

Proposal to Provide
Accounting Services
to the
West Virginia Lottery
an agency of the West Virginia Department of
Revenue

January 19, 2012

RFQ# LOT481



Smith, Cochran, & Hicks, PLLC
405 Capitol Street, Suite 908
Charleston, WV 25301
(304) 345-1151



Submitted by:  _____

Mr. Patrick Smith, Managing Member

Inquiries concerning this proposal may be directed to Mr. Smith



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
LOT481

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
SHELLY MURRAY
304-558-8801

VENDOR

RFQ COPY
 TYPE NAME/ADDRESS HERE

SHIP TO

LOTTERY COMMISSION
 312 MACCORKLE AVENUE, SE
 CHARLESTON, WV
 25314-1143 558-0500

DATE PRINTED 11/30/2011	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: **01/19/2012** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001		HR		946-10	\$119	
<p>ACCOUNTING SERVICES</p> <p>REQUEST FOR QUOTATION (RFQ) OPEN END CONTRACT</p> <p>THE PURCHASING DIVISION IS SOLICITING BIDS FOR THE WEST VIRGINIA LOTTERY TO PROVIDE QUALIFIED LICENSED CERTIFIED PUBLIC ACCOUNTING CONSULTING FIRMS FOR FINANCIAL REVIEW ANALYSIS AND CONSULTING.</p> <p>TECHNICAL QUESTIONS CONCERNING THIS SOLICITATION MUST BE SUBMITTED IN WRITING TO SHELLY MURRAY AND ALAN CUMMINGS IN THE WEST VIRGINIA PURCHASING DIVISION VIA FAX AT 304-558-4115 OR VIA EMAIL AT SHELLY.L.MURRAY@WV.GOV AND ALAN.W.CUMMINGS@WV.GOV.</p> <p>DEADLINE FOR ALL TECHNICAL QUESTIONS IS JANUARY 3, 2012 AT THE CLOSE OF BUSINESS.</p> <p>ANY TECHNICAL QUESTIONS RECEIVED WILL BE ANSWERED BY FORMAL ADDENDUM TO BE ISSUED AFTER THE DEADLINE HAS LAPSED.</p> <p>EXHIBIT 3</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON 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</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE 	TELEPHONE (304) 345-1151	DATE 01/19/2012
TITLE Managing Member	FEIN 55-0697264	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. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. 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.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **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.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at www.state.wv.us/admin/purchase/vrc/hipaa.html and 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.
14. **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>.
15. **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, and the West Virginia Insurance Commission. 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.
16. **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 material, 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.

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. 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. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. 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
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



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SMITH, COCHRAN & HICKS, P.L.L.C.
 405 CAPITOL STREET, SUITE 908
 CHARLESTON, WV 25301

SHIP TO

LOTTERY COMMISSION
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 25314-1143 558-0500

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<p>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> <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</p>						

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<p>THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF THE CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, 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>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.</p> <p style="text-align: center;">NOTICE</p>						

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<p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p>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: SHELLY MURRAY - FILE 31</p> <p>RFQ. NO.: LOT481</p> <p>BID OPENING DATE: 01/19/2012</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:</p> <p>----- (304) 346-6731 -----</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY):</p> <p>----- Patrick C. Smith -----</p>						

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VENDOR CONTACT INFORMATION

Smith, Cochran, and Hicks, PLLC
405 Capitol Street, Suite 908
Charleston, WV 25301
(304) 345-1151 Telephone
(304) 346-6731 Fax
<http://www.schcpa.com>

Primary Contact:

Patrick Smith, CPA, MCM
Managing Member
(304) 345-1151 Telephone
(304) 346-6731 Fax
psmith@schcpa.com

Alternate Contact:

Charles "Chuck" Smith, CPA
Founding Member
(304) 345-1151 Telephone
(304) 346-6731 Fax
chucksmith@schcpa.com

FIRM OVERVIEW

Smith, Cochran & Hicks, PLLC (SCH) is a Certified Public Accounting firm headquartered in Charleston, West Virginia. SCH is managed by three members and employs a staff of approximately 20 professionals. The firm was established in 1979 and has continued to grow through the years. It is one of the most diverse public accounting firms in West Virginia.

SCH has always devoted a large portion of its practice to serving governmental entities. Through the years, governmental bodies have achieved a broad range of objectives with SCH quality guidance and consultative services. Our familiarity with state governmental guidelines and regulations enable us to deliver effective, cost-efficient, professional services.

