



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia
Contract

Order Date: 10-26-2021

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

| | | | |
|-----------------------|---|--------------------------|------------|
| Order Number: | CCT 0802 0802 DMV2200000002 1 | Procurement Folder: | 895623 |
| Document Name: | Portable Drivers License and ID Card Issuance Units | Reason for Modification: | |
| Document Description: | Portable Drivers License and ID Card Issuance Units | | |
| Procurement Type: | Central Sole Source | | |
| Buyer Name: | Toby L Welch | | |
| Telephone: | (304) 558-8802 | | |
| Email: | toby.l.welch@wv.gov | | |
| Shipping Method: | Best Way | Effective Start Date: | 2021-08-05 |
| Free on Board: | FOB Dest, Freight Prepaid | Effective End Date: | 2025-12-31 |

| VENDOR | DEPARTMENT CONTACT | | | | | | | | | | | | | | | | | | | | |
|--|--------------------|---------------------|---------------------|---------------|----|----|--------|---|----|-------------|--|--|----|-------------|--|--|----|-------------|--|--|---|
| Vendor Customer Code: 000000187048 IDEMIA IDENTITY & SECURITY USA LLC 6840 CAROTHERS PKWY STE 650 FRANKLIN TN 37067 US Vendor Contact Phone: 999-999-9999 Extension: Discount Details: <table><thead><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr></thead><tbody><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>Not Entered</td><td></td><td></td></tr><tr><td>#3</td><td>Not Entered</td><td></td><td></td></tr><tr><td>#4</td><td>Not Entered</td><td></td><td></td></tr></tbody></table> | | Discount Allowed | Discount Percentage | Discount Days | #1 | No | 0.0000 | 0 | #2 | Not Entered | | | #3 | Not Entered | | | #4 | Not Entered | | | Requestor Name: Cecil W Loyd Requestor Phone: (304) 872-8781 Requestor Email: cecil.w.loyd@wv.gov 22 FILE LOCATION _____ |
| | Discount Allowed | Discount Percentage | Discount Days | | | | | | | | | | | | | | | | | | |
| #1 | No | 0.0000 | 0 | | | | | | | | | | | | | | | | | | |
| #2 | Not Entered | | | | | | | | | | | | | | | | | | | | |
| #3 | Not Entered | | | | | | | | | | | | | | | | | | | | |
| #4 | Not Entered | | | | | | | | | | | | | | | | | | | | |

| INVOICE TO | SHIP TO |
|---|---|
| MANAGER DIVISION OF MOTOR VEHICLES PURCHASING/ACCOUNTS PAYABLE 5707 MacCorkle Ave. SE, Ste. 200 CHARLESTON WV 25304 US | MANAGER DIVISION OF MOTOR VEHICLES KANAWHA CITY DMV 5707 MACCORKLE AVE, SE, STE 400 CHARLESTON WV 25304 US |

10-27-21
BPS

Purchasing Division's File Copy

Total Order Amount: \$850,300.00

ENTERED

| | | |
|---|---|--|
| PURCHASING DIVISION AUTHORIZATION DATE: <u>Tanaka 10/27/2021</u> ELECTRONIC SIGNATURE ON FILE | ATTORNEY GENERAL APPROVAL AS TO FORM DATE: <u>10/27/2021</u> ELECTRONIC SIGNATURE ON FILE | ENCUMBRANCE CERTIFICATION DATE: <u>10-29-2021</u> ELECTRONIC SIGNATURE ON FILE |
|---|---|--|

Extended Description:

Direct Award:

Portable Driver's license and ID card issuance units, (tablets, stand, protective case, B5000, case, DocAuth software, integration and delivery, maintenance and support).

This contract constitutes the acceptance of a fixed contract made by and between the State of West Virginia by the Purchasing Director for the Agency, The West Virginia Department of Transportation- Division of Motor Vehicles, and the vendor: Idemia Identity & Security, USA LLC for a contract to provide portable drivers license and ID card issuance units, (tablets, stand, protective case, B5000, case, DocAuth software, integration and delivery, maintenance and support). for the West Virginia Division of Motor Vehicles per the Order of Precedence, WV96, West Virginia General Terms and Conditions , Vendor's Quote as attached.

