



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

MCH90099

PAGE

1

ADDRESS CORRESPONDENCE TO ATTENTION OF:

ROBERTA WAGNER
304-558-0067

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*709001659 203-378-0003
OKAMOTO USA INC
18 KING STREET
STRATFORD CT 06615

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HEALTH AND HUMAN RESOURCES
BPH - OMC FH
MATERIALS MANAGEMENT
900 BULLITT STREET
CHARLESTON, WV
25301 304-558-3417

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
12/10/2008				

BID OPENING DATE:

01/08/2009

BID OPENING TIME:

01:00 PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE
0001	1,500	CS	270-19	CONDOMS, 100% LATEX LUBRICATED, RESERVOIR TIP, NEUTRAL COLOR. (PRICE SHOULD INCLUDE FREIGHT). INDIVIDUALLY PACKAGED; 1008 PER CASE. OR EQUAL.	\$35.00/case \$52,500-
0002	45	CS	270-19	CONDOMS, 100% LATEX, NON-LUBRICATED, RESERVOIR TIP,	no bid

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	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 fee.
5. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, 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 may be deemed null and void, and 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 Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."

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 case 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: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130



State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street East
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ADDRESS CORRESPONDENCE TO ATTENTION OF

ROBERTA WAGNER
804-558-0067

*709001659 203-378-0003

OKAMOTO USA INC
18 KING STREET

STRATFORD CT 06615

HEALTH AND HUMAN RESOURCES

BPH - OMC FH

MATERIALS MANAGEMENT

900 BULLITT STREET

CHARLESTON, WV

25301

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NEUTRAL COLOR. (PRICE SHOULD INCLUDE FREIGHT) . INDIVIDUALLY PACKAGED; 1000 PER CASE. LIFESTYLE #5700 OR EQUAL.						
EXHIBIT 4						
LOCAL GOVERNMENT BODIES: UNLESS THE VENDOR INDICATES IN THE BID HIS REFUSAL TO EXTEND THE PRICES, TERMS, AND CONDITIONS OF THE BID TO COUNTY, SCHOOL, MUNICIPAL AND OTHER LOCAL GOVERNMENT BODIES, THE BID SHALL EXTEND TO POLITICAL SUBDIVISIONS OF THE STATE OF WEST VIRGINIA. IF THE VENDOR DOES NOT WISH TO EXTEND THE PRICES, TERMS, AND CONDITIONS OF THE BID TO ALL POLITICAL SUBDIVISIONS OF THE STATE, THE VENDOR MUST CLEARLY INDICATE SUCH REFUSAL IN HIS BID. SUCH REFUSAL SHALL NOT PREJUDICE THE AWARD OF THIS CONTRACT IN ANY MANNER.						
REV. 3/88						
INQUIRIES: WRITTEN QUESTIONS SHALL BE ACCEPTED THROUGH CLOSE OF BUSINESS ON 12/22/2008. QUESTIONS MAY BE SENT VIA USPS, FAX, COURIER OR E-MAIL. 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: ROBERTA WAGNER DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25301						

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LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
FAX: 304-558-4115 E-MAIL: ROBERTA.A.WAGNER@WV.GOV						
LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON FEBRUARY 1, 2009 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.						

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ROBERTA WAGNER 804-558-0067

VENDOR
*709001659 203-378-0003
OKAMOTO USA INC
18 KING STREET
STRATFORD CT 06615

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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.)						
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.						
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.						
BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATICALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.						
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.						

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EXHIBIT 6						
PRICE ADJUSTMENT PROVISION: THE STATE OF WEST VIRGINIA WILL CONSIDER PRICE ADJUSTMENTS AT THE TIME OF RENEWAL, PROVIDED THAT SUCH PRICE ADJUSTMENT COVERS BOTH UPWARD AND DOWNWARD MOVEMENT OF THE COMMODITY PRICE, AND THAT ADJUSTMENT IS BASED ON THE "PASS THROUGH" INCREASE OR DECREASE OF RAW MATERIALS AND/OR LABOR, WHICH MAKE UP ALL OR A SUBSTANTIAL PART OF A PRODUCT. ADJUSTMENTS ARE TO BE BASED UPON AN ACTUAL DOLLAR FIGURE, NOT A PERCENTAGE. ALL PRICE ADJUSTMENT REQUESTS MUST BE SUBSTANTIATED IN A MANNER ACCEPTABLE TO THE DIRECTOR PURCHASING, E.G. GOVERNMENTAL BENCH MARKS, GENERAL MARKET INCREASE, PUBLISHED PRICE LISTS. SUCH REQUESTS FOR AND INCREASE SHOULD BE RECEIVED IN WRITING BY THE DIRECTOR OF PURCHASING AT LEAST 30 DAYS IN ADVANCE OF THE EFFECTIVE DATE OF THE INCREASE. ANY TIME THE VENDOR REQUESTS A PRICE ADJUSTMENT, THE PURCHASING DIVISION MAY EITHER ACCEPT THE PRICE ADJUSTMENT AND AMEND THE CONTRACT ACCORDINGLY OR REJECT THE ADJUSTMENT IN ITS ENTIRETY AND CANCEL THE CONTRACT.						
THE MODEL/BRAND/SPECIFICATIONS NAMED HEREIN ESTABLISH THE ACCEPTABLE LEVEL OF QUALITY ONLY AND ARE NOT INTENDED TO REFLECT A PREFERENCE OR FAVOR ANY PARTICULAR BRAND OR VENDOR. VENDORS WHO ARE BIDDING ALTERNATES SHOULD SO STATE AND INCLUDE PERTINENT LITERATURE AND SPECIFICATIONS. FAILURE TO PROVIDE INFORMATION FOR ANY ALTERNATES MAY BE GROUNDS FOR REJECTION OF THE BID. THE STATE RESERVES THE RIGHT TO WAIVE MINOR IRREGULARITIES IN BIDS OR SPECIFICATION						

