

# **GRAINGER**

## **PARTICIPATING ADDENDUM WESTERN STATES CONTRACTING ALLIANCE INDUSTRIAL SUPPLIES & EQUIPMENT MASTER PRICE AGREEMENT State of Arkansas Multiple Award Schedule**

Arkansas Award#: SP-03-0471

1. Scope: The State of Arkansas, Department of Finance and Administration, Office of State procurement, along with all agencies throughout the State of Arkansas (including local government entities, i.e, county, city, school district, or combination thereof) may purchase Industrial Supplies and equipment, Janitorial Supplies and Equipment, Light Fixtures, Safety and Security Supplies available in the current WSCA product offering, which reflects a discount off of published price lists and discounts based upon the Grainger catalog. This agreement does not extend WSCA discounts for GE Lighting products. This agreement is not a purchase order and does not guarantee any purchases to be made by the customer. Local government entities must execute a Participating Addendum to receive Grainger WSCA contract benefits.
2. Changes: The additional terms and conditions contained in the attached State of Arkansas, Department of Finance and Administration, Office of State Procurement terms and conditions, are hereby incorporated by reference. In the event of a conflict between the terms contained within Arkansas Term Award terms and conditions and WSCA Master Price Agreement, Arkansas terms and conditions shall apply. In the event any provision of this Participating Addendum or the master Price Agreement is contrary to Arkansas law, such provision shall be null and void. This Participating Addendum shall be governed by Arkansas law.
3. Primary Agreement Contact: The primary contact individual for this participating addendum is as follows:

Name:	Bill Bottorff
Address:	Office of State Procurement PO Box 29400 Little Rock, AR 72203
Telephone:	501-324-9318
E-mail:	<a href="mailto:bill.bottorff@dfa.state.ar.us">bill.bottorff@dfa.state.ar.us</a>

4. Administrative Fee/Rebate: Acceptance?  Yes  No

Grainger Industrial Supply agrees to offer a 1% rebate as described below or another comparable arrangement to any Participating State requesting a 1% rebate in an executed Participating Addendum as part of WSCA Agreement 6416. Grainger Industrial Supply will negotiate in good faith to include these costs in subsequent discount and pricing levels during future contract negotiations.

- Rebate will be paid within 45 days after a calendar quarter based on total net sales.
- Grainger Industrial Supply will provide back up documentation to the Participating State to substantiate the rebate amount
- Grainger Industrial Supply will provide quarterly reports listing the agency, items, prices, and total spent.

5. Price Agreement or Contract Number: All Purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include Arkansas Contract Number: SP-03-0471

This Addendum and Price Agreement WSCA 6416, hereinafter referred to as "Price Agreement" together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary to, or in addition to, the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

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

Government Entity ARKANSAS  
By: Joseph A. Grodz  
Name: Joseph A. Grodz  
Title: DIRECTOR  
Date: 06-10-03  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Contractor: Grainger Industrial Supply  
By: J. C. Collier  
Name: JEFFREY C. COLLIER  
Title: GOV'T SALES MGR.  
Date: 06-10-03  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## - TERM AWARD TERMS AND CONDITIONS

1. **GENERAL:** All terms and conditions stated in these term award terms and conditions govern this contract.
2. **PRICES:** Prices are subject to the terms of WSCA 6416,
3. **DISCOUNTS:** All cash discounts offered will be taken if earned.
4. **TAXES:** Most state agencies must pay state sales tax. Before billing, the contractor should contact the ordering agency to find out if that agency must pay sales tax. Itemize state sales tax when applicable on invoices.
5. **BRAND NAME REFERENCES:** The contractor guarantees that the commodity delivered is the same as specified in the bid.
6. **GUARANTY:** All items delivered are to be newly manufactured, in first- class condition, including, where applicable, containers suitable for shipment and storage unless otherwise indicated in the bid invitation. The contractor guarantees that everything furnished hereunder will be free from defects in design, workmanship, and material; that if sold by drawing, sample or specification, it will conform thereto and will serve the function for which furnished. The contractor further guarantees that if the items furnished hereunder are to be installed by the contractor, such items will function properly when installed. The contractor also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling, and registration. The contractor's obligations under this paragraph shall survive for a period of one year from the date of delivery, unless otherwise specified in the invitation for bid.
7. **AWARD:** This contract award does not authorize shipment. Shipment against this contract is authorized by the receipt of a purchase order from the ordering agency. A written purchase order mailed or otherwise furnished to the contractor results in a binding obligation without further action by either party.
8. **DELIVERY:** The term of the contract is shown in the WSCA 6416 contract award. The contractor is required to supply the state's needs during this term. The number of days required to place the commodity in the receiving agency's designated location under normal conditions is also shown. Consistent failure to meet delivery without a valid reason may cause removal from the bidders' list or suspension of eligibility for award.
9. **BACK ORDERS OR DELAY IN DELIVERY:** Back orders or failure to deliver within the time required may be default of the contract. The contractor must give notice to the Office of State Procurement and ordering agency of the reason and the expected delivery date. If the reason is not acceptable, the contractor is in default. The Office of State Procurement has the right to extend delivery if reasons appear valid. If the date is not acceptable, the agency may buy elsewhere.
10. **DELIVERY REQUIREMENTS:** No substitutions or cancellations are permitted without written approval of the Office of State Procurement. Delivery shall be made during agency work hours only, 8:00 a.m. to 4:30 p.m., unless prior approval for other delivery has been obtained from the agency. Packing memoranda shall be enclosed with each shipment.
11. **STORAGE:** The ordering agency is responsible for storage if the contractor delivers within the time required and the agency cannot accept delivery.
12. **DEFAULT:** All commodities furnished will be subject to inspection and acceptance of the ordering agency after delivery. Default in promised delivery or failure to meet specifications authorizes the Office of State Procurement to cancel this contract or any portion of same and reasonably purchase commodities elsewhere and charge full increase, if any, in cost and handling to the defaulting contractor.
13. **VARIATION IN QUANTITY:** The state assumes no liability for commodities produced, processed or shipped in excess of the amount specified herein, except that it will notify contractor of excess delivery.

14. **INVOICING:** The contractor shall submit an original and two copies of an itemized invoice showing the bid number and purchase request number when itemized in the invitation for bid. Invoices must be sent to "Invoice to" point shown on the purchase order.
15. **STATE PROPERTY:** Any specifications, drawing, technical information, dies, cuts, negatives, positives, data or any other commodity furnished to the contractor hereunder or in contemplation hereof or developed by the contractor for the use hereunder shall remain property of the state, be kept confidential, be used only as expressly authorized, and be returned at the contractor's expense to the F.O.B. point, properly identifying what is being returned.
16. **ASSIGNMENT:** This contract is not assignable nor the duties hereunder delegable by either party without the written consent of the other party to the contract.
17. **OTHER REMEDIES:** In addition to the remedies outlined herein, the contractor and the state have the right to pursue any other remedy permitted by law or in equity.
18. **LACK OF FUNDS:** The state may cancel this contract to the extent funds are no longer legally available for expenditures under this contract. Any delivered but unpaid for goods will be returned unused, in original packaging in resalable condition to the contractor by the state. If the state is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, the contractor may file a claim with the Arkansas Claims Commission. If the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim.
19. **QUANTITIES:** The state may order more or less than the estimated quantity in the invitation for bid.
20. **DISCLOSURE:** Failure to make any disclosure required by the Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be a material breach of the terms of this contract. Any contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.