



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: 06-13-2024

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

Order Number:	CMA 0511 2518 HHR2400000005 1	Procurement Folder:	1429774
Document Name:	CERTIFIED PUBLIC ACCOUNTANTS FOR LTC REPORT EXAMINATIONS	Reason for Modification:	
Document Description:	CERTIFIED PUBLIC ACCOUNTANTS FOR LTC REPORT EXAMINATIONS		
Procurement Type:	Central Master Agreement		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2024-09-15
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2025-09-14

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: 000000100150 BERRY DUNN MCNEIL & PARKER LLC 2211 CONGRESS ST PORTLAND ME 04102 US Vendor Contact Phone: 6813138905 Extension: Discount Details: <table><thead><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr></thead><tbody><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>No</td><td></td><td></td></tr><tr><td>#3</td><td>No</td><td></td><td></td></tr><tr><td>#4</td><td>No</td><td></td><td></td></tr></tbody></table>		Discount Allowed	Discount Percentage	Discount Days	#1	No	0.0000	0	#2	No			#3	No			#4	No			Requestor Name: Jacqueline O Hanna Requestor Phone: (304) 558-9917 Requestor Email: jackie.o.hanna@wv.gov <div>24 FILE LOCATION</div>
	Discount Allowed	Discount Percentage	Discount Days																		
#1	No	0.0000	0																		
#2	No																				
#3	No																				
#4	No																				

INVOICE TO	SHIP TO
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US

6/17/24 66

Purchasing Division's File Copy

Total Order Amount: Open End

CH 6/13/24

PURCHASING DIVISION AUTHORIZATION
DATE: Tanya 6/14/24
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM
DATE: John S. Gray
ELECTRONIC SIGNATURE ON FILE

6/26/2024

ENCUMBRANCE CERTIFICATION
DATE: 6/27/24
ELECTRONIC SIGNATURE ON FILE

Extended Description:

THE VENDOR, BERRY DUNN MCNEIL & PARKER LLC, AGREES TO ENTER WITH THE AGENCY, WEST VIRGINIA DEPARTMENT OF HEALTH, INTO AN OPEN-END CONTRACT FOR CERTIFIED PUBLIC ACCOUNTANTS FOR LONG TERM CARE FINANCIAL AND STATISTICAL REPORT EXAMINATIONS PER THE TERMS AND CONDITIONS, SPECIFICATIONS, BID REQUIREMENTS, ADDENDUM 1 ISSUED ON 06/03/2024, AND THE VENDOR'S BID DATED 06/11/2024, INCORPORATED HEREIN BY REFERENCE, AND MADE A PART OF HEREOF.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	93151607				0.000000
Service From		Service To		Service Contract Amount	
2024-09-15		2025-09-14		0.00	

Commodity Line Description: CPA Examination Small Facility (90 Beds or less) - Year 1

Extended Description:

Certified Public Accountant examination of Long Term Care Financial and Statistical Reports from West Virginia Medicaid Providers, per the attached detailed specifications. Each engagement will include at least two (2) LTC-FASRs, or cost reports.

Unit Price: \$9,500.00

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
2	93151607				0.000000
Service From		Service To		Service Contract Amount	
2024-09-15		2025-09-14		0.00	

Commodity Line Description: CPA Examination Large Facility (91 Beds or more) - Year 1

Extended Description:

Certified Public Accountant examination of Long Term Care Financial and Statistical Reports from West Virginia Medicaid Providers, per the attached detailed specifications. Each engagement will include at least two (2) LTC-FASRs, or cost reports.

Unit Price: \$9,750.00

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 three (3) 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.

☒ WV CPA Certification

☐

☐

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

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below 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 cancellation, 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: \$2,000,000 per occurrence.

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

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

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

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

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

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

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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.

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.

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) Tammy Brunetti, Principal

(Address) 2211 Congress St, Portland, ME 04102

(Phone Number) / (Fax Number) (207) 541-2258 / (207) 774-2375

(email address) tbrunetti@berrydunn.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.

Berry, Dunn, McNeil & Parker, LLC

(Company)

Tammy Brunetti

(Signature of Authorized Representative)

Tammy Brunetti, Principal

6/10/2024

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

(207) 541-2258 (207) 774-2375

(Phone Number) (Fax Number)

tbrunetti@berrydunn.com

(Email Address)

CPA Examinations of Long-Term Care Financial and Statistical Reports

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the WV Departments of Health, Health Facilities, and Human Services (“the Departments”), Office of Shared Administration (OSA), Office of Accountability & Management Reporting (OAMR) to establish a contract for a Certified Public Accountant firm to provide examination engagements of Long Term Care Financial and Statistical Reports (LTC-FASRs) received from West Virginia Medicaid providers. Engagements are to ensure that the costs submitted by long term care providers participating in the West Virginia Medicaid Program (“Provider”) are accurate, allowable, and in accordance with the West Virginia Medicaid Provider Manuals and all of the applicable laws, rules and regulations. Work may be provided at the vendor’s location. Limited space and resources are available at the Agency offices to accommodate vendor staff, if needed.

Background: The WV Departments of Health, Health Facilities, and Human Services (“the Departments”), Office of Shared Administration (OSA), Office of Accountability and Management Reporting (OAMR) are responsible for receiving semiannual LTC-FASRs, (cost reports) from all nursing facility providers for whom per diem rates are set on behalf of WV Medicaid.

The costs are submitted to OAMR semi-annually and are used to calculate the per diem rates that participating long term care providers are paid for services rendered to West Virginia Medicaid clients. Examination engagements of the LTC-FASRs are used to determine whether any retroactive rate adjustments are necessary (e.g. based on unallowable or undocumented costs submitted, adjustments in census information, or other matters increasing or decreasing costs as originally reported).

