

Pricing Agreement # 201501064-P (B)

New Mexico State University Pricing Agreement for Goods and/or Services

This agreement effective this 1st day of December, 2015 is entered into between Regents of New Mexico State University, hereinafter referred to as the "University", and Argyle Welding Supply Inc., hereinafter referred to as "Contractor".

1. SERVICES AND/OR GOODS TO BE PROVIDED: The Contractor shall provide the good(s) and/or service(s), as defined in this agreement, on an "as ordered" basis. No funds are obligated under this Pricing Agreement. Funds are obligated by purchase orders or PCard payment on an "as needed" basis. Contractor shall receive separate individual orders for each individual requests. The University makes no guarantee as to the volume of goods which may be purchased under this Agreement. Prices are fixed for the first year of a Pricing Agreement. Thereafter, in the event of a product cost increase an escalation request will be reviewed by the University. Escalation requests are only to compensate for an actual cost increase and will not be considered for an increase in profit margin. Contractor shall notify the University if a cost decrease occurs and will adjust pricing accordingly. The University shall review the request by the Contractor for price escalation and determine whether or not to accept such a request. Such requests must be made at least ninety (90) days prior to the expiration of the current contract term.

2. PRICING AGREEMENT DOCUMENTS: The Agreement shall be comprised of this agreement document, its attachments and all document referenced herein. As applicable, the Agreement shall also include all Requests for Proposal or bid documents, including the Contractor's response, Referenced Specifications and/or Scope of Work, Special Conditions, Technical Specifications, Purchase Order Terms and Conditions, and all negotiation records, which are incorporated herein and made a part of the Agreement. In instances where there exists a conflict between any of the Pricing Agreement described above, this Agreement plus attachments hereto, negotiation records, the University's solicitation documents, and the Contractor's response to the solicitation, in that order, shall control the interpretation of the parties' respective rights and obligations.

| | |
|--|--------------------|
| New Mexico State University Bid Number | <u>201501064-P</u> |
| Contractors Proposal Dated | <u>08/10/15</u> |
| Submitted by | <u>Tim Jackson</u> |
| Other: | _____ |

3. TERM: The period of performance for this Pricing Agreement shall commence 12/01/15 and be automatically renewed for up to **three (3)** additional years, not to exceed a total of **four (4)** years.

4. COST AND PAYMENT: The Contractor shall be paid for goods/services rendered satisfactorily per the negotiated fees and schedules incorporated hereto. All payment will be arrears. Payment shall be made per request upon receipt of a detailed invoice. The invoice

12. PROCUREMENT CODE: The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

13. TERMINATION: Either party may terminate this contract as follows:

A. Termination by the Contractor

- (1.) The contractor may terminate this contract only if the New Mexico State University fails to comply with any provisions of this contract and after receiving notice of the noncompliance the University fails to cure the noncompliance within (10) ten days, or
- (2.) By written mutual agreement between the Contractor and the University.

B. Termination by the University

(1.) For Cause:

- a. The occurrence of either one of the following events will justify termination for cause: Contractor's persistent failure to perform the work in accordance with the Contract Documents (including but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment) or Contractor's violation in any substantial way of any provisions of this contract.
- b. If either one of the events identified in above paragraph occur the University may, after giving Contractor (and the surety, if any) ten days written notice, terminate the service of Contractor, exclude Contractor from site, and take possession of the work. Contractor shall be paid for project cost incurred up to the date of termination but shall not be paid for loss of profits resulting from such termination.
- c. Where Contractor's services have been so terminated by the University, the termination will not affect any rights or remedies of University against contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the Contractor by the University will not release the Contractor from liability.

(2) For Convenience:

- a. Upon ten days written notice to contractor, NMSU may, without cause and without prejudice to any other right or remedy of NMSU, elect to terminate the contract. In such case, Contractor shall be paid (without duplication of any items):
- b. for completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination,
- c. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials or equipment as required by the contract document in connection with uncompleted work.
- d. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

14. INDEMNIFICATION: The Contractor shall be responsible for damage to persons or property that occurs as a result of his fault or negligence, or that of any of his employees, agents or subcontractors. He shall save and hold harmless the Regents of New Mexico State University against any and all loss, cost, damage, claims, expense or liability in connection with the performance of the contract. Any equipment or facilities damaged by the Contractors' operation

NEW MEXICO STATE UNIVERSITY

BY: Jack Provencio
For the Regents of NMSU

Date: 2-23-16

Jack Provencio
Assistant Director of Central Purchasing, Risk Management Administration and Materials
Management

CONTRACTOR: ARGYLE WELDING SUPPLY INC.

BY: TIM JACKSON

Date: 2-04-2016

Printed Name: Tim Jackson

Title: Sales Manager

Business/Order Contact Information:

Name: Tim Jackson

E-mail: Tim.Jackson@ArgyleSupply.com

Phone: 575 522-2354

Fax: 575 522-1245

Website: _____