Effective Dates: 8/5/21 - 12/31/25

Renewals remaining: 0

Award of CSSD DMV2200000002

To purchase portable drivers license and ID card issuance units, (tablets, stand, protective case, B5000, case, DocAuth software, integration and delivery, maintenance and support).

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|--------------|----------------|--------------|----------|--------------|--------------|
| 1 | 43211509 | 25.00000 | EA | 13872.000000 | \$346,800.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: Tablet, Stand, Protective Case

Extended Description:

Portable Drivers License and ID Card Issuance Units, tablet, stand and protective case

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|--------------|----------------|--------------|----------|-------------|-------------|
| 2 | 43230000 | 25.00000 | EA | 2710.000000 | \$67,750.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: B5000, Case, DocAuth Software

Extended Description:

B5000, case, DocAuth software

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|--------------|----------------|--------------|----------|---------------|--------------|
| 3 | 81111812 | 1.00000 | EA | 130000.000000 | \$130,000.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: Integration and Delivery

Extended Description:

Integration and Delivery

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|--------------|----------------|--------------|----------|--------------|-------------|
| 4 | 81111812 | 1.00000 | EA | 12500.000000 | \$12,500.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: Maintenance Year 1 (12 months)

Extended Description:

Portable Drivers License and ID Card Issuance Units, maintenance year 1 (12 months)

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|---------------------|-------------------|---------------------|-----------------|--------------|-------------|
| 5 | 81111812 | 1.00000 | EA | 82000.000000 | \$82,000.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: Maintenance Year 2 (12 months)

Extended Description:

Portable Drivers License and ID Card Issuance Units, maintenance year 2 (12 months)

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|---------------------|-------------------|---------------------|-----------------|--------------|-------------|
| 6 | 81111812 | 1.00000 | EA | 82000.000000 | \$82,000.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: Maintenance Year 3 (12 months)

Extended Description:

Portable Drivers License and ID Card Issuance Units, maintenance year 3 (12 months)

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|---------------------|-------------------|---------------------|-----------------|--------------|-------------|
| 7 | 81111812 | 1.00000 | EA | 82000.000000 | \$82,000.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: Maintenance Year 4 (12 months)

Extended Description:

Portable Drivers License and ID Card Issuance Units, maintenance year 4 (12 months)

| Line | Commodity Code | Quantity | Unit | Unit Price | Total Price |
|---------------------|-------------------|---------------------|-----------------|--------------|-------------|
| 8 | 81111812 | 1.00000 | EA | 47250.000000 | \$47,250.00 |
| Service From | Service To | Manufacturer | Model No | | |

Commodity Line Description: Maintenance Year 5 (6 months)

Extended Description:

Portable Drivers License and ID Card Issuance Units, maintenance year 5 (6 months)

| | Document Phase | Document Description | Page |
|---------------|----------------|---|------|
| DMV2200000002 | Draft | Portable Drivers License and ID Card Issuance Units | 4 |

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

ORDER OF PRECEDENCE AND MODIFICATION ADDENDUM

THIS ORDER OF PRECEDENCE AND MODIFICATION ADDENDUM, (hereinafter "Addendum") by and between Idemia Identity & Security USA LLC. (hereinafter "Idemia") and State of West Virginia Division of Motor Vehicles (hereinafter "DMV"), (both referred to as "Parties"), is intended to identify the various documents that comprise the contract resulting from the direct award solicitation identified as Portable Driver's License and ID Card (DL/ID) Issuance Units (the "Contract"); establish an order of precedence for the various documents, and modify certain terms and conditions contained in those documents.

NOW THEREFORE, the Parties hereto hereby agree as follows:

1. **Order of Precedence:** The Contract is comprised of the documents listed in this section. The terms and conditions contained in the various documents shall be interpreted according to the priority given to the Contract document in this section. In that way, any terms and conditions contained in the first priority document shall prevail over conflicting terms in the second priority document, and so on.

