



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

State of West Virginia  
**Master Agreement**

Order Date: 02-26-2024

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

<b>Order Number:</b>	CMA 0705 0705 LOT2400000005 1	<b>Procurement Folder:</b>	1368668
<b>Document Name:</b>	West Virginia Lottery contract for Security Guard Services	<b>Reason for Modification:</b>	Award for CRFQ LOT24*07
<b>Document Description:</b>	West Virginia Lottery contract for Security Guard Services		
<b>Procurement Type:</b>	Central Master Agreement		
<b>Buyer Name:</b>			
<b>Telephone:</b>			
<b>Email:</b>			
<b>Shipping Method:</b>	Best Way	<b>Effective Start Date:</b>	2024-03-01
<b>Free on Board:</b>	FOB Dest, Freight Prepaid	<b>Effective End Date:</b>	2025-02-28

VENDOR		DEPARTMENT CONTACT	
<b>Vendor Customer Code:</b>	VS0000018473	<b>Requestor Name:</b>	Thomas P Hymes
UNIVERSAL PROTECTION SERVICE LP 161 Washington Street		<b>Requestor Phone:</b>	304-558-2350
Conshohocken PA 19428 US		<b>Requestor Email:</b>	thymes@wvlottery.com
<b>Vendor Contact Phone:</b>	614.381.5977	<div style="font-size: 48px; font-weight: bold;">24</div> <div style="font-weight: bold;">FILE LOCATION _____</div>	
<b>Extension:</b>			
<b>Discount Details:</b>			
<b>#1</b>	No	0.0000	0
<b>#2</b>	No		
<b>#3</b>	No		
<b>#4</b>	No		

INVOICE TO	SHIP TO
ACCOUNTS PAYABLE LOTTERY PO BOX 2067  CHARLESTON WV 25327-2067 US	PURCHASING LOTTERY 900 PENNSYLVANIA AVE  CHARLESTON WV 25302 US

2-26-24 60

<b>Total Order Amount:</b>	Open End
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Purchasing Division's File Copy

*[Signature]* 2/26/2024  
 PURCHASING DIVISION AUTHORIZATION  
 DATE: *[Signature]* 2/26/2024  
 ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM  
 DATE: *[Signature]*  
 ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION  
 DATE: *[Signature]* 3-1-24  
 ELECTRONIC SIGNATURE ON FILE

*[Signature]* 2/29/2024

**Extended Description:**

The vendor, UNIVERSAL PROTECTION SERVICE LP, UNIVERSAL PROTECTION SERVICE LLC DBA ALLIED UNIVERSAL SEC SVS, agrees to enter into this open-end contract with The West Virginia State Lottery to provide Security Guard Services. Services as detailed in the specifications, attached terms and conditions, Addendum No. 1 published on 02/07/2024, the vendors submitted and accepted bid dated 02/14/2024 and the attached pricing page all incorporated herein by reference and a part hereof.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	92121504			HOUR	18.720000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** Security Guard II

**Extended Description:**

See Specifications and Exhibit A - Pricing Page

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
2	92121504			HOUR	20.690000
	<b>Service From</b>	<b>Service To</b>		<b>Service Contract Amount</b>	
				0.00	

**Commodity Line Description:** Security Guard III - Shift Supervisor

**Extended Description:**

See Specifications and Exhibit A - Pricing Page

## **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:** The Initial Contract Term will be for a period of One (1) Year. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as \_\_\_\_\_), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

**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 Two (2) 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:

the contract will continue for \_\_\_\_\_ years;

the 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).

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

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

**Other:** Contract Term specified in \_\_\_\_\_

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

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

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

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

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

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

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

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

**7. REQUIRED DOCUMENTS:** All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

**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.

See Specifications Section: 3.1.6 SECURITY GUARD REQUIREMENTS

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 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 that insurance requirement is listed in this section.

Vendor must maintain:

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

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

**Cyber Liability Insurance** in an amount of: \_\_\_\_\_ per occurrence.

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

**Pollution Insurance** in an amount of: \_\_\_\_\_ per occurrence.

**Aircraft Liability** in an amount of: \_\_\_\_\_ per occurrence.

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

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

**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 regarding 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 [www.state.wv.us/admin/purchase/privacy](http://www.state.wv.us/admin/purchase/privacy).

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

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

**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](mailto: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 heath, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
  1. 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
  2. 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 disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work 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 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.

**46. ISRAEL BOYCOTT:** Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

**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.

(Printed Name and Title) Daniel Roose, Director Government Services

(Address) 500B1 Prestige Park, Hurricane WV 25526


(Phone Number) / (Fax Number) 304-727-4608, 304-205-0781

(email address) Daniel.Roose@aus.com

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract 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/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

*By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.*

Universal Protection Service, LLC dba Allied Universal Security Services

(Company) 

(Signature of Authorized Representative)

Daniel Roose, Director Government Services

(Printed Name and Title of Authorized Representative) (Date)

304-727-4608, 304-205-0781

(Phone Number) (Fax Number)

Daniel.Roose@aus.com

(Email Address)



**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: CRFQ LOT2400000007**

**Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.**

**Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.**

**Addendum Numbers Received:**

*(Check the box next to each addendum received)*

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input type="checkbox"/> Addendum No. 2            | <input type="checkbox"/> Addendum No. 7  |
| <input type="checkbox"/> Addendum No. 3            | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

