



State of West Virginia
Agency Master Agreement

CORRECT ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES, AND SHIPPING PAPERS. QUESTIONS CONCERNING THIS ORDER SHOULD BE DIRECTED TO THE DEPARTMENT CONTACT.

Order Date: 2026-03-10

| | | | |
|------------------------------|--|---------------------------------|------------|
| Order Number: | AMA 0511 2928 BMS260000001 1 | Procurement Folder: | 1827645 |
| Document Name: | Emergency Purchase Medicaid Managed Care Oversight&Actuarial | Reason for Modification: | |
| Document Description: | Emergency Purchase Medicaid Managed Care Oversight&Actuarial | | |
| Procurement Type: | Agency Master Agreement | | |
| Buyer Name: | Roberta A Wagner | | |
| Telephone: | (304) 558-0437 | | |
| Email: | roberta.a.wagner@wv.gov | | |
| Shipping Method: | Best Way | Effective Start Date: | 2026-02-15 |
| Free on Board: | FOB Dest, Freight Prepaid | Effective End Date: | 2027-02-14 |

| VENDOR | | | | DEPARTMENT CONTACT | |
|------------------------------|-------------------------|----------------------------|----------------------|-------------------------|------------------------|
| Vendor Customer Code: | 000000191225 | | | Requestor Name: | Stuart Sellears |
| MYERS & STAUFFER LC | | | | Requestor Phone: | 304-352-4319 |
| 700 W 47TH ST STE 1100 | | | | Requestor Email: | stuart.sellears@wv.gov |
| KANSAS CITY | MO | 64112 | | | |
| US | | | | | |
| Vendor Contact Phone: | 816-945-5300 | Extension: | | | |
| Discount Details: | | | | | |
| | Discount Allowed | Discount Percentage | Discount Days | | |
| #1 | No | 0.0000 | 0 | | |
| #2 | No | | | | |
| #3 | No | | | | |
| #4 | No | | | | |

| INVOICE TO | | SHIP TO | |
|-----------------------------------|---------------|-----------------------------------|---------------|
| PROCUREMENT OFFICER: 304-352-4286 | | PROCUREMENT OFFICER: 304-352-4286 | |
| HEALTH AND HUMAN RESOURCES | | HEALTH AND HUMAN RESOURCES | |
| BUREAU FOR MEDICAL SERVICES | | BUREAU FOR MEDICAL SERVICES | |
| 350 CAPITOL ST, RM 251 | | 350 CAPITOL ST, RM 251 | |
| CHARLESTON | WV 25301-3709 | CHARLESTON | WV 25301-3709 |
| US | | US | |

| | |
|----------------------------|----------|
| Total Order Amount: | Open Enc |
|----------------------------|----------|

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|--|
| DEPARTMENT AUTHORIZED SIGNATURE SIGNED BY : Melissa S Spitzer DATE: 2026-03-10 ELECTRONIC SIGNATURE ON FILE |
|--|

Extended Description:

Emergency Purchase

This Purchase Order constitutes the acceptance of a contract made by and between the State of West Virginia for the agency, WV Department of Human Services and the vendor, Myers & Stauffer LC, for a contract to provide Medicaid Managed Care Oversight and Actuarial services.

Execution of this agreement by the Purchasing Director, or their designee, constitutes acceptance by those parties of the Terms and Conditions contained in the attached contract documents and binds the Vendor whose signature appears therein to said Terms and Conditions.

Part or all of the funding for this contract may be provided from federal dollars. The vendor must adhere to the attached Federal Funds Addendum.

Contract Term: 02/15/2026 - 02/14/2027

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|--------------------------------|------------|
| 1 | 93151507 | | | | \$0.00 |
| | Service From | Service To | | Service Contract Amount | |
| | 2026-02-15 | 2027-02-14 | | 0.00 | |

Commodity Line Description: Technical Support Staff (non-actuary)

Extended Description:

Technical Support Staff (non-actuary)

\$250.00 Per Hour

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|--------------------------------|--------------|
| 2 | 93151507 | | | MO | \$517,696.54 |
| | Service From | Service To | | Service Contract Amount | |
| | 2026-02-15 | 2027-02-14 | | 0.00 | |

Commodity Line Description: Managed Care Program Oversight Services

Extended Description:

Managed Care Program Oversight Services Annual Cost

\$6,212,358.48 All-Inclusive Fixed Annual Amount (Inclusive of 12 Months)

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|--------------------------------|------------|
| 3 | 93151507 | | | | \$0.00 |
| | Service From | Service To | | Service Contract Amount | |
| | 2026-02-15 | 2027-02-14 | | 0.00 | |

Commodity Line Description: Project Management Support Ad Hoc Services

Extended Description:

Managed Care Oversight Ad Hoc Services

\$250.00 per hour

| Line | Commodity Code | Manufacturer | Model No | Unit | Unit Price |
|------|---------------------|-------------------|----------|--------------------------------|-------------|
| 4 | 93151507 | | | MO | \$50,794.58 |
| | Service From | Service To | | Service Contract Amount | |
| | 2026-02-15 | 2027-02-14 | | 0.00 | |

Commodity Line Description: Financial Services

Extended Description:

Financial Services

\$609,535.00 All-Inclusive Fixed Annual Amount (Inclusive of 12 Months)

Exhibit B: Pricing Page

Section 1: Managed Care Oversight

Section 2: Actuarial Services

Section 3: Financial Services

Section 4: Ad Hoc Services

Vendor should complete highlighted cells; formulas built into cells will calculate total costs.

Section A: Mandatory Services

Managed Care Program Oversight will be billed on a fixed annual amount divided into 12 equal monthly installments and is all-inclusive of all services outlined within that section of the RFQ.

Vendor should provide the annual cost in the highlighted box below for Managed Care Program Oversight.

| | |
|--|------------------------|
| Section 1: Medicaid Managed Care Programs Oversight | |
| Total Cost (Annual) | \$ 6,212,358.48 |

Actuarial Services will be billed on an hourly basis for services as they are needed. Vendors should provide the hourly rate for the below staffing levels and calculate the total cost for each line item.

Section 2: Actuarial Services*

| Staff by Level | # of Hours (total) | Cost Per Hour | Total Cost |
|---------------------------------------|---------------------------|----------------------|-------------------|
| Lead Actuaries | 5,000 | \$ - | \$ - |
| Staff Actuaries | 20,000 | \$ - | \$ - |
| Technical Support Staff (non-actuary) | 5,000 | \$ 250.00 | \$ 1,250,000.00 |
| Clerical Support Staff | 5,000 | \$ - | \$ - |

*hours listed are for bid review purposes only. The hourly rate established for each position will carry forward throughout the life of the contract, including any optional renewals and extension awarded. Vendor is responsible for all travel costs.

