



Washington State Department of
Enterprise Services

CONTRACT

**Washington State Department of Enterprise Services
and
Correctional Industries**

#04013, Eyeglasses & Contact Lenses

For Purchases of Materials, Supplies, Services, and Equipment

Under the Authority of

Chapter 39.26.251 RCW

DOC CONTRACT No. K10448

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1. SCOPE OF CONTRACT

This contract is for the purchase of Correctional Industries' (CI) Eyeglasses and related products. This contract is for use by all Washington State Agencies and can be used by all Political Subdivision, MCUA members, Higher Ed, School Districts and qualified non-profits who have signed a Master Contract Use Agreement (MCUA). Modifications and changes to this agreement must have Department of Enterprise Services (DES)/Master Contracts and Consulting (MCC) approval and concurrence.

Important Note

Pursuant to 39.26.251, state agencies and departments shall purchase for their use any required goods and services that are produced or provided in whole or in part from class II inmate work programs operated by CI. Unless CI has granted an authorized exemption, any state agency or department who purchases from another source may be in direct violation of state law. In the event that state law has been violated, CI reserves the right to insist upon the strict performance of this contract and pursue any other remedies available by law.

This contract was established in accordance with Revised Code of Washington 39.26.251, which provides the basis for mandatory purchases under this contract. In accordance with statute, if a Washington State manufacturer exists and meets exemption criteria identified in the Exemption Form (refer to Attachment entitled Exemption Form), an exemption will be allowed by CI. Revised Code of Washington 39.26.251 is superseded by the statute, which is the foundation of this contract; therefore the Best Buy Provisions do not apply to this contract. However, in circumstances where CI cannot meet your required delivery timeframe (i.e. end of biennium requirements, etc.) or the contract delivery term, CI may grant a one-time exception, reviewed on a case by case basis. Contact Customer Service at 1.800.628.4738 or email support@washingtonci.com with questions.

2. TERM OF CONTRACT

Contract term shall be in accordance with RCW 39.26.251. This contract shall be effective **November 01, 2013 through October 31, 2019**.

The parties agree to meet, if necessary, every 12 months to negotiate any modifications of any terms or conditions that may have concern to either party. If a concern over a term or condition arises prior to the regularly scheduled meeting, the parties will schedule a special meeting and negotiate in good faith over a modification of that term or condition.

If, during the course of the contract term, RCW 39.26.251 is amended to eliminate the mandatory element, this contract will automatically convert to a convenience use contract after 60 days, unless otherwise specifically stipulated by the legislature. In the event this contract converts to convenience use, the following will also become part of the convenience use contract: In the event of on-going non-performance of contractual requirements, the MCC may do one or more of the following: terminate this contract, impose liquidated damages, or exercise any remedy provided by law.

3. CONTRACT EXTENSION

MCC reserves the right to extend this contract for additional contract terms or portions thereof. Contract extensions shall be subject to mutual agreement between MCC, and CI. CI shall respond within fifteen (15) working days following receipt of a request for extension.

4. CONTRACTOR'S REPRESENTATION

Responsibility: CI's Customer representative, Jim Parker, shall function as the primary point of contact, ensuring all supervision, coordination and corrective action is taken as necessary to meet contractual requirements.

Availability: CI's representative(s) or designee shall be readily available during normal business hours (8:00 am – 4:00 pm Pacific Standard Time) Monday through Friday (except holidays) throughout the term of this contract. The representative(s) shall respond to a customer call within one business day from their initial call.

CI shall maintain sufficient sales representatives to ensure adequate coverage throughout the state. Sales representatives will be responsible for providing correct product information. Sales staff shall be capable of assisting customers with product information, technical data, compatibility, order status information, etc.

In addition to reviewing orders for accuracy prior to order entry, CI shall maintain sufficient internal office staff to assist with customer inquiries to include those concerning pricing, availability, order processing, modifications, accessories, options, customizing, and hardware options. The contract users will be provided a toll free number for the purpose of technical and order status inquiries.

