State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

Solicitation

NUMBER	PAGE
INS14015	1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
EVELYN MELTON
304-558-2306

VENDOR
*429132316 814-536-8908
SARGENTS COURT REPORTING SVCS
210 MAIN ST

JOHNSTOWN PA 15901

SHIP TO
INSURANCE COMMISSION

1124 SMITH STREET
CHARLESTON, WV
25305-0540 304-558-3707

DATE PRINTED
02/27/2014

BID OPENING DATE: 04/02/2014 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
				THE WEST VIRGINIA PURCHASING DIVISION IS SOLICITING BIDS ON BEHALF OF THE WEST VIRGINIA OFFICE OF THE INSURANCE COMMISIONER, WV WORKER'S COMPENSATION OFFICE OF JUDGES TO ESTABLISH AN OPEN-END CONTRACT FOR TRANSCRIPTION AND DECISION TYPING SERVICES PER THE ATTACHED SPECIFICATIONS AND INSTRUCTIONS TO BIDDERS.		
0001	1	PG		961-72		1.09
				TRANSCRIBING HEARINGS FROM DIGITAL VOICE FILES		
0002	1	PG		961-72		2.84
				TRANSCRIBING DECISIONS FROM DIGITAL VOICE FILES		
				****** THIS IS THE END OF RFQ INS14015 ****** TOTAL:		3.93

04/02/14 09:57:00AM
West Virginia Purchasing Division

SIGNATURE Kristen Sargent TELEPHONE 814-536-8908 DATE 4/1/14

TITLE President FEIN 25-1794603 ADDRESS CHANGES TO BE NOTED ABOVE

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



SARGENT'S COURT REPORTING SERVICE, INC

210 Main Street
Johnstown, PA 15901

Primary Contact:
Sara Ann Sargent
210 Main Street
Johnstown, PA 15901
Phone: (814) 536-8908
Fax: (814) 539-7579
E-mail: Sally@sargents.com

Response to Solicitation: INS14015

Transcription Services to Be Supplied To West Virginia Insurance Commission

Table of Contents:

Page 3 .....General History and Experience

Page 5 .....Specifications

Exhibit A .....Pricing Page

Exhibit B .....Example of Hearing Transcript

Exhibit C .....Quality Assurance Plan

Exhibit D .....Example of Decision

Exhibit E ..... WBENC Certificate

General History and Experience:

Since the inception of Sargent's Court Reporting Service, Inc. in 1980, Sargent's has been providing nationwide transcription and verbatim reporting services to various federal and state entities, as well as a variety of private clients. The type of work Sargent's has performed includes, but is not limited to workers compensation, gaming, medical, insurance, financial, occupational, technical and professional licensure reporting and transcription. Working with different state agencies and insurance carriers has allowed us the experience and quality that is required for transcription services requested by West Virginia Insurance Commission.

Sargent's Court Reporting is a small, woman owned minority business. Sargent's Court Reporting is certified with the State of West Virginia as a Woman-owned Business as well as certified nationally with the Women's Business Enterprise National Council (WBENC) (See Exhibit E for copy of Certification). Through hard work and consistent superior performance, The Sargent's Group has grown to include 15 offices spread throughout Pennsylvania and West Virginia, with our corporate offices being located at 210 Main Street, Johnstown, PA 15901.

Sara Ann Sargent, President and CEO, is a transcriptionist and court reporter herself, and a large number of the managers employed at Sargent's share her vocational background, giving Sargent's a unique expertise and insight into the industry on all levels.

Sargent's relies on employees rather than independent contractors to perform our work, giving us the ability to control the appearance, demeanor and capabilities of our staff, as well as the quality and timeliness of delivery of our work to a degree many of our competitors cannot. The high amount of control we have over the entire process translates into a very high degree of reliability and consistency of quality for our clients, regardless of the volume of work we process.

Sargent's uses only the highest quality devices, which have been proven to deliver the best audio quality, ensuring the highest accuracy. Sargent's equipment allows us to transcribe files including, but not limited to, the following formats: .dss, .wav, .avi, .wma, .mp3, etc. We also have the capability to transcribe audio created on FTR Digital 4-track recording equipment. This equipment utilized is always monitored by the transcriptionist who is intimately familiar with the operation of said equipment.

Sargent's always conforms to the transcript guidelines and formats requested by our clients for the individual cases, ensuring that special needs and concerns are consistently met. Our performance record shows consistent high performance and service, resulting in superior quality and early delivery of transcripts. We work closely with clients on all cases assigned to us, ensuring seamless court reporting and transcription services are delivered, allowing our clients to focus fully on the cases in question. Sargent's transcriptionists are highly proficient in the specific and technical terminology utilized in various types of medical specialties. Sargent's conforms to all HIPPA and DOH confidentiality and security requirements for all of our work.

Additionally, Sargent's is committed to full customization of our services, tailoring our approach to any job to the specific needs of our individual client. Furthermore, in order to ensure efficient and flexible billing and payment options to our clients, Sargent's offers digital and physical submission of invoices and accepts government purchasing/ payment cards as well as direct deposit or physical checks.

Customer Service is an aspect of Sargent's that we value highly. Should a problem arise that needs immediate attention, we can be reached 24/7. Communication received during normal business hours is handled quickly and efficiently so that our clients are never waiting days to hear a response from us. Our approach puts relationships, service and quality at the top of our list of priorities. This has allowed us to experience steady growth over the years, but we never forget that our clients are the reason we are in business.

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SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the OIC WV Workers' Compensation Office of Judges to establish a contract for transcription and decision transcription services.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

   2.1 **"Contract Services"** means transcription of digitally-recorded hearings and transcription of digitally-recorded decisions/orders dictated by fifteen administrative law judges.

   2.2 **"Pricing Page"** means the pages upon which Sargent's lists its proposed price for the Contract Services. The Pricing Page is attached hereto as Exhibit A.

   2.3 **"RFQ"** means the official request for quotation published by the Purchasing Division and identified as INS4015.

3. **QUALIFICATIONS**

   3.1 Sargent's Court Reporting has over 30 years of experience transcribing documents in the legal field.

   3.2 All Sargent's employees have at least proficient use of the English language.

4. **MANDATORY REQUIREMENTS:**

   4.1 Mandatory Contract Services Requirements and Deliverables: Contract Services must meet or exceed the mandatory requirements listed below.

   4.1.1 Transcription of digitally-recorded hearings.

   4.1.1.1 Digitally-recorded hearings will be transcribed and electronically returned to the Office of Judges within ten (10) working days from the date of receipt on evidentiary hearings, Occupational Pneumoconiosis Board hearings, final permanent total disability hearing and other assigned types of hearings. Expedited hearing digital recordings will be transcribed and electronically returned to the Office of Judges within seven (7) working days from date of receipt. If Sargent's equipment malfunctions, it will be repaired within a maximum of three (3) working days.

4.1.1.2 Digitally-recorded hearings will be transcribed in the manner in which the provided example stated. A copy of the example provided from Solicitation INS14015 is attached hereto as Exhibit B.

4.1.1.3 Sargent's believes transcribed documents are a vital and necessary component to the record. Sargent's Quality Assurance Plan represents the application of monitoring reviews and planning that ensures quality documentation and provides timely and consistent feedback to the transcription professional. Please see Exhibit C for Sargent's Quality Assurance Plan.

4.1.1.4 Sargent's will provide our secure FTP which will allow Office of Judges' employees to upload digital recordings in .DCR or .DSS format for transcription within the required time periods. Sargent's will then submit the transcribed documents in Word 2010 format to the Office of Judges for printing at their location via our secure FTP. Electronic archives of all hearing transcripts and decisions/orders completed for the Office of Judges will be retained

4.1.2 Typing of Decisions/Orders

4.1.2.1 Digitally-recorded decisions and orders from the Office of Judges' administrative law judges will be typed and returned electronically within **forty-eight (48) hours** of receiving the dictation. Sargent's will provide access to our secure FTP. Sargent's will accommodate the requirement of the Office of Judges to prioritize the order in which the dictations of decisions are typed. Upon receipt of the contract, parties will decide how this will be accomplished.

4.1.2.2 Decisions shall be typed in the manner in which the provided example stated. A copy of the example provided from Solicitation INS14015 is attached hereto as Exhibit D.

4.1.2.3 Please see Exhibit C for Sargent's Quality Assurance Plan.

4.1.2.4 Sargent's will adhere to all requirements under INS14015.

4.1.2.5 Sargent's will provide our secure FTP which will allow Office of Judges' employees to upload digital recordings in .DSS, MP3 or WMA format for transcription within the required time periods. Sargent's will then submit the transcribed documents in Word 2010 format to the Office of Judges for printing at their location via our secure FTP. Electronic archives of all hearing transcripts and decisions/orders completed for the Office of Judges will be retained.

5. CONTRACT AWARD

5.1 Sargent's shall adhere to all requirements.

5.2 The pricing page is attached hereto as Exhibit A.

6. PERFORMANCE: Upon award of a contract, a schedule for performance of Contract Services and Contract Services Deliverables will be agreed upon.

7. PAYMENT: Agency shall pay a flat fee per page as shown on the Pricing Page, for all Contract Services performed and accepted under this Contract. Sargent's shall accept payment in accordance with the payment procedures of the State of West Virginia.

8. TRAVEL: Sargent's shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any and all costs will be listed on the Pricing Page. Costs other than the price per page will not be charged.

9. FACILITIES ACCESS: Sargent's will adhere to all requirements under INS 14015.

10. VENDOR DEFAULT: Sargent's will adhere to all requirements under INS14015.

11. MISCELLANEOUS:

11.1 Contract Manager: During the performance of this Contract, the contract manager below will be the primary point of contact. The Contract manager will be responsible for overseeing the responsibilities under this Contract. The Contract manager will be available during normal business hours to address any customer service or other issues related to this Contract. The contact information is below:

Contract Manager: Kainani S. Rose
Telephone Number: 814-536-8908
Fax Number: 814-539-7579
Email Address: clientservices@sargents.com

EXHIBIT A

ATTACHMENT D

INS14015 - PRICING PAGE

ITEM #	DESCRIPTION	Unit Price Per Page
1	Transcribing Hearings from Digital Voice Files	1.09
2	Transcribing Decisions from Digital Voice Files	2.84
	TOTAL COST	3.93

Award will be made to the responsible Vendor with the lowest overall cost meeting specifications.

