



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

# Request for Quotation

RFQ NUMBER  
**TEMP07**

PAGE  
**1**

ADDRESS CORRESPONDENCE TO ATTENTION OF  
**BETTY FRANCISCO**  
**304-558-0468**

VENDOR

\*307105424      304-746-8888  
**EXPRESS SERVICES**  
**47 RHL BLVD**  
  
**SOUTH CHARLESTON WV 25309**

SHIP TO

**ALL STATE AGENCIES  
 AND POLITICAL SUBDIVISIONS  
 VARIOUS LOCALES AS INDICATED  
 BY ORDER**

DATE PRINTED <b>02/08/2007</b>	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: **03/15/2007**      BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<b>REQUEST FOR QUOTATION</b>  <b>FOR A BLANKET OPEN-END STATEWIDE CONTRACT TO            PROVIDE TEMPORARY WORKER SERVICES FOR STATE AGENCIES            AND POLITICAL SUBDIVISIONS.</b>  ***** <b>INQUIRIES</b>  <b>WRITTEN QUESTIONS SHALL BE ACCEPTED THROUGH CLOSE OF            BUSINESS ON MONDAY, FEBRUARY 26, 2007. QUESTIONS MAY            BE SENT VIA USPS, FAX, COURIER OR EMAIL. IN ORDER TO            ASSURE NO VENDOR RECEIVES AN UNFAIR ADVANTAGE, NO            SUBSTANTIVE QUESTIONS WILL BE ANSWERED ORALLY.            IF POSSIBLE, E-MAIL QUESTIONS ARE PREFERRED.            ADDRESS INQUIRIES TO:</b>  <b>JO ANN ADKINS            DEPARTMENT OF ADMINISTRATION            PURCHASING DIVISION            2019 WASHINGTON STREET, EAST            CHARLESTON, WV 25305            FAX: 304-558-4115            EMAIL: JOADKINS@WVADMIN.GOV</b>  *****  <b>RELEASE OF THE RFQ.....02/08/2007            MANDATORY PRE-BID MEETING.....02/22/2007            VENDOR'S WRITTEN QUESTIONS SUBMISSION DEADLINE            (CLOSE OF BUSINESS).....02/26/2007</b>						

**RECEIVED**

2007 MAR -9 A 11: 23

PURCHASING DIVISION  
 STATE OF WV

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE 	TELEPHONE <b>304 746 8888</b>	DATE <b>3/8/07</b>
TITLE <b>ownc</b>	FEIN <b>74 0909 680</b>	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

**GENERAL TERMS & CONDITIONS  
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. All quotations are governed by the *West Virginia Code* and the *Legislative Rules* of the Purchasing Division.
4. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125.00 registration fee.
5. All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
6. Payment may only be made after the delivery and acceptance of goods or services.
7. Interest may be paid for late payment in accordance with the *West Virginia Code*.
8. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
9. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
10. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
11. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
12. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this contract is automatically null and void, and is terminated without further order.
14. **HIPAA Business Associate Addendum** - The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Covered Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.

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**INSTRUCTIONS TO BIDDERS**

1. Use the quotation forms provided by the Purchasing Division.
2. **SPECIFICATIONS:** Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Complete all sections of the quotation form.
4. Unit prices shall prevail in cases of discrepancy.
5. All quotations are considered F O B. destination unless alternate shipping terms are clearly identified in the quotation.
6. **BID SUBMISSION:** All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications.