5. TESTING & EVALUATION OF PRODUCTS

In an effort to better serve the customers CI's Sales Representatives will be available to provide a complete frame selection and an initial stock of order forms for contract users.

6. PERFORMANCE

6.1 GENERAL REQUIREMENTS

MCC, in conjunction with contract users, monitors and maintains records of performance. Said performance shall be a factor in considering further extensions of this contract and award of all future contracts. Contract users will be provided with product/service performance report forms to forward reports of superior or poor performance to the State Procurement Officer. Copies of such reports will be forwarded to CI's designated representative at a minimum of once during the terms of the contract.

6.2 LIQUIDATED DAMAGES

If CI fails to perform herein, liquidated damages will be assessed in the amount of the actual cost incurred by customers to procure products on the open market as a result of Contractor's failure to perform.

6.3 COST OF REMEDYING DEFECTS

All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

6.4 DAMAGES/LIMIT OF COSTS

In no event shall the amount of liquidated damages, or the cost of remedying defects, exceed the value of the order(s).

6.5 NON-PERFORMANCE

In the event of non-performance of contractual requirements, it shall constitute cause for MCC to declare CI in default of the contract. If the default remains, after CI has had an opportunity to cure the problem, MCC may elect to do one or more of the following: Terminate this contract, impose liquidated damages, or exercise any remedy provided by law.

6.5 PAYMENT TERMS

Net 30 days. Payment should be made after receipt of product/service by the Customers provider and the receipt of an acceptable invoice from CI to the customers. When there are damaged item(s) or there are other factors making replacement of item(s) necessary, payment should be made on all undamaged goods received and invoiced without regard to the resolution of the item(s) in question. Payment for item(s) in question is to be processed upon satisfactory fulfillment of CI's contractual obligations and receipt of invoice by the customers

6.6 ORDER ACKNOWLEDGMENT

Contract users who fax orders to CI will receive an automated acknowledgement via fax that the order has been received by the CI fax machine.

6.7 PURCHASE ORDER ACKNOWLEDGEMENT

CI will acknowledge incomplete orders by faxing back the incomplete order within 2 business days after receipt of the inaccurate or incomplete order.

- An order is not considered received until all information provided by the Customers provider is complete and accurate.
- Completed orders will be sent to the Customers providers "Bill to" address, unless otherwise requested.
- Completed orders shall include an order acknowledgement with field/purchase order number, ship-to address, items ordered, contract pricing, and ship date.
- CI shall send only one order acknowledgment per order (unless subsequent changes need to be acknowledged), which shall be a consistent form recognized by the contract users, and checked for accuracy prior to mailing.
- CI shall provide, upon request of the contract user(s), a report showing order status specific to the requesting contract user.
- Order status shall reflect all orders placed, filled and pending within a specified time period for the specific contract user.
- Order status requests by contract users to CI shall not exceed more than once per week.
- Written field orders should be mailed or faxed to CI. Due to the possibility of errors, CI will not accept telephone orders.

Alternate or additional terms and conditions accompanied with a purchase order acknowledgment are unacceptable; the terms and conditions incorporated herein prevail.

6.8 FAX ORDERS

CI will accept fax orders and will provide automated acknowledgement of received fax data providing the following criteria are met:

- a) Contract users must send order(s) with a cover sheet showing how many pages are included in the fax. Contract user also must verify complete transmission of fax.
- b) If a written confirming order is mailed to CI, it must be marked as a "confirming order" and specify the date that the fax order was previously transmitted to CI.
- c) Contract user is responsible for cancellation or return charges should a double order occur because the written order was not properly identified as a "confirming order".

6.9 ORDER CANCELLATION & CHANGE ORDERS

The Customers provider may cancel or change orders for standard contract items without penalty within 24 consecutive hours of fax date/time. After this period, CI may impose a 25% penalty of the item(s) being canceled and/or changed. Delivery/installation is exempt from cancellation penalties.

If a customer cancels an order for custom items, CI may impose up to a 100% penalty of the item(s) being canceled.

