



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
8510C2009

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
MICHAEL AUSTIN 304-558-2402

VENDOR

*320131626 607-648-5889
 APEX PINNACLE CORP
 16 CANAL ST
 PORT CRANE NY 13833-1509

SHIP TO

DIVISION OF HIGHWAYS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B	FREIGHT TERMS
10/05/2009	NET 30	BEST WAY	DESTINATION	

BID OPENING DATE: 10/21/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		550-78-99-002		
REFLECTORIZED CONES						
OPEN END CONTRACT						
TO PROVIDE REFLECTORIZED CONES TO THE WEST VIRGINIA DIVISION OF HIGHWAYS PER THE ATTACHED SPECIFICATIONS.						
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.						
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						

RECEIVED
 2009 OCT 21 A 10:10
 PURCHASING DIVISION
 STATE OF WV

SEE REVERSE SIDE FOR TERMS AND CONDITIONS			
SIGNATURE	Tanya Johnson	TELEPHONE	607-648-5889
TITLE	Sales	DATE	10/19/09
FEIN	161449253	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, the State may deem this contract null and void, and terminate such contract 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
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 Charleston, WV 25305-0130

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SHIP TO

DIVISION OF HIGHWAYS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

DATE PRINTED 10/05/2009	TERMS OF SALE NET 30	SHIP VIA BESTWAY	F.O.B. DESTINATION	FREIGHT TERMS
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BID OPENING DATE: **10/21/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.</p> <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</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Tanya Johner</i>	TELEPHONE 10076485889	DATE 10/19/09
TITLE Sales	FEIN 161449253	ADDRESS CHANGES TO BE NOTED ABOVE

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



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BID OPENING DATE: **10/21/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>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, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT 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. 05/26/2009</p> <p>EXHIBIT 10</p> <p style="text-align: right;">REQUISITION NO.:</p> <p>ADDENDUM ACKNOWLEDGEMENT</p> <p>I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.</p> <p>ADDENDUM NO.'S:</p> <p>NO. 1</p> <p>NO. 2</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Tanya Johus</i>	TELEPHONE 6076485889	DATE 10/19/09
TITLE Sales	FEIN 161449253	ADDRESS CHANGES TO BE NOTED ABOVE

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State of West Virginia
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 BY ORDER

DATE PRINTED 10/05/2009	TERMS OF SALE NET30	SHIP VIA BESTWAY	F.O.B. DESTINATION	FREIGHT TERMS
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BID OPENING DATE: **10/21/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
	NO. 3					
	NO. 4					
	NO. 5					
<p>I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.</p> <p>VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.</p> <p><i>Tanya Johansen</i> SIGNATURE</p> <p><i>Apex Pinnacle</i> COMPANY</p> <p><i>10/19/09</i> DATE</p> <p>NOTE: THIS ADDENDUM ACKNOWLEDGEMENT SHOULD BE SUBMITTED WITH THE BID.</p> <p>REV. 09/21/2009</p> <p>EXHIBIT 4</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Tanya Johansen</i>	TELEPHONE 607 648 5889	DATE 10/19/09
TITLE <i>Sg Res</i>	FEIN 161449253	ADDRESS CHANGES TO BE NOTED ABOVE

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 BY ORDER

DATE PRINTED 10/05/2009	TERMS OF SALE NET 30	SHIP VIA <i>Best way</i>	F.O.B. <i>Destination</i>	FREIGHT TERMS
BID OPENING DATE: 10/21/2009		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>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.</p> <p>REV. 3/88</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;">DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> <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: 33</p> <p>RFQ. NO.: 8510C2009</p> <p>BID OPENING DATE: -----</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Tanya Johnson</i>	TELEPHONE <i>607 648 5889</i>	DATE <i>10/19/09</i>
TITLE <i>Sales</i>	FEIN <i>161449253</i>	ADDRESS CHANGES TO BE NOTED ABOVE

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 BY ORDER

DATE PRINTED 10/05/2009	TERMS OF SALE NET 30	SHIP VIA Bestway	F.O.B. Destination	FREIGHT TERMS
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BID OPENING DATE: **10/21/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>BID OPENING TIME: -----</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: ----- 6076485889</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY): Tanya Johnson</p> <p>***** THIS IS THE END OF RFQ 8510C2009 ***** TOTAL: _____</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE Tanya Johnson	TELEPHONE 607.648.5889	DATE 10/19/09
TITLE Sales	FEIN 161499253	ADDRESS CHANGES TO BE NOTED ABOVE

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

REFLECTORIZED TRAFFIC CONTROL CONES

SCOPE OF CONTRACT

The purpose of this Contract shall be to supply West Virginia DOH maintenance personnel with reflectorized cones to be used for traffic control operations.

