



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  
 DEP13579

PAGE  
 1

ADDRESS CORRESPONDENCE TO ATTENTION OF:  
 CHUCK BOWMAN  
 304-558-2157

RFQ COPY  
 TYPE NAME/ADDRESS HERE

VENDOR

TEN-A-COAL COMPANY  
 RT. 4, BOX 253  
 CLARKSBURG, WV 26301

SHIP TO

ENVIRONMENTAL PROTECTION  
 DEPT. OF  
 OFFICE OF SPECIAL RECLAMATION  
 105 S. RAILROAD STREET  
 PHILIPPI, WV  
 26416-9998 304-457-3219

DATE PRINTED 06/27/2007	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: 07/11/2007 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
***** ADDENDUM NO. 1 ***** ADDENDUM TO THE RFQ FOR SLUDGE PUMPING/SNOW REMOVAL OF NORTHERN AREA SPECIAL RECLAMATION PROJECTS PER THE ATTACHED VENDOR QUESTIONS AND AGENCY ANSWERS AND THE REVISED SCOPE OF WORK SECTION OF THE SPECIFICATIONS. BID OPENING DATE AND TIME REMAIN UNCHANGED AS 07/11/2007 AT 1:30 PM. ***** NO OTHER CHANGES *****						
0001	1	JB		968-72		\$325,000.00
SLUDGE PUMPING/SNOW REMOVAL NORTHERN SPEC REC SITES						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE: *Patricia A. Cunningham* TELEPHONE: 304-783-5484 DATE: 7/9/07  
 TITLE: PARTNER FEIN: 55-051-6915  
 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.

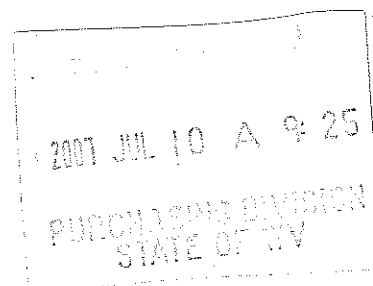
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**INSTRUCTIONS TO BIDDERS**

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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06/15/2007				
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0001	1	JB		968-72		\$325,000.00
<p>SLUDGE PUMPING/SNOW REMOVAL NORTHERN SPEC REC SITES</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY, THE WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S OFFICE OF SPECIAL RECLAMATION, IS SOLICITING BIDS FROM QUALIFIED VENDORS TO PROVIDE ALL PERSONNEL, FACILITIES, MATERIALS, SUPPLIES, AND SERVICES TO PROVIDE WINTER ACCESS TO SITES AND PUMPING OF LIQUIDS, ACID MINE DRAINAGE SLUDGE, AT NORTHERN WEST VIRGINIA AREA SPECIAL RECLAMATION PROJECT SITES, PER THE FOLLOWING SPECIFICATIONS, BID REQUIREMENTS, SCOPE OF WORK, TERMS &amp; CONDITIONS, AND THE BID SCHEDULE.</p> <p>EXHIBIT 3</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE UPON AWARD 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.</p> <p>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.</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Patrick H. Cunningham</i>	TELEPHONE 304-783-5484	DATE 7/9/07
TITLE PARTNER	FEIN 55-051-6915	ADDRESS CHANGES TO BE NOTED ABOVE

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PROPERTY

TEN-A-COAL COMPANY  
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<p>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.</p> <p>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.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY 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</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Patricia K. Cunningham</i>	TELEPHONE 304-783-5484	DATE 7/9/07
TITLE PARTNER	FEIN 55-051-6915	ADDRESS CHANGES TO BE NOTED ABOVE