Contract Documents:

- a. **Order of Precedence and Modification Addendum** (this document) – First Priority
 - b. **WV-96 Agreement Addendum** (Attached as Exhibit A) – Second Priority
 - c. **General Terms and Conditions** (Attached as Exhibit B) – Third Priority
 - d. **Vendor Documents** (Exhibit C) – Fourth Priority
2. **Document Modifications:** The Contract documents identified below are modified as shown below. Any modification of the documents not included below, or modified through the established order of precedence above, are expressly rejected.

a. General Terms and Conditions:

- i. **Contract Term:** The term entitled "3. CONTRACT TERM; RENEWAL; EXTENSION:" is modified by identifying the contract as a Term Contract and including the following language: **"Initial Contract Term: Initial Contract Term:** This Contract becomes effective on August 5, 2021 and extends for a period of 4 ½ year(s)."
- ii. **Notice to Proceed:** The term entitled "4. NOTICE TO PROCEED:" is removed in its entirety and replacing it with the following:

"4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract on the schedule agreed to by the parties."
- iii. **Required Documents:** The term entitled "7. REQUIRED DOCUMENTS:" is deleted in its entirety.

ORDER OF PRECEDENCE AND MODIFICATION ADDENDUM

iv. Liquidated Damages: The term entitled "11. LIQUIDATED DAMAGES:" is not applicable.

v. Payment in Arrears: The term entitled "14. PAYMENT IN ARREARS:" is modified by removing it in its entirety and replaced with the following:

14. PAYMENT IN ARREARS: Payment terms are governed by the WV-96.

vi. Additional Fees: The term entitled "17. ADDITIONAL FEES" is modified by adding the following last sentence.

The foregoing shall not require Vendor to provide goods or perform services that are outside the scope of Vendor's commitments hereunder. Any such additional services shall be subject to the parties' prior agreement to Vendor's compensation therefor.

vii. Cancellation: the term entitled "19. CANCELLATION:" is modified by deleting the last sentence.

viii. Compliance with Laws: The term entitled "22. COMPLIANCE WITH LAWS:" is modified by adding the following sentence.

"In the event it becomes necessary for Vendor to modify the goods or services otherwise to be provided hereunder due to a change in laws, regulations, or ordinances, those changes may only be added to this contract via change order in accordance with Section 24. MODIFICATIONS."

ix. Warranty: The term entitled "28. WARRANTY" is modified by adding the following sentence.

"The foregoing warranties apply only for a period for which the State has paid Vendor any applicable support and/or maintenance fee."

x. Indemnification: The term entitled "36. INDEMNIFICATION:" is removed in its entirety and replaced with the following:

"36. 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 *asserted* 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 publication, translation, reproduction, delivery, performance, use, or disposition, *by the Vendor, its officers, employees, or subcontractors*, 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,

ORDER OF PRECEDENCE AND MODIFICATION ADDENDUM

employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws."

b. WV-96

i. Limiting Liability: The term entitled "9. LIMITING LIABILITY" is removed in its entirety and replaced with the following:

"9. LIMITATION ON LIABILITY. Except to the extent liability arises from the gross negligence or willful misconduct of Vendor or Vendor's subcontractors, VENDOR'S TOTAL LIABILITY, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, INDEMNIFICATION, OR OTHERWISE, WILL BE LIMITED TO THE DIRECT DAMAGES RECOVERABLE UNDER LAW, BUT NOT TO EXCEED THE CHARGES DUE HEREUNDER FOR HARDWARE AND SOFTWARE, PLUS ONE YEAR OF THE ANNUAL FEE. ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY COMMERCIAL LOSS; INCONVENIENCE; LOSS OF USE, TIME, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY VENDOR PURSUANT TO THIS AGREEMENT."

SIGNATURE PAGE FOLLOWS

ORDER OF PRECEDENCE AND MODIFICATION ADDENDUM

IN WITNESS WHEREOF, the Parties have entered into this Addendum as of the date of the last signature below.