**I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.**

Universal Protection Service, LLC dba Allied Universal Security Services

Company



Authorized Signature

February 14, 2024

Date

**NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.**

# REQUEST FOR QUOTATION

## West Virginia Lottery Security Guard Services

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### SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids, on behalf of the Lottery to establish an open-end master agreement Contract to obtain an experienced and qualified security services contractor to recruit, train, and maintain a staff of security guards to provide security service of unarmed guards for the Lottery headquarters located at 900 Pennsylvania Ave. Charleston, WV. The service will be exclusive to Lottery headquarters and will be 24 hours per day, 365 days per year.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **“Lottery”** the term “Lottery” as used herein means the West Virginia Lottery and may be used interchangeably with the term “Agency” where appropriate.
  - 2.2 **“Contract Item” or “Contract Items”** means the list of items identified in Section 3, Subsection 1 below.
  - 2.3 **“OJT”** means on the job training.
  - 2.4 **“Pricing Pages”** means the schedule of prices, estimated order quantity, and totals attached hereto as Exhibit A and used to evaluate the RFQ.
  - 2.5 **“YTD”** means year-to-date.
3. **GENERAL REQUIREMENTS:**
  - 3.1 **Contract Items and Mandatory Requirements:** Vendor shall provide the Lottery with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.
    - 3.1.1 **SECURITY GUARD SERVICES**
      - 3.1.1.1 **VENDOR QUALIFICATIONS/REFERENCES:**

To qualify to receive an award of this contract, bidders:

        - a. Must have been in an operating business entity at a minimum of five (5) years.
        - b. Must have provided security services as described herein at a minimum of five (5) years.
        - c. Must provide a statement of the total number of years the bidding entity has been provided security services.
        - d. Should provide five (5) business references for whom the bidding entity has provided security services.
        - e. Should submit the following information to the Purchasing Division

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with their bid but must provide prior to contract award:

- i. Full legal name of the bidding entity.
- ii. The date the business entity was established.
- iii. Email, Telephone, and fax numbers of the bidding entity.
- iv. The telephone number where personnel of the bidding entity can be reached 24 hours a day.
- v. FEIN or Social Security number of the bidding entity
- vi. Number of full-time employees as of January 1, 2024
- vii. Normal hours of operation

Bidders may submit additional information on their business qualifications; please limit this additional information to a maximum of three (3) pages.

**3.1.2 SCOPE OF WORK:**

**3.1.2.1 General Staffing for Security Guards:** Vendor shall provide qualified, trained security guards to be positioned at Lottery Headquarters. Vendor shall provide the following services including, but not limited to:

3.1.2.1.1 security services for buildings, facilities, grounds, parking, and rights-of-ways for employees and visitors, customers, and vendors;

3.1.2.1.2 emergency response (contact local law enforcement, local emergency services, etc.;

3.1.2.1.3 Patrol/rover monitoring services (building, grounds, parking, etc.)

3.1.2.1.4 report damages, leaks, falling debris, etc.;

3.1.2.1.5 access control;

3.1.2.1.6 technology control station monitoring;

3.1.2.1.7 daily briefings, if requested to the Lottery and next shift guard;

3.1.2.1.8 Other related security/monitoring services as needed.

3.1.2.1.9 The service requirements vary by location and may require coverage for 24 hours per day, 365 days per year.

**3.1.2.2 General Staffing Request:** Vendor must reply to the Lottery's general staffing request within twenty-four (24) hours of the submitted request to confirm the following:

## **REQUEST FOR QUOTATION**

### **West Virginia Lottery Security Guard Services**

**3.1.2.2.1** the ability to supply the general staffing request

**3.1.2.2.2** or, the inability to supply the general staffing request which will be retained in the Lottery contract file for future reference and may allow the Agency to pursue Liquidated Damages (see below Section 3.1.20 Liquidated Damages)

**3.1.2.3 Special Staffing:** In addition to the standard and routine office hours worked by Vendor's security guards per week, Vendor must provide security guard coverage for any given number of unplanned, special events ("Specials"). Such Specials can involve providing access control or overnight security at sites of special events, facility repairs, or construction activity.

**3.1.2.3.1** The service requirements may require coverage for 24 hours per day for extended periods.

**3.1.2.3.2** Vendor must reply to the Lottery's special staffing request within twenty-four (24) hours of the submitted request to confirm the following:

**3.1.2.3.2.1** the ability to supply the special staffing request

**3.1.2.3.2.2** or, the inability to supply the special staffing request which will be retained in the Lottery contract file for future reference.

**3.1.2.4 Emergency Staffing:** In the event the Lottery determines that a situation is an emergency, the Lottery may request additional security guard coverage.

**3.1.2.4.1** Vendor shall provide the additional emergency security guard coverage requested.

**3.1.2.4.2** The emergency service requirements may require coverage for 24 hours per day for extended periods. Vendor must reply to the requesting Lottery's emergency staffing request within two (2) hours of the submitted request to confirm the following:

**3.1.2.4.2.1** the ability to supply the emergency staffing request

**3.1.2.4.2.2** or, the inability to supply the emergency staffing request which will be retained in the Lottery contract file for future reference.