Long term care providers are reimbursed only for allowable costs (as outlined in the rate setting methodology per the West Virginia Medicaid State Plan). Any reimbursement over cost is recovered through recalculation of the rate after the LTC-FASRs have been examined and adjusted for any findings of the examination. The rate is adjusted for any discrepancies noted in the examination; additionally, any other payments received by the provider during the period covered by the LTC-FASR under examination (such as payments for bed reservation days or West Virginia Medicaid credit balances) that are determined to be in error are recovered through this process as well.

Providers have a right to appeal the findings, recoveries and rate adjustments resulting from examinations and auditors are likely required to appear in evidentiary or other hearings to support the findings and conclusions or the examinations as well as prepare documents necessary for the attorneys or hearings examiner to sufficiently evaluate the findings or conclusions at issue.

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These LTC-FASRs are desk reviewed and used to calculate the prospective per diem rates that will be paid to each provider for the next six-month period. OAMR is also responsible for examining LTC-FASRs to determine whether the costs and other data included on the submitted LTC-FASRs are allowable per WV Medicaid rules and regulations, documented, and appropriately classified and accounted for on the LTC-FASR. A typical examination of LTC-FASRs is performed on an individual provider basis (including all facilities or locations owned by the provider, typically incorporating six (6) to ten (10) consecutive semi-annual cost reporting periods per engagement. Any adjustments needed as a result of this process are incorporated into an adjusted rate calculation for each six-month rate period. The adjusted rate is then used to determine whether the provider was appropriately paid resulting in a recovery or additional payment to be processed as needed.

Through the course of the contract the vendor is expected to allow OAMR staff to be present during fieldwork (at the discretion of OAMR). The OAMR Audit and Rate Setting staff will be available as a resource for assistance in interpretation of applicable rules and regulations. Additionally, the adjusted rate calculation will be performed by OAMR's Rate Setting staff. The transmittal of the final report and communication with the provider regarding recovery or additional payment due will be performed by the WV Department of Human Services, Bureau for Medical Services (BMS). Vendor is expected to appear at any and all hearings resulting from provider appeals of findings and is expected to provide documentation sufficient to support the conclusions and findings included in the report. Appearance at hearings is expected whether or not the timing of the hearing coincides with the term of the contract.

The vendor's principal contact with OAMR will be OAMR Office Director, or a designated representative, who will coordinate the assistance that OAMR will provide for the LTC-FASR engagements.

NOTE: The contract awarded as a result of this solicitation may be funded in whole or in part with Federal Funds and thus this solicitation and its resulting awarded contract are subject to the requirements of Attachment 1: Federal Funds Addendum.

NOTE: The WV Departments of Health, Human Services, and Health Facilities have developed an EEOP Utilization Report and it is available at: <https://dhhr.wv.gov/office-of-drug-control-policy/news/Documents/EEO%20Utilization%20Report%20Completed%20Form%201-29-21-final-PDF%20review%20for%20approval%20to%20submit%20%283%29.pdf>

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 **“Contract Services”** means performance of LTC-FASR's (cost reports) examinations by Certified Public Accountant firm as more fully described in these specifications.

CPA Examinations of Long-Term Care Financial and Statistical Reports

2.2 “Pricing Page” means the pages, contained in wvOASIS or attached hereto as Exhibit A, upon which Vendor should list its proposed price for the Contract Services.

2.3 “Solicitation” means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

3. QUALIFICATIONS: Vendor, or Vendor’s staff if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:

3.1. Vendor must have been in business at least fifteen (15) years and have at least (10) years of experience conducting governmental audits.

3.2 Vendor must be a Certified Public Accountant (CPA) firm and must currently have on staff at least ten (10) accounting professionals with at least five (5) of those holding CPA certification valid in the State of West Virginia.

3.3 Vendor will provide work history of at least five (5) past engagements that demonstrate experience in providing Medicaid agencies with the audits of cost report data for nursing homes, as well as hospital-based long-term care units. Documentation demonstrating experience should be provided with the bid, must be provided upon request.

3.4 Vendor shall provide work history of five (5) prior engagements that demonstrate experience in working with state and/or federal officials or regulators to assist with resolving findings, inquiries, disallowance issues, etc. Documentation demonstrating experience should be provided with the bid, must be provided upon request.

3.5 Vendor shall provide work history of five (5) past client engagements that demonstrate experience in providing state Medicaid agencies with insight relevant to changes in law, rules, and direction associated with the state’s ability to effectively and efficiently manage the audit and reimbursement process in a compliant manner. Documentation demonstrating experience should be provided with the bid, must be provided upon request.

CPA Examinations of Long-Term Care Financial and Statistical Reports

- 3.6 Vendor shall provide a work history, (if any) of past engagements that demonstrate experience representing Medicaid agencies throughout the appeals process including the ability to effectively testify as an expert witness. Documentation demonstrating experience should be provided with the bid, must be provided upon request.

4. MANDATORY REQUIREMENTS:

- 4.1 **Mandatory Contract Services Requirements and Deliverables:** Contract Services must meet or exceed the mandatory requirements listed below.

- 4.1.1 The engagements performed under this contract and reports issued upon completion of those engagements are to be in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA) as well as Government Auditing Standards as issued by the Comptroller General of the United States. All work is to be performed in accordance with the provisions contained herein. Those standards may be found at the following link:
<https://us.aicpa.org/content/dam/aicpa/research/standards/auditattest/downloadabledocuments/at-c-00215.pdf> and <http://www.gao.gov/yellowbook>

This contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with the approval of the Purchasing Division and the Attorney General's Office (Attorney General approval is as to form only). Contract renewal shall be in accordance with the terms and conditions of the original contract and are to add work bid by the vendor for the original solicitation. Renewal of this Contract is limited to three (3) successive one (1) year periods. Vendor understands that the Agency has created an audit schedule listing the audit locations and that each year Vendor will be expected to perform audits as selected by the Agency. If Agency and Vendor agree to exercise subsequent renewals, the Vendor will perform additional audits in each renewal year as selected by the Agency.