STATE OF WEST VIRGINIA

IDEMIA

By: Carla Rotsch
Name: Carla Rotsch
Its: Business Manager
Date: 9-24-21

By: M. Lee
Name: Michael C. Lee
Its: VP Civil Identity
Date: Sept 21, 2021

**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"): Division of Motor Vehicles

Vendor: IDEMIA Identity and Security USA, L.L.C.

Contract/Lease Number ("Contract"): To be assigned

Commodity/Service: Portable Driver License and ID Card Issuance Units

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**
2. **PAYMENT** -- 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.
Any language imposing any interest or charges due to late payment is deleted.
3. **FISCAL YEAR FUNDING** -- Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. 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.
4. **RIGHT TO TERMINATE** -- The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.
Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.
5. **DISPUTES** -- Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.
Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. 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.
Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.
6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** -- Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** -- Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** -- Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** -- Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** -- Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-2-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.
- Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *italics* to identify language being added and ~~strikes through~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: WV DOT
By: Carla Rotsch
Printed Name: Carla Rotsch
Title: Business Manager
Date: 9-24-21

Vendor: IDEMIA Identity and Security USA, LLC
By: [Signature]
Printed Name: Michael C. Lee
Title: VP, Business Operations
Date: 09-21-2021

GENERAL TERMS AND CONDITIONS:

- 1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office 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 and the Purchasing Division, and approved as to form by the Attorney General, 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 that is published by the Purchasing Division.
 - 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 August 5, 2021 and the initial contract term extends until December 31, 2025

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division 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. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **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, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

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.

☐ **Other:** See attached _____
Revised 04/21/2021

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.

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 a 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 Purchasing Division by the Vendor as specified below.

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☐ **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.

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☐

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 and must include the State as an additional insured 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: one million dollars (\$1,000,000) per occurrence.
- ☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.
- ☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ 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: _____ 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.
- ☐
- ☐
- ☐
- ☐

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

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. [Reserved]

11. 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.

12. 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.

13. 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.

14. 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 maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and 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.)

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. 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.

18. 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.

19. CANCELLATION: The Purchasing Division Director 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 Purchasing Division Director 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.

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

21. 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.

22. 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.

SUBCONTRACTOR COMPLIANCE: 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. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. 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.

24. 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, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. 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.

26. 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.

27. 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, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. 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.

29. 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.

30. 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 <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. 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.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.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.

SUBCONTRACTOR COMPLIANCE: 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. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a 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.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) 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; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also 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. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. 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.

36. 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.

37. PURCHASING AFFIDAVIT: 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. Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

38. 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.

39. 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.

40. 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.

41. 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.

42. 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.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the Revised 04/21/2021

WV Ethics Commission: This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. 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.

45. 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.

Mark Hamilton, Client Executive

(Name, Title)

Mark Hamilton, Client Executive

(Printed Name and Title)

11911 Freedom Drive, Suite 650, Reston, VA 20190

(Address)

817.501.8588

(Phone Number) / (Fax Number)

Mark.Hamilton@us.idemia.com

(email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, 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 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.

IDEMIA Identity and Security USA, LLC

(Company)



(Authorized Signature) (Representative Name, Title)

Michael C. Lee, VP Business Operations

(Printed Name and Title of Authorized Representative)

09-21-2021

(Date)

919-274-3908

(Phone Number) (Fax Number)



296 Concord Road, Suite 300
Billerica, MA 01821
978-215-2400

August 30, 2021

To:
Mr. Steven Monroe
Executive Assistant to the Commissioner
West Virginia Division of Motor Vehicles
5707 MacCorkle Avenue, S.E.
Charleston, WV 25317
304-926-3852
Steven.E.Monroe@wv.gov

From
Mr. Mark Hamilton
Client Executive Director
296 Concord Road, Suite 300
Billerica, MA 01862
817.501.8568
Mark.Hamilton@us.idemia.com

Quote Number:

FQ20210607WV01R02

Dear Mr. Monroe,

IDEMIA Identity and Security USA LLC ("IDEMIA") is pleased to provide the West Virginia Department of Motor Vehicles (WVDMV) with this quotation for 25 tablets for DL issuance and the accompanying service over the 4.5 years contract.