VENDOR NAME: Sargents Court Reporting Service, Inc

VENDOR ADDRESS: 210 Main Street
Johnstown, PA, 15901

VENDOR TELEPHONE: 814-536-8908 FAX: 814-539-7579

VENDOR EMAIL: Sally@sargents.com

REMIT TO ADDRESS: 210 Main Street
Johnstown, PA 15901

SIGNATURE: Sara Lynn Sargent

DATE: 4/1/14

EXHIBIT B

WORKERS' COMPENSATION OFFICE OF JUDGES

[redacted]
Claimant

and

[redacted]
Employer

JCN No. [redacted]

Transcript of proceedings held in the Workers' Compensation Office of Judges Hearing Office, One Players Club Drive, Kanawha County, Charleston, WV, on the 19th day of June, 2013, for the purpose of adducing the testimony of Members of the OCCUPATIONAL PNEUMOCONIOSIS MEDICAL BOARD.

BEFORE: [redacted], Administrative Law Judge

APPEARANCES: [redacted] in person
(Not represented by counsel)

[redacted], Atty at Law
[redacted]
representing the Employer

cc: CLAIMANT
[redacted]

[redacted]

[redacted] JCN No. [redacted] 2

INDEX

Witness	Cross by the ALJ	Cross by [redacted]	Cross by Ms. [redacted]
Dr. [redacted]	5	7	18
Dr. [redacted]	21		27
Dr. [redacted]	33	34	35

[redacted]

JUDGE [redacted]: This is the claim of [redacted], decedent, and [redacted], Jurisdiction Case Number [redacted]. In this case, the Claimants are [redacted], son-in-law and daughter of the decedent who are requesting funeral benefits pursuant to West Virginia Code §23-4-4. They are protesting the Order of [redacted] which denied these benefits. Present for the Employer is counsel, [redacted].

Let's see, [redacted], at this time I just need to advise you of your rights, that I'm going to allow you to represent yourself today since I guess you are asking individually for funeral benefits. If you would want a lawyer, even at this late stage, I will give you a one-time postponement to obtain one. If we proceed today, it will result in a final decision by the Occupational Pneumoconiosis Board.

The transcript of today's hearing, as well as the claim file, will be sent to the Administrative Law Judge to whom this is assigned; and a decision would be made within 60 days of the Order submitting the claim, which should be issued about two weeks from today, when the transcript is returned.

The Office of Judges is completely neutral in this matter. We don't represent either the insurer or, of course, the Claimant; and I can't advise you on what evidence, you know, would be useful or anything like that. Having heard all this, do you wish to proceed with the hearing today?

[redacted]: Yes, sir.

JUDGE [redacted]: Okay. You mean yes? Okay, we'll just go off the record.

(WHEREUPON, a short break was had in the proceeding.)

The Board made an extensive viewing of the x-ray evidence; so perhaps we should start with Dr. [redacted] testifying. [redacted], let me explain how things work here. Each of the Board members testify individually. The man closest to you is Dr. [redacted], the radiologist. The man in the center is Dr. [redacted], the Chairman of the Board; and the man on the end is Dr. [redacted]. What happens is that the protesting party, which is you in this case, goes first with the examination.

[redacted]

After you're through, then Ms. [redacted] will be allowed to ask the Doctor questions. Then we'll move on to the next doctor, one by one. I'm just going to ask a few introductory questions of Dr. [redacted] just to get him started, and then I'll allow you ask any question you want.

(Board Sworn)

THEREUPON,

DR. [redacted], Chairman

and

DR. [redacted], Member

and

DR. [redacted], Member

being duly sworn, testified as follows:

CROSS-EXAMINATION OF DR. [redacted]

BY THE JUDGE:

Q So, Dr. [redacted], you've reviewed several films, both on the view box and on the CD on computer. Could you give us your impression of those films?

A Yes. The films that we have now on file are analog films from previous OP Board visits and show a minimal degree of nodular fibrosis consistent with OP. The CT scans from WVU from January, February, March of 2011, show multiple peripheral nodules, some of which are calcified in the right upper lobe which should be granulomas.

There are non-calcified nodules in the mid and lower lung zones, predominantly in the lung bases which are very nonspecific. And certainly you can see nodules in complicated pneumoconiosis, or even these could be small opacities of pneumoconiosis, but they are, ultimately, atypical for that. At the same time, I would not say that I could exclude coal workers' pneumoconiosis as the cause of that.

The predominant disease on the CT's from 2011 is emphysema, with extensive lung destruction which makes it difficult to visualize a lot of the...what we call the interstitium, the normal parenchyma, the normal lung elements between the areas of destruction are not well demonstrated because there's just so much lung that's destroyed.

[redacted]

So again to summary the x-rays from the 1980's show nodular fibrosis consistent with simple OP. The CT's do not necessarily confirm the background of small opacities but have these larger opacities that are very nonspecific in the lung bases; and I don't believe I can exclude an OP based on the CT's.

JUDGE HASLEBACHER: Okay. [redacted], do you have questions of Dr. [redacted]? He stated he does find evidence of black lung and cannot exclude that in the later CT's.

CROSS-EXAMINATION OF DR. [redacted]

BY [redacted]:

Q Okay, all right. And as you looked at the films versus this disc image in January to February of '11, he was very, very ill in the hospital at WVU, did you see the changes in those films?

A There are minimal changes...

Q So nodules to no opacities on the 3-24-11 disc, large size opacities...

A There is one area...

Q In the left upper lobe?

A Yes. There is one left upper lobe opacity that does not look like either a granuloma or an opacity related to occupational pneumoconiosis. It is likely an inflammatory infiltrate. It's an area of lung that's probably infected, could be atelectic (phonetic), could just be collapsed down. It's not a nodule that looks like pneumoconiosis. It doesn't look like a tumor. That opacity to me is not contributory either to confirming an OP diagnosis or excluding it.

Q And did you also see the opacity in the left upper lobe measuring 2.4 by 1.4 centimeters approximately?

A Yes.

Q And the other opacity measuring two by 1.8 centimeters in the left upper lobe also?

A Okay. I saw multiple opacities. And again I believe I've summarized those in my impressions of them. Individual opacities I can't say anything more specific about. I mean, you know, we could go through...step through each image and look at each one. And the small round opacities, small round nodules, taken in total to me are indeterminate. You can't tell what

they are.
Q And that is your opinion, right?
A That is correct.
Q Your impression?
A All of this is in my opinion.
Q Right. The nodules, is it not correct with coal workers' pneumoconiosis that as dust macules form those progress into nodules, and then those nodules in the complicated form of coal workers' pneumoconiosis go into opacities?
A Well, we describe...you're trying to split the definitions of...or define nodule opacity macule, and those are not really distinct terms. The macule is something that you see on pathology slides. Radiologists usually don't refer to macules. We don't see macules. That's a pathologist.
Q Isn't how the coal workers' pneumoconiosis...
A That is the pathologistology (phonetic), that's correct.
[redacted]: Yeah, that's how all it works.
BY [redacted]:
Q And it works...
A What I'm saying is, is you're asking me to say that a macule goes to a nodule and goes to an opacity. And that's not the way we use that terminology. A macule is for pathology. That's what the...when the pathologist cuts a tissue, he'll describe macules. We see macules as a nodule, a generic term for any area of lung that is not normally aerated can be an opacity. An opacity is a very generic term. For the purposes of OP, we talk about small round opacities which are typical of coal workers' disease. There are opacities that are typical for pneumonia or typical for a tumor. Those are all opacities to us.
Q Right.
A So what I'm seeing nodules, which generically could be called opacities. The larger opacity in the upper lobe on one of the final scans looks to me like again an inflammatory infiltrate or volume loss for some other reason. So that's not the progressive...that's not complicated pneumoconiosis. That's not a mass of...and again that's not the typical pathophysiology (phonetic) where on January you don't have the complicated large opacity or, you know, progressive massive fibrosis; then

in March you do. That is a much too rapid a progression of a large opacity for that to be complicated pneumoconiosis.

Q The...on the 3-24 radiology report from the WVU radiologists, I know you all don't, you know, look at that. But on the specific report indicating those opacities, the radiologist put, "These areas likely relate to development of progressive fibrosis."

A Okay. I would respectively disagree.

Q "There are emphysematous changes of the lungs bilaterally." The indication for it was the shortness of breath and the pneumoconiosis. Yeah, his lungs were filled with multiple nodules. And I saw this man deteriorate. When they would take us in to see the...to view the MRI films, to view the chest x-rays, they said, "I don't know how this man is breathing the way he does because this disease has just literally burnt his lung tissue up."

You referred to the lung tissue was so poor. I mean you can see that. He had no known history, no underlying history of any metastatic disease. He had the CT of the abdomen, the pelvis. There was no lymph adenopathy. There was no change in size or anything. You know, there was no other organ involvement. It was due to that lung disease.

DR. [redacted]: I don't think anyone has said that we didn't...Dr. [redacted] I don't think has said that he didn't make a diagnosis of OP.

[redacted]: Right, right.

DR. [redacted]: What we're just saying, there are other things on the films. And so we'll relate that later, if that's okay, regarding his death. Right now we're just describing the radiologic findings that he is describing on the films.

BY [redacted]:

Q And in his opinion, he does not contribute the opacities as being indicative of progression of the coal workers' pneumoconiosis, to indicate progressive massive fibrosis. But in this radiology report, this radiologist did contribute that known to Dad's history. And, you know, he'd been there long term in the hospital the first three months of January and February and March of '11; and they saw these changes on the CT's within that length of time.

And in that length of time, physically seeing him, the

condition, how his respiratory function deteriorated. You know, you have to...you have to take the whole picture of everything.

A That's why we've reviewed as much as we have.

Q You know the size or those, size of those nodules too were increasing, that he did have some lung...on the exam there's 1.4 centimeters. Is that also not an indication of progression of fibrosis?

BY DR. [redacted]:

A A nodule of greater than one centimeter is a large opacity by ILO...by the...

Q Right.

A Organization that classifies pneumoconiosis. That is correct. So if indeed, I did not measure these nodules. I believe they're measurements of 1.2. If there's one bigger than that, I cannot, again...I think you're misinterpreting what I'm saying to some extent, because I did not say that I could tell you what those nodules were at the lung bases, and I said I could not exclude that they could be occupational pneumoconiosis.

I don't believe that the large opacity in that left upper lobe, which to me has developed in that three months, potentially less than three-month period of time, I have never seen a large opacity develop that quickly in progressive massive fibrosis. I have not seen that. I do not believe that...in my opinion, that is not a large opacity of pneumoconiosis.

The ones in the lung bases I could not...again, have not excluded that those are OP. Therefore, if there's one greater than one...if there's a 1.2 centimeter, that could be PMF(phonetic)...that could be complicated pneumoconiosis.

Q I think there is.

A It's very difficult for us to measure on here. I need to take a minute and try to measure one, and I'm happy to do that. Again, I'm not challenging their measurements from the original scale.