Financial Services will be billed on a fixed annual amount divided into 12 equal monthly installments and is all-inclusive of all services outlined within that section of the RFQ. Vendor should provide the annual cost in the highlighted box below for Financial Services.

Section 3: Financial Services

| | |
|----------------------------|----------------------|
| Total Cost (Annual) | \$ 609,535.00 |
|----------------------------|----------------------|

Ad hoc services may be rendered for various services. Vendor should calculate the total cost by multiplying the number of hours by the cost per hour.

Vendor shall provide an estimated rate that would cover any of the potential services outlined within the Ad Hoc section of the RFQ. Ad hoc projects requiring actuarial support will utilize the fixed hourly rates established in Section A.

Section 4: Ad Hoc Services:

| Staff | # of Hours Per Year | Cost Per Hour | Total Cost |
|----------------------------|---------------------|---------------|------------------------|
| Project Management Support | 5,000 | \$ 250.00 | \$ 1,250,000.00 |

| | |
|---|------------------------|
| Total Project Cost (Sum of Actuarial Services Cost, Managed Care Oversight Cost, Financial Services Cost, and Ad Hoc Cost) | \$ 9,321,893.48 |
|---|------------------------|

Notes:

- 1.) Total Project Cost will be used for purposes of bid evaluation.
- 2.) Contract services will be paid monthly in arrears.
- 3.) Payment for Ad Hoc Services will be based on an approved Statement of Work .
- 4.) All amounts bid shall include all general and administrative expenses, including travel, training and supplies necessary to provide the services required in this solicitation.
- 5.) Total Project Cost shall be calculated as Total Cost of Mandatory Services (Actuarial Services Cost, Managed Care Oversight Cost, Financial Services Cost, and Ad Hoc Cost).
- 6.) Hours in Ad Hoc section are for bid purposes only and are not to be considered an annual project cap.

Myers and Stauffer LC
(Company)

Jerry L. Dubberly

(Representative, Name, Title)

404.290.8370

(Contact Phone/Fax Number)

December 23, 2025

(Date)

Jerry L. Dubberly

Principal



January 28, 2026

VIA EMAIL

Mr. Jimmy Dowden
Director, Procurement Services
West Virginia Department of Human Services
Bureau for Medical Services
350 Capitol Street
Charleston, WV 25301

Subject: Statement of Work for Medicaid Actuarial Services and Managed Care Program Administration and Oversight

Dear Mr. Dowden:

The West Virginia Department of Human Services (DoHS), Bureau for Medical Services (BMS), has requested that Myers and Stauffer, LC (Myers and Stauffer) submit a Statement of Work (SOW) addressing the provision of consulting and actuarial services for BMS' Medicaid Managed Care programs including Mountain Health Trust (MHT) and Mountain Health Promise (MHP). MHT includes the West Virginia Children's Health Insurance Program (WVCHIP) and the Section 1115 Continuum of Care waiver. Myers and Stauffer will utilize its subcontractor, Milliman, Inc. (Milliman), for the provision of any actuarial services and support for BMS. For the purpose of this SOW, Myers and Stauffer and Milliman are collectively referred to as the Myers and Stauffer Team or the Team.

I. SERVICE PERIOD

This SOW details the tasks, deliverables, and pricing required for Myers and Stauffer and Milliman to perform the requested services from February 15, 2026 through February 14, 2027.

II. GEERAL TERMS AND CONDITIONS

The executed General Terms and Conditions are attached herein as Appendix A.

III. PRICING

- A. Deliverables performed under this SOW will be billed under the Pricing Page in Appendix B.
- B. Actuarial services shall be provided based on an independent statement of work and shall be reimbursed at the hourly rate designated in the Pricing Page in Appendix B.



- C. Other independent statements of work shall be reimbursed at the hourly rate designated in the Pricing Page in Appendix B.

IV. MYERS AND STAUFFER TEAM STAFFING

- A. In the event of staff turnover, the Team will offer replacement personnel with equal or greater credentials and experience. The Team will provide written notice and a request for approval of staffing changes proactively, except in the event of an immediate vacancy. If an immediate vacancy occurs, the Team will convey that information to BMS with a plan to address immediate and longer-term staffing needs.
- B. The Myers and Stauffer Team agrees that the Agency has the right to review and approve hiring of key staff and to request replacement staff if it is felt that qualifications and/or needs are not being adequately met.
- C. The Myers and Stauffer Team must ensure that all staff performing work under this contract adhere to their designated roles and responsibilities throughout the duration of the contract.

D. Key Staff Coordination

The Myers and Stauffer Team will coordinate responsibilities among key staff positions, as applicable, to maximize communications and project outcomes. The Project Administration Lead will work closely with the Program Administration Lead, Finance Project Lead, and Milliman personnel in the execution of SOW deliverables. This type of coordination may involve the Deputy Commissioner of Plan Management and Integrity, the Deputy Commissioner of WVCHIP, the Director of the Office of Managed Care, the Office Director of Managed Care, the Director of Quality Management, and the Deputy Commissioner of Finance/Chief Financial Officer (CFO) in the planning, implementation, and monitoring of targeted deliverables.

Table 1 highlights key staff for the SOW.

Table 1. Key Staff

| Myers and Stauffer Team: Key Staff | | |
|--|--|---|
| Key Staff Name/Title/Role | Qualifications Requirements | Requirements of the Role |
| Executive Program Director Jerry Dubberly, PharmD, MBA <i>Principal (Partner)</i> Myers and Stauffer | Minimum of a bachelor's degree, with three years' experience in Medicaid or Medicaid and CHIP managed care operations, either with a state agency, federal agency, or rendering services under contract to a state agency. | <ul style="list-style-type: none"> ✓ Have the ability and authority to commit the Myers and Stauffer Team and its resources, conduct oversight of the engagement, and ensure all deliverables and services are consistent with contract requirements, work plan tracking, project tracking, and taking minutes. ✓ Available for quarterly meetings with BMS leadership and staff, and ad-hoc meetings (virtual and on-site), as |

