

REQUEST FOR PROPOSAL

West Virginia Board of Risk and Insurance Management
RFP#: RIM 102310

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SECTION 1: GENERAL INFORMATION

- 1.1 **Purpose:** The West Virginia Board of Risk and Insurance Management (hereinafter BRIM) is soliciting proposals for a consultant to assist BRIM in formulating a program for addressing the Workers' Compensation needs for West Virginia State Government agencies
- 1.2 By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this RFP.

A Request for Proposal (RFP) is generally used for the procurement of services in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value). Through its proposal, the bidder offers a solution to the objectives, problem, or need specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements.

1.2.1 Compliance with Laws and Regulations: The Vendor shall procure all necessary permits and licenses to comply with all applicable Federal, State, or municipal laws, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract shall be borne by the Vendor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

1.3 **Schedule of Events:**

RFP Issue Date	October 23, 2010
Vendor's Question Submission Deadline	November 3, 2010

QUESTIONS WILL BE ANSWERED ON-LINE ON AN ONGOING BASIS UNTIL THE CLOSE OF BUSINESS ON NOVEMBER 3, 2010

ANSWERS WILL BE PROVIDED AT:

www.state.wv.us/brim

Vendor Bid Submission Deadline	November 19, 2010; 3:00 pm EST
Possible Interviews with any or all Vendors who Submit a Proposal	November 29, 2010 thru December 10, 2010

1.4 **Inquiries:** Inquiries regarding specifications of this RFP must be submitted in writing. The deadline for written inquiries is identified in the Schedule of Events, Section 1.3. All inquiries of specification clarification must be addressed to:

Inquiries in writing may be sent, via U.S. Mail to:

Charles E. Jones, Jr., Executive Director
West Virginia Board of Risk and Insurance Management
90 MacCorkle Avenue, SW, Suite 203
South Charleston, WV 25303
(304)766-2646; (800)345-4669

Questions may be submitted via email to the following address. Please list "Consultant RFP" as the subject.

BRIMinquiries@wv.gov

While written questions will be accepted, BRIM would prefer that questions be submitted electronically to the above email address.

1.5 **Verbal Communication:** Any verbal communication between the Vendor and any State personnel is **not** binding. Only information issued in writing and added to the RFP specifications by an official written addendum by BRIM is binding.

- 1.6 **Addenda:** If it becomes necessary to revise any part of this RFP, an official written addendum will be issued by BRIM.

SECTION TWO: PROJECT SPECIFICATIONS

- 2.1 **Location:** BRIM is located in South Charleston, West Virginia.
- 2.2 **Background and Current Operating Environment:**

BRIM administers a multifaceted insurance program including liability and property insurance for all state agencies, state boards of education, and various political subdivisions and non-profit corporations. BRIM also acts as the reinsurance vehicle for the West Virginia Mine Subsidence Fund. BRIM currently covers over 38,182 employees, 26,887 vehicles and over \$14.3 billion in property values in its property and liability programs. BRIM uses a combination of self insurance, reinsurance, fronting and guaranteed cost insurance to administer the programs listed above.

The Workers' Compensation program for state agencies is currently being administered by a commercial carrier. It is a risk transfer program.

The commercial carrier reports that for the current state agency program, over the past four years the total premiums charged amounts to approximately \$81,000,000; total incurred losses are approximately \$68,000,000; total paid claims are approximately \$38,000,000; and the combined ratio is reported as 108%. The total payroll for state agencies is approximately \$1,664,740,689.

BRIM will be addressing West Virginia State Agency Workers' Compensation needs in two different and distinct phases.

Phase I will be limited to securing the services of a qualified consultant to help BRIM determine the best methodology for addressing State Agency Workers' Compensation needs. It is anticipated that the consultant will be engaged and actively working by the end of calendar year 2010. The work will continue through at least July 1, 2011 and perhaps longer.

Phase II will be BRIM's actual procurement of Workers' Compensation coverage and/or component services necessary for properly administering a comprehensive Workers' Compensation program for West Virginia State Agencies. BRIM intends to issue a further Request(s) for Proposal during January 2011 to allow for the program chosen to be up and fully operational by July 1, 2011.