In addition to serving governmental agencies, our firm provides a wide range of services to not-for-profit and private sector clients. SCH successfully developed and directed a full-service, in-house, Premium Audit Division. Our most recent endeavor was the formation of Smith-Little, LLC, a regulatory insurance consulting firm. Smith-Little consists of professionals who possess a unique combination of insurance, statutory accounting, and information technology experience enabling us to provide regulators with an all-inclusive resource for their professional service needs.

SCH also provides a wide variety of services to non-governmental clients including the health care, manufacturing, retail, and service industries. We provide a wide range of services to these clients such as income tax preparation, compilations, reviews, agreed-upon procedures and other attest engagements, cost allocation and management plans, internal control assessments and implementation, business plans and financing packages, debt coverage certifications, assistance in budgeting and planning, and other consulting and management advisory services.

SCH has set itself apart from other accounting firms in West Virginia with its wholly-owned affiliate, Technology Solutions, Inc., a certified Microsoft technology partner. Established in 1994, Technology Solutions has designed, installed, and supported business networks and accounting systems for a diverse base of businesses and state agencies. Technology Solutions is a multi-service systems integration and consulting firm that provides system design, implementation, maintenance, and education. Together SCH and Technology Solutions provide our clients information technology capabilities delivered through a coordinated team of accounting and technology professionals. This combined effort truly provides seamless solutions to our clients' challenges and needs.

QUALIFICATIONS

RESPONSIBILITIES

The aim of SCH is to provide the West Virginia State Lottery Commission, an agency of the West Virginia Department of Revenue (Lottery), with financial review analysis and advice concerning video lottery terminal manufacturers, licensed racetracks and licensed operators, table games supplier manufacturers or persons applying for these licenses or permits as specified by the subsequent codes set forth by the West Virginia Legislature: Racetrack Video Lottery Act [W.Va. Code §29-22A-1 et seq.], the Limited Video Lottery Act [W.Va. Code §29-22B-1 et seq.], the Racetrack Table Games Act [W.Va. Code §29-22C-1 et seq.], the Limited Gaming Facility Act [W.Va. Code §29-25-1], and/or other Acts that may be enacted prior to or during the term of the contract issued by the Lottery.

SCH is adequately staffed with experienced professionals who are fully capable and prepared to provide the Lottery with the analysis and advice required to support its administration and comply with the responsibilities defined under West Virginia Code §29-22-29.

AFFIRMATIVE RESPONSES TO MANDATORY SPECIFICATIONS

SCH affirms that it has no conflict of interest that would prevent our team from engaging in accounting services for the Lottery; and that it meets the following criteria:

- SCH will be able to respond to the Lottery within one hour.
- SCH has no conflict of interest with regard to any other work performed by the firm for the State of West Virginia.
- SCH has no accountant-client relationship with any of the four pari-mutuel racetracks that are located in West Virginia and regulated by the State Lottery Commission.
- SCH has no accountant-client relationship with any of the manufacturers of the video lottery machines that are now licensed by the West Virginia Lottery and that may hereafter become licensed or permitted.
- SCH has no accountant-client relationship with any of the limited video lottery operators or retailers that now hold West Virginia Lottery limited video lottery licenses or that may hereafter become licensed.
- SCH has no accountant-client relationship with any of the supply manufacturers related to the operation of table games that are now

licensed by the West Virginia Lottery and that may hereafter become licensed.

- SCH has no accountant-client relationship with any limited gaming facility that is now licensed by the West Virginia Lottery and that may hereafter become licensed.
- One or more members assigned to this contract are properly licensed to practice accountancy in the State of West Virginia and are certified public accountants who have met all continuing professional education requirements within the preceding two years.
- One or more members assigned to this contract are experienced in the preparation and analysis of a variety of regulatory financial forms required by the United States Securities and Exchange Commission ("SEC").
- None of the members of SCH have been convicted of any violation of security laws or of gambling laws.
- SCH agrees, by submission of its quotation, that the West Virginia Lottery reserves the right to engage other providers for this type service during the term of this contract at the direction of the Commission should specialized knowledge be required.
- SCH has no un-appealed delinquencies with the State Tax Department, or Unemployment Compensation and has adequate workers' compensation insurance.

SCOPE OF SERVICES

SCH professionals selected for this engagement have met firm and continuing education requirements and possess extensive experience in their field. Services provided by SCH will be done so in accordance with the requirements of the Lottery. These services will include, but are not limited to, the review of year-end financial statements (both audited and unaudited) of applicants, the review of applicants interim financial statements, business plans, financial projections, Federal and State tax returns, and when applicable, their filings with the SEC. Additional services SCH is prepared to provide include the review of proposed and final loan documents.