- 4.1.2 Upon request by OAMR, the vendor is to perform financial and compliance audit engagements of semi-annual LTC-FASRs in accordance with the standards established by the American Institute of Certified Public Accountants and the standards applicable to financial audits contained in

CPA Examinations of Long-Term Care Financial and Statistical Reports

Government Auditing Standards issued by the Comptroller General of the United States. The vendor is to issue an opinion on the fair presentation, in conformity with Generally Accepted Accounting Principles and the rules and regulations established by the Departments, of the financial and statistical information submitted in the LTC-FASRs for each facility examined along with a list of findings of non-compliance as described below. Additionally, the vendor is to issue a report on compliance and internal control in accordance with Government Auditing Standards.

- 4.1.3** Each engagement is to incorporate a pre-engagement planning meeting between an authorized representative of the vendor and the Agency to establish the procedures to be performed, whether OAMR staff intends to be present for any portion of the examination field work, the planned timing and expected completion of fieldwork, and the anticipated timing of draft and final report issuance. This meeting is to include a review of the cost reports to be examined as well as any additional information OAMR is aware of that would impact the examination procedures or the engagement.
- 4.1.4** The procedures for each engagement are to include, at a minimum, the procedures outlined in the OAMR Audit Guide (Appendix A). However, this is not an all-inclusive list of procedures and the vendor is responsible for performing any and all procedures necessary to support the opinion and findings included in the examination report as described below. Materiality determination and examination procedures should focus on the schedules within the LTC-FASR that have the most impact upon the rate calculation (i.e. schedules WV-6, WV-7 and WV-16 through WV-22). Errors found in items sampled from those schedules should result in an expansion of testing to allow qualification and determination of the pervasiveness of the errors found.
- 4.1.5** Each engagement is to be conducted on an individual facility basis, and usual engagement is for two (2) LTC-FASRs, or cost reports, per year per facility, although more or less may be required on an as needed basis. The vendor shall issue a report for each engagement expressing an opinion as to the completeness and accuracy of the information submitted on the LTC-FASRs in accordance with the WV Medicaid Provider Manuals and all

CPA Examinations of Long-Term Care Financial and Statistical Reports

applicable laws, rules and regulations, The report shall include the following elements:

4.1.5.1 Independent accountants' examination report and report in accordance with Government Auditing Standards

4.1.5.2 A definitive list of findings of non-compliance, numbered sequentially and including the following elements:

4.1.5.2.1 Criteria

4.1.5.2.2 Condition (to include cost report period, LTC-FASR cost center charged, page/line mapping to LTC/FASR field(s) affected, account number(s) and description(s) (from West Virginia Long Term Care Medicaid Chart of Accounts), amount originally reported on the LTC-FASR, correct amount, and quantification of increase or decrease necessary to adjust for cost or error).

4.1.5.2.3 Cause

4.1.5.2.4 Effect or Potential Effect

4.1.5.2.5 Recommendation

4.1.5.3 Status of prior findings (if any)

4.1.6 Examination of facilities that share a common ownership or control (Chain Facilities) will generally be performed together as a group and shall include in the examination home office or other costs that have been allocated among the facilities and included in the LTC-FASRs that is submitted for those facilities.

4.1.7 Examination of facilities that are owned by or located within a hospital (Hospital-Based Facilities) are to include in the examination any hospital costs allocated to the long term care facility and included in the LTC-FASR submitted for those facilities.

CPA Examinations of Long-Term Care Financial and Statistical Reports

- 4.1.8** Vendor must be prepared to adequately staff the engagement without reliance on OAMR staff for the performance of any audit related work or clerical support necessary for completion of the engagement.
- 4.1.9** The vendor shall be responsible for knowledge of the West Virginia Medicaid Provider Manuals, particularly Chapter 500, Volume 1 “Nursing Facility Services” as well as the West Virginia Medicaid Long Term Care Chart of Accounts. The OAMR staff shall be available to the vendor to assist in provision of information and explanations, as well as interpretations of rules and regulations as they pertain to audit findings and results of audit tests. It shall be the vendor’s responsibility to contact OAMR with any questions as to interpretation of rules and regulations as they pertain to audit findings and results of audit test. The manuals are available at: <https://dhhr.wv.gov/bms/Pages/Manuals.aspx>.
- 4.1.10** Vendor is to immediately notify OAMR in writing in the event that any of the following are noted in the course of performing the engagement under this contract: criminal acts; fraudulent transactions; intentional abuse of WV Medicaid funding; irregularities; misrepresentations by facility management or any issues that would cause delays in the issuance of the engagement report or an adverse opinion.
- 4.1.11** Vendor is to provide representation and consultation for all levels of provider Appeals whether or not scheduling of such proceedings occurs during the term of this contract; this may include administrative hearings, evidentiary hearing, and judicial reviews as well as other legal proceedings not individually listed here. This representation shall be included in the price of the engagements and no additional compensation shall be made whether the timing is within or subsequent to the term of this contract.
- 4.1.12** Vendor is to meet with OAMR representative upon completion of each engagement and will provide at the meeting a draft copy of the report for the engagement (or engagements if Chain Facilities). Any necessary changes must be discussed and agreed upon before final acceptance. Vendor is to be prepared (with workpapers) to discuss each finding and to perform additional work at the request of OAMR for any areas not sufficiently explained or findings not sufficiently quantified. In the event that changes

CPA Examinations of Long-Term Care Financial and Statistical Reports

or additional work are deemed necessary a subsequent draft will be submitted and discussed with OAMR.

