

6/22



STATE OF NEW HAMPSHIRE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

29 HAZEN DRIVE, CONCORD, NH 03301-6527
603-271-4661 1-800-852-3345 Ext.4661
Fax: 603-271-4760 TDD Access: 1-800-735-2964



Nicholas A. Toumpas
Commissioner

José Thier Montero
Director

August 9, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Sole Source
100% Other Funds

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Public Health Services, Bureau of Laboratory Services, Public Health Laboratories, Water Analysis Laboratory Section, to enter into a **sole source** agreement with Spectro Analytical Instruments, Inc (Vendor #176004) 91 McKee Drive, Mahwah, NJ 07430 in an amount not to exceed \$25,938, to provide repair and maintenance for the Inductively Coupled Plasma Instrument, to be effective for twenty-four months from date of Governor and Council approval.

Funds to support this request are available in the following account for SFY 2014 and SFY 2015 with authority to adjust amounts within the price limitation and amend the related terms of the contract without further approval from the Governor and Executive Council.

05-95-90-903010-1878 HEALTH AND SOCIAL SERVICES, DEPT OF HEALTH AND HUMAN SVS, HHS: DIVISION OF PUBLIC HEALTH, BUREAU OF LABORATORY SERVICES, PUBLIC HEALTH LABORATORIES

Fiscal Year	Class/Account	Class Title	Job Number	Total Amount
SFY 2014	024-500225	Maintenance other than Building & Grounds	90187801	\$13,144.00
SFY 2015	024-500225	Maintenance other than Building & Grounds	90187801	\$12,794.00
			Total	\$25,938.00

EXPLANATION

This is a **sole source** request because service on the instrument requires a Spectro trained and authorized field service engineer and replacement parts are proprietary to Spectro Analytical Instruments, Inc. This agreement provides critical maintenance and repair for the Public Health Laboratories, Water Analysis Laboratory Section's Inductively Coupled Plasma Instrument, which analyzes environmental samples for over twenty metals, simultaneously, in drinking water, wastewater, and soil matrices.

Funds in this agreement will provide twenty-four (24) months of service and repair coverage for the Inductively Coupled Plasma Instrument. All service and repair will be provided by the vendor and performed on site by a Spectro factory-trained services representative. A Full Service Preventative Maintenance service of this instrument will be provided and include the following:

- technical phone support;
- repairs; and
- preventative maintenance site visits.

The Water Analysis Laboratory Section is New Hampshire's designated primacy laboratory supporting the Federal Safe Drinking Water Act. The Laboratory must maintain the capability to analyze all the primary drinking water parameters, which include metals that are analyzed using the Inductively Coupled Plasma Instrument. In the event of a drinking water emergency, the Inductively Coupled Plasma Instrument would be used to analyze water samples from Public Water Systems. It would also be used in any other type of disaster or terrorism event to analyze water or soil samples.

The Laboratory uses this instrument to analyze water samples for residents of the State who rely on private wells. Approximately 30% of New Hampshire's residents rely on private wells for their drinking water. There are many naturally occurring metals and the potential for man-made contamination of private wells that pose a health risk to a large population; and the Inductively Coupled Plasma Instrument is used to inform homeowners of their water quality. The Laboratory provides analytical services for other State agencies including the Department of Environmental Services, such as monitoring groundwater near Superfund Sites, as well as investigations associated with identifying contaminated sites throughout the State.

Should Governor and Executive Council not authorize this Request, the lack of maintenance and repair could cause the Inductively Coupled Plasma Instrument to malfunction, leaving the Laboratory unable to provide services during a drinking water emergency, provide water quality data to the residents of New Hampshire who rely on private wells, or support other State agencies that use these services to monitor and protect New Hampshire's ground water.

This agreement has the option to renew for one (1) additional year, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council. These services were contracted previously with this vendor in SFY 2011 and SFY 2012 in the amount of \$12,304.00 for each year. At that time the Water Analysis Laboratory Section, was part of the Department of Environmental Services. This agreement represents an increase of \$1,330.00. The increase is due to the vendor's increased cost to do business.

The following performance measures are being used to measure the effectiveness of the agreement.

- One (1) mandatory and up to two (2) on-site visits each twelve-month period to perform preventative maintenance.
- Unlimited emergency visits for repair calls, with response time typically within 72 hours.
- Unlimited technical support by telephone and /or email.