2.3 **Project and Goals:** The project goals and objectives are:

2.3.1 Goal/Objective 1: To find a consultant to assist BRIM in formulating an optimal program for addressing West Virginia State Agency Workers' Compensation coverage needs. The consultant will have knowledge of, and be able to explain and evaluate the various means of providing coverage. These include, but are not limited to: full transfer of risk; self-insurance; captive; fronting; bundled v. unbundled services; as well as any others that may be of benefit to the State.

2.3.2 Goal/Objective 2: To find a consultant to assist BRIM who is fully familiar with State and Federal laws and regulations that affect Workers' Compensation coverage for the State of West Virginia and its agencies.

2.3.3 Goal/Objective 3: To find a consultant to assist BRIM who can analyze State Agency Workers' Compensation needs and provide written recommendations including funding methods, retention levels, deductibles, etc.

2.3.4 Goal/Objective 4: To find a consultant to assist BRIM who can define plan needs and assist in providing adequate information to prospective vendors to help said vendors formulate a proposal.

2.3.5 Goal/Objective 5: To find a consultant to assist BRIM in evaluating vendor submissions.

2.3.6 Goal/Objective 6: To find a consultant who can assist BRIM in developing needed policies and procedures for effective administration of the program ultimately developed.

2.4 **Mandatory Requirements**

The following mandatory requirements must be met by the Vendor as a part of the submitted proposal. Failure on the part of the Vendor to meet any of the mandatory specifications shall result in the disqualification of the proposal. The terms "must," "will," "shall," "minimum," "maximum," or "is/are required" identify a mandatory item or factor. Decisions regarding compliance with any mandatory requirements shall be at the sole discretion of the State.

2.4.1 The successful vendor must demonstrate that it has the training and experience necessary to meet all the project goals and objectives listed in 2.3.

2.4.2 The successful vendor must provide BRIM with the names and contact information for two (2) people each, associated with at least three (3) other clients for whom the vendor has supplied the same or substantially the same services.

2.4.3 The successful vendor must provide BRIM with a detailed methodology demonstrating how it would address BRIM's needs as outlined in this RFP. The vendor should estimate how many hours it believes **may** be necessary to complete the work needed from inception of the contract through June 30, 2011.

The vendor should prepare a proposed timeline/roadmap with a compilation of the major phases/activities to be accomplished from inception of the consultant contract to implementation of the program and include a proposed deliverable (what will be accomplished) within the timeline.

2.4.4 The successful vendor must demonstrate its experience in structuring and obtaining a Workers' Compensation program for at least one State government or other large public governmental entity within the past five years.

2.4.5 The successful vendor must demonstrate its experience in negotiating and managing a large deductible plan, a captive plan, a self-insured plan, or alternatively, major components of a plan such as Claim Administration or Loss Control Services for a State government or other large public governmental entity within the past five years.

2.4.6 The successful vendor and key staff assigned to this project must be available to BRIM during regular hours (8:00am to 5:00pm EST Monday thru Friday). Acknowledge your understanding and commitment to this requirement.

2.4.7 BRIM must place primary and excess insurance with State of West Virginia admitted carriers. Acknowledge your understanding of this requirement. Identify the individual within your firm who would have the overall responsibility for the BRIM account and the office in which each account team member is located.

2.4.8 Please list the top five (5) insurance carriers your firm writes Workers' Compensation Insurance for and the premium amount with each.

2.4.9 Identify and briefly describe your ability to provide any of the following services, either by your firm or by contracting with a third-party on behalf of your client:

1. Insurance Policy Procurement
2. Claims Administration Services
3. Claims Management Software
4. Claims Auditing
5. Loss Control Services
6. Actuarial Services
7. Vendor Management Services
8. Independent Medical Evaluation
9. Return to Work Program
10. Rating/Underwriting Evaluation/Consulting

Vendors are encouraged to utilize creativity in the approach taken.