- 4.1.13** The final draft of the report is to be submitted to OAMR by the vendor and OAMR will transmit draft report to the facility. The facility shall have ten (10) business days from receipt to provide additional information to the vendor to mitigate or resolve the findings.
- 4.1.14** Vendor is responsible for final report preparation, editing and printing. The vendor is to provide OAMR with three (3) copies of the final audit report for each engagement as well as one (1) copy of the engagement workpapers resulting from the examination or electronic versions as agreed by OAMR.
- 4.1.15** All workpapers and reports are to be retained, at the vendor's expense, for a minimum of five (5) years. After the (5) years have elapsed documents are to be delivered and surrendered to the OAMR.
- 4.1.16** Vendor is to be available to OAMR to assist in adapting the engagement procedures as necessary to accommodate rule and regulation changes as they affect the rate determination and audit process on an as-needed basis.
- 4.1.17** Vendor will be expected to complete audit fieldwork and submit final draft audit reports for OAMR quality review not later than 90 days before contract expiration date, unless express approval or extension is granted by OAMR. Any audits not submitted by this date will not be considered complete and final outstanding payments therefore will be withheld. Final drafts submitted by 90 day deadline will be quality reviewed and upon acceptance by OAMR as final, OAMR will authorize approval of final payment.
- 4.1.18** Vendor is to commit cohesive, dedicated, highly skilled core team of key personnel to oversee and conduct the tasks required under this agreement. The vendor is to designate one contact person to report to the Director of OAMR or his designee regarding all matters related to this contract. This individual shall be a Certified Public Accountant in good standing licensed by the West Virginia Board of Accountancy. The designated contact person must be able to act on behalf of the vendor and have appropriate experience

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and expertise in overseeing similar engagements. The designated contact person must be available for monthly on-site meetings with the OAMR Office Director or designee.

4.1.19 Vendor should notify OAMR immediately of any noncompliance by LTC Providers to submit requested information necessary to complete the audit. As covered in section 514 of the WV Nursing Facility Provider Manual, records found to be incomplete or missing at the time of the scheduled on-site visit must be delivered within 48 hours or an amount of time mutually agreed upon with the audit staff at the exit conference. Provider costs found to be unsubstantiated will be disallowed and considered an overpayment. Failure of Providers to submit records will not be justification for last submission by vendor of expected audit report deliverables. Meetings may be conducted less frequently than a monthly basis, if deemed appropriate by the OAMR, and may be requested more frequently on an as needed basis.

5. CONTRACT AWARD:

5.1 Contract Award: The Contract is intended to provide Agency with a purchase price for the Contract Services. The Contract shall be awarded to the Vendor that provides the Contract Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

5.2 Pricing Page: Vendor should complete the Pricing Page by following *Attachment 2: Pricing Page Instructions*. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document.

6. PERFORMANCE: Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.

CPA Examinations of Long-Term Care Financial and Statistical Reports

7. **PAYMENT:** Agency shall pay in equal monthly installments based on the service rate as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
9. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:
 - 9.1. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.
 - 9.2. Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
 - 9.3. Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.
 - 9.4. Anyone performing under this Contract will be subject to Agency's security protocol and procedures.
 - 9.5. Vendor shall inform all staff of Agency's security protocol and procedures.

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10. VENDOR DEFAULT:

10.1. The following shall be considered a vendor default under this Contract.

10.1.1. Failure to perform Contract Services in accordance with the requirements contained herein.

10.1.2. Failure to comply with other specifications and requirements contained herein.

10.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

10.1.4. Failure to remedy deficient performance upon request.

10.2. The following remedies shall be available to Agency upon default.

10.2.1. Immediate cancellation of the Contract.

10.2.2. Immediate cancellation of one or more release orders issued under this Contract.

10.2.3. Any other remedies available in law or equity.

11. MISCELLANEOUS:

11.1. **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: Tammy Brunetti

Telephone Number: (207) 541-2258

Fax Number: (207) 774-2375

Email Address: tbrunetti@berrydunn.com

West Virginia Nursing Facilities

NAME	BEDS
Beckley Healthcare Center	201
Good Shepherd Nursing Home	192
Huntington Health & Rehabilitation Center	186
Charleston Healthcare Center	184
Heritage Center	160
Eagle Pointe Healthcare Center	151
Guardian Elder Care at Wheeling	150
Weirton Geriatric Center	137
Valley Center	130
Moundsville Healthcare Center	129
Teays Valley Center	124
Mercer Healthcare Center	123
Keyser Healthcare Center	122
Dunbar Center	120
Pine Lodge Center	120
Putnam Center	120
Summers Healthcare Center	120
Guardian Elder Care at Fairmont	120
Continuous Care Center Wheeling Hospital	120
Mountain View Care Center (1689653081)	120
River Oaks Healthcare Center	120
Martinsburg Healthcare Center	120
Kingwood Healthcare Center	120
Hilltop Center	120
Trinity Healthcare Services of Logan	120
Morgantown Healthcare Center	120
Princeton Health Care Center	120
Berkeley Springs Healthcare Center	120
Pierpont Center	120
Cedar Ridge Center	119
Tygart Center	119
Brightwood Center	115
Elkins Rehabilitation and Care Center	111
Grant Rehabilitation and Care Center	110
Holbrook Healthcare Center	110
Glasgow Health & Rehabilitation Center	108
Worthington Healthcare Center	105
Willow Tree Healthcare Center	104
McDowell Healthcare Center	100

West Virginia Nursing Facilities

NAME	BEDS
Morgantown Health & Rehabilitation Center	100
Nella's at Autumn Lake Health Care (100813510)	100
New Martinsville Center	100
Pleasant Valley Healthcare Center	100
Sundale Nursing Home	100
Clarksburg Healthcare Center	98
Willows Center	97
Cortland Acres Association	94
Pendleton Manor	91
Hillcrest Healthcare Center	90
Marmet Center	90
Trinity Healthcare Services of Mingo	90
Riverside Health & Rehabilitation Center	90
Cabell Healthcare Center	90
Lewisburg Healthcare Center	90
Salem Center	88
Autumn Lake Healthcare at Crystal Springs (1780682088)	84
Glenwood Healthcare Center	80
Seneca Trail Healthcare Center	80
Hidden Valley Center	80
Shenandoah Center	78
Maplewood Healthcare Center	77
Complete Care at Oak Ridge (1528242708)	74
Crestview	72
Rosewood Center	69
Carehaven Center	68
Belmont Healthcare Center	68
Raleigh Center	68
Sistersville Center	68
Pocahontas Center	68
White Sulphur Springs Center	68
Parkersburg Center	66
Complete Care at Dawn View (1548444722)	66
Logan Center	66
Ohio Valley Health Care	66
Glenville Center	65
Braxton Healthcare Center	65
Canterbury Center	62
Hampshire Health Care Center	62