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
August 9, 2013
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Area served: Statewide.

Source of Funds: 100% Other (Lab Equipment Fund).

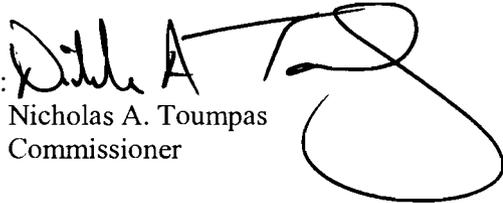
In the event that the Federal Funds become no longer available, General Funds will not be requested to support this program.

Respectfully submitted,



José Thier Montero, MD, MHCDS
Director

Approved by:

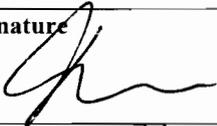
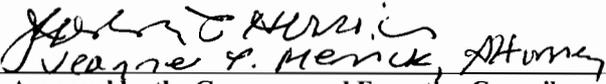


Nicholas A. Toumpas
Commissioner

Subject: Repair and Maintenance Agreement for the Inductively Coupled Plasma Instrument

AGREEMENT
The State of New Hampshire and the Contractor hereby mutually agree as follows:
GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name NH Department of Health and Human Services Division of Public Health Services		1.2 State Agency Address 29 Hazen Drive Concord, NH 03301-6504	
1.3 Contractor Name Spectro Analytical Instruments, Inc.		1.4 Contractor Address 91 McKee Drive, Mahwah, NJ 07430	
1.5 Contractor Phone Number 201-642-3000	1.6 Account Number 05-95-90-903010-1878-024-500225	1.7 Completion Date 24 months from date of G&C approval	1.8 Price Limitation \$25,938.00
1.9 Contracting Officer for State Agency Lisa L. Bujno, MSN. APRN Bureau Chief		1.10 State Agency Telephone Number 603-271-4501	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Joachim Raber - Director of Customer Support	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Bellevue</u> On <u>7/24/13</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace [Seal] 		DIANNE L. MONCAVAGE NOTARY PUBLIC OF NEW JERSEY Commission Expires 4/21/2014	
1.13.2 Name and Title of Notary or Justice of the Peace DIANNE L. MONCAVAGE			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Lisa L. Bujno, Bureau Chief	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  Attorney On: <u>8 Aug 2013</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT. Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials: 
Date: 7/26/13

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS. The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each

Contractor Initials: 
Date: 7/26/13

certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

NH Department of Health and Human Services

Exhibit A

Scope of Services

Repair and Maintenance Agreement for the Inductively Coupled Plasma Instrument

CONTRACT PERIOD: For twenty-four (24) months from the date of approval by Governor and Council

CONTRACTOR NAME: Spectro Analytical Instruments, Inc.

ADDRESS: 91 McKee Drive
Mahwah, NJ 07430

COMPANY CONTACT: Mark Grey
TITLE: Vice President
TELEPHONE: 201-642-3010
FAX: 201-642-3092
E-MAIL: Mark.Grey@ametec.com

The Contractor shall:

- 1 Provide a Full Service Preventative Maintenance (PM) service that includes, unlimited technical phone support and repair services, one mandatory and up to two PM visits per year, and inspection protocol and sticker for audit trail purposes, and a PM Kit for each maintenance visit. All labor, travel, per diem and full spare part coverage provided at no cost.
- 2 Provide a Spectro factory-trained services representative to perform all work at the State facility located at 29 Hazen Drive, Concord NH. Provide the State with preferred scheduling, repair calls on site and response time typically within 72 hours. Preventative maintenance calls shall be scheduled within two weeks from request.
- 3 Provide services during Public Health Laboratories' normal business hours (Monday – Friday, 8:00 AM to 4:30 PM EST), at mutually agreed upon times.
- 4 Provide a 10% discount from list price for all replacement and/or consumable parts.
- 5 Provide unlimited SpectroNet Web Based remote diagnostic and repair service. The State will provide an instrument PC with Internet connection.
- 6 Have no obligation to provide services with respect to: (i) goods that have been subject to misuse, neglect, accident or improper application; (ii) goods repaired or altered by others; (iii) or as the result of acts of nature, war, act of foreign enemies, hostilities, failure of electricity, telephone service, or Internet connection.
- 7 Provide said services for twenty-four months from date of Governor and Council Approval.