| Myers and Stauffer Team: Key Staff | | |
|--|---|--|
| Key Staff Name/Title/Role | Qualifications Requirements | Requirements of the Role |
| Project Management Lead Terri Branning <i>Senior Manager</i> Myers and Stauffer | Minimum of a bachelor's degree, with five years' experience with Medicaid or Medicaid and CHIP managed care. | needed. ✓ Oversee that all contractual deliverables are fulfilled and provided within the required timeframes. |
| Program Administration Lead Hannah Lawrence, MPH <i>Senior Manager</i> Myers and Stauffer | Minimum of a bachelor's degree, with three years' experience in Medicaid or Medicaid and CHIP managed care operations, either with a state agency, federal agency, or rendering services under contract to a state agency. | ✓ Oversight of managed care operations and deliverables under the contract. ✓ Responsibility for other projects assigned by the Deputy Commissioner, Division of Managed Care and Program Integrity or Deputy Commissioner of WVCHIP. ✓ Coordinate with the Program Administration Lead in the execution of deliverables in the contract. ✓ Coordinate with the Finance Project Lead in the execution of deliverables defined in the contract. ✓ Available for quarterly meetings with BMS leadership and staff, and ad-hoc meetings (virtual), as needed. ✓ Develop meeting agendas and send out to all parties 24 hours prior to meeting. ✓ Send out approved meeting notes to participants. |
| Finance Project Lead Robert Rhoton, CPA <i>Senior Manager</i> Myers and Stauffer | Minimum of a bachelor's degree in finance, accounting, business administration, or related field with three years' experience in financial management in Medicaid or Medicaid program and CHIP, regulations, reimbursement processes, financial analysis, budgeting, and forecasting. | ✓ Liaison with the Deputy Commissioner of Finance/CFO in the oversight of finance and budget initiatives and other projects within the scope of the contract. ✓ Coordinate the deliverables of Milliman with BMS Finance. ✓ Coordinate with the Program Administration Lead in the execution of deliverables in the contract. ✓ Available for quarterly meetings with BMS leadership and staff, and ad-hoc meetings (virtual), as needed. |
| Medicaid Policy Subject Matter Expert (SME) Nancy Kim, MPH, PMP <i>Senior Manager</i> Myers and Stauffer | Minimum of a bachelor's degree, with 10 years' experience in Medicaid or Medicaid and CHIP policy research and development, either with a state agency, federal agency, or rendering services under contract to either agency type. | ✓ Consultation services on federal Medicaid regulation and policy and serve as a SME under both the program oversight contract development and actuarial services sections. |
| Lead Actuary Lead Project Actuary: Annie Hallum, FSA, MAAA <i>Consulting Actuary (Principal)</i> Contract Manager: Justin Birrell, FSA, MAAA <i>Consulting Actuary (Principal)</i> CHIP Lead: Mac Xu, FSA | Minimum of 10 years' experience with Medicaid or Medicaid and CHIP Managed Care rate setting. Be either a FSA and/or MAAA. | ✓ Oversee that all deliverables within each approved Statement of Work (SOW) are fulfilled as defined within the SOW. |



| Myers and Stauffer Team: Key Staff | | |
|--|-----------------------------|--------------------------|
| Key Staff Name/Title/Role | Qualifications Requirements | Requirements of the Role |
| <p><i>Consulting Actuary</i></p> <p>MHP Lead: Stacy Albrecht, FSA, MAAA <i>Consulting Actuary</i></p> <p>Financially Independent Peer Review: Shelly Brandel, FSA, MAAA <i>Consulting Actuary (Principal)</i></p> <p>CCBHC/Behavioral Health SME: Jeremy Cunningham, FSA, MAAA <i>Consulting Actuary (Principal)</i></p> <p>Risk Adjustment Lead: Stacey Hagensen, FSA, MAAA <i>Consulting Actuary</i></p> <p>Milliman</p> | | |

V. SOW REQUIREMENTS AND DELIVERBLES

- A. All managed care program administration requirements are applicable to MHT, MHP, and WVCHIP. The fixed monthly payment for these services shall be inclusive of completing the defined activities for the managed care programs.
- B. Managed Care Program Administration
 - 1. The State Medicaid Managed Care Program, both MHT and MHP, currently operate under a 1915(b) waiver. Requests for services related to waiver analyses outside of the Managed Care waivers shall be accounted for under ad-hoc services. Services provided under the ad hoc section will be done at an hourly rate and will require execution of an approved SOW and delivery order before work can commence.
 - 2. WVCHIP delivers benefits to members using managed care under the state plan option which can be found at: [https://chip.wv.gov/SiteCollectionDocuments/WVCHIP State Plan 11 13 24.pdf](https://chip.wv.gov/SiteCollectionDocuments/WVCHIP%20State%20Plan%2011%2013%2024.pdf). WVCHIP members participate under the MHT umbrella. Administration and oversight requirements are the same as Medicaid but there is no associated waiver reporting and WVCHIP is not included in the Medicaid 1915(b) waiver.



3. The Myers and Stauffer Team shall draft and/or assist with Managed Care waiver applications and associated quality strategies in addition to quality strategies for MHT/MHP and WVCHIP.
4. The Myers and Stauffer Team shall develop correspondence, including, but not limited to, waiver applications, letters to federal entities, etc. related to waivers or other managed care program needs.
5. The Myers and Stauffer Team shall conduct analyses of waiver programs and develop recommendations for improving effectiveness and efficiency of waiver programs.
6. The Myers and Stauffer Team shall assist the Agency with activities related to its Section 1115 Continuum of Care waiver, including but not limited to, federal reporting requirements and other analyses, as needed, which will be administered under the Managed Care Organizations (MCOs).
7. The Myers and Stauffer Team shall provide policy impact analyses and support to the Agency, including, but not limited to, reviewing and analyzing policy options, developing documents for review, programmatic impact assessments, conducting federal regulatory review, developing presentations, and assisting with implementation of strategies (i.e. preparation of work plans, facilitation of meetings, monitoring, and evaluation).
8. The Myers and Stauffer Team shall revise all analyses based on future releases or revisions of information at the state or federal level within a mutually agreed upon timeframe between the Myers and Stauffer Team and Agency.
9. The Myers and Stauffer Team shall monitor federal regulations and requirements for potential changes and provide analyses on program impact within thirty (30) calendar days of notification.
10. The Myers and Stauffer Team shall develop and maintain the MCO contracts associated with both MHT and MHP in compliance with CMS. The Myers and Stauffer Team shall seek contract updates from the MCOs and BMS 120 calendar days prior to contract implementation date.
11. Myers and Stauffer shall conduct annual network adequacy assessments to be completed by October 1st every year for both MHT and MHP, with the approach approved in writing by the Agency. Myers and Stauffer shall host a network adequacy kickoff meeting 30 calendar days prior to implementation of the network adequacy assessment. Myers and Stauffer