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**West Virginia Lottery**  
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**3.1.2.5 Security Guard Locations:**

**3.1.2.5.1 Security Guards (all ranks) will be positioned at the Lottery headquarters located at 900 Pennsylvania Avenue Charleston, WV and will be for 24 hours per day, 365 days per year.**

**3.1.2.6 Independent Contractor:** The Vendor and its agents shall offer services to the Lottery as an independent contractor and shall accept the requirements of these specifications as the requirements necessary to perform the function of a commercial guard service at a professional and sustained level of service.

**3.1.2.7 Turnover Control:** Turnover in the total number of security guards provided to the Lottery shall not exceed 25% per annum or 30% in one quarter.

**3.1.2.7.1 Turnover Control Limitations:** Should turnover exceed these limitations the Vendor shall, at their own expense, provide all training previously provided as necessary to ensure that the replacing security guards possess a level of skill equal to the security guards who have terminated service.

**3.1.2.7.2 Vendor(s) shall make all reasonable efforts to minimize attrition among trained qualified security guards.**

**3.1.3 TRANSITIONAL REPORTING AND STAFF CONTACT:**

**3.1.3.1 At least 15 calendar days but not more than 60 calendar days prior to the expiration or cancellation of this contract, the Vendor shall provide the Lottery with a list of Vendor's security services under this contract.**

**3.1.3.2 Vendor shall also provide contact information for each of the security personnel providing security service to Lottery.**

**3.1.3.3 The vendor shall permit Lottery and the winning bidder in subsequent bids of similar security contracts to contact the Vendor's personnel prior to the expiration of this contract to discuss future employment with the winning bidder.**

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**3.1.4 REPLACEMENT OF EQUIPMENT PROVISIONS:**

**3.1.4.1** The Vendor shall bear the cost of repair and/or replacement of any equipment provide by the Lottery for use in performing the security services that is rendered inoperative because of misuse, or abuse of the contract employee using the equipment, (or failing to provide reasonable care and security,) or due to a failure to provide the contract employee with training sufficient to operate the equipment in a normal, safe, and effective manner.

**3.1.4.1.1** This provision shall not apply to equipment failure mutually agreed by the Lottery and the Vendor as having occurred as a result of normal use or wear.

**3.1.5 REPORTING REQUIREMENTS:**

**3.1.5.1 Reporting & Documentation of Incidents:** The Vendor or his designee shall be responsible for providing both a written and oral report of any incident that occurs on any shift at the close of that shift period. This report shall be provided to the shift supervisor. An incident is defined as, but not limited to, the following:

**3.1.5.1.1** Any apparent or suspected criminal attack exercised against the Lottery, its assets, or personnel, including the employees of the contractor assigned to the site or any authorized or unauthorized visitors thereon.

**3.1.5.1.2** Any criminal or civil charges brought against the Vendor or its personnel as it may relate to the contracted service.

**3.1.5.1.3** Any apparent trespass of the Lottery's property.

**3.1.5.1.4** Any verbal or physical confrontation resulting between a contract employee and a Lottery employee or guests or visitors on the campus.

**3.1.5.1.5** Any performance failure of the Vendor.

**3.1.5.1.6** Any federal, state, or county regulatory requirement in which the Vendor is in noncompliance.

**3.1.5.1.7** Any equipment or system failure associated with the performance of the contracted service.

**3.1.5.1.8** Any fire or unsafe condition existing within the Lottery's environment and observed by or reported to a contract employee, and emergency actions taken by the contract employee to eliminate or improve such conditions.

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**3.1.5.1.9** Any incident in which procedures governing the safe and orderly operation of the site are violated.

**3.1.5.2 General Reporting Requirements:** The Vendor shall provide to the Lottery written reports as identified in substance set forth below. These reporting requirements shall not be considered exclusive, and the Lottery may, at its discretion, identify and request other information relating to the contracted service. All documentation submitted under this subsection will be certified by signature as being true and correct.

**3.1.5.2.1 Required Reports, Report Contents, and Due Dates:**

**3.1.5.2.1.1 Billing report:** Vendor shall submit upon request a Billing report to Lottery for services under this contract and should contain the following items: Name of the officer, skill level assigned, billing rate, days, hours per day and locations worked, and a total amount due and payable.

**3.1.5.2.1.1.1** The Billing report will be due up on request on Tuesdays on a bi-weekly basis (every other Tuesday).

**3.1.5.2.1.2 Personnel Turnover Report:** Vendor shall submit upon request a Personnel Turnover report to Lottery for services under this contract.

**3.1.5.2.1.2.1** The Personnel Turnover report shall contain the percentage of turnover the vendor experienced in its security guard services provided to the Lottery for each month of the quarter and for the entire quarterly period.

**3.1.5.2.1.3 Summary of Service Report:** Vendor shall provide upon request an Hours of Service report to Lottery for services under this contract. The Hours of Service report shall include a listing of the hours of service performed by post, a summary of the service provided, and the compensation rate paid.

**3.1.5.2.1.4 Training report:** Vendor shall provide upon request the Training report to Lottery for services under this contract. The training report should contain the following items: Name of the individuals completing the training, designation of classroom or on-the-job training, number of hours trained, and training topics covered.

