment methods.	Cook's Terms are Net 30. We accept payment by check, credit card, agency e-card, P-card or EFT transfer.
54	Describe any leasing or financing options available for use by educational or governmental entities.	Cook's does not offer leasing programs.
55	Describe any standard transaction documents that you propose to use in connection with an awarded contract (order forms, terms and conditions, service level agreements, etc.). Upload a sample of each (as applicable) in the document upload section of your response.	Cook's can email an an order form for the customer to fill out or they can use their own generated purchase order. We will take orders by phone, fax, email or online orders. For orders of \$1000 or more a written purchase order will be required. Cook's provides standard quotes, invoices, custom orders, and order confirmations. See attached examples.
56	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Cook's does accept P-Card. There is a 3% transaction fee on any credit card charge greater than \$1000.00

**Table 11: Pricing and Delivery**

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

Line Item	Question	Response *
57	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Cook's pricing model is a discount percentage off of manufacturer MSRP(manufacturer suggested list price).
58	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Cook's will provide one MSRP discount percentage per manufacturer. Example: Vulcan 50% Discount, F.W.E. 40% discount(examples only, not real discount). Cooks shows the MSRP price with discount percentage so customers can calculate the Sourcewell final price. MSRP List price with the discount percentage is provided on the attached price spreadsheet.
59	Describe any quantity or volume discounts or rebate programs that you offer.	Cook's does not provide a set volume discount, but participating agencies can contact the designated contract sales representative to negotiate price if it is a higher volume.
60	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	If customer needs specific accessories added to a base unit model. For example, prison package, casters, stand, etc. Customer will need to contact the designated contract sales representative to have this cost added to the base model at the same discount percentage. Some accessories are Net pricing such as extended warranties. Net pricing will be quoted case by case.
61	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Pricing not included in the contract cost are pre-delivery inspection, inside delivery, uncrate and set in place, set up, installation, training, or final inspection. If requested, Cook's will coordinate with a local authorized manufacturer service agent to provide this service and price quote to the participating agency. Some manufacturers include set up and training in their pricing and Cook's will state this in the contract quote and pass thru to the customer. Extended warranties are typically an additional cost. Any terms or pricing not explicitly stated in the contract quote request are not included.
62	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	Cook's will quote additional shipping or freight costs in the contract quote. This will include delivery to a dock or door with liftgate service if needed. This does not include inside delivery, uncrate or set in place. Cook's can add inside delivery and set in place for an additional fee. If manufacturer offers free freight to a dock, Cook's will pass this along to the customer. Freight Bill of Lading must be signed by the receiver.
63	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Cook's does not ship to Canada or offshore countries. We will deliver to Hawaii and Alaska based on logistics and service agents available in the area. This will need to be quoted case to case.
64	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Cook's is located in Warrenville, IL near Chicago IL. If a customer wishes to pick up from the Cook's warehouse located in IL, the designated support representative can coordinate a pick-up appointment. Customer must communicate the type of transportation used for pickup to verify it can transport the weight and dimensions of the equipment ordered.

**Table 12: Pricing Offered**

Line Item	The Pricing Offered in this Proposal is: *	Comments
65	d. other than what the Proposer typically offers (please describe).	Pricing offered in this proposal is better than what is offered to individual municipalities, schools or universities. It is the same as other currently held state contracts or buying coops.

**Table 13: Audit and Administrative Fee**

Line Item	Question	Response *
66	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. Provide sufficient detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template.	Cook's provides a dedicated sales representative and sales support representative to verify all contract pricing for quotes, orders and invoices has the correct contract price. Cook's will submit a quarterly usage report utilizing a report format that has been successful for other contracts. Upon request, we will provide any participating agency their own usage report utilizing the Sourcewell contract.
67	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Cook's has an accounting administrative team that tracks each contract's sales and gross profit to ensure contract end users are using it to their best advantage and also beneficial to Cook's contract team. This will track quote requests, quotes awarded percentage, Sales and gross profit of the contract orders.
68	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	Cook's will pay a 1% administrative fee to Sourcewell which shall apply to all payments received by Cook's Direct for contract orders. This will be paid at the end of each calendar quarter. The total administrative fee will be based off the quarterly usage report. This will be paid no later than the 15th calendar day of the month immediately following the end of the calendar quarter. Cook's will pay by company check and will be identified with the contract number on the check.

**Table 14A: Depth and Breadth of Offered Equipment Products and Services**

Line Item	Question	Response *
69	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	See Attachment
70	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Cook's does not have any subcategories.