SECTION THREE: VENDOR PROPOSAL

- 3.1 **Economy of Preparation:** Proposals should be prepared simply and economically providing a straightforward, concise description of the Vendor's abilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of the content.
- 3.2 **Incurring Cost:** Neither the State nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.
- 3.3 **Proposal Format:** Vendors should provide responses in the format listed below:

Title Page: State the RFP subject, number, Vendor's name, business address, telephone number, fax number, name of contact person, e-mail address, and Vendor signature and date.

Table of Contents: Clearly identify the material by section and page number

Section One: Provide firm and staff qualifications and experience in completing similar projects. Please include as a part of this section: references; a listing of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location

of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

Section Two: Address Project Goals/objectives as outlined in Section 2.3. **(See Attachment A: Project Goals and Objectives).**

Section Three: Address Mandatory Requirements as outlined in Section 2.4. **(See Attachment B: Mandatory Requirements).** By signing and dating this attachment, the Vendor acknowledges that they meet or exceed each of the specifications as outlined in this Request for Proposals. The State reserves the right to require documentation detailing how each is met at its discretion.

Section Four: Complete **Attachment C: Cost Sheet** included in this RFP and submit in a separate sealed envelope. Cost should be clearly marked.

3.4 **Proposal Submission:** Proposals must be received in **two distinct parts:** technical and cost. **Technical proposal** must not contain any cost information relating to the project. **Cost proposal** shall be sealed in a separate envelope and will not be opened initially.

All proposals must be submitted to BRIM **prior** to the date and time stipulated in the RFP as the submission deadline. All bids will be dated and time stamped to verify official time and date of receipt.

3.4.1 Vendors should allow sufficient time for delivery. BRIM cannot waive or excuse late receipt of a proposal, which is delayed or late for any reason. Any proposal received after the bid opening date and time will be immediately disqualified in accordance with State law.

Vendors responding to this RFP shall submit:

One original technical and cost proposal plus 4 convenience copies to:

Charles E. Jones, Jr., Executive Director
West Virginia Board of Risk and Insurance Management
90 MacCorkle Avenue, SW, Suite 203
South Charleston, WV 25303
(304)766-2646; (800)345-4669

The outside of the envelope or package(s) for both the technical and the cost should be clearly marked:

Vendor: _____
RFP #: _____
Submission Deadline: November 19, 2010; 3:00 pm EST

- 3.5 **Purchasing Affidavit:** *West Virginia Code* §5A-3-10a requires that all bidders submit an affidavit regarding any debt owed to the State. The affidavit must be signed and submitted prior to award. It is preferred that the affidavit be submitted with the proposal.
- 3.6 **Resident Vendor Preference:** In accordance with *West Virginia Code* §5A-3-37, Vendors may make application for Resident Vendor Preference. Said application must be made on the attached Resident Vendor Certification form at the time of proposal submission.

SECTION FOUR: EVALUATION AND AWARD

- 4.1 **Evaluation Process:** Proposals will be evaluated by a committee of three (3) or more individuals against the established criteria with points deducted for deficiencies. The Vendor who demonstrates that they meet all of the mandatory specifications required; and has appropriately presented within their written response and/or during the oral demonstration (if applicable) their understanding in meeting the goals and objectives of the project; and attains the highest overall point score of all Vendors shall be awarded the contract. The selection of the successful Vendor will be made by a consensus of the evaluation committee.
- 4.2 **Evaluation Criteria:** All evaluation criteria is defined in the specifications section and based on a 100 point total score. Cost shall represent a minimum of 25 of the 100 total points.

The following are the evaluation factors and maximum points possible for technical point scores:

A. Qualifications and experience	35 Points Possible
B. Approach and methodology	40 Points Possible
C. Cost	<u>25 Points Possible</u>
Total	100 Points Possible

Each cost proposal cost will be scored by use of the following formula for all Vendors who attained the minimum acceptable score:

Lowest price of all proposals

X 25 = Price Score

Price of Proposal being evaluated

4.2.1 Technical Evaluation: BRIM will review the technical proposals and deduct points where appropriate.

4.2.2 Minimum Acceptable Score: Vendors must score a minimum of 70% (52.5 points) of the total technical points possible. All Vendors not attaining the minimum acceptable score (MAS) shall be disqualified and removed from further consideration.