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**3.1.5.2.1.5 Proof of License Renewal and Insurance:** Vendor shall provide up on request proof that all applicable licenses and insurance have been renewed to Lottery for services under this contract. Such proof shall be provided in a form acceptable to Lottery.

**3.1.5.2.1.6 Compliance and Noncompliance Reporting:** The requirements set forth in this document pertain to the form and substance in which work shall be administered. The successful Vendor shall adhere to these requirements and shall notify the Lottery of any noncompliance prior to occurrence, if possible, but no later than five business days after occurrence.

**3.1.5.2.1.7 Employment Reporting:** The Vendor shall provide the Lottery with a list of all Vendors' employees on a regular basis and upon request, who are currently assigned to this contract, potential candidates for assignment to this contract or are temporary assignment to this contract.

The contract number CMA must be included on all Reports. Send reports to: [ccrouch@wvlottery.com](mailto:ccrouch@wvlottery.com) and [scompston@wvlottery.com](mailto:scompston@wvlottery.com)

**Failure to supply such reports upon request may be grounds for cancellation of this Contract.**

**3.1.6 SECURITY GUARD REQUIREMENTS:**

The requirements set forth in this section pertain to the quality and performance capability of security guards assigned to this contract service. In the event specific requirements set forth herein are in conflict with any government regulations, the government regulations shall prevail.

**3.1.6.1 Security Guard Minimum Qualifications:** Each candidate Vendor considers for performance of this contract shall have the minimum qualifications listed below prior to beginning the training process. Experience may be considered as a substitute for certain minimum qualifications when appropriate. To meet the minimum qualifications for performing under this contract Vendor's employees must:

**3.1.6.1.1** must be 18 years of age or older

**3.1.6.1.2** must have a high school diploma or equivalent written examination

**3.1.6.1.3** must have a valid motor vehicle operator's license (when operation of motor vehicle is required)

**3.1.6.1.4** pass a background check as outlined below



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### **West Virginia Lottery Security Guard Services**

**3.1.6.1.5** pass a physical examination and drug test as outlined below

**3.1.6.1.6** complete the required training as outlined below

**3.1.6.1.7** Pass a written, validated examination developed by the Vendor that is indicative of the candidate's ability to understand and perform the duties to be assigned.

**3.1.6.1.7.1** Examinations must meet criteria that impartially measure the knowledge or skills required for the particular job or class of jobs the candidate seeks or that impartially affords the employer a chance to measure the applicant's ability to perform the job or particular class of job.

**3.1.6.2 Background Check:** All potential security guards proposed for service under this contract must have a complete background check performed by Vendor at Vendor's sole cost. The Lottery will provide a separate mandatory background check, at no cost to the Vendor, for all security guards selected for service under this contract within 48 hours of scheduled shift at Lottery Headquarters and must be administered before candidates may start. The background check will include but not be limited to:

- a.* A credit check.
- b.* Confirmation of previous employment.
- c.* Verification of references.
- d.* Criminal record check on the State and Federal level.
- e.* Driver's license verification and background information.
- f.* Finger print validation by West Virginia Lottery Security personnel.
- g.* Five years of employment and neighborhood experience (when possible).

**3.1.6.2.1** All security guards submitted by Vendor for service under this contract must have no record of convictions for criminal offenses (State and Federal) and must have a credit report acceptable to the Lottery.

**3.1.6.2.2** A copy of the fingerprint validation report shall be submitted to the Lottery when the security guard is assigned to the contract. Under no circumstances shall a guard be assigned to this contract without the fingerprint validation report first being submitted to the Lottery.

**3.1.6.2.3** The Vendor shall present the results of the background check to the Lottery for consideration prior to assigning any security guard to perform under this contract.

**3.1.6.2.3.1** The Lottery may accept a Vendor's manager's certified report (must be dated, signed and notarized) that a background investigation was conducted in accordance with

## **REQUEST FOR QUOTATION**

### **West Virginia Lottery Security Guard Services**

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**the stipulations stated herein and that an impartial review revealed that no information was discovered during the investigation that would be harmful to the Lottery's interests by assigning the candidate to the contract. The Lottery reserves the right to obtain copies of background investigations.**

#### **3.1.6.3 Physical Examination and Drug Testing:**

**3.1.6.3.1 Physical Examination:** Security guards assigned to this contract must pass a physical examination by a licensed Physician prior to being assigned to perform under this contract and **annually** thereafter.

**3.1.6.3.1.1** Guards are deemed to have passed the physical examination if the guard is found to be free from any hearing, sight or physical limitations which would prevent performance of duties. A security guard will be deemed to have a sight limitation if the security guard's vision is not corrected to 20/20 or better.

**3.1.6.3.1.2** All cost for the annual physical examination will be the responsibility of the Vendor.

**3.1.6.3.2 Drug Testing:** Security Guards assigned to this contract must pass a drug test prior to being assigned to perform under this contract and **annually** thereafter.

**3.1.6.3.2.1** A guard is deemed to have passed the drug test if the guard is found to be free of all illegal and performance impairing substances (including alcohol).

**3.1.6.3.2.2** Random drug testing can be requested by the Lottery and paid for by the Lottery.

#### **3.1.6.3.3 Testing Failure:**

**3.1.6.3.3.1** If a potential security guard fails the physical examination, or drug testing the guard shall not be employed to perform services under this contract.