**SIGNED BID TO:**

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



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02/08/2007				

BID OPENING DATE: **03/15/2007**      **BID OPENING TIME 01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
					RESPONSE TO QUESTIONS/ADDENDUM ISSUED.....03/01/2007	
					BID OPENING DATE.....03/15/2007	
0001	1	JB		946-10-01-001		
					<b>TEMPORARY EMPLOYEE SERVICES</b>	
<p>*****NOTICE*****NOTICE*****NOTICE*****</p> <p>A MANDATORY PRE-BID MEETING SHALL BE HELD ON THURSDAY, FEBRUARY 22, 2007, AT 10:30 A.M. THE MEETING WILL BE IN THE PURCHASING DIVISION CONFERENCE ROOM LOCATED AT 2019 WASHINGTON STREET, EAST, CHARLESTON, WV. THIS IS BUILDING 15 IN THE CAPITOL COMPLEX. ANY VENDOR WHO WISHES TO BID ON THIS CONTRACT MUST BE REPRESENTED AT THIS MEETING. FAILURE TO ATTEND THE PRE-BID CONFERENCE SHALL DISQUALIFY A VENDOR FROM BIDDING ON THIS CONTRACT. NO PERSON CAN REPRESENT MORE THAN ONE BIDDER.</p> <p>ATTACHMENTS TO THIS REQUEST FOR QUOTATION:</p> <ol style="list-style-type: none"> <li>SPECIFICATIONS, "TEMP07" DATED FEBRUARY 2, 2007 (9 PAGES)</li> <li>PRICING PAGES DATED FEBRUARY 8, 2007 (4 PAGES)</li> <li>JOB CLASSIFICATION/INFORMATION PAGES (25 PAGES)</li> <li>WV-96 (1 PAGE)</li> <li>NO DEBT AFFIDAVIT (1 PAGE)</li> <li>WV STATE GOVERNMENT HIPPA BUSINESS ASSOCIATE</li> </ol>						

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LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
				STATEWIDE CONTRACT ADDENDUM		
				EXHIBIT 3		
				LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON ..... AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.		
				UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.		
				RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.		
				CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.		
				OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY		

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<p>AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. 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.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATICALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 04/11/2001</p>						

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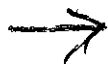
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<p><b>VENDOR PREFERENCE CERTIFICATE</b></p> <p>CERTIFICATION AND APPLICATION* IS HEREBY MADE FOR PREFERENCE IN ACCORDANCE WITH WEST VIRGINIA CODE, 5A-3-37 (DOES NOT APPLY TO CONSTRUCTION CONTRACTS).</p> <p>A. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p><input checked="" type="checkbox"/> BIDDER IS AN INDIVIDUAL RESIDENT VENDOR AND HAS RESIDED CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR</p> <p><input type="checkbox"/> BIDDER IS A PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR AND HAS MAINTAINED ITS HEAD-QUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR 80% OF THE OWNERSHIP INTEREST OF BIDDER IS HELD BY ANOTHER INDIVIDUAL, PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR WHO HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR</p> <p><input type="checkbox"/> BIDDER IS A CORPORATION NONRESIDENT VENDOR WHICH HAS AN AFFILIATE OR SUBSIDIARY WHICH EMPLOYS A MINIMUM OF ONE HUNDRED STATE RESIDENTS AND WHICH HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA CONTINUOUSLY FOR THE FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS</p>						



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<p>CERTIFICATION.</p> <p>B. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p><input checked="" type="checkbox"/> BIDDER IS A RESIDENT VENDOR WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES WORKING ON THE PROJECT BEING BID ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID;</p> <p>OR</p> <p><input type="checkbox"/> BIDDER IS A NONRESIDENT VENDOR EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS OR IS A NONRESIDENT VENDOR WITH AN AFFILIATE OR SUBSIDIARY WHICH MAINTAINS ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES OR BIDDERS' AFFILIATE'S OR SUBSIDIARY'S EMPLOYEES ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID.</p> <p>BIDDER UNDERSTANDS IF THE SECRETARY OF TAX &amp; REVENUE DETERMINES THAT A BIDDER RECEIVING PREFERENCE HAS FAILED TO CONTINUE TO MEET THE REQUIREMENTS FOR SUCH PREFERENCE, THE SECRETARY MAY ORDER THE DIRECTOR OF PURCHASING TO: (A) RESCIND THE CONTRACT OR PURCHASE ORDER ISSUED; OR (B) ASSESS A PENALTY AGAINST SUCH BIDDER IN AN AMOUNT NOT TO EXCEED 5% OF THE BID AMOUNT AND THAT SUCH PENALTY WILL BE PAID TO THE CONTRACTING AGENCY OR DEDUCTED FROM ANY UNPAID BALANCE ON THE CONTRACT OR PURCHASE ORDER.</p> <p>BY SUBMISSION OF THIS CERTIFICATE, BIDDER AGREES TO</p>						