West Virginia Nursing Facilities

NAME	BEDS
Madison Center	62
Miletree Center	62
Ravenswood Center	62
Fayette Healthcare Center	60
E.A. Hawse Healthcare Center	60
Lincoln Healthcare Center	60
Cameron Healthcare Center	60
Wayne Healthcare Center	60
Webster Healthcare Center	60
Wyoming Healthcare Center	60
Ansted Center	60
Broaddus Hospital - Mansfield Place	60
The Stone Pear Pavillion	60
Taylor Healthcare Center	60
Rainelle Healthcare Center	60
Clay Healthcare Center	60
The Maples	60
Meadowbrook Acres Nursing Home	60
Bridgeport Health Care Center	60
Montgomery General Elderly Care Center	60
Lindside Healthcare Center	60
Wellsburg Healthcare Center	60
Good Samaritan Society - Barbour County	57
St. Barbara's Memorial Nursing Home	57
Pine View Nursing & Rehabilitation Center	56
Summersville Healthcare Center	52
Montgomery General Hospital Extended Care	44
Madison Park Healthcare	41
Elizabeth Care Center	36
Roane General Hospital	35
Main Street Care	34
Weirton Medical Center	33
Hampshire Memorial Hospital	30
Minnie Hamilton Health Care Center	24
War Memorial Hospital	16
St. Josephs Hospital of Buckhannon	16

**WEST VIRGINIA DEPARTMENTS OF HEALTH, HEALTH FACILITIES AND HUMAN SERVICES
OFFICE OF SHARED ADMINISTRATION
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

FACILITY NAME

01/01/2019 - 12/31/2022

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE INDEX**

I. ENGAGEMENT PLANNING.....	Page 1
II. ENTRANCE CONFERENCE.....	Page 2
III. PRELIMINARY WORK.....	Page 3
IV. STATISTICS (CENSUS).....	Page 4
V. PAYROLL.....	Page 5
VI. RESTORATIVE.....	Page 5
VII. EXPENSES.....	Page 6
VIII. HOSPITAL-BASED COST ALLOCATION.....	Page 7
IX. HOME OFFICE COSTS.....	Page 8
X. MANAGEMENT FEES.....	Page 8
XI. REVENUES.....	Page 9
XII. RESIDENT FUNDS.....	Page 9
XIII. MEDICAID CREDIT BALANCES.....	Page 9
XIV. AUDIT CONCLUSIONS.....	Page 10

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

I. ENGAGEMENT PLANNING

	Date	Initials	Reference
1. Send provider engagement letter notifying them of examination.	00/00/24	??	C2
2. Perform review of submitted cost report and provider submitted work papers. Note any unusual entries, adjustments, allocations or reclassifications.			C1
3. Perform review of rate calculations. Note any unusual or significant variances in provider's reported allowable costs between periods and compare allowable costs to applicable caps. Also calculate planning material amounts by determining the dollar amount of cost standards compared to allowable costs. For any unusual or significant variances noted, determine whether scope of examination should be modified; consider any such issues noted in testing of general ledger to cost report tie-in and suspect account analysis (Step 15 of this section). Document the conclusions and any effect on the examination scope in a narrative memorandum.			C3a-d
4. For all rate components that have increased from the previous period and exceed the applicable cap, perform additional testing to isolate the account(s) creating the variance and test to ensure the variance is not the result of error.			C3e
5. Perform review of facility appraisal reports and depreciation schedule. Note any additions or renovations occurring during the examination periods.			C1 & C4
6. Perform review of prior year reports and examinations in OAMR files. Note adjustments and appeals.			C1 & C5
7. Discuss with Division of Rate Setting Director their awareness of any provider issues or complaints that would affect the scope of the engagement. Discuss evaluation of materiality and document any effect on engagement scope.			C1
8. Request that Division of Rate Setting staff prepare electronic adjusted rate worksheets for each cost report period audited.			C1
9. Make arrangements with provider to begin field work. This includes sending a confirmation letter regarding the date and time of the entrance conference and sending the provider a list of information required at the entrance conference.			C6
10. Forward a copy of the Internal Control Questionnaire and letter to provider for completion and return to OAMR prior to beginning of field work.			C7 & C8
11. Forward a copy of Resident Trust Fund Questionnaire and letter to provider for completion.			C7 & L2
12. Arrange for a discussion with the appropriate provider personnel to discuss in detail the individual items on the Audit List, the Internal Control Questionnaire and Resident Trust Fund Questionnaire. If feasible, arrange for this discussion to occur on site; if not, via conference call that includes all parties that may be involved in preparing or providing items requested for the audit. Ensure that the items on the audit list are discussed with the provider and that understanding of what is needed is achieved, as well as understanding that the items should be available when the field work begins (if not provided electronically prior to field work). In addition to the items on the Audit List, discuss the following:			C1
a. Adequacy and access to providers records.			
b. Provider's personnel who will be the primary contact person providing necessary documentation (including email, fax number and telephone number).			

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

I. ENGAGEMENT PLANNING (continued)

Date Initials Reference

13. Review the completed Internal Control Questionnaire in order to obtain an understanding of the following.
- a. Control Environment
 - b. Accounting System
 - c. Reporting Process

		C8 & C9
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14. Using the beginning and ending check numbers from the completed Internal Control Questionnaire, select a sample of disbursements from operating (i.e. non-payroll) bank accounts for substantive testing. Request that the provider complete and return an electronic (Excel) work sheet containing the following elements for each disbursement selected: check number, date, amount, payee, general ledger account posting.