NH Department of Health and Human Services

Exhibit B

**Purchase of Services
Contract Price**

Repair and Maintenance Agreement for the Inductively Coupled Plasma Instrument

Vendor #176004

Job #90187801

Appropriation #05-95-90-903010-1878-024-500225

1. The total amount of all payments made to the Contractor for cost and expenses incurred in the performance of the services during the period of the contract shall not exceed:

\$25,938.00 for Laboratory Instrument Maintenance funded from 100% Other (Lab Equipment) funds.

Months of coverage	1 – 12	13 – 24	Total
Fee	\$13,144.00	\$12,794.00	\$25,938.00

TOTAL: \$25,938

2. The completion date is twenty-four (24) months from the date of approval by Governor and Council.
3. The cost of the contract is based on a fee for two periods of coverage. Payment for each of the periods will be paid at the beginning of the period.
 - a. The first invoice in the amount of \$13,144.00 shall be submitted by the contractor for payment of the first 12-month period, within thirty (30) days of approval of the contract by the Governor and Council (G&C).
 - b. The second invoice, in the amount of \$12,794.00, shall be submitted by the contractor for payment of the second 12-month period, eleven (11) months from the date of approval of the contract by the Governor and Council (G&C).
4. Invoices shall be submitted, on Contractor letterhead, to the individual noted below:

NH Public Health Laboratories
Attn: Mary J. Holliday
29 Hazen Drive
Concord, NH 03301

NH Department of Health and Human Services

Exhibit C

SPECIAL PROVISIONS

- 1 **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.
- 2 **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services prior to the Effective Date of the Contract.
- 3 **Renewal:** This Agreement has the option to renew for one (1) additional year, contingent upon satisfactory delivery of services, available funding, agreement of the parties and approval of the Governor and Council.
- 4 **Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:** Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability of funds affected by any state or federal legislative or executive action that reduces, eliminates, or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account, in the event funds are reduced or unavailable.

NH Department of Health and Human Services

Standard Exhibit D

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act to 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I – FOR GRANTEES OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES – CONTRACTORS US DEPARTMENT OF EDUCATION – CONTRACTORS US DEPARTMENT OF AGRICULTURE – CONTRACTORS

This certification is required by the regulations implementing Sections 5151-51-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630 of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
NH Department of Health and Human Services,
129 Pleasant Street
Concord, NH 03301

- 1) The grantee certifies that it will or will continue to provide a drug-free workplace by:
 - (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employee's about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

NH Department of Health and Human Services

- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
- 2) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, State, zip code) (list each location)

Check if there are workplaces on file that are not identified here.

Spectro Analytical Instruments Inc. For twenty-four months from date of G & C Approval
Contractor Name **Period Covered by this Certification**

Joachim Raber - Director of Customer Support
Name and Title of Authorized Contractor Representative

 7/26/13
Contractor Representative Signature **Date**

NH Department of Health and Human Services

Standard Exhibit E

CERTIFICATION REGARDING LOBBYING

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES – CONTRACTORS
US DEPARTMENT OF EDUCATION – CONTRACTORS
US DEPARTMENT OF AGRICULTURE – CONTRACTORS

Programs (indicate applicable program covered):

- *Temporary Assistance to Needy Families under Title IV-A
- *Child Support Enforcement Program under Title IV-D
- *Social Services Block Grant Program under Title XX
- *Medicaid Program under Title XIX
- *Community Services Block Grant under Title VI
- *Child Care Development Block Grant under Title IV

Contract Period: Twenty-four (24) Months from date of G&C Approval.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
- (2) If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions, attached and identified as Standard Exhibit E-I.
- (3) The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor Signature

Joachim Raber

Contractor Name

Contractor's Representative Title

Director of Customer Support

7/26/13

Date

NH Department of Health and Human Services

Standard Exhibit F

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions, execute the following Certification:

Instructions for Certification

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transition. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transition," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntary excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rule implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction", "provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).

NH Department of Health and Human Services

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - b. have not within a three-year period preceding this proposal (contract) been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1 b of this certification; and
 - d. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

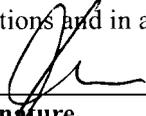
Lower Tier Covered Transactions

By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).