4.2.3 Cost Evaluation: BRIM will review the cost proposals and assign appropriate points thereto.

4.3 **Independent Price Determination**: A proposal will not be considered for award if the price in the proposal was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to prices with any competitor unless the proposal is submitted as a joint venture.

4.4 **Rejection of Proposals**: The State reserves the right to accept or reject any or all proposals, in part or in whole at its discretion. The State further reserves the right to withdraw this RFP at any time and for any reason. Submission of or receipt of proposals by the State confers no rights upon the bidder nor obligates the State in any manner.

4.5 **Vendor Registration**: Vendors participating in this process should complete and file a Vendor Registration and Disclosure Statement (Form WV-1) and remit the registration fee. Vendor is not required to be a registered Vendor in order to submit a proposal, but the **successful bidder must** register and pay the fee prior to the award of an actual purchase order or contract.

SECTION FIVE: CONTRACT TERMS AND CONDITIONS

5.1 **Contract Provisions**: The RFP and the Vendor's response will be incorporated into the contract by reference. The order of precedence shall be the contract, the RFP and any addendum, and the Vendor's proposal in response to the RFP.

5.2 **Public Record**: All documents submitted to the BRIM related to purchase orders or contracts are considered public records. All bids, proposals, or offers submitted by Vendors shall become public information and are available for

inspection during normal official business hours at BRIM's office after the bid opening.

5.2.1 Risk of Disclosure: The only exemptions to disclosure of information are listed in **West Virginia Code** §29B-1-4. Any information considered a trade secret must be separated from the Vendor submission and clearly labeled as such. Primarily, only trade secrets, as submitted by a bidder, are exempt from public disclosure. The submission of any information to BRIM by a Vendor puts the risk of disclosure on the Vendor. BRIM does not guarantee non-disclosure of any information to the public.

5.2.2 Written Release of Information: All public information may be released with or without a Freedom of Information request; however, only a written request will be acted upon with duplication fees paid in advance. Duplication fees shall apply to all requests for copies of any document. Currently, the fees are 50 cents per page, or a minimum of \$10.00 per request, whichever is greater.

5.3 **Conflict of Interest**: Vendor affirms that neither it nor its representatives have any interest nor shall 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.

5.4 **Vendor Relationship**: The relationship of the Vendor to BRIM 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 RFP and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of BRIM or the State of West Virginia 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, *et cetera* and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless BRIM and the State of West Virginia, and shall provide each 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.

The Vendor shall not assign, convey, transfer, or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association, or entity without expressed written consent of BRIM.

5.4.1 Subcontracts/Joint Ventures: The Vendor may, with the prior written consent of the State, enter into subcontracts for performance of work under this contract.

5.4.2 Indemnification: The Vendor agrees to indemnify, defend, and hold harmless the State of West Virginia and BRIM, 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 laws.

5.4.3 Governing Law: This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws and regulations as provided by Federal, State, and local governments.

5.5 Term of Contract and Renewals: This contract will be effective upon award and shall extend for the period of one (1) year, at which time the contract may, upon mutual consent, be renewed. Such renewals are for a period of up to one (1) year, with a maximum of two (2) one-year renewals, or until such reasonable time thereafter as is necessary to obtain a new contract. The “reasonable time” period shall not exceed twelve (12) months. During the “reasonable time” period Vendor may terminate the contract for any reason upon giving BRIM ninety (90) days written notice. Notice by Vendor of intent to terminate will not relieve Vendor of the obligation to continue providing services pursuant to the terms of the contract.

5.6 Non-Appropriation of Funds: If funds are not appropriated for BRIM in any succeeding fiscal year for the continued use of the services covered by this contract, BRIM may terminate the contract at the end of the affected current fiscal period without further charge or penalty. BRIM shall give the Vendor

written notice of such non-appropriation of funds as soon as possible after BRIM receives notice. No penalty shall accrue to BRIM in the event this provision is exercised.