- must outline the expected process for the assessment to be completed.
12. Myers and Stauffer shall perform analyses and conduct ongoing monitoring of MCO provider networks and conduct quarterly analyses of the MCOs' networks against program requirements.
 13. Myers and Stauffer shall develop MCO-specific reports and maps showing providers, clinics, and hospitals by specialty and location. Information shall be submitted within ten (10) calendar days of request, unless otherwise noted.
 14. Myers and Stauffer shall analyze and monitor Managed Care contract performance by conducting program readiness documentation and desk reviews. This includes assessing new entrance initial go-live readiness, reviewing MCO operations, and evaluating new populations added to managed care. Ongoing reviews of the four (4) existing MCOs will also be performed as needed to ensure programmatic compliance. Readiness reviews for any new MCO entering the market must be completed within 4 (four) months. After the readiness review is completed, a detailed findings report, and the completion of the CMS readiness review tool must be submitted within 30 calendar days.
 15. Myers and Stauffer shall develop an annual report on MCO performance and compliance with contractual obligations within ninety (90) calendar days of the end of the reporting period. The end of the reporting period is the end of the state fiscal year, which is June 30th. The annual report shall also address program enrollment, services available, cost savings resulting from the program, performance on key quality indicators, Medical Loss Ratio (MLR) overview, program integrity, improvement strategies implemented, program goals, and other information as requested by the Agency, at no additional cost to the Agency.
 16. Myers and Stauffer shall work with the Agency to develop a comprehensive reporting calendar for the MHT and MHP programs that comply with federal, state, and agency-specific reporting requirements as defined by the managed care contracts. The current authorities can be accessed at: [https://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-final-rules/index.html#:~:text=On%20January%2017%2C%202017%2C%20CMS%20released%20a%20final,under%20Medicaid%20managed%20care%20contracts%20and%20rate%20certifications.WV State Code Chapter 9: <https://code.wvlegislature.gov/9/>](https://www.medicaid.gov/medicaid/managed-care/guidance/medicaid-and-chip-managed-care-final-rules/index.html#:~:text=On%20January%2017%2C%202017%2C%20CMS%20released%20a%20final,under%20Medicaid%20managed%20care%20contracts%20and%20rate%20certifications.WV%20State%20Code%20Chapter%209%20https://code.wvlegislature.gov/9/)
 17. Myers and Stauffer must identify and comply with all federal and state Medicaid and WVCHIP laws, regulations, and policies, as outlined by the



CMS and BMS, which can be accessed at:
<https://www.medicaid.gov/medicaid/managed-care/index.html>

18. Myers and Stauffer shall analyze Early Periodic Screening, Diagnosis, and Treatment (EPSDT) service provisions and track MCO contract compliance on a quarterly basis. Myers and Stauffer will prepare federal and state reports on methods to improve efficiency, effectiveness, coordination and quality of those services in West Virginia as needed. The reports will be submitted in an agreed upon format and submission standard between Myers and Stauffer and the Agency. Separate analysis and reporting for Medicaid and WVCHIP may be requested by BMS.
19. Myers and Stauffer must provide ad-hoc reports upon request on information including, but not limited to, comparisons of the Managed Care program with the fee-for-service program to improve the efficiency, effectiveness, and quality of the Managed Care program within the timelines established for each project. These ad-hoc reports and associated timelines will be based on an approved SOW.
20. Myers and Stauffer must provide an analysis dashboard with access for ten (10) state users for use in identifying medical service utilization patterns by category of service and medical and administrative cost profiles for all Managed Care cohorts, and major lines of business.
21. The Myers and Stauffer Team must provide all data, program and regulatory analyses required to respond to Legislative, Federal, State, budgetary, provider, advocacy, or other requests in a timeframe that is mutually agreed upon by the Myers and Stauffer Team and Agency.
22. Myers and Stauffer must submit within thirty (30) calendar days of the contract effective date a plan to be approved by the Agency for MCO contracting, including but not limited to options for performance targets, incentives and penalties, modifications to program requirements, implementation and oversight of a Managed Care Medical Loss Ratio (MLR). Separate MLRs for Medicaid and WVCHIP will be necessary. The MLR deliverables will be addressed under an independent statement of work.
23. The Myers and Stauffer Team shall develop methodologies for calculating Directed Payment Program (DPP) amounts or other supplemental payments, and the associated preprints and quality strategies for such programs
24. Myers and Stauffer shall develop a comprehensive quality assessment and performance improvement strategy, that align with federal regulations,



including the Quality Improvement Systems for Managed Care (QISMC) <https://www.medicaid.gov/medicaid/quality-of-care/medicaid-managed-care-quality/state-quality-strategies/index.html>, CMS standards, and other relevant quality review programs. Annually, Myers and Stauffer shall update the QISMC in collaboration with Agency Quality and Managed Care staff. Collaborator engagement will include MCOs, Agency or other collaborators. Agency will work with these collaborators to identify options and recommendations for monitoring and evaluating the quality and appropriateness of care and service provided to enrollees. Myers and Stauffer will conduct an annual evaluation of the Managed Care Quality Strategy utilizing the CMS toolkit as guidance. At the end of the three (3)-year Quality Strategy Myers and Stauffer will craft an evaluation covering the entire Quality Strategy per CMS guidance and toolkit. <https://www.medicaid.gov/medicaid/downloads/managed-care-quality-strategy-toolkit.pdf>.

25. Myers and Stauffer shall be available within one (1) business day for a virtual meeting or five (5) business days to meet in person with the Agency's Managed Care entities, provider groups, and other parties as determined necessary by the Agency, at a location to be determined based on space availability, at no additional cost to the Agency.
26. Myers and Stauffer shall assist in developing options for program expansion and assist in implementation of program expansion, including preparation of documents outlining options for program expansions, including cost savings, policy considerations, risks, issues, agency and bureau coordination requirements, and legal constraints, etc.
27. Myers and Stauffer shall assist with the development of reports for WV House Bill 4217, if applicable, which can be found at: http://www.legis.state.wv.us/Bill_Status/bills_text.cfm?billdoc=HB4217%20SUB%20ENR.htm&yr=2014&sesstype=RS&billtype=B&houseorig=H&i=4217.
28. Myers and Stauffer shall be responsible for collecting all required reports of the MCOs, reviewing reporting for any errors or omissions, generating reports for the Agency based on the data reported, and maintaining a tracking log of the submission to be used in monitoring MCO contract compliance. Required reports and due dates of the MCOs are included in the current MCO contract. Myers and Stauffer will conduct an individual MCO meeting once a month to review and discuss results from submitted reports including but not limited to the Cash Disbursement Journal, EPSDT results, and dashboard results. Separate Medicaid and WVCHIP reporting is necessary.



29. Myers and Stauffer shall provide an electronic tool compatible with Agency Systems, which are currently Microsoft Windows 10 or equal Microsoft 365 or equal, or Google Workspace or Equal that serves as a program compliance dashboard. MSLC shall provide MCO-related training to staff and maintain a training manual for reference. The dashboard shall allow the Agency to track the following at a minimum, but to be refined by the Agency:
 - a. All deliverables submitted by the MCOs as outlined under the MCO Managed Care contract
 - b. MCO policies and procedure document.
 - c. Contract and amendment language and version history.
 - d. MCO quality metrics and report card.
 - e. Network adequacy documents.
 - f. Grievances and Appeals.