**Table 14B: Depth and Breadth of Offered Equipment Products and Services**

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments
71	Kitchen and foodservice equipment and appliances	<input checked="" type="radio"/> Yes <input type="radio"/> No	Yes, please see attached breadth of products description
72	Components, accessories, and parts for the equipment and appliances described in Line 71 above	<input checked="" type="radio"/> Yes <input type="radio"/> No	Cook's will price optional accessories for base unit equipment at same discount percentage. This does not include parts ordered after the initial sale or repair parts.
73	Foodservice small wares, tools, dispensers, supplies, and furnishings complementary to an offering of the solutions in Line 71 above	<input checked="" type="radio"/> Yes <input type="radio"/> No	Yes, please see attached breadth of products description
74	Services complementary to the acquisition, operation, and upkeep of the solutions described in Lines 71-73 above, including design, installation, removal, disposal, inspection, repair, maintenance, training, and support. However, this solicitation should NOT be construed to include "services only" solutions.	<input type="radio"/> Yes <input checked="" type="radio"/> No	Cook's will coordinate with the local authorized manufacturer service agent to provide service quotes for install, removal, disposal, inspection, repair, maintenance, and training. This will be provided directly between the local service agent and participating agency.

**Table 15: Industry Specific Questions**

Line Item	Question	Response *
75	Describe your design service offering, if available.	Cook's does offer design services-custom case by case quote. Quotes will need to be negotiated with our Cook's Project Manager for a specific quoted price.
76	Describe the installation process and how it is managed from product order to completion.	If contract users require installation of new equipment and/or disposal of old equipment ordered on contract, Cook's dedicated support representative will coordinate between the participating agency and the local authorized manufacturer service agent for such services to provide a quote. Cook's will follow up with service agent to ensure service has been performed and invoiced properly between agency and service agent.
77	Describe how your company will handle supply issues, product substitutions and special orders products.	Cook's dedicated contract sales representative and sales support representative will communicate any back orders, available equal substitutes and custom items through email and phone calls.

**Table 16: Exceptions to Terms, Conditions, or Specifications Form**

**Line Item 78. NOTICE:** To identify any exception, or to request any modification, to the Sourcewell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcewell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification

**Documents**

**Ensure your submission document(s) conforms to the following:**

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
  - [Pricing](#) - Table 11 Line 58 Pricing Discount Spreadsheet.xlsx - Wednesday June 29, 2022 11:51:35
  - [Financial Strength and Stability](#) - Table 2 Line 12 Cooks Financial Statements 2020 2021.pdf - Wednesday June 29, 2022 11:52:51
  - [Marketing Plan/Samples](#) - Marketing Plan and Samples.zip - Wednesday June 29, 2022 11:57:03
  - WMBE/MBE/SBE or Related Certificates (optional)
  - [Warranty Information](#) - Warranties on Offered Lines.zip - Wednesday June 29, 2022 12:28:24
  - [Standard Transaction Document Samples](#) - Standard Transaction Document Samples.zip - Wednesday June 29, 2022 12:01:28
  - [Upload Additional Document](#) - Table Extended Answers for (See Attached).zip - Wednesday June 29, 2022 12:06:06

## Addenda, Terms and Conditions

### PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
  1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
  2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or
  3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Teri Teclaw, Contracts Manager, Cook's Direct Inc.

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

Yes  No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "**I have reviewed this addendum**" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_1_Commercial_Kitchen_Eqpt_RFP_063022 Thu June 23 2022 08:54 AM	<input checked="" type="checkbox"/>	1



# EXHIBIT C

# Quote

10/24/2025

**Project:**  
San Jose Unified - Equipment




**From:**  
Al Wirthwein - Sales  
Cook's Direct  
2250 75th Street (Suite 200)  
Woodridge, IL 60517


-----  
630-948-0961  
awirthwein@cooksdirect.com

Job Reference Number: 36437

Item	Qty	Description	Sell	Sell Total
<b>*** SOURCEWELL CONTRACT#063022-COK ***</b>				
<b>*** SCHALLENBERGER ***</b>				
1	1 ea	<b>REETHERMALIZATION &amp; HOLDING CABINET</b> Cres Cor Model No. RO151F1332DE8K2081 QuikTherm™ Cook and Hold Convection Basket Oven, rethermalization, solid state electronic control, LED digital display, standard controls, capacity (18) 18" x 26" pans or (32) 13" x 26" pans, (18) universal angles, solid state elect, stainless steel, field reversible insulated dutch door, (4) heavy duty 5" swivel casters (2 with brakes), 8KW, 208v/60Hz/1-ph, cCSAus, CSA	\$13,247.11	\$13,247.11
			<b>ITEM TOTAL:</b>	<b>\$13,247.11</b>
	1 ea	<b>FREIGHT</b> Cres Cor	\$662.35	\$662.35
			<b>ITEM TOTAL:</b>	<b>\$662.35</b>
2	1 ea	<b>ROLL-IN REFRIGERATOR</b> Traulsen Model No. RRI232LUT-FHS Spec-Line Refrigerator, Roll-in, two-section, self-contained refrigeration, StayClear™ Condenser, stainless steel exterior & interior, standard depth cabinet, full-height doors, accepts 66"H racks (by others) with microprocessor controls, R-290 Hydrocarbon refrigerant, 1/2 HP, 115v/60/1-ph, 7.6 amps, cETLus, ETL-Sanitation	\$19,149.40	\$19,149.40
	1 ea	Oversized units with crated shipping dimensions greater or equal to 72" in length and/or 90" in height. If delivery is to a facility without a standard height dock, additional shipping charges will apply, depending on the service requested (consult factory for details)		
	1 ea	6-year parts & labor and 7 year compressor, standard. Visit <a href="http://www.traulsen.com">www.traulsen.com</a> for details		
	1 ea	Remote application available. Please see Remote Models document for more details		
	1 ea	115v/60/1-ph, cord with NEMA 5-15P, standard		