JUDGE [redacted]: Okay. Ms. [redacted], do you have questions of Dr. [redacted]?

DR. [redacted]: I was going to measure it here.

JUDGE [redacted]: I'm sorry.

DR. [redacted]: That would be a pretty good size, about two centimeters?

[redacted]

DR. [redacted]: Yeah, just over one, which I think is what...1.4 centimeters in the right lung base on 3-24-11, image 87. So I would agree that if...that would be a large opacity by ILO definitions.

BY [redacted]:

Q And that two in the left upper lobes?

A Do we want to measure the...

JUDGE [redacted]: If you can.

DR. [redacted]: Were they present on the other...the earlier CAT scan?

DR. [redacted]: Well, if by left upper lobe we're referring to the non-nodular opacities, there are potentially two areas...well, there may actually be one confluent (phonetic), that are not nodular in the left upper lobe, but that's what's we're asking to be measured. Judge, I'm really not certain what I'm supposed to be doing.

[redacted]: But the radiology report refers to upper lung opacity in the left upper lobe, anterior; correct?

DR. [redacted]: There's no argument that those are there.

DR. [redacted]: Right. They are there, and the measurements...those areas of opacity are larger. They're at least a couple of centimeters, if you took it in...if there's really one instead of two, it would be three or four centimeters in total dimension. And I'm not sure that they're actually distinct. Now were they on the first scan from January?

DR. [redacted]: There's no argument that those opacities exist. The argument would be, or the discussion would be, the etiology of those opacities. But opacity just meaning an area.

JUDGE [redacted]: I think your question perhaps might be better directed towards Dr. [redacted] and Dr. [redacted], which we'll take immediately after Dr. [redacted].

DR. [redacted]: And the left upper lobe opacity is new. The non-nodular configuration was not on the 1-30-2011, scan. The right lung base nodule was there. I will measure it and see if it changed any over that time period. It measures 1.2 centimeters which is essentially unchanged.

It's very difficult to measure within a millimeter on a

CT. So the small nodules do not look significantly different. That larger area of opacification (phonetic) is new on the 1-30…I'm sorry, on the 3-24-11, scan.

DR. [redacted]: Does that cover everything as far as those x-ray questions?

[redacted]: I guess my point, I guess, the large opacities like you said, they could not…you cannot exclude those from being occupational pneumoconiosis on the CT's, right? I mean his opinion is that the large opacities greater than the one centimeter and the history of extensive coal mine dust exposure and his history…

DR. [redacted]: We'll get to those questions after Ms. [redacted] finishes.

[redacted]: Can I say something? Well, will we have a chance for a wrap up here?

DR. [redacted]: Oh, yes, yes.

[redacted]: Okay.

DR. [redacted]: We'll go…

[redacted]: I think her point, her point is that she was wanting…she thought she was…

DR. [redacted]: You don't have to get everything in right now.

[redacted]: All right.

DR. [redacted]: No, because they're many more questions.

[redacted]: Thank you. This is our first go around here.

DR. [redacted]: No problem.

JUDGE [redacted]: Okay, Ms. [redacted].

MS. [redacted]: Thank you.

CROSS-EXAMINATION OF DR. [redacted]

BY MS. [redacted]:

Q Dr. [redacted], can you estimate for the court how many x-rays versus CT scans you reviewed?

A A lot.

Q I mean just a rough idea.

A Probably 12 or 14 chest x-rays, between the discs between Braxton, WVU and the OP Board. And then there were the three CT scans from WVU.

[redacted]

Q Do you find it helpful to review diagnostic images…I'm sorry, these back up as early as…I think the first Board's was in the 1980, 1983?

A '83, correct.

Q So you reviewed imaging over almost 20 years?

A Well, they're almost 30…yeah, the 2011…'83 to 2011.

Q Do you find that the ability to review a series of diagnostic imaging in different media at one time is helpful?

A It's always helpful to review numerous scans or films over time, yes. Different formats unfortunately sometimes makes it more difficult, as I'm sitting in front of this and my films are all the way over there, yes.

Q But you…how do x-rays differ from CT scans?

A X-rays…typically CT scans are more sensitive for detection of disease, including the entities we're interested in here, like coal workers' or other occupational pneumoconiosis as well as emphysema.

Q And do you find it helpful that you're able to do all of this at one time rather than years apart? Looking at just one film today and a CT scan five years from now?

A Yes.

Q I take it then that you do not disagree with the findings…you have no evidence to dispute the findings that what was seen in the 1980's was due to occupational pneumoconiosis?

A That is correct.

Q And I take it you don't dispute the presence of the changes in the upper lung zones; you just don't believe those are due to coal dust exposure? It's due to an infectious process?

A The left upper lobe opacity that evolved between 1-30-2011 and 3-24-11, I would not attribute to complicated OP.

Q And you see a change in the lower lobe, and you've testified that that was an atypical presentation; is that correct?

A It is atypical to have the lower lobe disease without other…without upper lobe and without the background of smaller opacities.

Q And are there a number of possible differential diagnoses for the changes that you see in the lower lung zones?

A Yes.

[redacted]

Q And can you state with any reasonable degree of medical certainty that it's due to...those changes are due to coal workers' pneumoconiosis?
A Again, I would use the phraseology as I did, that I cannot exclude coal workers' pneumoconiosis as the diagnosis.
Q But you're not making an affirmative diagnosis of that condition?
A I am not making that, correct. Well, let me back up. On the CT scans, I am not making that diagnosis because I think the nodules are indeterminate. On the x-rays, the original x-rays, there's a background of a mild nodular fibrosis consistent with OP.
Q Could those change...could the change that you see in the lower lobe have developed irrespective of the nodular changes you see in the '80's?
A Yes.
MS. [redacted]: I don't think I have anything else, Dr. [redacted].
JUDGE [redacted]: Okay.

CROSS-EXAMINATION OF DR. [redacted]

BY THE ALJ:
Q Dr. [redacted], you've heard Dr. [redacted]' testimony regarding the radiology. Can you tell us whether or not you agree with that and also give us your impression of the remainder of the evidence?
A I do agree with his impression regarding the x-rays over the period of time. I agree that the statements he made regarding the x-rays that are on the board and the x-rays from Board exams, as well as the CT scans, that we have reviewed.
DR. [redacted]: Can I ask you one question? Your father worked in coal mining for 30 years. What was his principal job titles? What did he do principally?
[redacted]: Eventually...you can probably elaborate more on this than I can, because he...
[redacted]: Well, initially, he went to work in the coal mines as a hand loader, and he drilled a job at the face with nitrous oxide. And I'm talking about the term here of...the doctors explained to us as a type of fertilizer that you drill the chock (phonetic) with. I know they date back in the...probably the 30's, sometime in the late 40's, I don't know exactly when, the 40's or 50's, I don't know when he went to work.

[redacted]

DR. [redacted]: 40's, 50's, probably.

[redacted]: Yeah, 40's and 50's.

DR. [redacted]: Traditional mining with a cutting machine.

[redacted]: Yes. Yes, but he explained it as the nitrous oxide that they used to shoot with then put off some type of a gas. And then when it met with your lungs, it brought forth nitrous oxide...or nitric acid, and it actually burnt the lungs, is the way the doctor explained to us when he was in the hospital, that he had a great degree.

But then, you know, as time progressed on he worked on...I mean he was a mechanic. He worked at the faces of cutting machines, drilling machine or roof bolting, numerous...numerous types.

DR. [redacted]: That's what I would imagine.

[redacted]: Exposure....

DR. [redacted]: That he shot coal...that he shot coal a long time ago.

[redacted]: Yes, that's what he would have did, sir.

DR. [redacted]: And he only smoked in the surface...

[redacted]: Exposure without protection. You know, they had no protection back then. They were told they didn't need protection back then.

DR. [redacted]: So when I review the case, this gentleman at [redacted] years of age lived a fairly long life, but did die of a respiratory disease. His main cause of death was respiratory in nature. He ended up most likely having a (inaudible), whether that was active infection or just a resident that was present due to long term steroid use I'm not sure. He also was said to have severe COPD, and he had nodules in his lungs.

He had a history of congestive failure as well, although his left ventricular ejection fraction was around 50 to 55% and had previously had a pacemaker placed in his chest to control his cardiac rhythm. His pulmonary function studies done at WVU on February 1, 2011, showed total impairment, with a ratio of 39 and 37 respectively before and after bronchodilation. He was oxygen dependent. He did have severe lung disease.

He did die a respiratory death. When I reviewed the case and when we discussed it today, or this morning with the x-rays and

the CT scans, we did want to find out, because there are a lot of remarks of progressive massive fibrosis and it says specifically on 3-8-11, I guess it is, or 2-25-11, sorry, numerous nodules, overall stability in size and number, findings likely to relate to patient's history of coal workers' pneumoconiosis.

Additional considerations would include metastatic disease. Clinical correlation is requested. So radiographically those things were entertained, there could be metastatic disease. It could be pneumoconiosis or other disease that would be just granulomatous disease or infectious process or just scar tissue or inflammation. Many, many different etiologies for opacities. I do not know what those opacities were.

I cannot exclude it as being OP. I don't think they were, but I can't exclude it. It would be very unusual for someone to develop progressive massive fibrosis 30 to 40 years after their exposure has ended without some changes over the years. To suddenly just develop it within the last 3 years of life would be extremely unusual and clinically unlikely.

However, he did have a background of simple coal workers' pneumoconiosis that we can see on his x-rays from before. The process of emphysema in his upper lobes, I'm not sure what it is. I don't know the etiology. It could have been his exposure in dust and blasting and conventional mining techniques that they used in the past.

And it is a little confusing because we see usually emphysema of this type or this nature, we'll see it a lot of times in people who smoke or have that type of habit. He did not have a sufficient amount of exposure to smoke, a smoking history that would have caused it. So again a lot of things are atypical that this would all be pneumoconiosis. I think he has multiple processes going on.

I do think he had a background of pneumoconiosis. I think he died a respiratory death. I cannot explain the nodules. I don't know what they are. Most likely to me they're inflammation, but it would be unlikely to be progressive massive fibrosis. In any event, he did have simple coal workers' pneumoconiosis that we can see from before.

[redacted]

The emphysematous process may be blocking us of being able to see that on the present x-rays, because he developed significant emphysema that you can see on the CT scan. Again, I don't know the etiology. It could have been his (inaudible) or it could have been from that previous exposure back in the 40's and 50's.

In any event, in my opinion after reviewing all of the medical records that we have I would state that his occupational exposure and his occupational pneumoconiosis was a material contributing factor in his death.

MS. [redacted]: Say it was?