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<p>DISCLOSE ANY REASONABLY REQUESTED INFORMATION TO THE PURCHASING DIVISION AND AUTHORIZES THE DEPARTMENT OF TAX AND REVENUE TO DISCLOSE TO THE DIRECTOR OF PURCHASING APPROPRIATE INFORMATION VERIFYING THAT BIDDER HAS PAID THE REQUIRED BUSINESS TAXES, PROVIDED THAT SUCH INFORMATION DOES NOT CONTAIN THE AMOUNTS OF TAXES PAID NOR ANY OTHER INFORMATION DEEMED BY THE TAX COMMISSIONER TO BE CONFIDENTIAL.</p> <p>UNDER PENALTY OF LAW FOR FALSE SWEARING (WEST VIRGINIA CODE 61-5-3), BIDDER HEREBY CERTIFIES THAT THIS CERTIFICATE IS TRUE AND ACCURATE IN ALL RESPECTS; AND THAT IF A CONTRACT IS ISSUED TO BIDDER AND IF ANYTHING CONTAINED WITHIN THIS CERTIFICATE CHANGES DURING THE TERM OF THE CONTRACT, BIDDER WILL NOTIFY THE PURCHASING DIVISION IN WRITING IMMEDIATELY.</p> <p>BIDDER: <i>Express Personnel Services</i> <i>Tom Wirts</i></p> <p>DATE: <i>3/8/07</i></p> <p>SIGNED: <i>[Signature]</i></p> <p>TITLE: <i>owner / general manager</i></p> <p>* CHECK ANY COMBINATION OF PREFERENCE CONSIDERATION(S) IN EITHER "A" OR "B", OR BOTH "A" AND "B" WHICH YOU ARE ENTITLED TO RECEIVE. YOU MAY REQUEST UP TO THE MAXIMUM 5% PREFERENCE FOR BOTH "A" AND "B". (REV. 12/00)</p> <p>NOTICE</p>						

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***** THIS IS THE END OF RFQ - TEMP07 ***** TOTAL:						_____

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**Pricing Page – Temp07  
REGION II**

Vendor Name: Express Personnel Services  
 #Years Providing Temp Svc: 7 Years  
 Contact Person: Tom Wirts  
 Phone#: 304-746-8888  
 Fax#: 304-746-1112

Note: If you do not cover entire region, circle counties where you do supply temporaries

Region II - Mason, Cabell, Wayne, Mingo, Logan, Boone, Lincoln, Kanawha, Putnam, Roane and Jackson

**CLASSIFICATION**

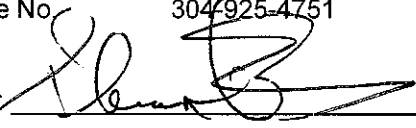
REGION II				
	Worker Pay	Statutory	Overhead	Total
1 – Accounting Technician 2	\$6.50	\$.78	\$1.50	\$8.78
2 – Administrative Services Assistant 1	\$6.50	\$.78	\$1.50	\$8.78
3 – Administrative Services Assistant 2	\$8.00	\$.96	\$1.50	\$10.46
4 – Custodian	\$6.50	\$.93	\$1.50	\$8.93
5 – Data Entry Operator 2	\$6.50	\$.78	\$1.50	\$8.78
6 – Executive Secretary	\$7.50	\$.90	\$1.50	\$9.90
7 – Groundskeeper	\$6.00	\$.99	\$1.50	\$8.49
8 – Guard 2	N/A	N/A	N/A	N/A
9 – Guard 1	N/A	N/A	N/A	N/A
10 – Health Services Worker	N/A	N/A	N/A	N/A
11 – Laboratory Assistant 3	\$6.75	\$.81	\$1.50	\$9.06
12 – Laborer	\$6.00	\$.91	\$1.50	\$8.41
13 – Office Assistant 3	\$7.50	\$.90	\$1.50	\$9.90
14 – Office Assistant 2	\$6.50	\$.78	\$1.50	\$8.78
15 – Mail Runner	\$6.75	\$.81	\$1.50	\$9.06
16 – Painter	N/A	N/A	N/A	N/A
17 – Paralegal	\$9.00	\$1.08	\$1.50	\$11.58
18 – Word Processor	\$7.50	\$.90	\$1.50	\$9.90