**3.1.6.3.3.2** If a security guard already employed to provide services under this contract fails the drug testing, Vendor shall immediately remove the security guard from service under this contract.

**3.1.6.3.3.3** If a security guard already employed to provide services under this contract fails the physical

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examination testing in subsequent years, the guard will be required to take another physical examination within 60 calendar days after the date of the failed exam.

**3.1.6.3.3.4** If the guard fails either test or examination for the second time, the guard will be removed from assignment from this contract until such time as the guard can successfully pass the physical examination.

**3.1.6.4 Minimum Training before Assignment:** The Vendor must provide the training set forth below to each security guard before assignment to the Lottery's service under this contract or provide evidence acceptable to the Lottery that the security guard has an equivalent skill level to that established in the training program.

**3.1.6.4.1** All training and instruction shall be provided at the Vendor's expense.

**3.1.6.4.2** All training modules must have the advanced approval of the Lottery and instructors must have the experience and qualifications, satisfactory to the Lottery, necessary to provide instruction. The required pre-assignment training includes the six modules listed below, but Lottery, at its sole discretion, reserves the right to require additional training if it deems such additional training necessary.

*a. Module 1: The Security Responsibility (2 hours)* The module shall consist of life & safety training responsibilities, maintaining effective enforcement; maintaining proper appearance, bearing and appearance; and report writing and documentation.

*b. Module 2: The Protected Environment (1.5 hours)* The module shall include a description of Lottery's environment; details relating to the function of the life safety and security systems on site; a description of the Lottery's employee/visitor relationship to be maintained; and a history of the Lottery's security experience relating to past incidents.

*c. Module 3: Legal Powers and Limitations (3 hours)* This module shall include a discussion of the philosophy of prevention versus apprehension; the concept of timely intervention in a developing situation; the limitations of arrest powers and the Lottery's requirements in these matters; the use of force and the need to establish ability, opportunity, and jeopardy to self and others; and the limitations on search and seizure and the Lottery's requirements in

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### West Virginia Lottery Security Guard Services

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these matters

- d. *Module 4: Standard Operating Procedures (3 hours)*** This module shall include a description of entry-level job responsibilities pertaining to assignment to Lottery's premises; basic administrative practices of the Lottery; familiarization with Lottery procedures and documentation practices; identification of the Lottery's access-control and alarm systems; and handling confrontations on Lottery's premises.
- e. *Module 5: Emergency Practices (2 hours)*** This module shall include identification and discussion of types of emergencies that may occur and the emergency response required by the office for fire detection, fire suppression and evacuation, bomb threats, power failure, vehicle accidents, personal injury/illness and work place violence.
- f. *Module 6: Review (1 hour)***

**3.1.6.5 On-the-job Training (OJT):** The Vendor shall provide on-the-job training as outlined in the modules below but may also include other matters as Vendor or Lottery deem appropriate.

- 3.1.6.5.1** On-the-job training may only be conducted under the direct supervision of a qualified security guard (approved by the Lottery) who has by practice and experience, a working knowledge of all of the Agencies practices and procedures relating to the safety and security matters of the site.
- 3.1.6.5.2** The Vendor shall provide evidence of the completion of such training, detailing the instruction matters covered and instruction periods in each specific area upon request to the Lottery. The Vendor bears the responsibility of coordinating this instruction with the shift supervisor to assure the required protection level is maintained at all times.
- 3.1.6.5.3** On-the-job training will be conducted during periods when the trainee is exposed to the maximum learning opportunity as it relates to activity and the ability to participate in active occurrences under the supervision of the senior security guard.
- 3.1.6.5.4** The training will involve the trainee in live performance experience in the areas identified for such time periods as may be deemed reasonable by the instructor for a trainee to learn the complexities of each task. At such time as the assigned training security guard advises that the trainee has mastered the requirements of a particular area, a new area of training will be undertaken.

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**NOTE:** In no cases shall the on-the-job training requirement be less than stated above, regardless of experience of the trainee. The learning emphasis will be as follows:

**On-the-job 1: Prevention/Protection**

- A. Patrol requirements
- B. Communication system use and procedure.
- C. Use of vehicles
- D. Hazard identification: initial action and reporting
- E. Identification systems
- F. Package screening procedures
- G. Lottery/Vendor reporting requirements
- H. Receiving dock operations and procedures
- I. Response to fire and intrusion alarms and reports
- J. Responsibilities of individual posts for timely intervention response to alarms and emergency situations
- K. Traffic and parking control and enforcement
- L. Specific escort requirements
- M. Appearance, bearing, and demeanor.

**On-the-job 2: Enforcement**

- A. Techniques of handling confrontations with Lottery's employees, visitors and contractors
- B. Techniques of handling normal business contacts with Lottery's employees, senior executives, visitors, special guests and contractors
- C. Specific post instructions
- D. Enforcement responsibilities of Lottery's procedures and regulations
- E. Review of criminal law procedures regarding potential site confrontations
- F. Documentation of and preservation of evidence
- G. Limitations on search and seizure
- H. Proper report writing

**On-the-Job 3: Emergency Procedures**

- A. Basic first aid practices
- B. Firefighting practices
- C. Evacuation practices
- D. Bomb search practices
- E. Power failure practices

**On-the-Job 4: special Equipment Training**

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- A. Operation of vehicles
  - B. Operation of radio communication systems
  - C. Console operation practices
  - D. Operation of computerized alarm and access control systems
  - E. Operation of Closed-Circuit Television system for monitoring and tracking.