30. Myers and Stauffer shall support Program Integrity strategic planning, oversight, and coordination activities with the MCOs in collaboration with the West Virginia Program Integrity (PI) Director and Office of Program Integrity (OPI). These activities shall include:
 - a. Program Management Support Services
 - b. Support OPI with coordination of PI activities across multiple workstreams
 - c. PI process improvement
 - d. Operational Support
 - e. Conduct a comprehensive PI risk assessment
 - f. Work with MCOs on validation of claims, identification of errors and policy recommendations
 - g. Medicaid Managed Care Program Integrity
 - h. Review MCO compliance plans
 - i. Audit claims paid to network providers
 - j. Review referrals made to BMS PI or the Medicaid Fraud Control Unit (MFCU)
 - k. Participate in internal meetings and BMS-led meetings with the MCOs and/or MFCU
 - l. Myers and Stauffer will facilitate in collaboration with OPI the annual MCO Compliance Plan training. The training will be held on a mutually agreed upon date in November of each year

C. Actuarial Services

1. Milliman shall complete the development, setting, certification, and/or review of rates for the State's Managed Care programs. Capitation rates for Managed Care shall be developed based on readily available State data and set by cohorts, including, but not limited to, age, gender, eligibility category, geographic location, and population risk factors. Milliman will host a MCO rate setting kick off meeting prior to implementation of activities to outline the process of rate development with the MCOs and will conduct meetings throughout the rate



setting process with the MCOs.

2. Milliman shall develop high, mid, and low capitation rate ranges for review.
3. Milliman must develop Managed Care rates at the individual MCO level, if the Agency chooses to develop MCO-specific rates based on risk stratification.
4. Milliman shall participate and provide support in rate setting discussions and meetings as needed, and provide supporting documentation, including but not limited to, presentations, rate workbooks, spreadsheet files, and rate memos, as requested by Agency staff for meetings.
5. Milliman shall work collaboratively with Agency staff to improve the accuracy and efficiency of the existing data sources and new data sources used for rate development, and the methodologies used in the rate setting process. Collaboration shall include attending meetings, conference calls, and other requests that the Agency deems necessary. It is the expectation of the Agency that Milliman shall provide new and innovative ideas around the rate setting process and efficiencies of such. Milliman shall facilitate direct communication channels between Actuary and the Agency. The frequency shall be on an as-requested basis. The location of the meetings will be determined by the Agency and whether they will be held in-person or virtually.
6. Milliman shall provide the Agency with reports and calculations in the formats specified by the Agency, including all formulae, databases, data sets, and other documents as requested on an as needed basis in an agreed-upon standard format compliant to the data being requested.
7. Milliman shall assist the Agency in identifying where rate uniformity can occur to ensure payments are made consistently across all agencies by conducting a rate uniformity workgroup and analysis of all rates currently administered in a schedule to be coordinated between Milliman and Agency. The analysis shall identify inconsistencies and recommendations to the Agency for improving its rate setting process and helping align areas that are not in uniformity.
8. Milliman shall update the capitation rates based on data, pricing trends, changes resulting from federal and/or state requirements, program changes and certify such amendments, at a minimum of one time per fiscal year.
9. Milliman shall develop a transition plan for Agency approval that must be submitted to the Agency ninety (90) days in advance of the contract end date. Milliman must complete transition activities to transition all data, methodologies, documentation, and ongoing projects to the next succeeding vendor, at least sixty (60) calendar days in advance of the contract end date.



10. Milliman shall coordinate with the State's fiscal agent to ensure accurate encounter claims, and eligibility data is used for rate setting. Milliman shall review encounter data for completeness and/or inconsistencies as part of rate setting process and provide a summary report of any inconsistencies to the Agency for review on an ad hoc basis in a format agreed upon between Milliman and Agency.
11. Milliman shall work with fiscal agent to ensure completeness of all reports used for state and federal reporting, as requested by the Agency.
12. Milliman must gather, process, validate and analyze Managed Care encounter and claims data, including carved out services and provide technical assistance to the MCOs on data issues.
13. Milliman must perform actuarial analysis and valuation of the costs or savings established by implementing programmatic changes, including, but not limited to, the transitioning of populations from FFS to managed care or alternate coverage options.
14. Milliman must produce a quarterly report on expected total program revenues and expenditures for WVCHIP that covers the current fiscal year plus six (6) future years. The projections should consider pricing and enrollment trends plus any impacts expected from federal or state laws or regulations. Estimates for Incurred But Not Reported (IBNR) should be updated on each report.
15. Milliman must annually provide assurance to the Agency, by letter, that all program and administrative costs, including IBNR, do not exceed 90 (ninety) percent of the funding available to the program for the applicable fiscal year.

D. Financial Services

1. Financial services be performed at an hourly rate and will require execution of an approved independent statement of work.
2. The Myers and Stauffer Team shall provide financial services which will include but not be limited to MLR template review and audit, rate studies and reimbursement support, legislative planning and support, budget support, financial projections and analysis, federal and state reporting support, implementation support for all federal and state projects and rules, DPP calculations and support, provider payment reviews, MCO tax settlement calculations, waiver support, and audit support, including IBNR calculations.
3. The Myers and Stauffer Team shall analyze the accuracy of payments and reimbursements related to changes under the Affordable Care Act (ACA) or other



federal or state health care and/or payment provision rules, regulations, laws, or codes.

4. The Myers and Stauffer Team shall provide assistance in development of payment methodologies for other programs, including, but not limited to, long-term care, nursing home, and Home and Community Based Services waivers.
5. The Myers and Stauffer Team shall assist with all facets of the provider rate development and implementation process.
6. The Myers and Stauffer Team shall assist in overseeing the ongoing implementation, support, federal and state reporting, and financial projections of all relevant waiver programs.
7. The Myers and Stauffer Team shall assist with programmatic activities needed. The Myers and Stauffer Team shall provide support for items including, but not limited to, MLR Audits, IBNR, and risk adjustment. The Myers and Stauffer Team shall host a kickoff meeting with the MCOs prior to implementation of MLR Audit activities, IBNR and risk adjustment activities to communicate expectations to the MCOs.

E. Ad-Hoc Services

1. The Myers and Stauffer Team shall provide a statement of work, including but not limited to, the number of project hours, resources to be used, and cost affiliated with each ad-hoc request for review by the Agency.
2. The Myers and Stauffer Team must provide the Agency with additional consultation and actuarial services and complete other work as requested.
3. The Myers and Stauffer Team shall provide a fixed hourly rate for programmatic services and a fixed hourly rate for actuarial services.
4. within other divisions of BMS outside of the Office of Managed Care.
5. The Myers and Stauffer Team shall conduct research and recommend approaches in key areas of chronic care/disease management, pharmacy, eligibility and coverage, quality improvement, rural health, and others as requested.