		C1 & G3
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15. Prepare a work paper to determine "suspect accounts" to compare amounts reported by cost center for each period examined. Calculate the variance between periods and identify the accounts with significant variances for additional testing.

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II. ENTRANCE CONFERENCE

1. Provide introductions of engagement team and identify facility personnel that will be available to assist the team.

00/00/24		C1
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2. Discussions with provider should include (but not limited to) the following:

- a. Working area for the engagement team.
- b. Changes in the provider's operation.
- c. Changes in accounting methods or principles applied.
- d. Changes in key personnel.
- e. Significant accounting or reporting problems.
- f. Findings of internal or external audits.
- g. Changes or issues in any facility software or hardware (or other system)
- h. Conversions/changes occurring during the examination period that could affect testing.
- i. Adjustments to census statistics as originally reported.
- j. Other issues as necessary.

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3. If additional issues are found as a result of the entrance conference that affect the scope of the engagement, document in a narrative memorandum; if no such issues are noted mark N/A at

		N/A
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**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

III. PRELIMINARY WORK

	Date	Initials	Reference
1. Based on Auditor observation and facility history, conduct a tour of the provider's facility to become familiar with operations. Using the depreciation schedule and latest appraisal, physically observe additions, renovations, construction in progress, and any major equipment purchases. Document items reviewed on appraisal. Note any significant additions or changes not included in the appraisal or depreciation schedule on a separate work paper.	00/00/24		C1
2. Review the Board of Director's Minutes, noting capital expenditures, changes in contracts, leasing arrangements, management contracts, salary and revenue increases.			C1
3. Perform a reconciliation of Medicaid Cost Report to the providers general ledger/trial balance for a sample of the cost report periods under examination.			C1 & C10
a. Agree amounts, account titles and account numbers per facility general ledger to WV Medicaid Grouping Report.			
b. Review general ledger expense accounts for appropriate classification within the cost report cost centers (i.e. nature of expenses for particular general ledger accounts is appropriately classified to commensurate cost center on cost report).			
c. Agree amounts per WV Medicaid Grouping Report to cost report.			
4. If available, perform review of annual external audit reports. Document any items noted that impact the scope of the engagement or planned procedures.			C1 & C11
5. Obtain copies of the Federal corporate or partnership tax returns for years under examination.			C1 & C12
6. Ask facility administrator and CFO if they are aware of any instances of fraud or mismanagement that have occurred (not specifically limited to the period of the audit).			C1
7. Expand audit scope and testing as necessary to obtain an understanding and quantify any issues noted in performance of Step 6 above.			C1
8. Document the results of the above testing, conclusions and any adjustments to engagement scope in a narrative memorandum.			C1

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

IV. STATISTICS (CENSUS)

Date Initials Reference

1. Select one month for each cost report period included in the engagement and perform the following:
 - a. Mathematically test midnight census documentation for accuracy and tie selected midnight census to resident day summaries.
 - b. Mathematically test resident day summaries and tie to census reported by category on the cost report.
 - c. If errors are noted in the above testing, expand testing for cost report periods for which errors are noted by selecting additional months for testing.
 - d. Summarize any adjustments needed to census based on the above testing.

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2. In examination planning the facility was requested to provide a listing of bed reservation days from one selected month during each cost report period (for months with bed reservation days). Using the listings provided by the facility, examine supporting documentation to ensure the appropriateness of bed reservation days paid by Medicaid to include the following:
 - a. Calculate the facility occupancy for the midnight census prior to the individual's departure from the facility to ensure that it was above 95% (in accordance with Chapter 514, Section 514.9.3 of the Medicaid Provider Manuals).
 - b. Summarize any bed reservation days that were inappropriately billed based on the above testing.

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3. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

V. PAYROLL

	Date	Initials	Reference
1. Perform a reasonableness test of total wages per cost report to wages on the provider's IRS Form 941 wage tax return or other payroll tax form based on wages. Document the reasons for any variance noted in which the cost report wages exceed the wages reported on the Form 941 by a significant amount. Expand testing as necessary to verify the reasons for such variances.	00/00/24		E2
2. If payroll is allocated to cost centers, determine if the allocation methodology is reasonable.			E1
3. Select one payroll period and test for the following: a. Gross pay per payroll is mathematically correct. b. Gross to net pay per payroll is mathematically correct. c. Time card ties to payroll register. d. Trace postings from the payroll register to the general ledger.			E3
4. Review time records for administrative personnel to ensure compliance with Section 514.13.24 of Chapter 514 of the WV Medicaid Provider Manuals.			E1
5. Confirm the time records, work efforts and classifications for employees related to owners and or management.			E1
6. Review any bonuses accrued and/or paid.			E1
7. Review documentation of fringe and employee benefits. Document any benefit and/or bonus plans that are not equally applicable to all employee classes.			E1
8. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.			E1

VI. RESTORATIVE

1. Identify the types of therapies being administered at the facility and determine if the therapies are being performed by facility employees or by outside contractor. (e.g. Physical Therapy, Speech Therapy, Inhalation Therapy, Occupational Therapy).	00/00/24		F1
2. Obtain explanation for material variances of total Restorative costs reported between FASR periods audited.			F1
3. If therapies are being performed by an outside contractor, obtain a copy of the current contract and select a sample of transactions and trace to supporting invoices and cancelled checks. Mathematically test the accuracy of the invoices by recalculating against the contract rate.			F2, F3
4. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.			F1

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

VII. EXPENSES

Date Initials Reference

1. Using the worksheet prepared in Section I, Step 14, review the following for the sampled items:
 - a. Original invoice,
 - b. Canceled check (or electronic image),
 - c. General ledger posting (noting appropriateness of general ledger account in relation to type of expense),
 - d. Approval by appropriate facility staff.

2. Review the general ledger account details supporting the accounts identified in the suspect account analysis in Section I, Step 15. Judgmentally select a sample of postings from these accounts and vouch to appropriate supporting documentation.