#### 3.1.7 Certification of Qualification:

A letter or copy of an affidavit shall be provided to the Lottery from each security guard assigned to the contract certifying under the penalty of false swearing and that the security guard has met all of the hiring and training requirements as set forth in the contract. **NOTE:** False swearing will be grounds for automatic termination of the guard from assignment to this contract.

#### 3.1.8 Skill Level Categories:

The Vendor is advised security guards assigned to the Lottery under this contract may qualify for two (2) distinct skill levels. A general description of each skill level is provided below in an ascending skill level from least skilled to most skilled. Differential requirements of each skill level must be validated before a guard is assigned to work at that skill level. It is the requirement of the Vendor to ensure the validation is complete and accurate. At any time, the Lottery may request and Vendor must provide documentation to verify that an individual meets the qualifications of a particular skill level.

**3.1.8.1 Service Request:** Vendor shall provide a security guard at the skill level requested by the Lottery and shall continue to provide a security guard at the requested skill level until such time as the Lottery determines, in its sole discretion, that a security guard of a differing skill level is required and makes a request for a security guard of a differing skill level.

**3.1.8.1.1** If a security guard providing services to Lottery under this contract advances in skill level, the Vendor shall continue to provide the security guard at the original hourly price for the skill level requested until such time as the Lottery, in its sole discretion, determines that it requires a security guard of a higher skill level.

**3.1.8.1.2** If the vendor is unable to provide a security guard at the requested skill level, the vendor shall supply a security guard with a higher skill level at the original requested skill level

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hourly billing rate.

**3.1.8.1.2.1** Providing a security guard with a lower skill level than that requested is not permitted.

**3.1.8.2 Failure to Provide Security Guards:** The inability to provide security guards at the service level requested or an acceptable substitute as provided for in the Service Request section above could be grounds to allow the Agency to pursue Liquidated Damages or contract cancellation. (See below Section 3.1.20 Liquidated Damages)

**Security Guard Skill Levels:**

- 1. Security Guard II - shall have completed Security Officer 1 training and the following:**
  - a) Fire Safety Officer
  - b) Legal Powers and Limitations
  - c) Preventing Discrimination & Harassment
  - d) Emergency Procedures
  - e) Blood borne Pathogens
  - f) Access Control
  - g) Communications & Public Relations
  - h) Customer Service
  - i) Professionalism & Ethics
  - j) Use of Force
  - k) Workplace Violence
  - l) Site OJT
  - m) Physical Security & Loss Prevention
  - n) Patrol
  - o) Crime Prevention & Response
  - p) Workplace Safety
  - q) Advanced Report Writing
  - r) Preventing Workplace Violence
  - s) Emergency Situations
  - t) Dealing with Aggressive Behavior
  - u) Ready Response
  
- 2. Security Guard III/ Shift Supervisor – shall have completed Security Officer 1 and 2 training and the following:**
  - a) Customer Relations
  - b) Time Management
  - c) Basic Investigations
  - d) Cultural Diversity
  - e) Strikes, Pickets, & Crowd Control

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**3.1.9 Performance Evaluation (Joint Evaluation):**

The Lottery and Vendor shall be responsible for performing, documenting, and making a performance evaluation of each contract employee, no less than twice annually. The evaluation results conducted by the Lottery should be submitted to the Vendor for its review and approval. The evaluation will include an appraisal of the following areas:

- a. Appearance, bearing, and demeanor.
- b. Attitude, reliability, and punctuality
- c. Technical knowledge and skill of performance requirements
- d. Procedural knowledge of Lottery requirements
- e. Leadership capability and potential
- f. Special areas of competence
- g. Physical testing reports (Vendor Report Only)

**3.1.10 On-site Supervisory Responsibilities (for each shift):**

This guard will be responsible for the control and accuracy of time records for all contract personnel and exercise overall supervision and direction of the guard force. The minimum acceptable skill level for this section shall be Security Guard III/Shift Supervisor.

**3.1.11 Shift Continuity:**

The Vendor shall insure that resources are available for the Vendor to coordinate multiple shift operations.

**3.1.11.1 Security guards will not leave their post until relieved by the corresponding officer posted to the next shift.**

**3.1.12 Alternate Replacement Personnel:**

The Vendor may, from time to time, identify a need for additional alternate security guards to fulfill a temporary service or relieve vacations and sickness of permanent personnel. In such instances the Vendor and Lottery will evaluate the minimum skill requirements and pre-screening practices required based on the available lead time and the nature of temporary assignment to meet the service needs.

**3.1.13 Uniforms:**

**3.1.13.1** The Vendor shall provide and maintain the required uniforms necessary for this contract that will directly represent the image of the Lottery.

**3.1.13.2** Badges and other insignia to be worn on the security guards' uniforms



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will be in accordance with any State law that may apply. Vendor shall supply individual name badges for all guards.

**3.1.13.3** Vendor(s) are required to submit pictures of uniforms with all badges as proposed (including cold weather gear) upon request.