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<p>RETAINED BY THE SPENDING UNIT.</p> <p>REV. 3/88</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>WAGE RATES: THE CONTRACTOR OR SUBCONTRACTOR SHALL PAY THE HIGHER OF THE U.S. DEPARTMENT OF LABOR MINIMUM WAGE RATES AS ESTABLISHED FOR NORTHERN COUNTIES, PURSUANT TO WEST VIRGINIA CODE 21-5-1, ET, SEQ.</p> <p>WORKERS' COMPENSATION: VENDOR IS REQUIRED TO PROVIDE A CERTIFICATE FROM WORKERS' COMPENSATION IF SUCCESSFUL.</p> <p>INSURANCE: SUCCESSFUL VENDOR SHALL FURNISH PROOF OF COMMERCIAL GENERAL LIABILITY INSURANCE PRIOR TO ISSUANCE OF CONTRACT. UNLESS OTHERWISE SPECIFIED IN THE BID DOCUMENTS, THE MINIMUM AMOUNT OF INSURANCE COVERAGE REQUIRED IS \$250,000.</p> <p>AUTOMOBILE LIABILITY: VENDOR SHALL PROVIDE PROOF OF AUTO LIABILITY INSURANCE. AUTO LIABILITY INSURANCE SHALL HAVE BODILY INJURY LIMITS OF NOT LESS THAN THREE HUNDRED THOUSAND DOLLARS (U.S. \$300,000.00) PER OCCURRENCE AND PROPERTY DAMAGE LIMITS OF NOT LESS THAN ONE HUNDRED THOUSAND DOLLARS (U.S. \$100,000.00)</p> <p style="text-align: center;">VENDOR PREFERENCE CERTIFICATE</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>						

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<p>A. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>( ) 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>( X ) BIDDER IS A PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR AND HAS MAINTAINED ITS HEAD-QUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY I 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>( ) 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 HEAQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA CONTINUOUSLY FOR THE FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION.</p> <p>B. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>( X ) 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</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Robert H. Cunningham</i>	TELEPHONE 304-783-5484	DATE 7/9/07
TITLE PARTNER	FEIN 55-051-6915	ADDRESS CHANGES TO BE NOTED ABOVE

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<p>THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID;            OR            ( ) 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 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>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
<i>Patrick H. Cunningham</i>	304-783-5484	7/9/07
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
PARTNER	55-051-6915	

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TEN-A-COAL COMPANY  
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UNDER PENALTY OF LAW FOR FALSE SWEARING (WEST VIRGINIA CODE 61-5-3), BIDDER HEREBY CERTIFIES THAT THIS CERTIFICATE IS TRUE AND ACCURATE IN ALL RESPECTS; AND THAT IF A CONTRACT IS ISSUED TO BIDDER AND IF ANYTHING CONTAINED WITHIN THIS CERTIFICATE CHANGES DURING THE TERM OF THE CONTRACT, BIDDER WILL NOTIFY THE PURCHASING DIVISION IN WRITING IMMEDIATELY.						
BIDDER: ---TEN-A-COAL-COMPANY---						
DATE: ---JULY 9, 2007---						
SIGNED: <i>Patricia A. Cunningham</i>						
TITLE: PARTNER						
* 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)						
NOTICE A SIGNED BID MUST BE SUBMITTED TO: DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130						

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<p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER: CB-23</p> <p>RFQ. NO.: DEP13579</p> <p>BID OPENING DATE: 07/11/2007</p> <p>BID OPENING TIME: 1:30 PM</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:            304-783-5514</p> <p>-----</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY):            PATRICK H. CUNNINGHAM</p> <p>-----</p>						

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SIGNATURE <i>Patrick H. Cunningham</i>	TELEPHONE 304-783-5484	DATE 7/9/07
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BUYER CB-23	PAGE <b>10</b>	REQ. OR PO NO. DEP13579
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA  
Rev. 02/97 PURCHASING CONTINUATION SHEET  
VENDOR: TEN-A-COAL COMPANY

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Article 7 - Costs and Payments

A. Payment to the contractor will be made on the following basis:

1. Unit Pricing

Item - As directed by the State in specific work directive.

Quantity - As agreed to prior to issuing a Notice to Proceed.

Unit Price - As provided by the Offeror in the proposal.

B. The contractor shall invoice on specified DEP forms to the department after completion of work specified in the work directive; final inspection has been made; and the work is accepted by the department. All invoices shall show the quantities and unit prices approved in the cost estimate for the work directive. Multiple invoices will be accepted on Work Directives with prior approval of the DEP.

Article 8 - Changes in the Contract

A. The State, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions. All such changes in the work shall be authorized by a change order. A change order signed by both the State and Offeror indicates their agreement to an adjustment to the contract. The cost or credit to the State resulting from a change in the work shall be determined in one or more of the following ways:

- 1) By mutual acceptance of a lump sum properly documented (itemized)
- 2) By unit prices (negotiated)

All equipment used must be in good operable condition and be readily available.