**REFERENCES – REGION II**

Company Name: CDI Corporation  
 Representative: Melissa Lowdermilk  
 Address: 3200 Kanawha Turnpike, Bldg 2000, South Charleston, WV 25303  
 Telephone No: 304-746-3543

Company Name: Mike Howard  
 Representative: American Electric Power  
 Address: 1530 Winfield Road, Winfield, WV 25213  
 Telephone No: 304-759-3138

Company Name: George Bohach  
 Representative: TerraCare  
 Address: P.O. Box 60090, Malden, WV 25306  
 Telephone No: 304-925-4751

Signature: 

Date: 3/8/07

**AGREEMENT ADDENDUM**

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

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

ACCEPTED BY:  
**STATE OF WEST VIRGINIA**

Spending Unit: \_\_\_\_\_

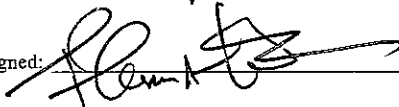
Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**VENDOR**

Company Name: Express Personnel Services

Signed: 

Title: Owner

Date: 3/8/07

WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE STATEWIDE CONTRACT ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, "HIPAA") Business Associate Addendum ("Addendum") supplements and is made a part of the Agreement ("Agreement") by and between the West Virginia Department of Administration, Purchasing Division, on behalf of all state agencies executing a release order to the underlying contract to which this Addendum is appended ("Agency"), and the statewide contract vendor, the Business Associate ("Associate"), and is effective as of the date of the Release Order executed by the Agency to participate in the statewide contract.

Whereas the parties have a business relationship; and

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

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

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

**1. Definitions.**

a. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy and Security Rules.

b. **Privacy Rule.** Privacy Rule means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and Part 164, Subparts A and E, as amended.

c. **Security Rule.** Security Rule means the Standards for the security of electronic protected health information found at 45 CFR Part 164, Subpart C, as amended.

**2. PHI Disclosed; Permitted Uses.**

a. **PHI Described.** PHI disclosed by the Agency to the Business Associate, PHI created by the Business Associate on behalf of the Agency, and PHI received by the Business Associate from a third party on behalf of the Agency are disclosable under this Addendum. The disclosable PHI is limited to the minimum necessary to complete the tasks, or to provide the services, associated with the terms of the original contract.

b. **Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original contract, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or violate the minimum necessary policies and procedures of the Agency.

### 3. Obligations of Business Associate

a. **Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than stated in this Addendum or as required by law

b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as required by this Addendum or by law.

c. **Safeguards.** The Associate will use appropriate safeguards to prevent use or disclosure of the PHI except as provided for in this Addendum. This shall include, but not be limited to:

(i) Limitation of the groups of its employees or agents to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary;

(ii) Appropriate notification and training of its employees or agents to whom the PHI will be disclosed in order to protect the PHI from unauthorized disclosure;

(iii) Maintenance of a comprehensive written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations.

d. **Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules

e. **Report of Disclosure.** The Associate will promptly report to the Agency, in writing, any use or disclosure of the PHI not provided for by this Addendum of which it becomes aware.

f. **Mitigation.** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum

g. **Documentation.** Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §§ 164.528 and 164.316. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such PHI shall include: (i) the date of disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of the entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of purposes of the disclosure that reasonably informs the Individual of the basis for the disclosure, or a copy of the Individual's authorization, or a copy of the written request for disclosure.

h. **Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the PHI required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528.

i. **Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524.

j. **Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.