**3.1.14 Personal Appearance:**

To enhance public respect and recognition, employees shall strive to keep a neat and clean appearance while on duty. It shall be considered unacceptable conduct for uniformed guards to practice poor personal hygiene or poor grooming habits in their personal appearance while in the performance of their duties.

**3.1.14.1 Appearance and Personal Hygiene:** The following rules shall govern the appearance and personal hygiene issues of any security guard providing service to the Lottery under this contract.

**3.1.14.1.1 Male and Female Employees:**

- a) Body piercing (with the exception of earrings for female employees) which is visible anytime while on duty and/or in uniform is prohibited.
- b) Necklaces may be worn but shall not be visible.
- c) A bracelet may be worn only if it contains medical information concerning the member and does not create a safety hazard.
- d) No more than one ring shall be worn on each hand except that a combination engagement and wedding band may be worn by females.
- e) Rings shall not have sharp edges that would create a hazard to the employee when wearing gloves.
- f) No personal items shall be visible from the uniform pockets except appropriate writing pens.
- g) Employees may wear only sunglasses with gold, silver, black or brown colored frames which complement the uniform. The sunglasses shall be of a professional type. No faddish, multicolored, or mirrored sunglasses shall be worn. Nor shall sunglasses be worn during conditions that do not merit their utilization.
- h) The bulk of hair shall not be excessive to the extent that it hinders the wearing of appropriate headgear.
- i) Hairstyles that may be considered "fads" or "special hairstyles" or "designs" are prohibited. Hairstyles may not hinder the correct wearing of the hat.

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**3.1.14.1.2 Male Uniformed Employees:**

- a) Hairstyles may be either tapered or block cut, but must be worn in a neat, conservative and professional manner at all times. The hair length shall not fall over the ears or eyebrows, or touch the collar, except for the closely cut hair at the back of the neck.
- b) If an employee desires to wear sideburns, they will be neatly trimmed. The base shall be a clean-shaven horizontal line. Sideburns shall not extend downward beyond the lowest part of the exterior ear opening.
- c) The face shall be neatly shaven, except that an employee may wear a neatly trimmed moustache. The moustache may extend one quarter inch horizontal beyond the corners of the mouth. The moustache shall not exceed over the lips or beyond the corners of the mouth.

**3.1.14.1.3 Male uniformed employees are prohibited from wearing earrings while on duty. Female Uniformed Employees:**

- a) Hairstyles must be worn in a neat, conservative, and professional manner at all times.
- b) If short hair is preferred, the length directives for males shall be observed.
- c) If medium length or long hair is preferred, the hair shall be worn up in a neat manner and touch the collar but shall not fall below the collar edge.
- d) Hair may be worn with “bangs”, but they shall not fall over the eyebrows.
- e) Hair may be “braided or platted” if the style presents a neat and professional appearance.
- f) Hair clasps, barrettes, or fasteners must correspond with hair color and must not be conspicuous. Hair nets, ribbons, beads and so forth are prohibited from being worn.
- g) Hair color shall be of a conservative shade and have no unnatural tones of color. Spraying substances, color or glitter are prohibited.
- h) False eyelashes are prohibited.
- i) If worn, cosmetics shall be conservative and professional in appearance, understated rather than overwhelming in application and shall blend in with the natural color of the skin.
- j) Earrings shall be of a small post or stud type with only one earring worn in each ear.

**3.1.15 Prohibition Against Gratuities:**

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Vendor warrants that it has not employed any company or person other than a bona fide employee working solely for the vendor or a company regularly employed as its marketing agent to solicit or secure the contract and that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of the contract.

**For breach or violation of this warranty, the Lottery shall have the right to annul this contract without liability at its discretion or to pursue any other remedies available under this contract or by law.**

**3.1.16 Certifications Related to Lobbying:**

Vendor certifies that no federal appropriated funds have been paid or will be paid, by or on behalf of the company or an employee thereof, to any person for purposes of influencing or attempting to influence an officer or employee of any Federal entity, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any Lottery, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Vendor shall complete and submit a disclosure form to report the lobbying.

Vendor agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers, including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements, and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

**3.1.17 Subcontracts/Joint Ventures:**

The Vendor is solely responsible for all work performed under the contract and shall assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. The Lottery will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of the Lottery, enter into written subcontracts for performance of work under this contract; however, the vendor is totally

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responsible for payment of all subcontractors.

**3.1.18 Record Retention (Access & Confidentiality):**

**3.1.18.1** Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor.

**3.1.18.2** The Vendor shall maintain such records a minimum of five (5) years and make available all records to Lottery personnel at Vendor's location during normal business hours upon written request by Lottery within 10 calendar days after receipt of the request.

**3.1.18.3** Vendor agrees to maintain confidentiality and security of any private and/or confidential data made available and shall indemnify and hold harmless the State and Lottery 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 Vendor.

**3.1.18.3.1** Vendor must sign and return the **WV HIPAA BUSINESS ASSOCIATE ADDENDUM** (see **EXHIBIT C**). This should be submitted with bid but is required prior to award.

**3.1.19 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:

**3.1.19.1** The inability to provide security guards services requested or an acceptable substitute within **24** hours of the initial request and at Lottery's sole discretion the Vendor shall reimburse the Lottery of liquidated damages in the amount no less than the original hourly rate shown on the Pricing Page of a Probationary Security Guard I for the specific shift that was requested.