| ID | Goods and Services | Unit Price | Unit of Measure | Quantity | Price |
|----|--------------------------------------|------------|-----------------|----------|------------------|
| 1 | Tablet + stand + protective case (*) | \$13,872 | Per unit | 25 | \$346,800 |
| 2 | B5000 + case + DocAuth software | \$2,710 | Per unit | 25 | \$67,750 |
| 3 | Integration and delivery | \$130,000 | One time | 1 | \$130,000 |
| 4 | Maintenance – year 1 (12 months) (*) | \$12,500 | Annual | 1 | \$12,500 |
| 5 | Maintenance – year 2 (12 months) | \$82,000 | Annual | 1 | \$82,000 |
| 6 | Maintenance – year 3 (12 months) | \$82,000 | Annual | 1 | \$82,000 |
| 7 | Maintenance – year 4 (12 months) | \$82,000 | Annual | 1 | \$82,000 |
| 8 | Maintenance – year 5 (6 months)(**) | \$82,000 | Annual | ½ | \$47,250 |
| | Total all-inclusive cost | | | | \$850,300 |

(*) Payable at tablet delivery

(**) Maintenance for 6 months. Virtual backdrop licenses sold annually, valid for 12 months.

Prices specified in this Firm Quotation are based on the information WVDMV provided to IDEMIA and shall remain fixed and valid for 30 days from the date of this quotation.

IDEMIA's Offer comprises the following:

1. Delivery, installation, and integration of the 25 B5000 document authentication units, 25 IdentoGO tablets w/stands + protective cases.
2. Applicable spares to sustain service for the four and half (4.5) year contract.

Quote #: FQ20210607WV01R02

Page 1 of 3



296 Concord Road, Suite 300
Billerica, MA 01821
978-215-2400

3. 25 annual subscriptions for the Virtual Backdrop.
4. Support and Maintenance for the 25 IdentoGO tablets via "mail-in to depot".
5. Support and Maintenance for the 25 B5000 units.
6. Configuration of a single capture workflow for tablet-based enrollment.

Terms and Conditions:

1. All products and services offered in this quotation will be delivered according to the Maintenance and Support Terms attached as Attachment 1 and the Terms and Conditions (TCP.pdf) and WV96, each as modified by the Order of Precedence and Modification Addendum attached as Attachment.
2. Hardware and Software will be invoiced on delivery.
3. Support term will begin on implementation through December 31, 2025, renewals limited to 4 successive one-year periods plus an additional renewal of 6 months from July 1, 2025 to December 31, 2025.

Pricing Assumptions:

1. Barcode scanner, desktop printer, and Fujitsu desktop scanner that are traditionally used in ICW workflow will not be used in conjunction with the tablet.
2. DMV is responsible for providing Wi-Fi network connection and network security.
3. DMV will provide and maintain an external Bluetooth keyboard and mouse (USB dongle keyboard and mouse will not work). No stylus will be provided.
4. DMV is responsible for OS updates.
5. Antivirus software is provided and maintained by the DMV
6. At the end of each workday, tablets must be connected to AC power and remain connected to the DMV network to be ready to receive updates for OS, AV, or IDEMIA software.
7. DMV is responsible for maintenance of DMV applications on tablets. Software updates must be coordinated with IDEMIA.
8. Repair service model is mail-in to depot. IDEMIA will ship replacement unit by next day service. DMV responsible to box the failed unit in the box received with the replacement unit and handoff to delivery carrier. IDEMIA pays for the shipping both ways.
9. Replacement unit models may vary slightly from the initial unit during the course of the 4.5 year contract but any replacement unit will meet specifications.
10. In the event of encountering a challenging subject that the software is unable to process, DMV examiners must retry photo capture with camera directed at an alternate background.
11. WV DMV and OT must provide staff available as needed to support IDEMIA integration efforts in an aggressive delivery schedule.
12. Tablet use beyond the term of the base contract may require equipment replacement, if continued operation is required.

Thank you for the opportunity to provide this quotation. Should you have any questions, please contact me directly or any member of our account team.