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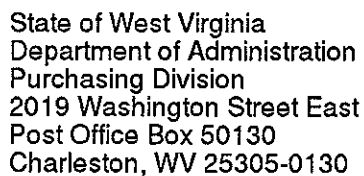
BID OPENING DATE: 01/08/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
IN ACCORDANCE WITH SECTION 148-1-4 (F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS. PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A BANK. THE SUCCESSFUL VENDOR MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE AGENCY AS A CONDITION OF AWARD.						
NOTICE						
AN ORIGINAL, SIGNED BID MUST BE SUBMITTED TO:						
DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130						
PLEASE NOTE: A CONVENIENCE COPY WOULD BE APPRECIATED.						
BIDS MUST CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPES OR THE BIDS MAY NOT BE CONSIDERED:						
SEALED BID						
BUYER: RW-22						
RFQ. NO.: MCH90099						
BID OPENING DATE AND TIME 1/8/9 AT 1:30 PM						
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Albert Calderon</i>	TELEPHONE 203-378-0003 X301	DATE 12/15/08
TITLE Marketing Mgr	FEIN 06-0922845	ADDRESS CHANGES TO BE NOTED ABOVE

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<div style="text-align: center;"> <div>-----</div> CONTACT PERSON (PLEASE PRINT CLEARLY): <div>-----</div> </div>						
***** THIS IS THE END OF RFQ MCH90099 ***** TOTAL:						_____

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STATE OF WEST VIRGINIA

PURCHASE CONTINUATION SHEETVendor: OKamoto USA INC P O Date: _____

Page ____ of ____ Pages

Requisition / P O No :
MCH90099

File:

22

Acct. No.:

SEE BELOW

Spending Unit:

OMCFH/FAMILY PLANNING

Item No.	Quantity	Description	Unit Price	Amount
	APPROX ANNUAL USAGE	OPEN END CONTRACT TO PROVIDE THE FOLLOWING FAMILY PLANNING PRODUCTS:		
1	1500 CS.	CONDOMS, 100% LATEX LUBRICATED, RESERVOIR TIP, NEUTRAL COLOR, PACKAGING: 1000/CASE LIFESTYLES #5800 OR EQUAL	\$35/cs	\$52,500
2.	45 CS.	CONDOMS, 100% LATEX, NONLUBRICATED, RESERVOIR TIP, NEUTRAL COLOR, PACKAGING: 1000/CASE LIFESTYLE #5700 OR EQUAL.	NO BID	
		<p>SPECIFICATIONS:</p> <p>EACH INDIVIDUALLY PACKAGED CONDOM MUST BE LEGIBLY MARKED TO INCLUDE THE NAME OR TRADEMARK OF THE MANUFACTURER AND THE LOTS OR BATCH NUMBER. IN ADDITION, EACH INDIVIDUALLY PACKAGED CONDOM MUST INCLUDE THE PRINTED OR STAMPED EXPIRATION DATE. VENDOR MUST CLEARLY INDICATE THE MANUFACTURER'S NAME, BRAND AND PRODUCT NUMBER FOR EACH ITEM. IF THE LABEL OF THE PRODUCT TO BE SUPPLIED IDENTIFIES THE DISTRIBUTOR RATHER THAN THE MANUFACTURER, THE BIDDER MUST INDICATE BOTH THE DISTRIBUTOR AND MANUFACTURER'S NAME AND COUNTRY OR ORIGIN, IN ADDITION TO THE PRODUCT NUMBER. DURING THE TERM OF CONTRACT THE VENDOR IS TO DELIVERY ONLY THE PRODUCT SPECIFICALLY BID.</p> <p>SAMPLES/DOCUMENTATION:</p> <p>SAMPLES OF PRODUCT TO BE SUPPLIED UNDER CONTRACT, AS WELL AS PRODUCT LITERATURE SHOULD ACCOMPANY BID FAILURE TO SUBMIT SAME DISQUALIFIES BID.</p> <p>CONDOM SPECIFICATION FOR EACH STYLE AND TYPE OF CONDOM QUOTED SHOULD ACCOMPANY BID QUOTATION</p> <p>CONDOM USAGE INSTRUCTIONS MUST BE INCLUDED WITH ALL ORDERS</p> <p>FDA AND OTHER REQUIREMENTS:</p> <p>VENDOR MUST CERTIFY THAT THE PRODUCT OFFERED MEETS ALL REQUIREMENTS OF THE AMERICAN SOCIETY FOR TESTING AND MATERIALS ASTM D-3492-97, STANDARD SPECIFICATIONS FOR RUBBER CONTRACEPTIVES (MALE CONDOMS), AND FOOD AND DRUG ADMINISTRATION (FDA) REQUIREMENTS FOR MEDICAL DEVICES 21 CFR, PART 801</p> <p>A CERTIFICATE OF CONFORMANCE MUST BE PROVIDED FOR THE SAMPLES SUBMITTED AND FOR EACH BATCH OR LOT SUBMITTED UNDER THE CONTRACT</p> <p>DOCUMENTATION/CERTIFICATIONS OF FDA 510 K PRODUCT REGISTRATION NUMBER AND FDA SITE REGISTRATION NUMBER FOR THE MANUFACTURING FACILITY IS REQUIRED.</p>		