**4 CONTRACT AWARD:**

**4.1 Contract Award:** The Contract is intended to provide Lottery with a purchase price on all Contract Items. The Contract shall be awarded defined on the **Exhibit A Pricing Pages** to the Vendor(s) that provide the Contract Items meeting the required specifications for the **lowest overall total cost for all Contract Items** as shown on the Pricing Pages. Vendors must complete the pricing pages and must supply all the Contract Items for bid. **Failure to provide pricing for all Contract Items for bid may result in the vendors' bid being disqualified.**

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- 4.2 Pricing Pages:** Vendor must complete the **Exhibit A Pricing Pages** by providing an hourly billing rate for each **Guard Classification** and then multiplying the hourly billing rate times the estimated hours to get the extended amount. The total for the extended amount column should be totaled at the bottom of the pricing page to show the total cost. The Pricing Pages have been provided in Excel and formatted to automatically calculate the bid scenario. However, it is the vendor's responsibility to ensure the calculations for their bid are correct before submitting. In the event of any errors, the Unit Price shall prevail. Vendors should complete the Pricing Pages in their entirety as failure to do so may result in Vendor's bids being disqualified.

*The Pricing Pages contain a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.*

Vendors should type or electronically enter the information into the Exhibit A Pricing Pages to prevent errors in the evaluation.

**5 ORDERING AND PAYMENT:**

- 5.1 Ordering:** Vendor shall accept orders by regular mail, facsimile, e-mail, or any other written forms of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Any on-line ordering system must have the capability to restrict prices and available items to conform to the Catalog originally submitted with this RFQ. The vendor shall ensure that its on-line ordering system is properly secured prior to processing Lottery orders on-line.
- 5.2** Vendor shall provide an email address and fax number where orders may be sent.
- 5.3** For all orders, Lottery should submit an ADO (Agency Delivery Order) for any amount under \$250,000.00 or a CDO (Central Delivery Order) for any amount over \$250,000.01.
- 5.4 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

**6 MISCELLANEOUS:**

- 6.1 No Substitutions:** Vendor shall supply only Contract Items submitted in response to the RFQ unless a contract modification is approved in accordance with the provisions contained in this Contract.

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- 6.2 Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 6.3 Reports:** Vendor shall provide up on request quarterly reports and annual summaries to the Lottery showing the Lottery's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.
- 6.4 Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** \_\_\_\_\_  
**Telephone Number:** \_\_\_\_\_  
**Fax Number:** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_

**WV STATE GOVERNMENT**

**HIPAA BUSINESS ASSOCIATE ADDENDUM**

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

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

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

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

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

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

- a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>.
- b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
- c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
- d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
- e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111<sup>th</sup> Congress (2009).

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

## 2. Permitted Uses and Disclosures.

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



### 3. Obligations of Associate.

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

**f. Support of Individual Rights.**

- i. Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR §164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:

  - the date of disclosure;
  - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
  - a brief description of the PHI disclosed; and
  - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

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

unless otherwise directed by the Agency in writing, the Office of Technology at [incident@wv.gov](mailto:incident@wv.gov) or <https://apps.wv.gov/ot/ir/Default.aspx>.

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

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

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

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

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

#### 4. Addendum Administration.

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

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

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

#### 5. General Provisions/Ownership of PHI.

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

AGREED:

Name of Agency: State of WV

Name of Associate: Daniel Rooe

Signature: [Handwritten Signature]

Signature: [Handwritten Signature]

Title: Senior-Buyer Procurement Specialist, Senior

Title: Director Government Services

Date: 2/22/2024

Date: February 22, 2024

Form - WVBA-012004  
Amended 08.28.2013

APPROVED AS TO FORM THIS 26<sup>th</sup>  
DAY OF Jan 20 17  
BY [Handwritten Signature]  
Patrick Morrissey  
Attorney General

Appendix A

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

Name of Associate: Thomas Hymes, West Virginia Lottery

Name of Agency: State of West Virginia

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

**All possible Personal Health Information.**

- Any and all personally identifiable information including but not limited to name, address, date of birth, Social Security Number, telephone number, and insurance information.

# Pricing

## EXHIBIT A – Pricing Page

Section	Guard Classification	*Estimated Hours	Hourly Rate	Total Amount
1	Security Guard II		\$ 18.72	\$
2	Security Guard III / Shift Supervisor		\$ 20.69	\$
			<b>TOTAL COST</b>	\$

Please note: \*This information is being captured for auditing purposes. The estimated volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.

Any product or service not on the Agency provided Pricing Page will not be allowable. The state cannot accept alternate pricing pages, Vendor must complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified. A no bid may result in Vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

### BIDDER /VENDOR INFORMATION:

<b>Vendor Name:</b>	Universal Protection Service LLC, dba Allied Universal Security Services
<b>Address:</b>	500B1 Prestige Park
<b>City, St. Zip:</b>	Hurricane, West Virginia 25526
<b>Phone No.:</b>	304-727-4608
<b>Email Address:</b>	Daniel.Roose@aus.com
 Daniel Roose (ele signature)	14-Feb-24

**Vendor Signature:**

**Date:**