

**Solicitation Number: RFP #092222****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Cummins Inc., 500 Jackson Street, Box 3005, Columbus, IN 47201 (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 Electrical Energy Power Generation Equipment with Related Parts, 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 November 22, 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 used, 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.** All equipment purchased pursuant to this Contract is governed by the express written manufacturer's warranty (the "Warranty") and is the only warranty offered on the equipment. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE WARRANTY, THERE ARE NO OTHER WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDIES PROVIDED IN THE WARRANTY SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY. Supplier further 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 Sourcwell 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 Sourcwell 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.

Sourcewell 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 Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell 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 Sourcewell Price and Product Change Request Form to the assigned Sourcewell 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 Sourcwell 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. Sourcwell'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 Sourcwell 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 Sourcwell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcwell. Sourcwell 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 Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. **BUSINESS REVIEWS.** Supplier must perform a minimum of one business review with Sourcewell 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 Sourcewell 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;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell 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 Sourcewell, the Supplier will pay an administrative fee to Sourcewell 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 Sourcewell 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 third party claims or causes of action, including attorneys' fees incurred by Sourcewell or its Participating Entities, arising out of any negligent act or omission or willful misconduct 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. To the maximum extent permitted by law, in no event will Supplier be liable under this Contract for consequential, incidental, or special damages, including without limitation any lost opportunity damages or lost profits, or savings, loss of use, loss of data, or downtime, even if it has been advised of their possible existence. 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.

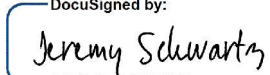
T. DOMESTIC PREFERENCES FOR PROCUREMENTS. To the extent applicable, Supplier certifies that during the term of this Contract will comply with applicable requirements of 2 C.F.R. § 200.322.

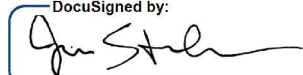
22. CANCELLATION

Sourcewell or Supplier may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell 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.

Sourcewell

Cummins Inc.

DocuSigned by:

By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer
Date: 11/17/2022 | 3:50 PM CST

DocuSigned by:

By: 8AEAA81D1E4348F...
James Stalnaker
Title: National Accounts Sales Director
Date: 11/17/2022 | 2:02 PM PST

Approved:

DocuSigned by:

By: 7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
11/17/2022 | 6:54 PM CST
Date: _____

RFP 092222 - Electrical Energy Power Generation Equipment with Related Parts, Supplies, and Services

Vendor Details

Company Name: Cummins Inc.

Does your company conduct business under any other name? If yes, please state: CSSNA

Address: 500 Jackson Street
Columbus, Indiana 47201

Contact: Kirk Adams

Email: kirk.e.adams@cummins.com

Phone: 612-270-5540

Fax: 612-270-5540

HST#: 35-0267090

Submission Details

Created On: Friday August 05, 2022 13:41:52

Submitted On: Thursday September 22, 2022 08:52:00

Submitted By: Kirk Adams

Email: kirk.e.adams@cummins.com

Transaction #: eb41a4b1-f681-44bc-af26-16fc920a2e26

Submitter's IP Address: 155.190.17.4

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")	Cummins Inc.	*
2	Identify all subsidiary entities of the Proposer whose equipment, products, or services are included in the Proposal.	Cummins Power Systems Cummins Distribution Business	*
3	Identify all applicable assumed names or DBA names of the Proposer or Proposer's subsidiaries in Line 1 or Line 2 above.	Cummins Sales and Service North America (CSSNA). Cummins Southern Plains Power	*
4	Provide your CAGE code or Unique Entity Identifier (SAM):	Cage Code 0H229 SAM Registration 7PYM2 [80155845]	*
5	Proposer Physical Address:	500 Jackson Street Box 3005 Columbus, IN 47201	*
6	Proposer website address (or addresses):	www.Cummins.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):	James Stalnaker National Accounts Sales Director james.l.stalnaker@cummins.com 503-972-6609	*
8	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Kirk Adams Sales Executive 18008 82nd Ave North Maple Grove, MN 55311 kirk.e.adams@cummins.com 612-270-5540	*
9	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Jaime Ferguson Account Manager - Government Sales jamie.ferguson@cummins.com 612-201-3468	