NH Department of Health and Human Services

The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

 _____ Contractor Signature	<u>Director of Customer Support</u> _____ Contractor's Representative Title
<u>Joachim Raber</u> _____ Contractor Name	<u>7/26/13</u> _____ Date

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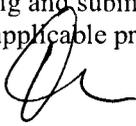
NH Department of Health and Human Services

Standard Exhibit G

CERTIFICATION REGARDING THE AMERICANS WITH DISABILITIES ACT COMPLIANCE

The contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Contractor agrees to make reasonable efforts to comply with all applicable provisions of the Americans with Disabilities Act of 1990.



Director of Customer Support

Contractor Signature

Contractor's Representative Title

Joachim Raber

7/26/13

Contractor Name

Date

NH Department of Health and Human Services

STANDARD EXHIBIT H

CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this contract, the Contractor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.



Contractor Signature

Director of Customer Support

Contractor's Representative Title

Joachim Raper

Contractor Name

7/26/13

Date

NH Department of Health and Human Services

STANDARD EXHIBIT I

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

Exhibit I- Health Insurance Portability and Accountability Act, Business Associate Agreement does not apply to this contract.

The remainder of this page is intentionally blank.

NH Department of Health and Human Services

STANDARD EXHIBIT J

**CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND
TRANSPARENCY ACT (FFATA) COMPLIANCE**

Exhibit J- Certification regarding the Federal Funding Accountability and Transparency Act (FFATA) Compliance does not apply to this contract.

The remainder of this page is intentionally blank.

State of New Hampshire Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Spectro Analytical Instruments, Inc. a(n) Delaware corporation, is authorized to transact business in New Hampshire and qualified on June 24, 2005. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 31st day of July, A.D. 2013

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
07/26/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Central, Inc. Philadelphia PA Office One Liberty Place 1650 Market Street Suite 1000 Philadelphia PA 19103 USA	CONTACT NAME: PHONE (A/C. No. Ext): (866) 283-7122 FAX (A/C. No.): (800) 363-0105		
	E-MAIL ADDRESS:		
INSURED SPECTRO Analytical Instruments Inc. 91 McKee Drive Mahwah, NJ 07430 USA	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: National Union Fire Ins Co of Pittsburgh		19445
	INSURER B: Hartford Fire Insurance Co.		19682
	INSURER C: Trumbull Insurance Co		27120
	INSURER D: Twin City Fire Insurance Company		29459
	INSURER E: Hartford Casualty Insurance Co		29424
INSURER F:			

COVERAGES **CERTIFICATE NUMBER:** 570050835054 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input checked="" type="checkbox"/>			39CSES29804	07/01/2013	07/01/2014	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMPIOP AGG Excluded
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			39 CSE S29803	07/01/2013	07/01/2014	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$25,000			20562189 SIR applies per policy terms & conditions	07/01/2013	07/01/2014	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			39WNS29800 AOS	07/01/2013	07/01/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
D	Y/N <input checked="" type="checkbox"/> N / A			39WBR529801 WI	07/01/2013	07/01/2014	E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
A	D&O-Primary			019963041 SIR applies per policy terms & conditions	04/26/2013	04/26/2014	D&O limit each loss \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER **CANCELLATION**

State of New Hampshire 29 Hazen Drive Concord NH 03301 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Central, Inc.</i>
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Holder Identifier :

Certificate No : 570050835054





SPECTRO Analytical Instruments Inc.
91 McKee Drive – Mahwah, NJ 07430
Tel. +1.201.642.3000 - Fax +1.201.642.3091
info@spectro.com - www.spectro.com

Certificate of Authorization

At a duly authorized meeting of the Board of Directors on 6/20/2013, it was voted that Joachim Raber, Director of Customer Support is hereby authorized to execute contracts and bonds on behalf of Spectro Analytical Instruments; and such execution of any contract or obligation in the Company's name on its behalf by such officer under seal of the Company, shall be valid and binding upon this Company.

I certify that I am the Vice President and member of the Board of Directors for the Company. This Authorization has not been amended or rescinded and remains in the full force and effect as of the date below.

Date: 8/5/2013

Board Member: Mark R. Grey
Mark R. Grey / Vice President

STATE OF NJ
COUNTY OF BERGEN

The foregoing instrument was acknowledged before me on this 5th day of August, 2013 by Mark Grey.

Sharon L. Mancora
Notary Public
My Commission Expires: April 21, 2014