Item	Qty	Description	Sell	Sell Total
	1 ea	Left door hinged left/right hinged right, standard		
			<b>ITEM TOTAL:</b>	<b>\$19,149.40</b>
3	1 ea	<b>MILK COOLER</b> Traulsen Model No. RMC58S4 Spec-Line Forced-Air Single Access Milk Cooler, sliding door, holds (16) 13" x 13" crates or (10) 13" x 19" milk crates, stainless steel interior & exterior, reinforced floor, sliding caster rails , (4) heavy-duty stainless steel dunnage racks, top-mount refrigeration system, digital control, E-Z clean gaskets, floor drain, 4" factory mounted adjustable casters, R-290 refrigerant, 1/4 HP, 115v/60/1-ph, 3.2 amps, cETLus, ETL	\$7,521.49	\$7,521.49
				
	1 ea	6-year parts & labor and 7 year compressor, standard. Visit <a href="http://www.traulsen.com">www.traulsen.com</a> for details		
	1 ea	115v/60/1-ph, cord with NEMA 5-15P, standard		
			<b>ITEM TOTAL:</b>	<b>\$7,521.49</b>
4	1 ea	<b>MILK COOLER</b> Traulsen Model No. RMC58D4 Spec-Line Forced-Air Double Access Milk Cooler, sliding door, holds (16) 13" x 13" crates or (10) 13" x 19" milk crates, stainless steel interior & exterior, reinforced floor, sliding caster rails , (4) heavy-duty stainless steel dunnage racks, top-mount refrigeration system, digital control, E-Z clean gaskets, floor drain, 4" factory mounted adjustable casters, R-290 refrigerant, 1/4 HP, 115v/60/1-ph, 3.2 amps, cETLus, ETL	\$9,555.77	\$9,555.77
				
	1 ea	6-year parts & labor and 7 year compressor, standard. Visit <a href="http://www.traulsen.com">www.traulsen.com</a> for details		
	1 ea	115v/60/1-ph, cord with NEMA 5-15P, standard		
			<b>ITEM TOTAL:</b>	<b>\$9,555.77</b>
<b>*** WILLIAMS ***</b>				
5	1 ea	<b>MILK COOLER</b> Traulsen Model No. RMC58S4 Spec-Line Forced-Air Single Access Milk Cooler, sliding door, holds (16) 13" x 13" crates or (10) 13" x 19" milk crates, stainless steel interior & exterior, reinforced floor, sliding caster rails , (4) heavy-duty stainless steel dunnage racks, top-mount refrigeration system, digital control, E-Z clean gaskets, floor drain, 4" factory mounted adjustable casters, R-290 refrigerant, 1/4 HP, 115v/60/1-ph, 3.2 amps, cETLus, ETL	\$7,521.49	\$7,521.49
				
	1 ea	6-year parts & labor and 7 year compressor, standard. Visit <a href="http://www.traulsen.com">www.traulsen.com</a> for details		
	1 ea	115v/60/1-ph, cord with NEMA 5-15P, standard		
			<b>ITEM TOTAL:</b>	<b>\$7,521.49</b>
6	1 ea	<b>ROLL-IN REFRIGERATOR</b>	\$19,149.40	\$19,149.40

Item	Qty	Description	Sell	Sell Total
		<p>Traulsen Model No. RRI232LUT-FHS                      Spec-Line Refrigerator, Roll-in, two-section, self-contained refrigeration, StayClear™ Condenser, stainless steel exterior &amp; interior, standard depth cabinet, full-height doors, accepts 66"H racks (by others) with microprocessor controls, R-290 Hydrocarbon refrigerant, 1/2 HP, 115v/60/1-ph, 7.6 amps, cETLus, ETL-Sanitation</p>		
	1 ea	<p>Oversized units with crated shipping dimensions greater or equal to 72" in length and/or 90" in height. If delivery is to a facility without a standard height dock, additional shipping charges will apply, depending on the service requested (consult factory for details)</p>		
	1 ea	<p>6-year parts &amp; labor and 7 year compressor, standard. Visit <a href="http://www.traulsen.com">www.traulsen.com</a> for details</p>		
	1 ea	<p>Remote application available. Please see Remote Models document for more details</p>		
	1 ea	<p>115v/60/1-ph, cord with NEMA 5-15P, standard</p>		
	1 ea	<p>Left door hinged left/right hinged right, standard</p>		
			<b>ITEM TOTAL:</b>	<b>\$19,149.40</b>
			Total	\$76,807.01