In addition, SCH will review the personal financial statements of shareholders, officers and members of the board of directors, or other groups as requested by the Lottery; as well as any reviews of personal federal and state income tax returns of these individuals.

SCH assures that it will maintain strict confidentiality to the applicants and the Lottery when conducting the aforementioned reviews.

KEY PERSONNEL

Patrick C. Smith will be the member primarily in charge of this contract. Members Chuck Smith and Todd Dingess will be available to assist on an as needed basis.

Patrick C. Smith, CPA *Managing Member*

Patrick Smith joined the firm in 1997 and has extensive experience in all areas of public accounting. Patrick was elected managing member in June 2010 and currently oversees all aspects of the firm's operations.

In addition to his duties as managing member, Patrick is in charge of the firm's tax and small business practice areas and is responsible for the coordination and supervision of all the firm's tax and small business accounting engagements. He provides tax planning and consulting and represents clients before the Internal Revenue Service, as well as state and local taxing authorities. Since entering the profession in the tax field, he has helped many individuals and businesses with tax preparation, consulting and estate planning.

Patrick is a member of the American Institute of Certified Public Accountants and the West Virginia Society of Certified Public Accountants. He holds a Bachelor of Science degree in business administration with a concentration in accounting from the University of Kentucky.

Chuck Smith, CPA *Founding Member*

Chuck Smith leads the firm's finance team and provides general and financial consulting services to our clients. He also has extensive experience in formulating community economic development plans and has been instrumental in their funding and implementation. Chuck has served as Mayor of the City of Montgomery, West Virginia; Secretary of the West Virginia Parkways Economic Development and Tourism Authority; Chairman of the West Virginia Democrat Executive Committee; Deputy Secretary of State for the State of West Virginia and Member of the Board of Directors of the West Virginia University Institute of Technology Foundation.

Chuck is a member of the American Institute of Certified Public Accountants and the West Virginia Society of Certified Public Accountants. He holds a Bachelor of Science degree in business administration with a concentration in accounting from the West Virginia University Institute of Technology.


Todd F. Dingess, CPA
Member

Todd Dingess is the member-in-charge of the public utilities practice area. Todd is responsible for all Rate Cases and Certificate Cases with the Public Service Commission of West Virginia, construction project administration, feasibility studies, cost analysis studies, financial projections, rate design, and other general consulting engagements by related public utilities. Since his professional experience began with public utilities in 1987, Todd has become recognized as an expert witness before the West Virginia Public Service Commission and has been appointed receiver by the circuit court for troubled public service districts. Todd is also a regular contributor to annual educational seminars conducted for managers of water and wastewater facilities.

Todd holds a Bachelor of Science degree in business administration with a concentration in accounting from Marshall University.

APPENDIX A – COST QUOTATION

COST BID: RFQ LOT481

PRINT NAME	Patrick C. Smith
SIGNATURE	
COMPANY NAME	Smith, Cochran & Hicks, PLLC
COMPANY ADDRESS	405 Capitol Street, Suite 908
	Charleston, WV 25301
FEDERAL ID NUMBER	55-0697264
PHONE	(304) 345-1151
FAX	(304) 346-6731
EMAIL ADDRESS	psmith@schcpa.com

ALL-INCLUSIVE HOURLY RATE (Consists of all charges and expenses, including, but not limited to commute, meals and lodging. The approximate number of hours worked yearly is 643).	\$ 119 per hour
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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.

By my signature above I certify that the bid submitted meets or exceeds all the mandatory specifications of this RFQ. Additionally, I agree to provide any additional documentation deemed necessary by the State of West Virginia to demonstrate compliance with said mandatory specifications.

APPENDIX B – VENDOR PREFERENCE CERTIFICATE

State of West Virginia
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: Patrick C. Smith Signed: 
 Date: 01/19/2012 Title: Managing Member

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

APPENDIX C – PURCHASING AFFIDAVIT

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 owed 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 exceeds 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.

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.

WITNESS THE FOLLOWING SIGNATURE

Vendor's Name: Patrick C. Smith

Authorized Signature: [Signature] Date: 01/19/2012

State of West Virginia

County of Kanawha, to-wit:

Taken, subscribed, and sworn to before me this 19th day of January, 2012.

My Commission expires December 13, 2015

NOTARY PUBLIC [Signature]