Conclusion

Myers and Stauffer is pleased to submit this SOW for Medicaid Actuarial Services and Managed Care Program Administration and Oversight services. If you require additional information on



MYERS AND STAUFFER
CERTIFIED PUBLIC ACCOUNTANTS

this SOW, please contact me at JDubberly@mslc.com or 404.290.8370. We look forward to working with the Bureau to support the success of West Virginia Medicaid and the West Virginia Children’s Health Insurance Program.

Sincerely,

**Jerry
 Dubberly**

Digitally signed by
 Jerry Dubberly
 Date: 2026.02.09
 11:45:08 -05'00'

Jerry Dubberly, PharmD, MBA
 Principal

Approved Statement of Work

West Virginia Bureau for Medical Services:

Christy Dineen

2/10/24

Date



APPENDIX

Appendix A: General Terms and Conditions

The executed General Terms and Conditions are attached herein this Statement of Work.



Appendix B: Pricing Page

The Pricing Page is attached herein.



Appendix C: HIPAA Business Associate Addendum

The HIPAA Business Associate Addendum is attached herein.



Appendix D: Disclosure of Interested Parties to Contracts

The Disclosure of Interested Parties to Contracts is attached herein.



Appendix E: Federal Funds Addendum

The Federal Funds Addendum is attached herein.

**GENERAL TERMS AND CONDITIONS:
(Agency Delegated Procurements Only)**

- 1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Agency and approved as to form by the Attorney General's office, if required, constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
- 2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
- 2.1. "Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
- 2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.
- 2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.
- 2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.
- 2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.
- 2.6. "Award Document"** means the document signed by the Agency that identifies the Vendor as the contract holder.
- 2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services.
- 2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
- 2.9. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

Term Contract

Initial Contract Term: This Contract becomes effective on award _____ and the initial contract term extends until one (1) year.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor. Any request for renewal should be delivered to the Agency thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to zero (0) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited.

Alternate Renewal Term – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor and Agency.

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

Fixed Period Contract: This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

One Time Purchase: The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

Construction/Project Oversight: This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the State Agency (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

Other: See attached.

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

Open End Contract: Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

Service: The scope of the service to be provided will be more clearly defined in the specifications included herewith.

Combined Service and Goods: The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

One Time Purchase: This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

Construction: This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Agency by the Vendor as specified below.

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

Fellows of the Society of Actuaries
 Member of the American Academy of Actuaries

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies Vendor shall provide the Agency with proof that the insurance

mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of:
\$1,000,000.00 per occurrence.

Automobile Liability Insurance in at least an amount of: \$1,000,000.00 per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of:
\$10,000,000.00 per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

Commercial Crime and Third Party Fidelity Insurance in an amount of:
\$5,000,000.00 per occurrence.

Cyber Liability Insurance in an amount of: _____ per occurrence.

Builders Risk Insurance in an amount equal to 100% of the amount of the Contract.

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

_____ for _____

Liquidated Damages Contained in the Specifications.

Liquidated Damages Are Not Included in this Contract.

11. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

12. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

13. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

14. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer or P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

15. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

18. CANCELLATION: The State reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Agency may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

19. TIME: Time is of the essence with regard to all matters of time and performance in this Contract.

20. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

20A. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

21. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances. Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances.

22. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

23. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor.

24. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

25. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

26. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency and any other government agency or office that may be required to approve such assignments.

27. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

28. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

29. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in www.state.wv.us/admin/purchase/privacy.

30. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

31. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6. I.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities. Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section.

32. ANTITRUST: In submitting a bid to, signing a contract with, or accepting an Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

33. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

34. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

35. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

36. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

37. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

38. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

39. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

40. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.

b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

41. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the

item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

42. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

43. VOID CONTRACT CLAUSES – This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Jerry L. Dubberly, Principal
(Printed Name and Title)
1349 W. Peachtree Street, Suite 1600
(Address)
404 290.8370 / 404 524.0782
(Phone Number) / (Fax Number)
jdubberly@mslc.com
(E-mail address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through mVOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; ; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the Vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

Myers and Stauffer LC
(Company)

[Signature]
(Signature of Authorized Representative)

Jerry L Dubberly, Principal
(Printed Name and Title of Authorized Representative)

12/22/2025
(Date)

404. 290. 8370 / 404. 524. 0782
(Phone Number) (Fax Number)

WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum ("Addendum") is made a part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency"), and Business Associate ("Associate"), and is effective as of the date of execution of the Addendum.

The Associate performs certain services on behalf of or for the Agency pursuant to the underlying Agreement that requires the exchange of information including protected health information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act"), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as "HIPAA"). The Agency is a "Covered Entity" as that term is defined in HIPAA, and the parties to the underlying Agreement are entering into this Addendum to establish the responsibilities of both parties regarding HIPAA-covered information and to bring the underlying Agreement into compliance with HIPAA.

Whereas it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI); and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, the HITECH Act and its associated regulations, and the parties do agree to at all times treat the PHI and interpret this Addendum consistent with that desire.

NOW THEREFORE: the parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>.
 - b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
 - c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
 - d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
 - e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05, 111th Congress (2009).

- f. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164.
- g. **Protected Health Information or PHI** shall have the meaning given to such term in 45 CFR § 160.103, limited to the information created or received by Associate from or on behalf of Agency.
- h. **Security Incident** means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.
- i. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information found at 45 CFR Parts 160 and 164.
- j. **Subcontractor** means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

2. Permitted Uses and Disclosures.

- a. **PHI Described.** This means PHI created, received, maintained or transmitted on behalf of the Agency by the Associate. This PHI is governed by this Addendum and is limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the original Agreement, and is described in Appendix A.
- b. **Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, or as required by law, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or Associate, or violate the minimum necessary and related Privacy and Security policies and procedures of the Agency. The Associate is directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Agency.
- c. **Further Uses and Disclosures.** Except as otherwise limited in this Addendum, the Associate may disclose PHI to third parties for the purpose of its own proper management and administration, or as required by law, provided that (i) the disclosure is required by law, or (ii) the Associate has obtained from the third party reasonable assurances that the PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party by the Associate; and, (iii) an agreement to notify the Associate and Agency of any instances of which it (the third party) is aware in which the confidentiality of the information has been breached. To the extent practical, the information should be in a limited data set or the minimum necessary information pursuant to 45 CFR § 164.502, or take other measures as necessary to satisfy the Agency's obligations under 45 CFR § 164.502.