6.10 SHIPPING INSTRUCTIONS

All goods are to be shipped F.O.B. destination in any amount to any delivery location within the state of Washington. The contract pricing includes delivery.

6.11 SHIPPING LOCATIONS

It is the responsibility of CI to become familiar with the locations of all Washington State Customers, State Agencies, MUA Members and Higher Ed.

6.12 DELIVERY

All goods delivered under this contract shall be delivered fully assembled.

The following delivery schedule applies to this contract: **15 business days after receipt of order**

Receipt of order is considered the day a complete and accurate order is received by CI. If an order is mailed to CI, the delivery date should be calculated starting 5 business days after a complete and accurate order is mailed.

CI Late Delivery: If delivery is delayed more than 15 working days beyond the contract delivery date, the customer may impose a penalty of 3% per week, for every week that delivery is delayed (penalty will be assessed on the first

day of each week, beginning on the 11th working day beyond the contract delivery data). CI's invoice shall reflect late delivery penalties, if applicable; otherwise, the customer will automatically credit CI's late delivery penalties against the amount owing on the invoice when it submits payment. The acceptance of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligations remaining to be performed by CI.

Customer Delivery Delay: If the customer requests a delay in delivery of more than 10 working days beyond the contract delivery terms, CI may be assessed a penalty of 3% per week for every week of delay beyond the contract delivery term, unless the delay was requested and mutually agreed upon by all parties. Penalty will be billed to the customer as a separate line item on invoice.

Special Delivery Exceptions: In an effort to meet customers' needs, CI has chosen to consider some options (i.e. one-time exceptions, discounting, etc.), either prior to order placement (i.e. end of fiscal/biennial year orders) or in the event that delivery is delayed 10 working days beyond the contract delivery term. In the event CI grants a "one-time exception" to the contract, this allows the customer to cancel their order without penalty and purchase the goods elsewhere. All requests for other options shall be submitted to James Parker, CI's Product Manager. CI has the discretion to approve or deny the request, based on the circumstances.

6.13 RECEIPT OF DAMAGED/INCORRECT MERCHANDISE

Anytime damaged or defective merchandise is discovered it should be brought to the immediate attention of Customer Service. CI will complete a Quality Control Report to request repair or replacement. Such customer inspection shall not be construed as final acceptance or as acceptance of the materials or equipment if materials or equipment do not conform to contractual requirements. In the event that CI does not respond within a timely manner, contact MCC, the contract administrator, Tim Shay at (360) 407-9410 for further assistance.

Delivery of Damaged Goods: When damage is identified at the time of delivery it should immediately be brought to the attention of the delivery driver and noted on the receiving report/delivery manifest. Customer will need to notify Customer Service of damages within three (3) days. Concealed damage or shortages are to be reported within ten (10) business days of receipt of merchandise or date of installation. Customer should keep a copy of the signed freight bill to facilitate CI's corrective action.

Receipt of Incorrect Merchandise: Anytime receipt of incorrect merchandise is discovered it should be brought to the immediate attention of Customer Service. Prior to reporting receipt of incorrect merchandise, the customer should check delivery document against order initially submitted. CI will complete a Quality Control Report to request replacement with the correct merchandise.

Corrective Action Steps:

CI shall expeditiously take the following steps, at no cost to the customer:

- a) Investigate extent of the damage or incorrect goods.
- b) Arrange for repair or replacement whether at customer's location or CI's repair shop.
- c) Pick up merchandise to be repaired or replaced after freight inspection.
- d) If repair is not practical, order replacement merchandise on an expedited manufacture and shipment basis (within 30 working days, otherwise the customer may choose to purchase elsewhere).
- e) Prepare and submit all reports or claims to the delivery carrier as necessary.
- f) Coordinate fully with the customer on steps being taken and time frame for problem resolution.
- g) Once CI is notified of receipt of damaged or incorrect merchandise, CI shall notify customer within three (3) business days of a corrective action being taken and timeframe, which is mutually agreed upon.