GENERAL SPECIFICATIONS

Reflectorized Cones shall be constructed in such manner so that they will stack easily without sticking together. The cone placed in its normal position on a flat and level surface shall be folded at a point near the middle of its vertical height so that the upper top touches the surface on which the base is resting. When released, the cone shall return to its original vertical position. Cones shall be self-supporting with no appreciable slump or sag after four (4) hours exposure to a temperature of 150 degrees Fahrenheit. After a four (4) hour exposure to a temperature of 0 degrees Fahrenheit, the cones must withstand an impact and show no evidence of cracking, splitting, breaking or other distress (Cold Resistance Testing Procedure). The 28 inch cones, held with the base at an angle of 70 degrees from a horizontal plane, shall orient themselves to an upright position when dropped from a distance of 18 inches to a flat, level surface. The 36 inch cone, held with the base at an angle of 70 degrees from a horizontal plane, shall orient itself to an upright position when dropped from a distance of 18 inches to a flat, level surface.

PHYSICAL SPECIFICATIONS For 28 and 36 inch Reflectorized Traffic Cones-

CONSTRUCTION: Two layers of polyvinyl chloride with fused construction throughout. The inner layer should be a translucent, white polyvinyl, the outer layer shall be a highly pigmented surface of fluorescent red-orange color, with a minimum thickness of 0.025 inches. The outer surface shall be smooth, glossy, and non-porous. The outer layer shall be resistant to dirt, tar and grease, and will show no damage when cleaned with kerosene or other common petroleum based cleansers. The traffic cones shall be provided with cone collars manufactured with a reboundable Type ASTM-III sheeting approved by the West Virginia Division of Highways specifically for use with traffic cones. A six (6) inch collar shall be located with the top of the collar three and one-half (3-1/2) inches +/- one-half (1/2) inch from the top of the cone, and a four (4) inch collar shall be located with the top of the collar two (2) inches +/- one-half (1/2) inch below the six (6) inch collar.

28" TRAFFIC CONE

PROPERTY	SPECIFICATION
Length, measured from bottom of base to tip of cone	27-3/4" min.
Thickness , measured at two (2) inches from bottom	0.125" min.
Total weight	10 lbs min.
Base weight	6 lbs min.
Base dimension	13-3/4" x 13-3/4" min.
Cone Diameter at Base	10.50" min.
Fracture Strength in tension (point of actual material failure)*	1000 PSI min.
Elongation*	200% min.
Tensile Strength at 200% Elongation*	900 PSI min.

36" TRAFFIC CONE

PROPERTY	SPECIFICATION
Length, measured from bottom of base to tip of cone	35-3/4" min.
Thickness , measured at two (2) inches from bottom	0.130" min.
Total weight	12 lbs min.
Base weight	6 lbs 8 oz. min.
Base dimension	14-3/4" x 14-3/4" min.
Cone Diameter at Base	10.50" min.
Fracture Strength in tension (point of actual material failure)*	1200 PSI min.
Elongation*	200% min.
Tensile Strength at 200% Elongation*	900 PSI min.

28" SLENDER TRAFFIC CONE

PROPERTY	SPECIFICATION
Length, measured from bottom of base to tip of cone	27-3/4" min.
Thickness , measured at two (2) inches from bottom	0.125" min.
Total weight	10 lbs min.
Base weight	6 lbs min.
Base dimension	13-3/4" x 13-3/4" min.
Cone Diameter at Base	7.50" min. / 8.50" max.
Fracture Strength in tension (point of actual material failure)*	1000 PSI min.
Elongation*	200% min.
Tensile Strength at 200% Elongation*	900 PSI min.

* A 15% tolerance shall be applied to these specified values.

COLD RESISTANCE TEST FOR TRAFFIC CONES-

The traffic cone, intact, shall be conditioned a minimum of two hours at 0 degrees Fahrenheit (+/- 3 degrees) in an environmentally controlled test chamber or cold box. If possible, testing should be performed in the environmental chamber. If a cold box is used, the test on each cone shall be completed within two minutes of the removal of the cone from the cold box. The test procedure is as follows: A steel ball, weight of five (5) pounds, shall be dropped a distance of five (5) feet through a virtually frictionless vertical guide to impact the surface of the cone. The surface of the cone being struck by the steel ball shall be in a horizontal position supported by one edge of the cone's base and held in position by a support at the narrow or tip end of the cone. The twenty-eight (28) or thirty-six (36) inch cones shall be subjected to three (3) impact tests spaced a minimum of six (6) inches apart. Fracturing, cracking, or splitting of the conical section and/or base of any cone shall constitute failure.

TENSILE / ELONGATION TESTING FOR TRAFFIC CONES-

Testing shall be performed utilizing ASTM D412-87 test for Standard Test Methods for Rubber Properties in Tension.