DR. [redacted]: Yes, in my opinion. Do you have any questions for me?

[redacted]: As part of the death certificate, it all relates back to the cause of death as severe pneumoconiosis/COPD.

JUDGE [redacted]: Okay, Ms. [redacted].

CROSS-EXAMINATION OF DR. [redacted]

BY MS. [redacted]:

Q Dr. [redacted], the Board had reviewed all of those medical records at the time they you prepared your findings initially?

A Yes.

Q You were aware that he had occupational pneumoconiosis radiographically?

A We were aware that we had made a diagnosis. We did not have the x-rays.

Q And you've indicated that the radiographic presentation is atypical for a coal dust...for a coal workers' pneumoconiosis?

A No, I indicated that the CT scan nodules were atypical for coal workers' pneumoconiosis.

Q That's what we're looking at today. And you...

A We're looking at radiographs that span quite a period of history.

Q And has his radiographs between 1983 until the last time the Board saw him I believe in 1999, do they show any progression of the simple?

A No.

Q So his radiographic picture remains stable from 1983 until 1999, on the x-rays?

A With regards to the simple CWP...

Q Yes.

[redacted]

A Yes. But there was development. We do not have CT scans in '99. That would be a nice thing to have.
Q We only had x-rays, okay. And he had last worked in 1982?
A Yes.
Q So his radiographic picture was stable over those years?
A Yes.
Q And from his pulmonary function picture, you found no increase over those three times? I think you gave him a no increase over the subsequent evaluations?
A From...you mean the '80's?
Q Yes.
A The last one being '88?
Q Yes.
A Or '90...I'm sorry, the last one being '99, I think it was. Or was it '88? I'm sorry.
Q I think...
A I thought...in '99 he was given 30%.
Q I only have '83 to '88.
A 5-7-99 in claim number [redacted], 30%, which is a 20% increase, ALJ Order 8-22-01. 8-13-88 was a 20%, no increase. And 11-83 was a 20%.
Q So the additional award was granted by an ALJ?
A I'm sorry.
Q The additional award was granted by an ALJ?
A It actually just says 5-27-99, claim number [redacted], 30%, which represents a 20% increase. And then it has a dash, ALJ Order of 8-22-01, silicosis.
JUDGE [redacted]: The 8-22-01 would be the Second Injury Life Award, a permanent total disability award was granted to him.
MS. [redacted]: Okay.
Q So the Board...when the Board assessed and rendered a...pretty much his picture had remained relatively stable from the time that he ceased mining until at least 1988, and we're unclear what happened in '99 when he died from the total?
A Correct.
Q The changes that you saw radiographically, could they be due to...like you've indicated, could be due to a number of conditions?

[redacted]

A Yes.
Q The clinical course that you saw between January of 2011 and March of 2011, is that typical clinical presentation you see in someone with simple coal workers' pneumoconiosis?
A No. I do not know the exact etiology of the nodules or the emphysema found in this gentleman's lungs. I do know that he had a stable pneumoconiosis that accounted for approximately 20% earlier. We found 20% during his living claim. He died a respiratory death. I'm not saying that pneumoconiosis was the main cause of his death. I'm just saying it was a material contributing factor in his death.
Q And based on what...I mean 20% impairment, is that a significant amount of impairment?
A It can be, yes.
Q And between no further dust exposure in 1982 until he died in 2011, with his condition remaining relatively stable, why do you believe that OP was a material contributing factor?
A If he'd had that 20% of lung function, he may have lived another year or two. I don't know and to me that's significant.
Q Do you have any...what is the clinical basis for believing that it did progress due to OP as opposed to any of these other conditions?
A I didn't say he progressed due to OP. I said he had a 20% impairment during his living claim. I do not know what the other conditions were. I cannot tell you what the diagnosis was. Entertainment of progressive massive fibrosis, in my opinion, is not clinically sound because you do not see progressive massive fibrosis as we've discussed develop in that short a period of time after that many years of loss with a lack of exposure.

So what his current process was at the time of his death I'm not sure. He did have an aspergillus cultured that grew positive. He had infection and had been treated with steroids. It could have been some other infection that we don't have. We don't have the pathology to state what that was. We don't know. I don't know what his emphysema was in his upper lobes.

It could have been from a lot of different causes, but the most common cause we see as cigarette smoking isn't there. His

emphysema could have been contributed by his previous dust exposure. I can't state that with reasonable medical certainty that it is, but it is a possibility. In the final analysis, this gentleman died a respiratory death.

He had three main processes that I would point out in his lungs. He had some nodules in the lower lobes that I'm not sure were pneumoconiosis, but probably were inflammatory or some other disease. He had a severe amount of emphysema in his upper lobes that was present, and I'm not sure of the etiology of that. And he had simple coal workers' pneumoconiosis.

So it's difficult for me to say that his simple pneumoconiosis wasn't a material contributing factor when you review the CT scans and the x-rays in conjunction with his clinical history.

MS. [redacted]: I have no further questions of Dr. [redacted].

CROSS-EXAMINATION OF DR. [redacted]

BY THE ALJ:

Q Dr. [redacted], you've heard the testimony of Dr. [redacted] and Dr. [redacted]. Do you agree with it and also give us your opinion of the evidence of record?

A I think it's been reviewed quite extensively. I think the determining factor is that we don't have a great etiology of the emphysema and whether his coal dust, other exposures during his working process, caused the emphysema. I think it's the portion that gives us cause to give the Claimant the benefit of the doubt. I would agree with their opinions otherwise.

JUDGE [redacted]: Okay. [redacted], do you have any questions of Dr. [redacted]?

[redacted]: Yeah.

CROSS-EXAMINATION OF DR. [redacted]

BY [redacted]:

Q With his clinical history, with his course of the long term exposure to the coal dust, just because, do you agree, that just because, you know, he retired in '82, that dust exposure may have subsided at that time; but that disease progression does not subside, it continues?

A It can continue. It doesn't always continue.

Q And the emphysematous changes, taking into consideration his clinical history,

his long term history again of the dust exposure, you're affirming that he did have a simple coal workers' pneumoconiosis. Can you say that those emphysematous changes within his lungs are not related directly to progression of the disease?

A That is the...that in lies the question, and we're saying we cannot state that. That if he had smoked 20 years, we wouldn't even be talking about this.

Q Right, he hadn't.

A So obviously the etiology of that, those emphysematous changes, is a big question mark. And because we don't have another etiology, we're giving him the benefit of the doubt.

Q Because Dad, his smoking history was virtually nil (phonetic)?

A I agree.

Q He was honest and, you know, it was back many, many...it was virtually nothing.

JUDGE [redacted]: Okay. Is there anything further? Okay, Ms. [redacted].

CROSS-EXAMINATION OF DR. [redacted]

BY MS. [redacted]:

Q Dr. [redacted], in the interest of time if I asked you the same questions as I did Dr. [redacted] and Dr. [redacted], would your testimony be substantially the same?

A Yes, ma'am.

Q In light of the date of last exposure and the atypical presentation clinically and radiographically and the fact that you are not able to state within a reasonable degree of medical certainty as to the cause of those radiographic changes and the emphysema, do you still remain of the opinion that OP was a material contributing factor in this gentleman's death?

A Yes, ma'am.

Q And are smoking and coal dust exposure the only known causes of emphysema?

A No, ma'am.

MS. [redacted]: I have no additional questions.

JUDGE [redacted]: Okay. In that case, the hearing is concluded and an Order will be issued submitting the claim upon receipt of the transcript. Thank you all for coming in.

[redacted]

STATE OF WEST VIRGINIA,
WORKERS' COMPENSATION OFFICE OF JUDGES, to wit:

I hereby certify that the foregoing proceeding was transcribed from a digital recording.

This, the 25th day of June, 2013.

[redacted]

[redacted]

EXHIBIT C

QUALITY ASSURANCE PLAN

Sargent's Quality Assurance Plan documents policies and procedures for identifying and handling uncommon causes of transcription variation (i.e. risk). Risk should be thought of as the possibility of suffering a negative impact to the agency, whether it be decreased quality, increased cost, or delayed completion.

Sargent's documentation team members' roles and responsibilities are specifically defined in regards to risk in Sargent's Quality Assurance Plan. Documentation team members consist of the Team Manager, Team Supervisors, Software Quality Assurance Lead, and Quality Checkers.

Sargent's Quality Assurance Plan endorses that risk identification is consistently conducted, although a majority of the risks should be identified early on so proper response planning and monitoring can occur. Sargent's applies key Principles of Quality as a tool and technique for risk identification.

The application of the key Principles of Quality entails the following:

1. New transcriptionists undergo a full review by Quality Checkers until competency and judgment have been consistently demonstrated.
2. Random reviews by periodic sampling of transcribed reports are performed by Quality Checkers to ensure ongoing compliance with quality standards.
3. Clear qualification and quantification of errors have been established for the purpose of document evaluation.
4. While an accuracy of 100% should be the standard to which every document is held for delivery to the client, a benchmark for the transcriptionist is an accuracy rate at no less than 98%.
5. Ongoing feedback, education and performance improvement is the goal of Sargent's Quality Assurance Plan in order to establish confidence in a transcriptionist's experienced judgment and the complete accuracy of a transcript.

Sargent's Quality Assurance Plan requires full documentation and entry of all identified risks into a risk register. Quality analysis, response planning and quality monitoring and control steps are outlined in Sargent's Quality Assurance Plan.

Sargent's Quality Assurance Plan promotes attention to quality to employ an understanding that even minor errors in the record can diminish the credibility and perceived competence of the healthcare provider. Accurate and complete healthcare documentation involves a partnership between the patient, the healthcare provider, and Sargent's documentation team.

Sargent's internal quality control measures are designed to consistently keep accuracy rates at 98% and above.

EXHIBIT D

ATTACHMENT C

STATE OF WEST VIRGINIA
WORKERS' COMPENSATION OFFICE OF JUDGES

IN THE MATTER OF:

JCN: [number]

[claimant name],
CLAIMANT

D.O.I.: [date]

and

[employer name],
EMPLOYER

DECISION OF ADMINISTRATIVE LAW JUDGE

PARTIES:

Claimant, [claimant name], by counsel, [claimant counsel name]
Employer, [employer name], by counsel, [employer counsel name]

ISSUE:

The [claimant or employer] protested the Claim Administrator's Order dated [date] [description of protest].

DECISION:

It is ORDERED that the Claim Administrator's Order dated [date] be [AFFIRMED, REVERSED, or MODIFIED].

RECORD CONSIDERED:

See Attached Record Considered.