3. Obligations of Associate.

- a. **Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than as stated in this Addendum or as required or permitted by law.
- b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as stated in this Addendum or as required or permitted by law. Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI unless Agency gives written approval and the individual provides a valid authorization. Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Associate will report to Agency any use or disclosure of the PHI, including any Security Incident not provided for by this Agreement of which it becomes aware.
- c. **Safeguards.** The Associate will use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI, except as provided for in this Addendum. This shall include, but not be limited to:
 - i. Limitation of the groups of its workforce and agents, to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary or a Limited Data Set;
 - ii. Appropriate notification and training of its workforce and agents in order to protect the PHI from unauthorized use and disclosure;
 - iii. Maintenance of a comprehensive, reasonable and appropriate written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations, in compliance with the Security Rule;
 - iv. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- d. **Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules.
- e. **Mitigation.** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum, and report its mitigation activity back to the Agency.

f. **Support of Individual Rights.**

- i. **Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. **Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. **Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR §164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:
 - the date of disclosure;
 - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
 - a brief description of the PHI disclosed; and
 - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. **Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. **Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

- g. **Retention of PHI.** Notwithstanding section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. **Agent's, Subcontractor's Compliance.** The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- j. **Federal and Agency Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- k. **Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. This review may take up to ten (10) days.
- l. **Notification of Breach.** During the term of this Addendum, the Associate shall notify the Agency and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by e-mail or web form upon the discovery of any Breach of unsecured PHI; or within 24 hours by e-mail or web form of any suspected Security Incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency Procurement Officer at www.state.wv.us/admin/purchase/vrc/agencyli.htm and,

unless otherwise directed by the Agency in writing, the Office of Technology at incident@wv.gov or <https://apps.wv.gov/otir/Default.aspx>.

The Associate shall immediately investigate such Security Incident, Breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, the Associate shall notify the Agency Procurement Officer, and, unless otherwise directed by the Agency in writing, the Office of Technology of: (a) Date of discovery; (b) What data elements were involved and the extent of the data involved in the Breach; (c) A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data; (d) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (e) A description of the probable causes of the improper use or disclosure; and (f) Whether any federal or state laws requiring individual notifications of Breaches are triggered.

Agency will coordinate with Associate to determine additional specific actions that will be required of the Associate for mitigation of the Breach, which may include notification to the individual or other authorities.

All associated costs shall be borne by the Associate. This may include, but not be limited to costs associated with notifying affected individuals.

If the Associate enters into a subcontract relating to the Agreement where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum, all such subcontracts or downstream agreements shall contain the same incident notification requirements as contained herein, with reporting directly to the Agency Procurement Officer. Failure to include such requirement in any subcontract or agreement may result in the Agency's termination of the Agreement.

- m. **Assistance in Litigation or Administrative Proceedings.** The Associate shall make itself and any subcontractors, workforce or agents assisting Associate in the performance of its obligations under this Agreement, available to the Agency at no cost to the Agency to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Agency, its officers or employees based upon claimed violations of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inaction or actions by the Associate, except where Associate or its subcontractor, workforce or agent is a named as an adverse party.

4. Addendum Administration.

- a. **Term.** This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents

and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.

- c. **Termination for Cause.** Associate authorizes termination of this Agreement by Agency, if Agency determines Associate has violated a material term of the Agreement. Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.
- d. **Judicial or Administrative Proceedings.** The Agency may terminate this Agreement if the Associate is found guilty of a criminal violation of HIPAA. The Agency may terminate this Agreement if a finding or stipulation that the Associate has violated any standard or requirement of HIPAA/HITECH, or other security or privacy laws is made in any administrative or civil proceeding in which the Associate is a party or has been joined. Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.
- e. **Survival.** The respective rights and obligations of Associate under this Addendum shall survive the termination of the underlying Agreement.

5. General Provisions/Ownership of PHI.

- a. **Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand or destroyed at the Agency's option, at any time, and subject to the restrictions found within section 4.b. above.
- b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an individual must be held confidential and is also the property of Agency.
- c. **Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an individual must not be transmitted to another party by electronic or other means for additional uses or disclosures not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.
- d. **No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected individual's written consent.
- e. **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency; Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. **Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.
- g. **Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.
- h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process.

AGREED:

Name of Agency: Bureau of Medical Services

Name of Associate: Myers and Stauffer LC

Signature: Christy Donohue

Signature: [Handwritten Signature]

Title: Commissioner

Title: Principal

Date: 2/10/2016

Date: 12/22/2025

Form - WVBA-012004
Amended 06.28.2013

APPROVED AS TO FORM THIS 26th
DAY OF Jan 20 13
BY [Signature]
Patrick Morrissey
Attorney General

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. PHI not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Associate: Myers & Stauffer, LC

Name of Agency: DoHS/BMS

Describe the PHI (do not include any actual PHI). If not applicable, please indicate the same.

Member and Provider claims and profiles.

FEDERAL FUNDS ADDENDUM
2 C.F.R. §§ 200.317 – 200.327

Purpose: This addendum is intended to modify the solicitation in an attempt to make the contract compliant with the requirements of 2 C.F.R. §§ 200.317 through 200.327 relating to the expenditure of certain federal funds. This solicitation will allow the State to obtain one or more contracts that satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

Instructions: Vendors who are willing to extend their contract to procurements with federal funds and the requirements that go along with doing so, should sign the attached document identified as: “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)”

Should the awarded vendor be unwilling to extend the contract to federal funds procurement, the State reserves the right to award additional contracts to vendors that can and are willing to meet federal funds procurement requirements.

Changes to Specifications: Vendors should consider this solicitation as containing two separate solicitations, one for state level procurement and one for county/local procurement.

State Level: In the first solicitation, bid responses will be evaluated with applicable preferences identified in sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” to establish a contract for both standard state procurements and state federal funds procurements.

County Level: In the second solicitation, bid responses will be evaluated with applicable preferences identified in Sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” omitted to establish a contract for County/Local federal funds procurement.

Award: If the two evaluations result in the same vendor being identified as the winning bidder, the two solicitations will be combined into a single contract award. If the evaluations result in a different bidder being identified as the winning bidder, multiple contracts may be awarded. The State reserves the right to award to multiple different entities should it be required to satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

State Government Use Caution: State agencies planning to utilize this contract for procurements subject to the above identified federal regulations should first consult with the federal agency providing the applicable funding to ensure the contract is compliant.

County/Local Government Use Caution: County and Local government entities planning to utilize this contract for procurements subject to the above identified federal regulation should first consult with the federal agency providing the applicable funding to ensure the contract is compliant. For purposes of County/Local government use, the solicitation resulting in this contract was conducted in accordance with the procurement laws, rules, and procedures governing the West Virginia Department of Administration, Purchasing Division, except that vendor preference has been omitted for County/Local use purposes and the contract terms contained in the document entitled “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)” have been added.