CONES SUBMISSION-

Vendors shall submit three (3) sample traffic cones for each bid item (9 cones total if all 3 items are bid) for material testing. These samples should be received prior to **the bid opening date** at the following address:

WVDOH Traffic Cone Contract Material Submittal, c/o
WVDOH – Materials Control, Soils and Testing
190 Dry Branch Road
Charleston, WV 25306
ATTN: Donald Simmons

The material packing slip should clearly state the name of the vendor, and should match the name of the company indicated on the “BID ITEMS” sheet. The packing slip should also list the model cones submitted, and should be clear as to what bid item each model is being submitted for.

A minimum of two (2) of the three (3) cones submitted for each bid item shall be supplied with reflective sheeting applied. One of these cones shall be conditioned at a temperature of 150 degrees Fahrenheit, as specified above. The other shall be conditioned at 0 degrees Fahrenheit, as specified above. The sheeting applied to these cones shall remain intact after the temperature conditioning. If the sheeting on either cone does not remain intact, or if the sheeting on either cone does not meet the sheeting size and placement requirements, as specified above, the vendors bid may be disqualified.

Samples of the cones the vendor intends to supply, as described above, should be received by the specified deadline. Otherwise, the vendor’s bid may be disqualified. The vendor’s samples may be submitted directly from the manufacturer of the cones, and not directly from the vendor. Furthermore, if there are multiple vendors bidding a particular manufacturer’s cone, the manufacturer may submit one set of samples for all of the vendors. However, the vendors and manufacturers are fully responsible for coordinating this arrangement. The manufacturer shall notify the Traffic Engineering Division of this arrangement (contact Josh Hemsworth at 304-558-3063). The manufacturer must indicate the model cone being submitted for each bid item and the bidders that the cones are being submitted for.

STENCILING

The letters “WVDOH” shall be permanently stenciled in one (1) inch letter height to the lower portion of all cones. This stenciling shall not be required on the cones submitted for materials testing.

PRICE ADJUSTMENT CLAUSE

The State of West Virginia will consider bids that contain provisions for price adjustments prior to the original expiration date of the Contract, 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 of the WV Purchasing Division (e.g. governmental bench marks, general market increases, and published price lists). All documentation of price increases incurred by the vendor shall be based on governmental bench marks, general market increases, published price lists, etc. in effect on the original effective date of the Contract, or the effective date of the currently approved price increase in effect, as applicable. Such requests for price increases shall be received in writing by the Director of the Traffic Engineering Division at least 30-days in advance of the proposed effective date of the increase. The price increase request will be evaluated by the Traffic Engineering Division and will be forwarded to the Purchasing Division for concurrence. The vendor may not submit a request for a price increase with a proposed effective date less than 180-days from the original effective date of the Contract. Subsequent requests for price increases may not have a proposed effective date less than 180-days from the effective date of the currently approved price increase in effect. 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.

MINIMUM ORDER QUANTITY

All orders placed off of this Contract shall consist of a total combined quantity of 50 ea. individual cones. This total may be made completely up of one of the individual items, or a combination of two or more of the individual items.

DELIVERY

All prices bid shall be FOB destination. The attached list of delivery addresses represents the address of each District Sign Shop. The WVDOH reserves the right to specify additional delivery addresses in each District other than those listed. All orders shall be shipped complete within forty-five (45) days A.R.O. Late delivery charges against the vendor may be assessed at a rate of \$120.00 per calendar day after forty-five (45) days ARO. The District may waive a portion or all of the late delivery charges at their discretion provided an ample supply of material is in stock at the District. Notification of shipment from vendor shall be received a minimum of 48 hours before delivery of material at the delivery location indicated on the release.

PACKAGING

Cones shall be stacked and placed on skids to enable unloading with a fork truck. The skid and stacks of cones shall be shrink-wrapped to secure the cones while unloading.

BID SCHEDULE

The following estimated quantities are for bid purposes only. Actual quantities will be determined by needs of the West Virginia Division of Highways and may be increased or decreased.

SHEETING MATERIAL TO BE APPLIED (MANUFACTURER AND SERIES NUMBER): _____

ITEM NUMBER	ESTIMATED QUANTITY	DESCRIPTION	MODEL CONE BID	UNIT PRICE	Amount
1	3000	28" Standard Cone	Hygrade Fc-280	11.75	35,250.00
2	3000	28" Slender Cone			NO QUOTE
3	1000	36" Standard Cone	Hygrade Fc-360	16.95	16,950.00
CONTRACT TOTAL					52,200.00

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: Apex Pinnacle Signed: Tanya Johnson
Date: 10/19/09 Title: Sales

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

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:

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the *West Virginia Code*. The vendor **must** make said affirmation with its bid submission. Further, 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. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

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

Vendor's Name: Apex Pinnacle
 Authorized Signature: Tanya Jones Date: 10/19/09
 Purchasing Affidavit (Revised 01/01/08)