FINDINGS OF FACT:

1. [redacted]

2. [redacted]

[redacted]

3. [redacted]

4. [redacted]

5. [redacted]

6. [redacted]

7. [redacted]

DECISION:

[Boilerplate Language]

[ALJ dictated discussion]

CONCLUSIONS OF LAW:

It is therefore ORDERED that the Claim Administrator's Order dated [date], be [AFFIRMED, REVERSED, or MODIFIED].

Henry Aston JCN: 2008024293

APPEAL RIGHTS:

[MISC-B

Under the provisions of W.Va. Code §23-5-12, any aggrieved party may file a written appeal within thirty (30) days after receipt of any decision or action of the Administrative Law Judge. **The appeal shall be filed directly with the Workers' Compensation Board of Review at P.O. Box 2628, Charleston, WV, 25329.]**

OR

[MISC-A

Pursuant to W.Va. Code § 23-4-15b as amended, this order is interlocutory only, and may be appealed only in conjunction with an appeal from a final order with respect to the findings of the Occupational Pneumoconiosis Board.]

Date:

[initials]

cc:

EXHIBIT E

WBENC | Women's Business Enterprise National Council

hereby grants

National Women's Business Enterprise Certification

to

Sargent's Court Reporting Services, Inc.

who has successfully met WBENC's standards as a Women's Business Enterprise (WBE).
This certification affirms the business is woman-owned, operated and controlled; and is valid through the date herein.

WBENC National WBE Certification was processed and validated by Women's Business Enterprise Council – PA, DE, sNJ, a WBENC Regional Partner Organization.

Expiration Date: 02/28/2015
WBENC National Certificate Number: [redacted]

Authorized by Geri Swift, President,
Women's Business Enterprise Council – PA, DE, sNJ

WBEC
Women's Business Enterprise Council
PA • DE • sNJ

NAICS Codes: 561492, 561410

UNSPSC Codes: 82111603

Astra | Center for Women & Enterprise | Greater Women's Business Council | ORV-WBC | Women Presidents' Educational Organization | Women's Business Council Southwest | Women's Business Development Center | Women's Business Development Council of Florida | WBEA | WBEC | WBEC South | Women's Business Enterprise Council West

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

☑ A pre-bid meeting will not be held prior to bid opening.

☐ A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

☐ A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline: March 12, 2014 - end of business

Submit Questions to:

Evelyn P. Melton
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-4115
Email: evelyn.p.melton@wv.gov

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include hand delivery, delivery by courier, or facsimile. The bid delivery address is:

Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid maynot be considered:

SEALED BID
BUYER: _____
SOLICITATION NO.: _____
BID OPENING DATE: _____
BID OPENING TIME: _____
FAX NUMBER: _____

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus _____ convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: ☐ Technical
☐ Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

Bid Opening Date and Time: April 2, 2014 @ 1:30 P.M.

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. **DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

   2.1 "Agency" or **"Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

   2.2 "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.

   2.3 "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

   2.4 "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

   2.5 "Purchase Order" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.

   2.6 "Solicitation" means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.

   2.7 "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

   2.8 "Vendor" or **"Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☑ **Term Contract**

Initial Contract Term: This Contract becomes effective on upon award

and extends for a period of one (1) year(s).

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to two (2) successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

Reasonable Time Extension: At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

Release Order Limitations: In the event that this contract permits release orders, a release order may only be issued during the time this Contract is in effect. Any release order issued within one year of the expiration of this Contract shall be effective for one year from the date the release order is issued. No release order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within days.

☐ **One Time Purchase:** The term of this Contract shall run from the issuance of the Purchase Order until all of the goods contracted for have been delivered, but in no event shall this Contract extend for more than one fiscal year.

☐ **Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed

5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☑ **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. 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.

☑ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.

7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

☐ **BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of . The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under $100,000. Personal or business checks are not acceptable.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☑ **WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

☐ **INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award and shall list the state as a certificate holder:

☐ **Commercial General Liability Insurance:**
or more.

☐ **Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.

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The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

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The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

9. **LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or $5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

10. **ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

11. **EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or

other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. LIQUIDATED DAMAGES: Vendor shall pay liquidated damages in the amount for

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

13. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

14. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the $125 fee if applicable.

15. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

16. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

17. PAYMENT: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."

18. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

19. DELIVERY: All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.

20. INTEREST: Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.

21. PREFERENCE: Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

22. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

23. **TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

24. **CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.

25. **WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

26. **TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.

27. **APPLICABLE LAW**: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

28. **COMPLIANCE**: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.

29. **PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

30. **ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

31. **MODIFICATIONS**: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**

32. **WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

33. **SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

34. **ASSIGNMENT**: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.

35. **WARRANTY**: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

36. **STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

37. **BANKRUPTCY**: In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

38. [RESERVED]

39. CONFIDENTIALITY: The Vendor agrees that it 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/default.html.

40. DISCLOSURE: Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

41. LICENSING: In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor 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 agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

42. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of the State of West Virginia, the Vendor agrees to 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 Vendor.

43. **VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

    The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

44. **PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

    ☐ Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

45. **VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

46. **INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered

by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

47. **PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of $1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.

48. **ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

49. **CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

50. **REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☑ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.requisitions@wv.gov.

51. **BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information

to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304)558-9911 for more information.

52. **PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

    a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.

    b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

    The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

    a. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars ($2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

    b. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

53. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars ($50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

REQUEST FOR QUOTATION
INS14015
Transcription Services

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the OIC WV Workers' Compensation Office of Judges to establish a contract for transcription and decision typing services.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

   2.1 "Contract Services" means transcription of digitally-recorded hearings and transcription of digitally-recorded decisions/orders dictated by fifteen administrative law judges.

   2.2 "Pricing Page" means the pages upon which Vendor should list its proposed price for the Contract Services. The Pricing Page is either included on the last page of this RFQ or attached hereto as Attachment D.

   2.3 "RFQ" means the official request for quotation published by the Purchasing Division and identified as INS14015.

3. **QUALIFICATIONS:** Vendor shall have the following minimum qualifications:

   3.1. 5 years of experience in transcription of legal documents

   3.2. Proficient in the use of the English language

4. **MANDATORY REQUIREMENTS:**

   4.1 Mandatory Contract Services Requirements and Deliverables: Contract Services must meet or exceed the mandatory requirements listed below.

   4.1.1 Transcription of digitally-recorded hearings.

   4.1.1.1 Digitally-recorded hearings must be transcribed and electronically returned to the Office of Judges within ten (10) working days from date of receipt on evidentiary hearings, Occupational Pneumoconiosis Board hearings, final permanent total disability hearing and other assigned types of hearings. Expedited hearing digital recordings must be transcribed and electronically returned to the Office of Judges within seven (7) working

days from date of receipt. If the vendor's equipment malfunctions, it must be repaired within a maximum of three (3) working days.

4.1.1.2 Digitally-recorded hearings must be transcribed in the following manner:

- The first page shall have 1" margin at top
- All subsequent pages shall have header on line 5 leaving 5/8" margin at top
- Single spacing Questions and Answers format
- Arial 12 point Font type size
- Index of Direct, Cross, Redirect, Recross, etc. on second page
- Certification on last page
- Header with claimant name and claim number
- The first typing line is line 9 on all pages after first and end on approximately line 51 leaving a 1" margin at the bottom of the page.

A sample format of an evidentiary hearing transcript is attached as Attachment A.

A sample format of an Occupational Pneumoconiosis Board hearing transcript is attached as Attachment B.

4.1.1.3 The quality of hearing transcripts shall be subjected to a quality review by the Office of Judges. The vendor is required to maintain a 95% accuracy rate in transcription of recorded hearings. The Office of Judges considers three or more errors per page of typed transcripts to exceed an acceptable level. This includes typing, grammar and English context or spelling errors. If the quality of the documents falls below 95% accuracy or if there is a consistent loss of dictation material (either to or from the Office of Judges and the successful vendor) the contract may be terminated as defined in Section 10.1 and 10.2 of this RFQ.

4.1.1.4 The vendor must provide a secure FTP or SSL website which will allow Office of Judges' employees to upload digital recordings in .DCR and .DSS format for transcription within the required time periods. (Most hearings are recorded in .DCR format but some may be in .DSS format.) The vendor must have the ability to securely transfer electronically the transcribed documents in Word 2010 format to the Office of Judges for printing at their location. The vendor is required to maintain electronic

archives of all hearing transcripts and decisions/orders completed for the Office of Judges for a minimum period of one year from date of receipt.

4.1.2 Typing of Decisions/Orders

4.1.2.1 Digitally-recorded decisions and orders from the Office of Judges' administrative law judges must be typed and returned electronically within **forty-eight hours** of receiving the dictation. The vendor selected must indicate the security in place for electronic transfer of information and must accommodate the requirement of the Office of Judges to prioritize the order in which the dictations of decisions are typed.

4.1.2.2 Decisions shall be typed in the following manner:

- The first page shall have 1" margin at top
- All subsequent pages shall have header on line 5 leaving 5/8" margin at top
- All pages shall have 1" margin on left-hand side and ¾" margin on the right-hand side of each page
- The first typing line on page 1 is "7" and shall end at approximately "53", for 47 typing lines on page 1.
- All subsequent pages shall begin on line "8" and end approximately on line "53" leaving 46 typing lines per page
- Single space with appropriate paragraphing
- Arial 12 point Font type size

A sample format of a decision is attached to this RFQ as Attachment C.

4.1.2.3 The quality of decisions/orders shall be subject to a quality review by the Office of Judges. The vendor is required to maintain a 95% accuracy rate on decisions. The Office of Judges considers three or more errors per page of typed transcripts to exceed an acceptable level. This includes typing, grammar and English context or spelling errors. If the quality of the documents falls below 95% accuracy or if there is a consistent loss of dictation material (either to or from the Office of Judges and the successful vendor) the contract may be terminated as defined in Section 10.1 and 10.2 of this RFQ.

4.1.2.4 The Office of Judges has approximately 15 individuals reviewing claim files and dictating decisions/orders. These decisions vary in length

from 2 pages to as many as 20+ pages. A "typical" decision is 5 to 7 pages. The Office of Judges issues approximately 275 decisions per month. The persons dictating the decisions will reference certain preformatted language. The Office of Judges uses approximately 58 of these preformatted paragraphs which the Office of Judges will update and change as necessary. The vendor must have the ability to accommodate the possibility that all decision writers may be dictating simultaneously. All cost necessary to accommodate this level of dictation is a cost of doing business with the agency similar to all other overhead and must be calculated within the vendor's price/cost per page quotation.

4.1.2.5 The vendor must provide a secure FTP or SSL website which will allow Office of Judges' employees to upload digital recordings in .DSS, MP3 or WMA format for transcription within the required time periods. (Most decisions are recorded in .DSS format.) The vendor must have the ability to securely transfer electronically the transcribed documents in Word 2010 format to the Office of Judges for printing at their location. The vendor is required to maintain electronic archives of all hearing transcripts and decisions/orders completed for the Office of Judges.