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.	Cummins Inc. Establish in 1919, is a 100 year old American multinational corporation that designs, manufactures, and distributes engines, filtration, and power generation products. Headquartered in Columbus Indiana, Cummins has 14 consecutive years on Ethisphere World's Most Ethical Companies list. Our mission is "Making people's lives better by powering a more prosperous world." Our vision is "Innovating for our customers to power their success". Our values are as follows: INTEGRITY - Doing what you say you will do and doing what is right DIVERSITY AND INCLUSION - Valuing and including our differences in decision making is our competitive advantage CARING - Demonstrating awareness and consideration for the wellbeing of others EXCELLENCE - Always delivering superior results TEAMWORK - Collaborating across teams, functions, businesses and borders to deliver the best work
11	What are your company's expectations in the event of an award?	To work with Sourcewell to grow our sales to Sourcewell Members by providing superior products and services at the best price.
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 attached 2021 Annual Report. Cummins ranks 149 in the S&P 500
13	What is your US market share for the solutions that you are proposing?	Approx 35-40% market share
14	What is your Canadian market share for the solutions that you are proposing?	Approx 25% market share
15	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No
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?	Cummins is a vertically integrated manufacturer that owns its sales distribution and service network. Cummins Sales and Service operate across 200 + branch location in the US and Canada. Cummins is unique in our industry as we own our North American distribution. All other competitors sell through 3rd party independent dealers and resellers. We believe by owning our distribution and service network this gives Cummins a competitive advantage as our goal is to optimize and standardize our network to deliver superior products and services to deliver a superior customer experience across the US and Canada
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.	Cummins requires all field service technicians to be trained and certified through its internal training program. Technician levels are grades 1 thru 4 with 4 being the highest level certification.
18	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	None

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	Cummins' rank on Newsweek's list of America's Most Responsible Companies (2021) Cummins received a perfect score for a 10th consecutive year in the Corporate Equality Index awarded by the Human Rights Campaign. The group is the largest U.S. civil rights organization for lesbian, gay, bisexual and transgender (LGBT) employees. Forbes magazine's list of the Top 25 Employers in America. The list was based on a survey of more than 20,000 American workers at large U.S. firms or institutions. Cummins was named one of the Top 50 Companies for Diversity by Diversity Inc magazine for a ninth consecutive year. Cummins ranked 21st on the magazine's list.	*
20	What percentage of your sales are to the governmental sector in the past three years	Approx 50%	*
21	What percentage of your sales are to the education sector in the past three years	Approx 25%	*
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?	Currently we have Sourcwell (Approx \$5-6M annual sales), HGAC (Approx \$500K annual sales. Equalis (\$0 sales to date).	*
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?	We are currently in process of resubmitting to GSA.	*

Table 4: References/Testimonials

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

Entity Name *	Contact Name *	Phone Number *	
Municipal Engineer/Director of Public Works Township of West Orange	Leonard R. Lepore, P.E.	(973) 325-4160	*
West New York Board of Education	Jackie Zois	201-553-4000 Ext 30027	*
Burlington Township NJ	George Coolidge	(609) 239-5880	*
City of Vineland	Mercado Miguel	(856) 794-4040	

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 *	
US Army	Government	District of Columbia - DC	AAMPS (Advanced Medium Mobile Power Program)	\$ 1M avg sale	\$100M	*
US Airforce	Government	District of Columbia - DC	BEAR (Basic Expeditionary Airfield Resource)	\$850,000 avg sale	\$50 M	*
Schools at all levels of education in all 50 states and Canadian Provinces	Education	Alabama - AL	Approx 25% of Cummins Sales occur to Educational customers.	\$ 75k avg sale	\$1B	*
State Gov't in all 50 states and Canada Provinces	Government	Alabama - AL	Approx 25% of Cummins Sales occur to State Government entities	\$100K avg sale	\$1B	*
Non Profits in all 50 states and Canadian Provinces	Non-Profit	Alabama - AL	Approx 10% of Cummins Sales occur to Non-Profits	\$ 50K avg sale	\$50M	*