All materials must have approval from a DEP representative.

Labor – The contractor shall pay the West Virginia State Department of Labor Wage Rates as established in the county in which the work is being performed. Code 21-5A-1 ET SEQ.

# BID SCHEDULE

#DEP13579

Vendor: TEN-A-COAL COMPANY

BUYER CB-23	PAGE <b>11</b>	REQ. OR PO NO. DEP13579
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

ITEM NO.	QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
1.0	1000 HRS	Trash Pump 6" Dia. gas a/o DSL powered with trailer mounting (Operator covered under Item # 4.0)	<u>\$75.00</u> PER HR	<u>\$75,000.00</u>
2.0	1000 HRS	Water Pump 4" Dia. gas a/o DSL powered (Operator covered under Item # 4.0)	<u>\$60.00</u> PER HR	<u>\$60,000.00</u>
3.0	1000 HRS	Water Pump 2" Dia. gas a/o DSL powered (Operator covered under Item # 4.0)	<u>\$25.00</u> PER HR	<u>\$25,000.00</u>
4.0	1000 HRS	Laborer - To include basic hand tools i.e. shovel, chainsaw, drill, etc., and pump operator as needed	<u>\$150.00</u> PER HR	<u>\$150,000.00</u>
5.0	100 HRS	Truck with snow blade; minimum 1 ton pickup with 8-foot wide snow blade, with operator/driver.	<u>\$150.00</u> PER HR	<u>\$150,000.00</u>
		<b>TOTAL</b>		<u>\$ 325,000.00</u>

**NOTE:**

1. All items must be bid and bid in unit measure specified in the quantity column.
2. Quantities are for bidding purposes only.
3. Some sites will require multiple pumps in a series.
4. The quantities are applied for bidding purposes only, actual quantities shall be based on work performed and may be more or less depending on the necessity for maintenance work.
5. All equipment used must be in good operable condition and be readily available.
6. All materials must have approval from a DEP representative.
7. Some sites will require continuous pumping from start-up to finish.
8. Labor - The contractor shall pay the West Virginia State Division of Labor Wage Rates as established in the county in which the work is being performed. Code 21-5A-1 ET SEQ.
9. Bid item number 4.0 – Laborer, will cover cost of pump operator.

BUYER CB-23	PAGE <b>10</b>	REQ. OR PO NO. DEP13579
SPENDING UNIT WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION/SPECIAL RECLAMATION		

WV-36 STATE OF WEST VIRGINIA  
Rev. 02/97 PURCHASING CONTINUATION SHEET  
VENDOR: TEN-A-COAL COMPANY

Article 7 - Costs and Payments

A. Payment to the contractor will be made on the following basis:

1. Unit Pricing

Item - As directed by the State in specific work directive.

Quantity - As agreed to prior to issuing a Notice to Proceed.

Unit Price - As provided by the Offeror in the proposal.

B. The contractor shall invoice on specified DEP forms to the department after completion of work specified in the work directive; final inspection has been made; and the work is accepted by the department. All invoices shall show the quantities and unit prices approved in the cost estimate for the work directive. Multiple invoices will be accepted on Work Directives with prior approval of the DEP.

Article 8 - Changes in the Contract

A. The State, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions. All such changes in the work shall be authorized by a change order. A change order signed by both the State and Offeror indicates their agreement to an adjustment to the contract. The cost or credit to the State resulting from a change in the work shall be determined in one or more of the following ways:

- 1) By mutual acceptance of a lump sum properly documented (itemized)
- 2) By unit prices (negotiated)

All equipment used must be in good operable condition and be readily available.

All materials must have approval from a DEP representative.

Labor – The contractor shall pay the West Virginia State Department of Labor Wage Rates as established in the county in which the work is being performed. Code 21-5A-1 ET SEQ.

STATE OF WEST VIRGINIA  
Purchasing Division

## PURCHASING 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: TEN-A-COAL COMPANY

Authorized Signature: *Patrick H. Cunningham*

Date: 7/9/07