5. CONTRACT AWARD:

5.1 Contract Award: The Contract is intended to provide Agency with a purchase price for the Contract Services. The Contract shall be awarded to the Vendor that provides the Contract Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

5.2 Pricing Page: Vendor should complete the Pricing Page by providing a quote of the price per page for transcription of hearings from digital voice files and the price per page for transcription of dictation on decisions/orders. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Notwithstanding the foregoing, the Purchasing Division may correct errors as it deems appropriate. Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

6. PERFORMANCE: Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end

contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.

7. **PAYMENT:** Agency shall pay flat fee per page as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.

9. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:

   9.1. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.

   9.2. Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.

   9.3. Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.

   9.4. Anyone performing under this Contract will be subject to Agency's security protocol and procedures.

   9.5. Vendor shall inform all staff of Agency's security protocol and procedures.

10. VENDOR DEFAULT:

10.1. The following shall be considered a vendor default under this Contract.

10.1.1. Failure to perform Contract Services in accordance with the requirements contained herein.

10.1.2. Failure to comply with other specifications and requirements contained herein.

10.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

10.1.4. Failure to remedy deficient performance upon request.

10.2. The following remedies shall be available to Agency upon default.

10.2.1. Cancellation of the Contract.
10.2.2. Cancellation of one or more release orders issued under this Contract.
10.2.3. Any other remedies available in law or equity.

11. MISCELLANEOUS:

11.1. Contract Manager: During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: _____
Telephone Number: _____
Fax Number: _____
Email Address: _____

CERTIFICATION AND SIGNATURE PAGE

By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

Sargent's Court Reporting Service, Inc.
(Company)

Sara Ann Sargent
(Authorized Signature)

Sara Ann Sargent, President
(Representative Name, Title)

814-536-8908 814-539-7579
(Phone Number) (Fax Number)

4/1/14
(Date)

RFQ No. INS14015

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

MANDATE: Under W. Va. Code §5A-3-10a, 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: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. 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.

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.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (*W. Va. Code* §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: Sargent's Court Reporting Service, Inc

Authorized Signature: Susan Sargent Date: 4/1/14

State of Pennsylvania

County of Cambria, to-wit:

Taken, subscribed, and sworn to before me this 1st day of April, 2014.

My Commission expires Nov. 29, 2017.

AFFIX SEAL HERE

NOTARY PUBLIC Stacey L. Mitchell

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
STACEY L. MITCHELL, Notary Public
Johnstown, Cambria County, PA
My Commission Expires Nov. 29, 2017

Rev. 07/12

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.

7. **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code* §5A-3-59 and *West Virginia Code of State Rules*.**
✓ Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

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: Sargent's Court Reporting Service **Signed:** Susan Sargent

Date: 4/1/14 **Title:** President

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: INS14015

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:
(Check the box next to each addendum received)

- [x] Addendum No. 1
- [ ] Addendum No. 2
- [ ] Addendum No. 3
- [ ] Addendum No. 4
- [ ] Addendum No. 5
- [ ] Addendum No. 6
- [ ] Addendum No. 7
- [ ] Addendum No. 8
- [ ] Addendum No. 9
- [ ] Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further 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.

Sargent's Court Reporting Service
Company

Sara Ann Sargent
Authorized Signature

4/1/14
Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Solicitation

NUMBER	PAGE
INS14015	1

State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

ADDRESS CORRESPONDENCE TO ATTENTION OF:
EVELYN MELTON
304-558-7023

VENDOR
*429132316 814-536-8908
SARGENTS COURT REPORTING SVCS
210 MAIN ST

JOHNSTOWN PA 15901

SHIP TO
INSURANCE COMMISSION

1124 SMITH STREET
CHARLESTON, WV
25305-0540 304-558-3707

DATE PRINTED
03/19/2014

BID OPENING DATE: 04/02/2014 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
				ADDENDUM NO. 1		
				ADDENDUM ISSUED:		
				1. TO PROVIDE RESPONSES TO VENDORS' QUESTIONS REGARDING THE ABOVE SOLICITATION.		
				2. TO PROVIDE VENDORS A TRANSCRIPT SAMPLE WHICH INCLUDES TEXTS. SAMPLE TRANSCRIPT IS ATTACHED.		
				3. TO PROVIDE ADDENDUM ACKNOWLEDGMENT. THIS DOCUMENT SHOULD BE SIGNED AND RETURNED WITH YOUR BID. FAILURE TO SIGN AND RETURN MAY RESULT IN THE DISQUALIFICATION OF YOUR BID.		
				END OF ADDENDUM NO. 1		
0001	1	PG	961-72	TRANSCRIBING HEARINGS FROM DIGITAL VOICE FILES	1	1.09
0002	1	PG	961-72	TRANSCRIBING DECISIONS FROM DIGITAL VOICE FILES		2.84

SIGNATURE Tina Lynn Sargent TELEPHONE 814-530-8908 DATE 4/1/14

TITLE President FEIN 25-1794603 ADDRESS CHANGES TO BE NOTED ABOVE

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

State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

Solicitation

NUMBER	PAGE
INS14015	2

ADDRESS CORRESPONDENCE TO ATTENTION OF:
EVELYN MELTON
304-558-7023

VENDOR
*429132316 814-536-8908
SARGENTS COURT REPORTING SVCS
210 MAIN ST

JOHNSTOWN PA 15901

SHIP TO
INSURANCE COMMISSION

1124 SMITH STREET
CHARLESTON, WV
25305-0540 304-558-3707

DATE PRINTED
03/19/2014

BID OPENING DATE: 04/02/2014 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
	****** THIS IS THE END OF RFQ INS14015 ****** TOTAL:					3.93

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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

SOLICITATION NUMBER: INS14015
Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as ("Solicitation") to reflect the change(s) identified and described below.

Applicable Addendum Category:

[ ] Modify bid opening date and time

[ ] Modify specifications of product or service being sought

[✓] Attachment of vendor questions and responses

[ ] Attachment of pre-bid sign-in sheet

[ ] Correction of error

[✓] Other

Description of Modification to Solicitation:

1. To provide responses to Vendors' questions.
2. To provide a Transcript sample.
3. To provide Addendum Acknowledgment.

Additional Documentation: Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

Terms and Conditions:

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

ATTACHMENT A

ADDENDUM NO. 1
INS14015 – QUESTION AND ANSWER

1) Who is the current vendor servicing the contract?

   A: IMEDX, INC.

2) What rate is the State currently paying per page for Transcription of Hearings.

   A: $1.15 per transcript page

3) What rate is the State currently paying per page for Transcription of Decisions.

   A: $2.99 per decision page

4) How much did the State spend on the existing contract for these services in the most recently closed fiscal year?

   A: $40,112.46 in fiscal year 2013

5) What is the State's budget for the first year of the new contract, when awarded?

   A: Open-end contract

6) Is this RFQ open to out of state companies and if so how much preference is given to in state?

   A: Yes, please refer to the Vendor Preference Certificate (page 40) of the packet

7) Most of our contacts require double spaced and 25 lines per page. I noticed that the transcripts are required to be single spaced and for hearings it should be up to 51 lines per page and decisions 53 lines per page. However, the sample transcripts show 34 lines. I need to how many lines of text per page are required so we can give you an accurate quote.

   A: The sample transcript contained 1.3 pt. line spacing allowing 34 text lines per page. Also, please note that requirements for decisions include 46 typing lines per page.

8) Approximately how many hearings are there in total in a month?

   A: In the past 12-month period, we have averaged 53 hearings per month.

9) Who is the current vendor?

A: Please refer to the answer in question number 1

10) What is the current price per page?

A: Please refer to the answers in question nos. 2 and 3

11) Would you please provide a typed transcript, text included, of each type of hearing.

A: Attached is a sample transcript including text.

12) Who is the incumbent for the current requirement of transcription services? Also, what is the current pricing for transcription services?

A: Please refer to the answers in question nos. 1, 2 and 3

13) If you are a sole proprietor do you still have to carry WC insurance in order to receive this bid?

A: The Office of Judges cannot provide legal advice concerning your requirement to carry workers' compensation coverage. Please consult with your legal counsel.

14) I see where there are approximately 275 decisions per month - approximately how many hearings per month?

A: Please refer to answer in question no. 8

WORKERS' COMPENSATION OFFICE OF JUDGES

[redacted] Claimant

and

[redacted] Employer

JCN No. [redacted]

Transcript of proceedings held in the Workers' Compensation Office of Judges Hearing Office, One Players Club Drive, Kanawha County, Charleston, WV, on the 19th day of June, 2013, for the purpose of adducing the testimony of Members of the OCCUPATIONAL PNEUMOCONIOSIS MEDICAL BOARD.

BEFORE: [redacted], Administrative Law Judge

APPEARANCES: [redacted] in person
(Not represented by counsel)

[redacted], Atty at Law
[redacted]
representing the Employer

cc: CLAIMANT
[redacted]

[redacted]

[redacted] JCN No. [redacted] 2

INDEX

Witness	Cross by the ALJ	Cross by [redacted]	Cross by Ms. [redacted]
Dr. [redacted]	5	7	18
Dr. [redacted]	21		27
Dr. [redacted]	33	34	35

[redacted]

JUDGE [redacted]: This is the claim of [redacted], decedent, and [redacted], Jurisdiction Case Number [redacted]. In this case, the Claimants are [redacted], son-in-law and daughter of the decedent who are requesting funeral benefits pursuant to West Virginia Code §23-4-4. They are protesting the Order of [redacted] which denied these benefits. Present for the Employer is counsel, [redacted].

Let's see, [redacted], at this time I just need to advise you of your rights, that I'm going to allow you to represent yourself today since I guess you are asking individually for funeral benefits. If you would want a lawyer, even at this late stage, I will give you a one-time postponement to obtain one. If we proceed today, it will result in a final decision by the Occupational Pneumoconiosis Board.

The transcript of today's hearing, as well as the claim file, will be sent to the Administrative Law Judge to whom this is assigned; and a decision would be made within 60 days of the Order submitting the claim, which should be issued about two weeks from today, when the transcript is returned.

The Office of Judges is completely neutral in this matter. We don't represent either the insurer or, of course, the Claimant; and I can't advise you on what evidence, you know, would be useful or anything like that. Having heard all this, do you wish to proceed with the hearing today?

[redacted]: Yes, sir.

JUDGE [redacted]: Okay. You mean yes? Okay, we'll just go off the record.

(WHEREUPON, a short break was had in the proceeding.)