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.	Approx 350 Power Generation sales professionals, supported by Project Managers and Service personnel	*
27	Dealer network or other distribution methods.	Cummins operates globally across 190 countries. In North America we conduct business as "Cummins Sales and Service Norther America (CSSNA). In North America we have sales and service personnel operating across 230 branch and parts distribution centers. We feel this gives us strategic control over inventories, parts stocking, and deployments of service personnel that is unique in our industry.	*
28	Service force.	Approx 3400 certified technicians operating across 230 branch/parts/service centers. Our goal is nothing short of service excellence. Service is critical to our business model and that can only be achieved by "continuous improvement" . This applies from response times to parts or service deliveries. In short, doing what we say, when we say, all the time. FOUR POINTS OF THE SERVICE VALUE PROPOSITION 1. Repair Velocity – Enhance Uptime for the Customer. Extensive logistics network provides the availability of parts necessary to deliver timely repairs 2. Repair Quality – Peace of Mind. Our extensive experience dedicated to the Cummins products makes us the service experts. Best-in-class training programs for technicians. 3. Service Excellence – Reliability and Consistency Predictive maintenance solutions utilize data and analytics to preempt failures before they occur. 4. Service Innovation – Flexibility and Creativity. Technicians that remain onsite at customers' places of business and are dedicated to specific customers• Bumper to bumper service capabilities.	*
29	Describe the ordering process. If orders will be handled by distributors, dealers or others, explain the respective roles of the Proposer and others.	Orders will be handled by the local CSSNA sales team. The Sourcewell member need simply connect with the national account manager. The account manager will then reach out to the local sales to contact the member. The local sales rep will connect with the Sourcewell member and work with them on product configuration, local codes and standards, application, commissioning and preventative maintenance options.	*
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.	Cummins Sales and Service is committed to providing exceptional sales, service and parts support and preventative maintenance programs for all Cummins engines, generators, and related components. Staffed by Cummins trained and certified professionals, our facilities provide 24/7 emergency call-out service 365 days a year. Our promise is to deliver exceptional products, dependable service, and reliable support, when and where you need it. Our goal is to keep your equipment on the job and operating at its peak efficiency. Please visit our locations page (https://salesandservice.cummins.com/locations)	*
31	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	100% - Our goal is keep you equipment operating at peak efficiency.	*
32	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	100% - Our goal is keep you equipment operating at peak efficiency.	*
33	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	None.	*
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?	None	*
35	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	None	*

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.	Sourcewell members are our customers. The difference is that we have historically followed the bid/spec process required by state law or policy. We educate and promote Sourcewell to our regional sales teams as a stream-lined process for these existing customers. Enclosed is a sample presentation that we have been presenting quarterly to educate our regional sales teams since 2020.	*
37	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Cummins uses several different types of digital medium. 1.) CRM - Salesforce based - used to track all customer contact, quotations, orders, project status, billing etc. It is how we track all Sourcewell member projects. 2.) Landing Page - # of hits, indication if our market message/strategy is working. 3.) Cummins Web Page - free access to Technical documentation (PowerSuite) and Application/Technical Seminars (PowerHour)) 4.) WWW.Cummins.com A free, industry leading online tool for power system product sizing and specification generation Targeted Digital - Healthcare/Data Centers/Education/Government Landing Pages - Market specific targeting Flyers - Product Brochures, White papers on application Branch Signage - Local advertising Internal Communication - Focused meetings on specific markets and customers Trade Shows	*
38	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	The Sourcewell material is excellent in communicating advantages to members. We simply use that material to educate and inform our own sales force on the advantage to end users. We have also participated in regional events and to learn more about Sourcewell and its members. Customer / Project Tracking - Cummins requires all customer projects be logged into our CRM (SalesForce). We established a tracking mechanism for all Sourcewell quotations / projects. We also require all Sourcewell projects to have specific naming convention as a secondary process check. The CRM tracks from quote to win-loss to project status through closure.	*
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.	We use and support several different procurement portals such as Ariba, Oracle, etc	*