FEDERAL FUNDS ADDENDUM

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):**

The State of West Virginia Department of Administration, Purchasing Division, and the Vendor awarded this Contract intend that this Contract be compliant with the requirements of the Procurement Standards contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements found in 2 C.F.R. § 200.317, et seq. for procurements conducted by a Non-Federal Entity. Accordingly, the Parties agree that the following provisions are included in the Contract.

**1. MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR
SURPLUS AREA FIRMS:**
(2 C.F.R. § 200.321)

a. The State confirms that it has taken all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Those affirmative steps include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.

b. Vendor confirms that if it utilizes subcontractors, it will take the same affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

2. DOMESTIC PREFERENCES:
(2 C.F.R. § 200.322)

a. The State confirms that as appropriate and to the extent consistent with law, it has, to the greatest extent practicable under a Federal award, provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United

States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b. Vendor confirms that will include the requirements of this Section 2. Domestic Preference in all subawards including all contracts and purchase orders for work or products under this award.

c. Definitions: For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

3. BREACH OF CONTRACT REMEDIES AND PENALTIES:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 provide for breach of contract remedies, and penalties. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

4. TERMINATION FOR CAUSE AND CONVENIENCE:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 govern Contract termination. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

5. EQUAL EMPLOYMENT OPPORTUNITY:

(2 C.F.R. § 200.327 and Appendix II)

Except as otherwise provided under 41 CFR Part 60, and if this contract meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, this contract includes the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 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 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

6. DAVIS-BACON WAGE RATES:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this Contract includes construction, all construction work in excess of \$2,000 will be completed and paid for in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must:

- (a) 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.
- (b) pay wages not less than once a week.

A copy of the current prevailing wage determination issued by the Department of Labor is attached hereto as Exhibit B. The decision to award a contract or subcontract is conditioned upon the acceptance of the wage determination. The State will report all suspected or reported violations to the Federal awarding agency.

7. ANTI-KICKBACK ACT:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that it will comply with the Copeland Anti-KickBack Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Accordingly, Vendor, Subcontractors, and anyone performing under this contract are 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 State must report all suspected or reported violations to the Federal awarding agency.

8. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
(2 C.F.R. § 200.327 and Appendix II)

Where applicable, and only for contracts awarded by the State in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Vendor is 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.

9. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.
(2 C.F.R. § 200.327 and Appendix II)

If the Federal award meets the definition of “funding agreement” under 37 CFR § 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 CFR Part 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.

10. CLEAN AIR ACT
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this contract exceeds \$150,000, Vendor is 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).

11. DEBARMENT AND SUSPENSION
(2 C.F.R. § 200.327 and Appendix II)

The State will not award to any vendor that is listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 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.

12. BYRD ANTI-LOBBYING AMENDMENT
(2 C.F.R. § 200.327 and Appendix II)

Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not 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. Each tier must also 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.

13. PROCUREMENT OF RECOVERED MATERIALS

(2 C.F.R. § 200.327 and Appendix II; 2 C.F.R. § 200.323)

Vendor agrees that it and the State 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 CFR part 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.

14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

(2 C.F.R. § 200.327 and Appendix II; 2 CFR § 200.216)

Vendor and State agree that both are prohibited from obligating or expending funds under this Contract to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

State of West Virginia
Purchasing Division

By: Christy Donohue
Printed Name: Christy D. Donohue
Title: Commissioner
Date: 2/10/20

Vendor Name:

By: Jerry L. Duberry
Printed Name: Jerry L. Duberry
Title: Principal
Date: 12/22/2025

EXHIBIT A To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

W. Va. CSR § 148-1-5

| |
|---|
| West Virginia Code of State Rules |
| Title 148. Department of Administration |
| Legislative Rule (Ser. 1) |
| Series 1. Purchasing |

W. Va. Code St. R. § 148-1-5
 § 148-1-5. Remedies.
Currentness

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

5.2. Contract Cancellation.

5.2.1. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.1.a. The vendor agrees to the cancellation;

5.2.1.b. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.1.c. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.1.d. The existence of an organizational conflict of interest is identified;

5.2.1.e. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition;

5.2.1.f. Violation of any federal, state, or local law, regulation, or ordinance, and

5.2.1.g. The contract was awarded in error.

5.2.2. The Director may cancel a purchase or contract for any reason or no reason, upon providing

the vendor with 30 days' notice of the cancellation.

5.2.3. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

5.2.4. Re-Award. The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

5.2.4.a. The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

5.2.4.b. The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

5.3. Non-Responsible. If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

5.4. Suspension.

5.4.1. The Director may suspend, for a period not to exceed 1 year, the right of a vendor to bid on

procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.1.a. The vendor has submitted a bid and then requested that its bid be withdrawn after bids have been publicly opened.

5.4.1.b. The vendor has exhibited poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; or failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.1.c. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.1.d. The vendor's actions have given rise to one or more of the grounds for debarment listed in W. Va. Code § 5A-3-33d.

5.4.2. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.2.a. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.2.b. A notice of suspension must inform the vendor:

5.4.2.b.1. Of the grounds for the suspension;

5.4.2.b.2. Of the duration of the suspension;

5.4.2.b.3. Of the right to request a hearing contesting the suspension;

5.4.2.b.4. That a request for a hearing must be served on the Director no later than 5 working days of the vendor's receipt of the notice of suspension;

5.4.2.b.5. That the vendor's failure to request a hearing no later than 5 working days of

the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.2.b.6. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.2.c. A vendor's failure to serve a request for hearing on the Director no later than 5 working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.

5.4.2.d. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.2.e. Within 5 working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.2.f. The hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.3. A vendor may appeal a decision of the Director to the Secretary of the Department of Administration. The appeal must be in writing and served on the Secretary no later than 5 working days of receipt of the Director's decision.

5.4.4. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.5. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in W. Va. Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.1. Debarment proceedings shall be conducted in accordance with W. Va. Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.2. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.3. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor, including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated.

5.5.4. Pursuant to W.Va. Code § 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.5. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

5.5.6. Related Party Debarment. The Director may pursue debarment of a related party at the same time that debarment of the original vendor is proceeding or at any time thereafter that the Director determines a related party debarment is warranted. Any entity that fails to provide the Director with full, complete, and accurate information requested by the Director to determine related party

status will be presumed to be a related party subject to debarment.

5.6. Damages.

5.6.1. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.2. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.3. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

Credits

History: Filed 4-1-19, eff. 4-1-19; Filed 4-16-21, eff. 5-1-21.

Current through register dated May 7, 2021. Some sections may be more current. See credits for details.

W. Va. C.S.R. § 148-1-5, WV ADC § 148-1-5

End of Document

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EXHIBIT B To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

Prevailing Wage Determination

- Not Applicable Because Contract Not for Construction

- Federal Prevailing Wage Determination on Next Page