Sincerely,

Mark Hamilton
Client Executive
817.501.8568

ATTACHMENT 1

Maintenance & Support Terms

(References to "Seller" mean IDEMIA and references to "Customer" mean the State of West Virginia)

- A. Support and/or Maintenance Services required hereunder only include those services specified in this quote. Without limiting the foregoing, such services explicitly **exclude**:
1. Any service work or replacements required to hardware or software due to faulty operational conditions or adverse conditions effecting Customer's facility, including, but not limited to, power surges or floods.
 2. Any service work or replacements to hardware or software required due to misuse, abuse, or negligence of Customer or its employees or agents.
 3. Any service work to a transmission medium, such as telephone lines, computer networks, or the internet, or for hardware or software malfunction caused by such transmission medium.
 4. Any service work or replacements required to hardware or software required due to tampering or modifications by persons unauthorized by Seller.
 5. Services to diagnose defects or malfunctions caused by any of the above.
 6. Operational supplies, including but not limited to, printer paper, printer ribbons, toner, photographic paper, magnetic tapes and any supplies; battery replacement for uninterruptible power supply (UPS); office furniture including chairs or workstations.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/1/2021

5/10/2021

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

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

| PRODUCER Lockton Companies 1185 Avenue of the Americas, Suite 2010 New York NY 10036 646-572-7300 | | CONTACT NAME: PHONE (A/C No. Ext): FAX (A/C No): E-MAIL ADDRESS: | | | | | | | | | | | | | | | | | | | | | | |
|--|----------------------------|---|--|-------------------------------|--|--------|------------|----------------------------|-------|------------|--------------------------|-------|------------|-------------------------|-------|------------|--|--|------------|--|--|------------|--|--|
| INSURED 1347145 IDEMIA IDENTITY & SECURITY USA, LLC 296 CONCORD ROAD, THIRD FLOOR BILLERICA MA 01821 | | <table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A:</td> <td>XL Insurance America, Inc.</td> <td>24554</td> </tr> <tr> <td>INSURER B:</td> <td>Sentry Insurance Company</td> <td>24988</td> </tr> <tr> <td>INSURER C:</td> <td>Sentry Casualty Company</td> <td>28460</td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table> | | INSURER(S) AFFORDING COVERAGE | | NAIC # | INSURER A: | XL Insurance America, Inc. | 24554 | INSURER B: | Sentry Insurance Company | 24988 | INSURER C: | Sentry Casualty Company | 28460 | INSURER D: | | | INSURER E: | | | INSURER F: | | |
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| INSURER E: | | | | | | | | | | | | | | | | | | | | | | | | |
| INSURER F: | | | | | | | | | | | | | | | | | | | | | | | | |

COVERAGES **CERTIFICATE NUMBER:** 15386256 **REVISION NUMBER:** XXXXXXXX

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

| INSR LTR | TYPE OF INSURANCE | ADDITIONAL INSURED | WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|--|--------------------|-----|---|-------------------------|-------------------------|---|
| A | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> SIR: \$100k <input checked="" type="checkbox"/> PCO SIR: \$1,778,500 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER: | Y | | US00104699LI20A | 12/1/2020 | 12/1/2021 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$ |
| B | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> \$1,000 OTC/GOLL DED | N | N | 90-17190-02 (AOS) 90-17190-03 (MA) | 5/31/2021 5/31/2021 | 5/31/2022 5/31/2022 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000 | N | N | US00104700LI20A | 12/1/2020 | 12/1/2021 | EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$ XXXXXXXX |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y/N | N/A | 90-17190-01 (AOS) 90-17190-04 (HI, WI) | 5/31/2021 5/31/2021 | 5/31/2022 5/31/2022 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |

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

State Of WV - DMV is added as additionally Insured

CERTIFICATE HOLDER

15386256
 STATE OF WEST VIRGINIA
 DEPARTMENT OF ADMINISTRATION
 ATTN: PURCHASING DIVISION, BLDG 15
 2019 WASHINGTON STREET EAST
 PO BOX 50130
 CHARLESTON WV 25305-0130

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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