Table 8: Value-Added Attributes

Line Item	Question	Response *	
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40	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Cummins offers a excellent technical platform that is free to all customers (see below). In addition, we offer fee based hands-on Preventative Maintenance training to customers that can be tailored to their needs. Any customer can 1-800-Cummins for service or tech support. In addition, there are free online technical resources available to any customer. These include both live and pre-recorded session such as: PowerHour: topic examples - Features of Generator Set Control Based Paralleling - NFPA 110 Time to Readiness - NEC Code Changes for Emergency Power Systems - Specifying Gaseous Generator Sets - Introduction to Generator Set Sizing Software - Emissions and Air Permitting for Emergency Generator Sets - Transfer Switch Operation and Application - Paralleling Solutions - Generator Set Overcurrent Protection - Power Ratings for Emergency Generator Sets - Importance and Benefit of Selective Coordination To access the recorded webinars on-demand and download presentations, visit www.Cummins.com. Also, anyone can subscribe to receive PowerHour invitations. Power Suite™ offers the following tools and resources: - GenSize™ - Sizing tool to optimize generator sizing and load profile recommendations - GenCalc™ - Tools to calculate a range of project parameters including ventilation, short circuit, exhaust pressure, remote cooling and fuel pipe sizing - GenSpec™ - Specification development tool to provide a sample specifications for North American and European based applications for Generator Set, ATS and Paralleling applications - Tech Library - Technical catalog consisting of specification sheets, data sheets, and drawings for Generator sets, ATS, Remote Monitoring, Networking and Paralleling applications - Accredited Continuing Education - Programs that offer educational seminars and webinars to grow your technology and fulfill your continuing professional development requirements	*
41	Describe any technological advances that your proposed products or services offer.	Cummins is a world leader in emissions technology, was the first to introduce micro-processor based genset controls and it's ATS products have the highest interrupt ratings in the industry. Our sales and service personnel are trained and certified to ensure customers receive professional care.	*
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.	Cummins is committed to its Planet 2050 Zero Emissions Strategy. The following are 2030 goal to help achieve that strategy: - Reduce absolute greenhouse gas (GHG) emissions from facilities and operations by 50%. - Reduce scope 3 absolute lifetime GHG emissions from newly sold products by 25%. - Partner with customers to reduce scope 3 GHG emissions from products in the field by 55 million metric tons. - Reduce volatile organic compounds emissions from paint and coating operations by 50%. - Create a circular lifecycle plan for every part to use less, use better, use again. - Generate 25% less waste in facilities and operations as percent of revenue. - Reuse or responsibly recycle 100% of packaging plastics and eliminate single-use plastics in dining facilities, employee amenities and events. - Reduce absolute water consumption in facilities and operations by 30%.	*
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.	There are two key certifying entities that are important to our industry and our customers. EPA and UL. All Cummins products are EPA certified for emissions compliance. All products are also UL Listed and tested In addition, Cummins has been named one of the world's top 100 organizations innovating for a better environmental future based on a review of the company's "Green Patent Portfolio." The ranking in Sagacious IP's GREEN100 Index follows Cummins' record year for global patents of all types in 2020. The company received 312 global patents that year, topping its previous record of 287 reached in 2017. That's a nearly 9% improvement over Cummins' previous record and a more than 12% increase over 2019.	*

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.	In concert with the Women's Business Enterprise National Council (WBENC), Cummins is proud to be included on the 20th annual list of America's Top Corporations for Women's Business Enterprises (VBEs), the only national award honoring corporations for world-class supplier diversity programs that reduce barriers and drive growth for women-owned businesses. As the only national award honoring corporations who choose to incorporate policies and programs to enable growth and reduce barriers for women-owned businesses, Cummins is committed to increasing opportunity in markets both domestically and internationally, fueling innovation and empowering communities through economic growth and job creation. WBENC is the largest third-party certifier of businesses owned, controlled, and operated by women in the United States.	*
45	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	Cummins is a well known supplier to most Sourcewell members. Cummins is unique in that it owns its North American distributors. Which means members are dealing with Cummins Inc and not a 3rd party dealer or LLC. This gives Cummins direct control over is sales and service organizations. We feel this is a tremendous advantage to Sourcewell members	*