- 5.7 **Changes:** If changes to the contract become necessary, a formal contract change order will be negotiated by BRIM and the Vendor.

As soon as possible, but not to surpass thirty (30) days after receipt of a written change request from BRIM, the Vendor shall determine if there is an impact on price with the change requested and provide BRIM with a written Statement identifying any price impact on the contract. The Vendor shall provide a description of any price change associated with the implementation.

NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE

- 5.8 **Price Quotations:** The price(s) quoted in the Vendor's proposal will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided in the original specifications.
- 5.9 **Invoices and Progress Payments:** The Vendor shall submit invoices, in arrears, to BRIM at the address on the face of the purchase order labeled "Invoice To." Progress payments may be made at the option of BRIM on the basis of percentage of work completed if so defined in the final contract.
- 5.10 **Contract Termination:** BRIM may terminate any contract resulting from this RFP immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFP and resulting contract. BRIM shall provide the Vendor with advance notice of performance conditions which may endanger the contract's continuation. If after such notice the Vendor fails to remedy the conditions within the established timeframe, BRIM shall order the Vendor to cease and desist any and all work immediately. BRIM shall be obligated only for services rendered and accepted prior to the date of the notice of termination.

The contract may be terminated by the State with thirty (30) days prior notice pursuant to **West Virginia Code of State Rules** § 148-1-7.16.2.

- 5.11 **Special Terms and Conditions:**

5.11.1 **Insurance Requirements:** Prior to award of a contract, the successful vendor must provide liability insurance certificates to show that there is an amount of liability insurance that BRIM determines to be adequate to cover exposures resultant from the services rendered by the vendor.

5.11.2 License Requirements: Successful vendor must demonstrate that he has any license required to conduct his business.

5.11.3 The successful vendor must be willing to execute a WV-96 form at the time of contract signing. (A copy is attached for review)

5.12 **Record Retention (Access and Confidentiality):**

Vendor shall comply with all applicable Federal and State rules, regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by the Vendor. The Vendor shall maintain such records a minimum of five (5) years and make such records available to BRIM personnel at the Vendor's location during normal business hours upon written request by BRIM within ten (10) days after receipt of the request.

Vendor shall have access to private and confidential data maintained by BRIM to the extent required for the Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State of West Virginia and BRIM against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractors, or individuals permitted access by the Vendor.

ATTACHMENT A: Project Goals and Objectives

2.3.1 Goal/Objective 1: To find a consultant to assist BRIM in formulating an optimal program for addressing West Virginia State Agency Workers' Compensation coverage needs. The consultant will have knowledge of, and be able to explain and evaluate the various means of providing coverage. These include, but are not limited to: full transfer of risk; self-insurance; captive; fronting; bundled v. unbundled services; as well as any others that may be of benefit to the State.

VENDOR RESPONSE

2.3.2 Goal/Objective 2: To find a consultant to assist BRIM who is fully familiar with State and Federal laws and regulations that affect Workers' Compensation coverage for the State of West Virginia and its agencies

VENDOR RESPONSE

2.3.3 Goal/Objective 3: To find a consultant to assist BRIM who can analyze State Agency Workers' Compensation needs and provide written recommendations including funding methods, retention levels, deductibles, etc.

VENDOR RESPONSE

2.3.4 Goal/Objective 4: To find a consultant to assist BRIM who can define plan needs and assist in providing adequate information to prospective vendors to help said vendors formulate a proposal.

VENDOR RESPONSE

2.3.5 Goal/Objective 5: To find a consultant to assist BRIM in evaluating vendor submissions.

VENDOR RESPONSE

2.3.6 Goal/Objective 6: To find a consultant who can assist BRIM in developing needed policies and procedures for effective administration of the program ultimately developed.

VENDOR RESPONSE

Use as many sheets of paper as may be needed to properly address each Goal/Objective

ATTACHMENT B: Mandatory Requirements

2.4.1 The successful vendor must demonstrate that it has the training and experience necessary to meet all the projects and goals listed in 2.3.

VENDOR RESPONSE

2.4.2 The successful vendor must provide BRIM with the names and contact information for two (2) people each, associated with at least three (3) other clients for whom the vendor has supplied the same or substantially the same services.