3. Review for personal expenses of the owner/administrator paid by the facility and reported on the cost report.

4. Determine whether the results of testing in Step 1 and 2 above indicate cost shifting between cost centers to avoid ceiling limitations or to maximize incentives. If any such shifting is indicated, expand expense testing as necessary to quantify the adjustment needed to remove the effects of shifted costs.

5. Review the provider's mileage log for existence and appropriateness. Review general ledger vehicle expense accounts for insurance or other vehicle expenses and determine whether such expenses have been appropriately reclassified to cost report page WV24 Non-Allowable Vehicle Expenses.

6. Determine whether working capital interest is included in the cost reports and whether it is appropriate per Section 514.13.18 of Chapter 514 of the WV Medicaid Provider Manuals.

7. Using the related party detail list requested during engagement planning determine if any related parties exist and if so determine the nature of any relationships. Judgmentally select individual items from the related party detail list for substantive testing to include examination of the facility's calculation to remove profit and ensure that the transaction is reported at cost. If any transactions are noted in the testing that include related party profit, expand the testing to quantify the amount of related party profit adjustment needed. Document the nature of any related party transactions noted as well as any adjustments needed in a narrative memorandum.

8. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

VIII. HOSPITAL-BASED FACILITY COST ALLOCATION

	Date	Initials	Reference
1. Obtain the allocation work papers and discuss with appropriate provider personnel the allocation methodologies. If facility is not hospital-based; mark N/A at right.	00/00/24		N/A
2. Vouch amounts per account on the allocation work papers to general ledger. Document any balances that do not agree.			
3. Trace amounts per account on the allocation work papers to the FASR Grouping Report. Document any balances that do not agree.			
4. Perform a test of the allocation work papers to determine whether accounts are properly classified to either an allowable cost center or non-allowable costs. Document any exceptions to this analysis.			
5. Compare the allocation methodologies used on the allocation work papers to the Medicare cost report allocation methodologies. Discuss any differences between the allocation for Medicare cost reporting and the WV Medicaid cost report with facility management and document the responses.			
6. Review the square footage to identify any changes from prior examination period allocation.			
7. Review resident meal counts. If an actual meal count was not used meals should equal three times in-patient days.			
8. Discuss with appropriate provider personnel any issues or exceptions noted in the above testing.			
9. Document the results of the above testing in a narrative memorandum to indicate any necessary adjustments based on the above testing.	00/00/24		H1

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

IX. HOME OFFICE COSTS

1. Document (or obtain documentation of) services provided to the facility by the Home Office. Inquire of facility management how the services provided by the home office benefit resident care as required by Section 514.13.21, Chapter 514 of the WV Medicaid Provider Manuals. Document the response to this inquiry. Reconcile home office costs reported on the FASR to the home office trial balance.
2. Obtain Home Office General Ledgers that support Home Office Expenses. Review for allocation reasonableness and allowability.
3. Review the home office allocation to determine the propriety of the allocation method and for reasonableness and allowability. Determine whether the allocation was based on resident days (in accordance with Section 514.13.21 of Chapter 514 of the Medicaid Provider Manuals). If an allocation method other than resident days was used, review approval for change from WVDHHR or Medicare intermediary.
4. Perform a reasonableness test of Home Office expenses by comparing amount of Home Office costs per cost reports to amount of Home Office cost reported to Medicare for the commensurate period. Document any variances and determine whether additional testing is warranted.
5. Review home office expenses for reasonableness and allowability. Ensure that home office expenses do not include personal expenses of owners. The review should include but not be limited to those accounts/account classifications tested when auditing an independent non-chain facility.
6. a. If applicable, request a list of home office employees that include classifications and salaries. Review for reasonableness and determine employees are performing necessary functions related to patient care. Verify documentation of time worked.
b. If applicable, document details of any applicable bonus programs. Inquire how bonuses are earned and accrued.
7. a. Request an amortization schedule and supporting documentation of interest expense. Review for non-allowable interest expense such as automobile purchases.
b. Determine whether working capital interest is included in the cost reports and whether it is appropriate per Section 514.13.18 of Chapter 514 of the WV Medicaid Provider Manuals.
8. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

Date Initials Reference

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X. MANAGEMENT FEES

1. Review Management Agreement Contract. Obtain a copy for OAMR files and document whether management fees paid to related parties are reported on page WV24, Non-allowable Expenses. (in accordance with Section 514.13.21 of Chapter 514 of the Medicaid Provider Manuals).
2. Determine the basis used to calculate the management fees for the period under audit.
3. Review the transaction register and identify all management fees paid.
4. Ensure that payments are calculated in accordance with the management agreement and that they do not exceed allowable amounts.
5. Document whether duplication of services is noted in above testing.

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**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

XI. REVENUES

Date Initials Reference

1. Reconcile facility general ledger revenue to cost report revenue. Document the reasons for significant variances noted.
2. Review miscellaneous and other income accounts. Determine if these accounts are required to be offset against expenses. Examples requiring offset are:
 - a. Interest Income
 - b. Sale of Meals
 - c. Rental of facility space

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XII. RESIDENT FUNDS

1. Review the Resident Fund Questionnaire completed by the provider for inclusion with the report.
2. Select one month and test reconciliation process for all residents. Reconcile the sum of cash in the bank and petty cash (if applicable) to the subsidiary records as of the statement date.
3. Verify that interest earned is credited to the residents' account.
4. Determine whether funds are being held for discharged residents. If any are noted, determine the method of disposition.
5. Review a sample of supporting documentation related to Residents' requests of funds. Expand if necessary. Requests should be signed by the resident, resident's representative or two facility employees. Review receipts supporting withdrawals to ensure funds are used for the resident.
6. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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XIII. MEDICAID CREDIT BALANCES