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?	Cummins offers a 2 year comprehensive warranty. Additional coverage is available past the 2 years	*
47	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	None as long as the product is applied properly and routine maintenance is performed. It would exclude normal wear items such as belts, hoses, filters	*
48	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes	*
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?	No	*
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?	Cummins covers any products supplied by us. If there happened to be 3rd party supplier involved that would be handled internally by Cummins so that end users would not be burdened by that issue	*
51	What are your proposed exchange and return programs and policies?	Cummins does not exchange or accept returned products. In the rare case there is an issue, Cummins will fix in place or replace if the product is still under warranty. We can also provide assistance to facilitate used equipment sales or trade ins.	*
52	Describe any service contract options for the items included in your proposal.	Cummins offers multiple Preventative Maintenance contract options. It really depends upon the application and/or customer requested service.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
53	Describe your payment terms and accepted payment methods.	Net 30 days. Standard commercial purchase order and invoice	*
54	Describe any leasing or financing options available for use by educational or governmental entities.	None at this time	*
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.	We would provide a commercial quotation in accordance with Sourcewell contract terms. If requested we could also provide a Preventative Maintenance agreement based upon customer application/needs	*
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?	Yes, we accept P-card and there is no fee.	*

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.	Cummins has eliminated MSRP and List pricing for Commercial products. What we propose is a cost plus fixed mark-up on all Cummins content. In essence, instead of going from MSRP with a discount to achieve a target margin. We go from cost to achieve the target margin.	*
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.	Cummins will offer a member price that is approx 6% below Fair Market Value. The sales person will be allowed to go lower than that price if required.	*
59	Describe any quantity or volume discounts or rebate programs that you offer.	None. Most transactions are one-off product or project	*
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.	All Cummins pricing is based upon a target margin from cost (cost plus). We would maintain that target margin on all Cummins content. We would also offer discounts on any service requested.	*
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.	Our quotation would include all required items, less installation, that are required to fulfill the project requirements. Itemized pricing is available so that all product and services quoted are accounted for and open for review/discussion.	*
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.	Cummins quote if based upon FOB factory with Freight allowed to first point of destination in the contiguous 48 states. There may be potential freight charges on 3rd party content, if required.	*
63	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Freight is allowed to the first destination in the contiguous 48 states. There would be additional cost for any offshore deliveries. We could coordinate shipment or the customer could use their own freight forwarder. There would be no freight charge to the first port in the contiguous US.	*
64	Describe any unique distribution and/or delivery methods or options offered in your proposal.	While none are offered in the proposal, we do have freight options for additional cost. Dedicated truck, tandem drivers, etc	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
65	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	Sourcewell members would receive approx 6% lower prices than Fair market value

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.	All projects are logged into the Cummins CRM software tool (Salesforce). This tool tracks from inquiry to won/loss to internal project status and finally won project closed. Project status "closed" is the primary sort and this determines the total quarterly sales to members. That sales total (closed in the quarter) is what is used to calculate the Sourcewell fee.	*
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.	Please see CRM Sourcewell Report. Quarterly sales are tracked in the CRM. These includes the number of open opportunities, projects won, projects lost, projects closed.	*
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.)	1.5% of whole goods sales	*

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.	All commercial generator products diesel and natural gas/propane from 10kw to 3.5MW. and Automatic Transfer Switches (ATS) 40 amps to 4000 amps. These are shown by model # on the pricing sheets	*
70	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Sub categories are parts, accessories, Eng-to-Order solutions. See price sheets	*

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	Stationary electrical generation systems, backup or standby generator sets, mobile and ground power units, and trailer mounted generators	☒ Yes ☐ No	Product range is 10-3.5mw	*
72	Parts and accessories, including enclosures, fuel tanks, automatic transfer switches, paralleling equipment, switch gears, connection boxes, controls, alarm modules, batteries, block heaters, and networking tools	☒ Yes ☐ No	All standard options in our offering	*
73	Related services, including design, customization, engineering, commissioning, installation, delivery, maintenance, repair, training and operation, service and maintenance agreements, decommissioning and repurposing, custom shop work, and rental services	☒ Yes ☐ No	Cummins is not in the rental business, however, we do sell rental products.	*

Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

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](#) - Sourcewell final pricing submission.pdf - Tuesday September 20, 2022 11:21:31
- [Financial Strength and Stability](#) - 2022-02-03_Cummins_Reports_Fourth_Quarter_and_Full_Year_2021__546 (1).pdf - Monday August 08, 2022 09:02:52
- [Marketing Plan/Samples](#) - Sourcewell GPO Training.pdf - Tuesday September 20, 2022 13:04:49
- [WMBE/MBE/SBE or Related Certificates](#) - Awards.PNG - Monday August 29, 2022 15:02:03
- [Warranty Information](#) - Warranty - Commercial Generators.pdf - Monday August 29, 2022 14:49:07
- [Standard Transaction Document Samples](#) - Sample - Sourcewell Project Tracking .xlsx - Thursday September 22, 2022 08:51:01
- [Upload Additional Document](#) - PowerSuite and Power Hour - On line tech training and documentation.pdf - Thursday September 08, 2022 10:41:06

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. - Kirk Adams, Sr. Account Executive – National Accounts, Cummins Inc. (dba Cummins Sales and Service North America)

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_4_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Fri September 9 2022 09:10 AM	☒	1
Addendum_3_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Tue September 6 2022 02:37 PM	☒	1
Addendum_2_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Wed August 31 2022 07:52 AM	☒	1
Addendum 1_Electrical_Energy_Power_Generation_Equipment_RFP_092222 Wed August 10 2022 11:35 AM	☒	1

**AMENDMENT #1
TO
SOURCEWELL CONTRACT #092222-CMM**

THIS AMENDMENT, effective upon the date of the last signature below, is by and between **Sourcewell** and **Cummins Inc.** (Supplier).

Sourcewell entered into a Contract, 092222-CMM, with Supplier to provide Electrical Energy Power Generation Equipment with Related Parts, Supplies, and Services, effective November 17, 2022.

Supplier has requested to modify the Contract.

NOW, THEREFORE, the parties amend the Contract to add the following:

Article 23. Limitation of Liability

Notwithstanding any other term of this Contract, and to the maximum extent permitted by applicable law, in no event shall Supplier, its officers, directors, employees, or agents be liable to the Participating Entity or any third party, whether in contract, tort, or under any other legal theory (including, without limitation, strict liability or negligence), for any indirect, incidental, special, punitive, liquidated, or consequential damages of any kind. This includes, without limitation, damages for downtime, loss of profits or revenue, lost rents, loss of data, loss of opportunity, damage to goodwill, enhanced damages, monetary claims relating to recall expenses, or property repairs, and/or damages attributable to delay—even if Supplier has been advised of the possibility of such damages.

Notwithstanding any other provision of this Contract, and to the maximum extent permitted by law, the total cumulative liability of Supplier to the Participating Entity or any third party claiming through or on behalf of the Participating Entity shall not exceed one million dollars (\$1,000,000.00 USD), unless a different liability cap is expressly agreed to in writing between the Supplier and the Participating Entity pursuant to a purchase order or other authorized transaction documentation. Nothing in this Contract shall exclude or limit liability for death or personal injury caused by a party's gross negligence or willful misconduct, or for liability arising from a party's fraud, knowing misrepresentation, or violation of applicable law. By accessing this Contract, a Participating Entity acknowledges that its sole and exclusive remedy against Supplier for any loss or damage shall be as expressly provided in this section.

Except as amended, the Contract remains in full force and effect.

Signed by:
So Jeremy Schwartz
By: C0FD2A139D06489...

Jeremy Schwartz
Chief Operating and Procurement Officer

Date: 8/4/2025 | 6:45 PM CDT

Signed by:
Cun Brian Hargrave
By: F3403D8BD0F34E6...

Brian Hargrave
National Account Sales Director – PG

Date: 8/5/2025 | 5:04 AM PDT