VENDOR RESPONSE

2.4.3 The successful vendor must provide BRIM with a detailed methodology outlining how it would address BRIM's needs as outlined in this RFP. The vendor should estimate how many hours it believes *may* be necessary to complete the work needed. (Understanding that this is only an estimate and the actual hours needed will depend upon facts and information developed at a later date.)

VENDOR RESPONSE

2.4.4 The successful vendor must demonstrate its experience in structuring and obtaining a Workers' Compensation program for at least one State government or other large public governmental entity within the past five years.

VENDOR RESPONSE

2.4.5 The successful vendor must demonstrate its experience in negotiating and managing a large deductible plan, a captive plan, a self-insured plan, or alternatively, major components of a plan such as Claim Administration or Loss Control Services for a State government or other large public governmental entity within the past five years.

VENDOR RESPONSE

2.4.6 The successful vendor and key staff assigned to this project must be available to BRIM during regular hours (8:00am to 5:00pm EST Monday thru Friday). Acknowledge your understanding and commitment to this requirement.

VENDOR RESPONSE

2.4.7 BRIM must place primary and excess insurance with State of West Virginia admitted carriers. Acknowledge your understanding of this requirement. Identify the individual within your firm who would have the overall responsibility for the BRIM account and the office in which each account team member is located.

VENDOR RESPONSE

2.4.8 Please list the top five (5) insurance carriers your firm writes Workers' Compensation Insurance for and the premium amount with each.

VENDOR RESPONSE

2.4.9 Identify and briefly describe your ability to provide any of the following services, either by your firm or by contracting with a third-party on behalf of your client:

1. Insurance Policy Procurement
2. Claims Administration Services
3. Claims Management Software
4. Claims Auditing
5. Loss Control Services
6. Actuarial Services
7. Vendor Management Services
8. Independent Medical Evaluation
9. Return to Work Program
10. Rating/Underwriting Evaluation/Consulting

VENDOR RESPONSE

Use as many sheets of paper as may be needed to properly address each Response

I certify that the proposal submitted meets or exceeds all the mandatory specifications of this RFP. Additionally, I agree to provide any additional documentation deemed necessary by the State of West Virginia to demonstrate compliance with said mandatory specifications.

(Company)

(Representative Name, Title)

(Contact Phone/Fax Number)

(Date)

Attachment C: Cost Sheet

Cost information as detailed in 2.4.3 of the RFP and submitted in a separate sealed envelope. Cost should be clearly marked and include an all-inclusive dollar per hour cost inclusive of travel, supplies, reports, etc. for each level of participation. This total amount should mirror the total number of hours proposed to complete the project.

For example:

Partner/Principal _____ hours @ \$ _____/hour = \$ _____

Manager/Supervisor _____ hours @ \$ _____/hour = \$ _____

Support Staff _____ hours @ \$ _____/hour = \$ _____

Other _____ hours @ \$ _____/hour = \$ _____

Total _____ hours Cost Proposal \$ _____

If applicable, sign and submit the attached Resident Vendor Preference Certificate with the proposal.

AGREEMENT ADDENDUM

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.
7. **RECOUPMENT** - Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY:** -Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

ACCEPTED BY:
STATE OF WEST VIRGINIA _____

VENDOR _____

Spending Unit: _____

Company Name: _____

Signed: _____

Signed: _____

Title: _____

Title: _____

Date: _____

Date: _____

State of West Virginia VENDOR PREFERENCE CERTIFICATE

Certification and application* is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

1. Application is made for 2.5% resident vendor preference for the reason checked:

- Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**
- Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or,**
- Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or,**

2. Application is made for 2.5% resident vendor preference for the reason checked:

- Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**

3. Application is made for 2.5% resident vendor preference for the reason checked:

- Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**

4. Application is made for 5% resident vendor preference for the reason checked:

- Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or,**

5. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:

- Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or,**

6. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:

- Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: _____ **Signed:** _____

Date: _____ **Title:** _____

**Check any combination of preference consideration(s) indicated above, which you are entitled to receive.*