k. **Retention of PHI.** Notwithstanding section 4.a of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.g of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.

l. **Agents, Subcontractors Compliance.** The Associate will ensure that any of its agents, including any subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder

m. **Amendments.** The Associate shall make available to the specific Individual to whom it applies any PHI; make such PHI available for amendment; and make available the PHI required to provide an accounting of disclosures, all to the extent required by 45 CFR §§ 164.524, 164.526, and 164.528 respectively

n. **Federal Access.** The Associate shall make its internal practices books, and records relating to the use and disclosure of PHI received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504

#### 4. Termination.

a. **Duties at Termination.** Upon any termination of this Addendum, if feasible, the Associate shall return or destroy all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of this Addendum

b. **Termination For Cause.** Agency may terminate this Addendum if at any time it determines that the Associate has violated a material term of the Addendum. Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.

c. **Survival.** The respective rights and obligations of Associate under Section 3.k of this Addendum shall survive the termination of this Addendum

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

a. **Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand.

b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an Individual must be held confidential and is also the property of Agency.

c. **Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an Individual must not be transmitted to another party by electronic or other means for additional uses not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.

d. **No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected Individual's written consent.

e. **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency, Associate and their respective successors or assigns, any rights remedies, obligations or liabilities whatsoever.

f. **Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.


g. **Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.

h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process

i. **Applicability.** If the Agency which executes the Release Order and Agreement to participate in the underlying statewide contract is not a HIPAA covered entity, per 45 CFR § 160.103, or if the vendor does not use or disclose any PHI, this Addendum shall be null and void.

**AGREED:**

Name of Business Associate: Tom Wirts

Signature: 

Title: owner

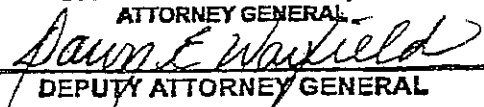
Date: 3/8/07

Agency: David Tincher, Director, Purchasing Division, Department of Administration, on behalf of all state agencies executing a release order to the underlying contract to which this Addendum is appended.

Signature \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM PRIOR TO  
ACKNOWLEDGEMENT THEREOF, THIS**  
27<sup>th</sup> day of July, 2004  
**DARRELL V. McGRAW, JR.**  
**ATTORNEY GENERAL**  
By:   
**DEPUTY ATTORNEY GENERAL**

# AFFIDAVIT

**West Virginia Code §5A-3-10a states:**

No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owned is an amount greater than one thousand dollars in the aggregate

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

**EXCEPTION:**

The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**LICENSING:**

Vendors 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 agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

**CONFIDENTIALITY:**

The vendor agrees that he or she 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. Vendors should visit [www.state.wv.us/admin/purchase/privacy](http://www.state.wv.us/admin/purchase/privacy) for the Notice of Agency Confidentiality Policies.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), it is hereby certified that the vendor acknowledges the information in this said affidavit and are in compliance with the requirements as stated.

Vendor's Name: Express Personnel Services / Tom Wirts

Authorized Signature: [Signature] Date: 3/9/07

WV-36a STATE OF WEST VIRGINIA <b>PURCHASING CONTINUATION SHEET</b>	Buyer: <u>File 42</u>	Page	Req. or P. O. No.: <u>Temp 07</u>
Vendor: <u>Express Personnel Services</u>		Spending Unit:	

Requisition No.: Temp 07

**ADDENDUM ACKNOWLEDGEMENT**

I hereby acknowledge receipt of the following checked addendum(s) and have made the necessary revisions to my proposal, plans and/or specifications, etc.

- Addendum No.'s:**
- No. 1   *✓*
  - No. 2   *✓*
  - No. 3 \_\_\_\_\_
  - No. 4 \_\_\_\_\_
  - No. 5 \_\_\_\_\_

I understand that failure to confirm the receipt of the addendum(s) is cause for rejection of bids.

  
 \_\_\_\_\_  
 Signature

Express Personnel  
 \_\_\_\_\_  
 Company

3/9/07  
 \_\_\_\_\_  
 Date