STATE OF WEST VIRGINIA
PURCHASE CONTINUATION SHEET

Page ____ of ____ Pages

Requisition / P O No :
MCH90099File:
22Acct. No.:
SEE BELOW

Vendor: _____ P O Date: _____

Spending Unit:
OMCFH/FAMILY PLANNING

Item No.	Quantity	Description	Unit Price	Amount
		<p>QUALITY ASSURANCE:</p> <p>IN THE EVENT OF SERIOUS PRODUCT COMPLAINT OR DRUG RECALL, THE VENDOR/MANUFACTURER MUST HAVE THE ABILITY TO DIRECTLY TRACK EVERY SHIPMENT TO CUSTOMER IN A TIMELY MANNER</p> <p>VENDOR MUST PROVIDE A NAME AND PHONE NUMBER OF A CONTACT INDIVIDUAL IN THE MANUFACTURING FACILITY REGARDING QUALITY ISSUES.</p> <p>DOCUMENTATION/CERTIFICATION OF MANUFACTURING QUALITY ASSURANCE PROCEDURES, IS REQUIRED</p> <p>MARKET AVAILABILITY:</p> <p>ALL CONDOMS BID MUST BE READILY AVAILABLE OVER THE COUNTER AT RETAIL OUTLETS IN WEST VIRGINIA, I.E., DRUG STORES, FOOD STORES, MASS MERCHANDISERS.</p> <p>FREIGHT MUST BE INCLUDED IN PRICE</p> <p>NOTE: BIDS TO BE REVIEWED BY PROGRAM DIRECTOR PRIOR TO AWARD</p>		

COST SHEET FOR MCH90099

Item #	Apprx. Annual Usage	DESCRIPTION	UNIT PRICE	TOTAL COST
	QUANTITY			
1	1,500 Cases	Condoms, 100% Latex Lubricated, Reservoir Tip, Neutral Packaging Lifestyles #5800 or Equal Pkg Size: 1000/cs Mfg: Lifestyles	\$35/cs	\$52,500
2	45 Cases	Condoms 100% Latex, Non-Lubricated, Reservoir Tip, Neutral Packaging, Lifestyle #5700 or Equal Pkg Size: 1000/cs Mfg: LifeStyles	NO	BID
		TOTAL COST		\$52,500

Contract may be awarded to multiple vendors based upon overall total cost per item which meets all requested specifications and requirements.

Vendor must submit an original itemized invoice for each order. Payment will be made in arrears after receipt of each completed order. Orders will be placed on an as needed basis.

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

VENDOR OWING A DEBT TO THE STATE:

West Virginia Code §5A-3-10a provides that: 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 owed is an amount greater than one thousand dollars in the aggregate

PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:

West Virginia Code §21-1D-5 provides that: Any solicitation for a public improvement construction contract shall require each vendor that submits a bid for the work to submit at the same time an affidavit that the vendor has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the West Virginia Code. A public improvement construction contract may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the West Virginia Code and who has not submitted that plan to the appropriate contracting authority in timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the West Virginia Code may take place before their work on the public improvement is begun.

ANTITRUST:

In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will 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 the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

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 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 is in compliance with the requirements as stated.

Vendor's Name: OKAMOTO USA INC.

Authorized Signature: Glenif Calderon Date: 12-15-2008

VENDOR PREFERENCE CERTIFICATE

Certification and application* is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

1. **Application is made for 2.5% resident vendor preference for the reason checked:**

- ____ 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,
- ____ Bidder is a partnership, association or corporation resident vendor and 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 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,
- ____ Bidder is a 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 certification; or,

2. **Application is made for 2.5% resident vendor preference for the reason checked:**

- ____ 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; or,

3. **Application is made for 2.5% resident vendor preference for the reason checked:**

- ____ 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 Bidder's 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; or,

4. **Application is made for 5% resident vendor preference for the reason checked:**

- ____ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,

5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**

- ____ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,

6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**

- ____ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of 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) reject the bid; 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.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of 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.

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: _____ Signed: _____

Date: _____ Title: _____

*Check any combination of preference consideration(s) indicated above which you are entitled to receive