Application of Late Delivery Penalty: In the event the customer doesn't have a usable product, after receipt of damaged/incorrect merchandise, the late penalty provisions identified above in Paragraph 18 will apply. However, the customer should add the amount of days from receipt of damaged/incorrect merchandise until CI is notified of circumstance to contract delivery term.

6.14 PRICING AND ADJUSTMENTS

- a. **Firm/Fixed:** Pricing will be firm and fixed for the initial 12 months after the effective date of the contract, except as noted in paragraph below.
- b. **Adjustments:** Prices shall remain unchanged for at least 365 days after the effective date of the contract. Adjustments in contract pricing will be allowed on a pass-through basis only. CI shall provide adequate documentation to justify said increases. Approved price adjustments shall remain unchanged for at least 180 days thereafter. A minimum of sixty (60) days advance written notice to the MCC is required for adjustments. If more than 20% of the product specific portion of the CI catalog is outdated, then a new catalog will be printed and distributed, at CI's sole expense.

6.15 ESTIMATED USAGE

\$3,700,000.00/Annually estimated usage data as stated herein shall not bind the state, MCC and the customers to the purchase of said quantities. Usage estimates are based strictly upon past historical data and may not reflect future requirements.

6.16 VENDOR MANAGEMENT FEE

All master contracts executed as a result of this RFQ will be subject to a vendor management fee. Collection and remittance of the vendor management fee shall be conducted in accordance with Subsection 3.8/3.9, reporting, and the provisions set forth in the attached Appendix A – Master Contract.

The vendor management fee will be 0.74 percent of the purchase price for work orders. The purchase price is defined as total invoice price less sales tax. No taxes will be assessed against the vendor management fee.

6.17 USAGE REPORTS

The contractor must provide a Sales Report to DES on a quarterly basis in the electronic format provided by DES at: <https://fortress.wa.gov/ga/apps/CSR/Login.aspx>.

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter (i.e., no later than April 30th, July 31st, October 31st and January 31st).

6.18 RETENTION OF RECORDS

CI shall retain all records relating to this contract for a period of five (5) years following the date of final payment or completion of any required audit, whichever is earlier. Any authorized representative of the state or federal government (where federal funds are involved) shall have access to and the right to examine, audit, excerpt, and transcribe all said records within a reasonable time.

6.19 AUDIT PRIVILEGES

At least once during the life of the contract, Master Contracts and Consulting Contracts Specialist and one or more other authorized state representatives may visit the Contractor's place of business. The State of Washington reserves the right to audit and examine accounting records directly or indirectly relating to this contract. With prior notification, the state shall have access to all buildings, yards, warehouses, storage and transportation facilities or any other place where contract items are manufactured, stored, handled or transported.

6.20 ORDER OF PRECEDENCE

In the event of any inconsistency in this agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- a) Applicable Federal and State Statutes and Regulations;
- b) Special terms and conditions; and
- c) Standard terms and conditions.

6.21 ALTERATIONS AND AMENDMENTS

CI and MCC may mutually amend this agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind CI and MCC.

6.22 MATERIALS, WORKMANSHIP, AND QUALITY CONTROL

CI shall be required to furnish all materials, equipment and/or services necessary to perform contractual requirements. Materials and workmanship in the production of products for this contract shall conform to all codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials shall be manufactured in accordance with the best commercial practices and standards for this type of equipment.

It is the policy of Correctional Industries to provide its customers with products and services that conform to their specifications and quality requirements. CI's goal is to achieve a constant high standard of quality while maintaining economical operations. Adherence to the precepts of this directive will ensure a level of quality consistent with management's objectives and CI's mission.

6.23 OSHA AND WISHA REQUIREMENTS/SAFETY STANDARDS

CI agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA), as may be amended, and, if it has a workplace within the state of Washington, the Washington Industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder and certifies that all items furnished and purchased under this order will conform to and comply with said standards and regulations. CI further agrees to indemnify and hold harmless customer from all damages assessed against customer as a result of CI's failure to comply with the acts and standards thereunder and for the failure of the items furnished under this order to so comply. All products shall meet ANSI standards and applicable federal and state laws.