The Board made an extensive viewing of the x-ray evidence; so perhaps we should start with Dr. [redacted] testifying. [redacted], let me explain how things work here. Each of the Board members testify individually. The man closest to you is Dr. [redacted], the radiologist. The man in the center is Dr. [redacted], the Chairman of the Board; and the man on the end is Dr. [redacted]. What happens is that the protesting party, which is you in this case, goes first with the examination.

[redacted]

After you're through, then Ms. [redacted] will be allowed to ask the Doctor questions. Then we'll move on to the next doctor, one by one. I'm just going to ask a few introductory questions of Dr. [redacted] just to get him started, and then I'll allow you ask any question you want.

(Board Sworn)

THEREUPON,

DR. [redacted], Chairman

and

DR. [redacted], Member

and

DR. [redacted], Member

being duly sworn, testified as follows:

CROSS-EXAMINATION OF DR. [redacted]

BY THE JUDGE:

Q So, Dr. [redacted], you've reviewed several films, both on the view box and on the CD on computer. Could you give us your impression of those films?

A Yes. The films that we have now on file are analog films from previous OP Board visits and show a minimal degree of nodular fibrosis consistent with OP. The CT scans from WVU from January, February, March of 2011, show multiple peripheral nodules, some of which are calcified in the right upper lobe which should be granulomas.

There are non-calcified nodules in the mid and lower lung zones, predominantly in the lung bases which are very nonspecific. And certainly you can see nodules in complicated pneumoconiosis, or even these could be small opacities of pneumoconiosis, but they are, ultimately, atypical for that. At the same time, I would not say that I could exclude coal workers' pneumoconiosis as the cause of that.

The predominant disease on the CT's from 2011 is emphysema, with extensive lung destruction which makes it difficult to visualize a lot of the…what we call the interstitium, the normal parenchyma, the normal lung elements between the areas of destruction are not well demonstrated because there's just so much lung that's destroyed.

[redacted]

So again to summary the x-rays from the 1980's show nodular fibrosis consistent with simple OP. The CT's do not necessarily confirm the background of small opacities but have these larger opacities that are very nonspecific in the lung bases; and I don't believe I can exclude an OP based on the CT's.

JUDGE HASLEBACHER: Okay. [redacted], do you have questions of Dr. [redacted]? He stated he does find evidence of black lung and cannot exclude that in the later CT's.

CROSS-EXAMINATION OF DR. [redacted]

BY [redacted]:

Q Okay, all right. And as you looked at the films versus this disc image in January to February of '11, he was very, very ill in the hospital at WVU, did you see the changes in those films?

A There are minimal changes...

Q So nodules to no opacities on the 3-24-11 disc, large size opacities...

A There is one area...

Q In the left upper lobe?

A Yes. There is one left upper lobe opacity that does not look like either a granuloma or an opacity related to occupational pneumoconiosis. It is likely an inflammatory infiltrate. It's an area of lung that's probably infected, could be atelectic (phonetic), could just be collapsed down. It's not a nodule that looks like pneumoconiosis. It doesn't look like a tumor. That opacity to me is not contributory either to confirming an OP diagnosis or excluding it.

Q And did you also see the opacity in the left upper lobe measuring 2.4 by 1.4 centimeters approximately?

A Yes.

Q And the other opacity measuring two by 1.8 centimeters in the left upper lobe also?

A Okay. I saw multiple opacities. And again I believe I've summarized those in my impressions of them. Individual opacities I can't say anything more specific about. I mean, you know, we could go through...step through each image and look at each one. And the small round opacities, small round nodules, taken in total to me are indeterminate. You can't tell what

they are.
Q And that is your opinion, right?
A That is correct.
Q Your impression?
A All of this is in my opinion.
Q Right. The nodules, is it not correct with coal workers' pneumoconiosis that as dust macules form those progress into nodules, and then those nodules in the complicated form of coal workers' pneumoconiosis go into opacities?
A Well, we describe...you're trying to split the definitions of...or define nodule opacity macule, and those are not really distinct terms. The macule is something that you see on pathology slides. Radiologists usually don't refer to macules. We don't see macules. That's a pathologist.
Q Isn't how the coal workers' pneumoconiosis...
A That is the pathologistology (phonetic), that's correct.
[redacted]: Yeah, that's how all it works.
BY [redacted]:
Q And it works...
A What I'm saying is, is you're asking me to say that a macule goes to a nodule and goes to an opacity. And that's not the way we use that terminology. A macule is for pathology. That's what the...when the pathologist cuts a tissue, he'll describe macules. We see macules as a nodule, a generic term for any area of lung that is not normally aerated can be an opacity. An opacity is a very generic term. For the purposes of OP, we talk about small round opacities which are typical of coal workers' disease. There are opacities that are typical for pneumonia or typical for a tumor. Those are all opacities to us.
Q Right.
A So what I'm seeing nodules, which generically could be called opacities. The larger opacity in the upper lobe on one of the final scans looks to me like again an inflammatory infiltrate or volume loss for some other reason. So that's not the progressive...that's not complicated pneumoconiosis. That's not a mass of...and again that's not the typical pathophysiology (phonetic) where on January you don't have the complicated large opacity or, you know, progressive massive fibrosis; then

in March you do. That is a much too rapid a progression of a large opacity for that to be complicated pneumoconiosis.

Q The...on the 3-24 radiology report from the WVU radiologists, I know you all don't, you know, look at that. But on the specific report indicating those opacities, the radiologist put, "These areas likely relate to development of progressive fibrosis."

A Okay. I would respectively disagree.

Q "There are emphysematous changes of the lungs bilaterally." The indication for it was the shortness of breath and the pneumoconiosis. Yeah, his lungs were filled with multiple nodules. And I saw this man deteriorate. When they would take us in to see the...to view the MRI films, to view the chest x-rays, they said, "I don't know how this man is breathing the way he does because this disease has just literally burnt his lung tissue up."

You referred to the lung tissue was so poor. I mean you can see that. He had no known history, no underlying history of any metastatic disease. He had the CT of the abdomen, the pelvis. There was no lymph adenopathy. There was no change in size or anything. You know, there was no other organ involvement. It was due to that lung disease.

DR. [redacted]: I don't think anyone has said that we didn't...Dr. [redacted] I don't think has said that he didn't make a diagnosis of OP.

[redacted]: Right, right.

DR. [redacted]: What we're just saying, there are other things on the films. And so we'll relate that later, if that's okay, regarding his death. Right now we're just describing the radiologic findings that he is describing on the films.

BY [redacted]:

Q And in his opinion, he does not contribute the opacities as being indicative of progression of the coal workers' pneumoconiosis, to indicate progressive massive fibrosis. But in this radiology report, this radiologist did contribute that known to Dad's history. And, you know, he'd been there long term in the hospital the first three months of January and February and March of '11; and they saw these changes on the CT's within that length of time.

And in that length of time, physically seeing him, the

condition, how his respiratory function deteriorated. You know, you have to...you have to take the whole picture of everything.

A That's why we've reviewed as much as we have.

Q You know the size or those, size of those nodules too were increasing, that he did have some lung...on the exam there's 1.4 centimeters. Is that also not an indication of progression of fibrosis?

BY DR. [redacted]:

A A nodule of greater than one centimeter is a large opacity by ILO...by the...

Q Right.

A Organization that classifies pneumoconiosis. That is correct. So if indeed, I did not measure these nodules. I believe they're measurements of 1.2. If there's one bigger than that, I cannot, again...I think you're misinterpreting what I'm saying to some extent, because I did not say that I could tell you what those nodules were at the lung bases, and I said I could not exclude that they could be occupational pneumoconiosis.

I don't believe that the large opacity in that left upper lobe, which to me has developed in that three months, potentially less than three-month period of time, I have never seen a large opacity develop that quickly in progressive massive fibrosis. I have not seen that. I do not believe that...in my opinion, that is not a large opacity of pneumoconiosis.

The ones in the lung bases I could not...again, have not excluded that those are OP. Therefore, if there's one greater than one...if there's a 1.2 centimeter, that could be PMF(phonetic)...that could be complicated pneumoconiosis.

Q I think there is.

A It's very difficult for us to measure on here. I need to take a minute and try to measure one, and I'm happy to do that. Again, I'm not challenging their measurements from the original scale.

JUDGE [redacted]: Okay. Ms. [redacted], do you have questions of Dr. [redacted]?

DR. [redacted]: I was going to measure it here.

JUDGE [redacted]: I'm sorry.

DR. [redacted]: That would be a pretty good size, about two centimeters?

[redacted]

DR. [redacted]: Yeah, just over one, which I think is what...1.4 centimeters in the right lung base on 3-24-11, image 87. So I would agree that if...that would be a large opacity by ILO definitions.

BY [redacted]:

Q And that two in the left upper lobes?

A Do we want to measure the...

JUDGE [redacted]: If you can.

DR. [redacted]: Were they present on the other...the earlier CAT scan?

DR. [redacted]: Well, if by left upper lobe we're referring to the non-nodular opacities, there are potentially two areas...well, there may actually be one confluent (phonetic), that are not nodular in the left upper lobe, but that's what's we're asking to be measured. Judge, I'm really not certain what I'm supposed to be doing.

[redacted]: But the radiology report refers to upper lung opacity in the left upper lobe, anterior; correct?

DR. [redacted]: There's no argument that those are there.

DR. [redacted]: Right. They are there, and the measurements...those areas of opacity are larger. They're at least a couple of centimeters, if you took it in...if there's really one instead of two, it would be three or four centimeters in total dimension. And I'm not sure that they're actually distinct. Now were they on the first scan from January?

DR. [redacted]: There's no argument that those opacities exist. The argument would be, or the discussion would be, the etiology of those opacities. But opacity just meaning an area.

JUDGE [redacted]: I think your question perhaps might be better directed towards Dr. [redacted] and Dr. [redacted], which we'll take immediately after Dr. [redacted].

DR. [redacted]: And the left upper lobe opacity is new. The non-nodular configuration was not on the 1-30-2011, scan. The right lung base nodule was there. I will measure it and see if it changed any over that time period. It measures 1.2 centimeters which is essentially unchanged.

It's very difficult to measure within a millimeter on a

CT. So the small nodules do not look significantly different. That larger area of opacification (phonetic) is new on the 1-30…I'm sorry, on the 3-24-11, scan.

DR. [redacted]: Does that cover everything as far as those x-ray questions?

[redacted]: I guess my point, I guess, the large opacities like you said, they could not…you cannot exclude those from being occupational pneumoconiosis on the CT's, right? I mean his opinion is that the large opacities greater than the one centimeter and the history of extensive coal mine dust exposure and his history…

DR. [redacted]: We'll get to those questions after Ms. [redacted] finishes.

