



**State of West Virginia
Department of Administration
Purchasing Division**

NOTICE

Due to the size of this bid, it was impractical to scan every page for online viewing. We have made an attempt to scan and publish all pertinent bid information. However, it is important to note that some pages were necessarily omitted.

If you would like to review the bid in its entirety, please contact the buyer. Thank you.

Desire2Learn

Innovative Learning Technology

West Virginia Department of Education

For Further Information Regarding this Document Contact:

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WVDE RFP EDD314925

Technical Proposal

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PURCHASING DIVISION
STATE OF WV

ning your way

We look forward to partnering with the West Virginia Department of Education by delivering a system that will be aligned with your long-term teaching and learning goals. As you establish the future of eLearning for all stakeholders through an advanced technology infrastructure, we trust that you will find Desire2Learn a trusted partner in that process.

In the name of transparency and clarity we believe it is important to inform you that Desire2Learn has been involved in a patent litigation suit. In short, a couple of years ago our competitor, Blackboard Inc., sued us for infringement. We have made every effort to keep all clients and prospects - as well as the broader educational community - informed about the lawsuit. Although we lost at trial and the Court entered an injunction against our selling prior versions of the Learning Environment, we have what we believe to be excellent appeal prospects. Further - and importantly - after trial, on two separate occasions, the Court refused Blackboard's attempt to hold our newest version of the Learning Environment (LE) v8.3 as infringing. In addition, the U.S. Patent & Trademark Office, who issued the original patent, has now rejected the patent in a non-final action. We are confident that the Patent & Trademark Office will uphold its rejection in its final action.

This litigation has received widespread attention in the educational community. Virtually every independent reviewer believes that the patent was improperly issued and is invalid, and that the lawsuit was unwise. We invite any questions you may have on the litigation. All substantive details can be found on our patent blog, www.Desire2Learn.com/patentinfo

Warm regards,

Cory Gaber,
Account Manager
Cory.Gaber@Desire2Learn.com
Tel: 1.888.772.0325, ext. 424 Fax: 519.772.0324

**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