1. Compare Account Receivable Aging Report balances to the facility's general ledger. Reconcile any differences noted.
2. Review accounts receivable aging report and/or resident ledger cards as of the last date in the engagement period to identify any credit balances which might indicate duplicate payments (third party payments) or other overpayments.
3. Inquire as to whether or not there exist any unapplied credits to resident accounts; if so review and determine whether any are related to periods under examination and if recoupment is
4. If credit balances are found to exist for Medicaid residents review documentation to determine the amount of recoupment (if any) that is necessary. Create a list of credit balances to include account number (if any), initials, amount.
5. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

XIV. CONCLUSIONS

	Date	Initials	Reference
1. Schedule exit conference to discuss findings or issues noted during fieldwork. Provide any information needed by provider to resolve findings or issues. NOTE: Do not copy work papers; provide details (i.e. account number, amount, invoice numbers, check numbers, resident names, etc.)	00/00/24		B1
2. Provide to Division of Rate Setting staff list of all proposed and passed adjustments (including mapping to cost report page and line) for evaluation of potential impact to adjusted rate.			B2
3. Prepare a draft report containing all proposed findings and adjustments.			B3
4. Obtain Division of Audits Director's review of all work papers related to this engagement to include: <ul style="list-style-type: none"> a. Comparison of draft to work paper to ensure that all finding are included in the draft report. b. Preparation of a list of review comments of items to be addressed by the auditor before draft report is released. c. When review comments have been addressed, obtain Director's documentation that review comments are cleared and approved to release draft report. 			A0b
5. Provide a copy of the draft report to the provider. Allow provider ten working days to supply any additional information or documentation. Request confirmation of delivery of draft report.			B3-B4
6. Review any additional provider documentation submitted during 10 day draft report review period. Make necessary revisions to report.			B5
7. Calculate adjusted rate incorporating all proposed findings and adjustments.			A3-A4
8. Obtain representation letter signed by authorized party (CFO, controller, Director of Reimbursement, etc.) and dated as of our report date.			A5
9. Issue final report containing all cost report and rate adjustments to Bureau for Medical Services. Include BMS Letter and any supporting documentation when received.			A1-A4

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

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

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

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

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

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

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

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

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

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

FEDERAL FUNDS ADDENDUM

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

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

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

- a. The State confirms that it has taken all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Those affirmative steps include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.
- b. Vendor confirms that if it utilizes subcontractors, it will take the same affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

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

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

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

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

c. Definitions: For purposes of this section:

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

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

3. BREACH OF CONTRACT REMEDIES AND PENALTIES:

(2 C.F.R. § 200.327 and Appendix II)

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

4. TERMINATION FOR CAUSE AND CONVENIENCE:

(2 C.F.R. § 200.327 and Appendix II)

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

5. EQUAL EMPLOYMENT OPPORTUNITY:

(2 C.F.R. § 200.327 and Appendix II)

Except as otherwise provided under 41 CFR Part 60, and if this contract meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, this contract includes the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

6. DAVIS-BACON WAGE RATES:

(2 C.F.R. § 200.327 and Appendix II)

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

- (a) pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (b) pay wages not less than once a week.

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

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

Vendor agrees that it will comply with the Copeland Anti-KickBack Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Accordingly, Vendor, Subcontractors, and anyone performing under this contract are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The State must report all suspected or reported violations to the Federal awarding agency.

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

Where applicable, and only for contracts awarded by the State in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

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

Vendor agrees that if this contract exceeds \$150,000, Vendor is to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

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

The State will not award to any vendor that is listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

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

Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

13. PROCUREMENT OF RECOVERED MATERIALS
(2 C.F.R. § 200.327 and Appendix II; 2 C.F.R. § 200.323)

Vendor agrees that it and the State must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the

Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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

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

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

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

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

State of West Virginia

By: Heather White

Printed Name: Heather White

Title: Procurement Specialist, Senior

Date: 06/13/2024

Vendor Name:

By: Tammy Brunetti

Printed Name: Tammy Brunetti

Title: Principal

Date: 06/12/2024

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

W. Va. CSR § 148-1-5

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

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

Currentness

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

5.2. Contract Cancellation.

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

5.2.1.a. The vendor agrees to the cancellation;

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

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

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

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

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

5.2.1.g. The contract was awarded in error.

5.2.2. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

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

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

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

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

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

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

5.4. Suspension.

5.4.1. The Director may suspend, for a period not to exceed 1 year, the right of a vendor to bid on procurements issued by the Purchasing Division or any state spending unit under its authority if:

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

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

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

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

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

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

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

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

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

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

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

5.4.2.b.5. That the vendor's failure to request a hearing no later than 5 working days of the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5.5.6. Related Party Debarment. The Director may pursue debarment of a related party at the

same time that debarment of the original vendor is proceeding or at any time thereafter that the Director determines a related party debarment is warranted. Any entity that fails to provide the Director with full, complete, and accurate information requested by the Director to determine related party status will be presumed to be a related party subject to debarment.

5.6. Damages.

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

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

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

Credits

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

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

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

End of Document

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

Prevailing Wage Determination

- ☐ – Not Applicable Because Contract Not for Construction
- ☐ – Federal Prevailing Wage Determination on Next Page

Fee Proposal

As a commitment to our continuing relationship with the State of West Virginia, we are pleased to offer discounted and consistent pricing throughout the duration of this contract. For detailed pricing by facility, please refer to the pricing submitted through the State's wvOASIS Vendor Self Service (VSS) website, and the signed CRFQ documents.

Year	Service	Unit Price	
1	CPA Examination Small Facility (90 beds or less)	\$ 9,500	
1	CPA Examination Large Facility (91 beds or more)	9,750	
2	CPA Examination Small Facility (90 beds or less)	9,500	
2	CPA Examination Large Facility (91 beds or more)	9,750	
3	CPA Examination Small Facility (90 beds or less)	9,500	
3	CPA Examination Large Facility (91 beds or more)	9,750	
4	CPA Examination Small Facility (90 beds or less)	9,500	
4	CPA Examination Large Facility (91 beds or more)	9,750	