6.24 TAXES:

WAC 458-20-189 governs state sales tax from state agencies or institutions. Office of Code Reviser
<http://slc.leg.wa.gov/wacbytitle.htm>

6.25 MONTHLY CUSTOMER REPORTING:

Effective, November 01, 2013 Airway Heights (Correctional Industries) will submit required "Monthly Reporting" to the Customer, under the following guidelines:

1. **Required Reports (Customer):** The contractor (Airway Heights) is required to generate monthly; electronic accumulative performance reporting providing data as follows:
 - Reporting period dates
 - Data report generated
 - Materials (identified by corresponding procedure code(s) provided for reporting period and year to date
 - Number of orders as a result of manufacturer defect
 - Total number of orders filled
2. **Orders filled less than 15 days for the following:**
 - Eye Glasses
 - Contact Lenses
3. **Orders filled from _____ to _____**
 - Eye Glasses
 - Contact Lenses
4. **Orders left to be filled after 30 days requires Timeliness Report* with breakdown by provider**
 - Eye Glasses
 - Contact Lenses
 - Data entry backlog (Note: "Airway "must" contact the Customers/DES and Providers when there is a data entry backlog that would cause a delay in the timeliness of orders")
 - Average time of approved completed orders in lab
 - Average time of approved completed orders delivered

Upon request at any time, Customers/DES can obtain a "Timeliness Report" from Airway to include a complete breakdown by ordering provider.

APPENDICES

APPENDIX A: COMPETITIVE PROCUREMENT STANDARDS	 Appendix A -- Competitive Procuren
APPENDIX B: SPECIFICATIONS	 Appendix B -- Specifications.doc
APPENDIX C: SPECIAL TERMS	 Appendix C -- Special Terms and Co
APPENDIX D: PRICE SHEET	 Appexdix D -- Price Sheet
APPENDIX E: EXEMPTION APPLICATION AND PROCESS	 Appendix E -- Exemption Applicator
APPENDIX F: CERTIFICATIONS AND ASSURANCES	 Appendix F -- Certifications and Ass

AUTHORIZED OFFER & CONTRACT SIGNATURE PAGE

In submitting this Current Contract Information, the Authorized Signatory below acknowledges having read and understood the entire document and agrees to comply with the terms and conditions of the document including Certifications and Assurances. The Authorized Signatory also agrees to fulfill the offer made in this document and any subsequently awarded Contract.

Contract Award
(For State of Washington Use Only)

Effective the 1st day of November, 2013, a contract is hereby awarded between:
The Washington State Department of Enterprise Services and the Bidder identified herein

This is a Total Award for: **Eye Glass and Contact Lenses Commodity Code 6540**

BIDDER'S AUTHORIZED SIGNATURE	
	11/19/13
<i>Signature of Authorized Individual & Date</i>	
Gary Banning	
<i>Typed or Printed Name</i>	
Contracts Administrator	
<i>Title</i>	
BIDDER'S LEGAL NOTICE	
Company Name:	Correctional Industries (CI)
Address:	Airway Heights Corrections Center Attn: Airway Optical P.O. Box 1959 Airway Heights, WA 99001-1959
Contact:	James Parker
Title:	CI General Manager
Phone:	509-244-6748
Fax:	509-244-6856
Email:	ihparker@DOC1.WA.GOV

DES AUTHORIZED SIGNATURES	
	11/19/13
<i>Procurement Coordinator Signature & Date</i>	
Tim L. Shay	
<i>Typed or Printed Name</i>	
	
<i>Manager Signature & Date (if applicable)</i>	
Cheral Jones	
<i>Typed or Printed Name</i>	
DES LEGAL NOTICE	
WA State DES Contracts & Legal Services Division Master Contracts & Consulting Unit	
1500 Jefferson Building 1500 Jefferson St. SE Olympia, WA 98501	
Contact:	Tim L. Shay
Title:	Contracts Specialist
Phone:	360-407-9410
Fax:	360-586-2426
Email:	tim.shay@des.wa.gov