[redacted]: Can I say something? Well, will we have a chance for a wrap up here?

DR. [redacted]: Oh, yes, yes.

[redacted]: Okay.

DR. [redacted]: We'll go…

[redacted]: I think her point, her point is that she was wanting…she thought she was…

DR. [redacted]: You don't have to get everything in right now.

[redacted]: All right.

DR. [redacted]: No, because they're many more questions.

[redacted]: Thank you. This is our first go around here.

DR. [redacted]: No problem.

JUDGE [redacted]: Okay, Ms. [redacted].

MS. [redacted]: Thank you.

CROSS-EXAMINATION OF DR. [redacted]

BY MS. [redacted]:

Q Dr. [redacted], can you estimate for the court how many x-rays versus CT scans you reviewed?

A A lot.

Q I mean just a rough idea.

A Probably 12 or 14 chest x-rays, between the discs between Braxton, WVU and the OP Board. And then there were the three CT scans from WVU.

[redacted]

Q Do you find it helpful to review diagnostic images…I'm sorry, these back up as early as…I think the first Board's was in the 1980, 1983?

A '83, correct.

Q So you reviewed imaging over almost 20 years?

A Well, they're almost 30…yeah, the 2011…'83 to 2011.

Q Do you find that the ability to review a series of diagnostic imaging in different media at one time is helpful?

A It's always helpful to review numerous scans or films over time, yes. Different formats unfortunately sometimes makes it more difficult, as I'm sitting in front of this and my films are all the way over there, yes.

Q But you…how do x-rays differ from CT scans?

A X-rays…typically CT scans are more sensitive for detection of disease, including the entities we're interested in here, like coal workers' or other occupational pneumoconiosis as well as emphysema.

Q And do you find it helpful that you're able to do all of this at one time rather than years apart? Looking at just one film today and a CT scan five years from now?

A Yes.

Q I take it then that you do not disagree with the findings…you have no evidence to dispute the findings that what was seen in the 1980's was due to occupational pneumoconiosis?

A That is correct.

Q And I take it you don't dispute the presence of the changes in the upper lung zones; you just don't believe those are due to coal dust exposure? It's due to an infectious process?

A The left upper lobe opacity that evolved between 1-30-2011 and 3-24-11, I would not attribute to complicated OP.

Q And you see a change in the lower lobe, and you've testified that that was an atypical presentation; is that correct?

A It is atypical to have the lower lobe disease without other…without upper lobe and without the background of smaller opacities.

Q And are there a number of possible differential diagnoses for the changes that you see in the lower lung zones?

A Yes.

[redacted]

Q And can you state with any reasonable degree of medical certainty that it's due to...those changes are due to coal workers' pneumoconiosis?
A Again, I would use the phraseology as I did, that I cannot exclude coal workers' pneumoconiosis as the diagnosis.
Q But you're not making an affirmative diagnosis of that condition?
A I am not making that, correct. Well, let me back up. On the CT scans, I am not making that diagnosis because I think the nodules are indeterminate. On the x-rays, the original x-rays, there's a background of a mild nodular fibrosis consistent with OP.
Q Could those change...could the change that you see in the lower lobe have developed irrespective of the nodular changes you see in the '80's?
A Yes.

MS. [redacted]: I don't think I have anything else, Dr. [redacted].

JUDGE [redacted]: Okay.

CROSS-EXAMINATION OF DR. [redacted]

BY THE ALJ:

Q Dr. [redacted], you've heard Dr. [redacted]' testimony regarding the radiology. Can you tell us whether or not you agree with that and also give us your impression of the remainder of the evidence?
A I do agree with his impression regarding the x-rays over the period of time. I agree that the statements he made regarding the x-rays that are on the board and the x-rays from Board exams, as well as the CT scans, that we have reviewed.

DR. [redacted]: Can I ask you one question? Your father worked in coal mining for 30 years. What was his principal job titles? What did he do principally?

[redacted]: Eventually...you can probably elaborate more on this than I can, because he...

[redacted]: Well, initially, he went to work in the coal mines as a hand loader, and he drilled a job at the face with nitrous oxide. And I'm talking about the term here of...the doctors explained to us as a type of fertilizer that you drill the chock (phonetic) with. I know they date back in the...probably the 30's, sometime in the late 40's, I don't know exactly when, the 40's or 50's, I don't know when he went to work.

[redacted]

DR. [redacted]: 40's, 50's, probably.

[redacted]: Yeah, 40's and 50's.

DR. [redacted]: Traditional mining with a cutting machine.

[redacted]: Yes. Yes, but he explained it as the nitrous oxide that they used to shoot with then put off some type of a gas. And then when it met with your lungs, it brought forth nitrous oxide...or nitric acid, and it actually burnt the lungs, is the way the doctor explained to us when he was in the hospital, that he had a great degree.

But then, you know, as time progressed on he worked on...I mean he was a mechanic. He worked at the faces of cutting machines, drilling machine or roof bolting, numerous...numerous types.

DR. [redacted]: That's what I would imagine.

[redacted]: Exposure....

DR. [redacted]: That he shot coal...that he shot coal a long time ago.

[redacted]: Yes, that's what he would have did, sir.

DR. [redacted]: And he only smoked in the surface...

[redacted]: Exposure without protection. You know, they had no protection back then. They were told they didn't need protection back then.

DR. [redacted]: So when I review the case, this gentleman at [redacted] years of age lived a fairly long life, but did die of a respiratory disease. His main cause of death was respiratory in nature. He ended up most likely having a (inaudible), whether that was active infection or just a resident that was present due to long term steroid use I'm not sure. He also was said to have severe COPD, and he had nodules in his lungs.

He had a history of congestive failure as well, although his left ventricular ejection fraction was around 50 to 55% and had previously had a pacemaker placed in his chest to control his cardiac rhythm. His pulmonary function studies done at WVU on February 1, 2011, showed total impairment, with a ratio of 39 and 37 respectively before and after bronchodilation. He was oxygen dependent. He did have severe lung disease.

He did die a respiratory death. When I reviewed the case and when we discussed it today, or this morning with the x-rays and

the CT scans, we did want to find out, because there are a lot of remarks of progressive massive fibrosis and it says specifically on 3-8-11, I guess it is, or 2-25-11, sorry, numerous nodules, overall stability in size and number, findings likely to relate to patient's history of coal workers' pneumoconiosis.

Additional considerations would include metastatic disease. Clinical correlation is requested. So radiographically those things were entertained, there could be metastatic disease. It could be pneumoconiosis or other disease that would be just granulomatous disease or infectious process or just scar tissue or inflammation. Many, many different etiologies for opacities. I do not know what those opacities were.

I cannot exclude it as being OP. I don't think they were, but I can't exclude it. It would be very unusual for someone to develop progressive massive fibrosis 30 to 40 years after their exposure has ended without some changes over the years. To suddenly just develop it within the last 3 years of life would be extremely unusual and clinically unlikely.

However, he did have a background of simple coal workers' pneumoconiosis that we can see on his x-rays from before. The process of emphysema in his upper lobes, I'm not sure what it is. I don't know the etiology. It could have been his exposure in dust and blasting and conventional mining techniques that they used in the past.

And it is a little confusing because we see usually emphysema of this type or this nature, we'll see it a lot of times in people who smoke or have that type of habit. He did not have a sufficient amount of exposure to smoke, a smoking history that would have caused it. So again a lot of things are atypical that this would all be pneumoconiosis. I think he has multiple processes going on.

I do think he had a background of pneumoconiosis. I think he died a respiratory death. I cannot explain the nodules. I don't know what they are. Most likely to me they're inflammation, but it would be unlikely to be progressive massive fibrosis. In any event, he did have simple coal workers' pneumoconiosis that we can see from before.

[redacted]

The emphysematous process may be blocking us of being able to see that on the present x-rays, because he developed significant emphysema that you can see on the CT scan. Again, I don't know the etiology. It could have been his (inaudible) or it could have been from that previous exposure back in the 40's and 50's.

In any event, in my opinion after reviewing all of the medical records that we have I would state that his occupational exposure and his occupational pneumoconiosis was a material contributing factor in his death.

MS. [redacted]: Say it was?

DR. [redacted]: Yes, in my opinion. Do you have any questions for me?

[redacted]: As part of the death certificate, it all relates back to the cause of death as severe pneumoconiosis/COPD.

JUDGE [redacted]: Okay, Ms. [redacted].

CROSS-EXAMINATION OF DR. [redacted]

BY MS. [redacted]:

Q Dr. [redacted], the Board had reviewed all of those medical records at the time they you prepared your findings initially?

A Yes.

Q You were aware that he had occupational pneumoconiosis radiographically?

A We were aware that we had made a diagnosis. We did not have the x-rays.

Q And you've indicated that the radiographic presentation is atypical for a coal dust...for a coal workers' pneumoconiosis?

A No, I indicated that the CT scan nodules were atypical for coal workers' pneumoconiosis.

Q That's what we're looking at today. And you...

A We're looking at radiographs that span quite a period of history.

Q And has his radiographs between 1983 until the last time the Board saw him I believe in 1999, do they show any progression of the simple?

A No.

Q So his radiographic picture remains stable from 1983 until 1999, on the x-rays?

A With regards to the simple CWP...

Q Yes.

[redacted]

A Yes. But there was development. We do not have CT scans in '99. That would be a nice thing to have.
Q We only had x-rays, okay. And he had last worked in 1982?
A Yes.
Q So his radiographic picture was stable over those years?
A Yes.
Q And from his pulmonary function picture, you found no increase over those three times? I think you gave him a no increase over the subsequent evaluations?
A From...you mean the '80's?
Q Yes.
A The last one being '88?
Q Yes.
A Or '90...I'm sorry, the last one being '99, I think it was. Or was it '88? I'm sorry.
Q I think...
A I thought...in '99 he was given 30%.
Q I only have '83 to '88.
A 5-7-99 in claim number [redacted], 30%, which is a 20% increase, ALJ Order 8-22-01. 8-13-88 was a 20%, no increase. And 11-83 was a 20%.
Q So the additional award was granted by an ALJ?
A I'm sorry.
Q The additional award was granted by an ALJ?
A It actually just says 5-27-99, claim number [redacted], 30%, which represents a 20% increase. And then it has a dash, ALJ Order of 8-22-01, silicosis.
JUDGE [redacted]: The 8-22-01 would be the Second Injury Life Award, a permanent total disability award was granted to him.
MS. [redacted]: Okay.
Q So the Board...when the Board assessed and rendered a...pretty much his picture had remained relatively stable from the time that he ceased mining until at least 1988, and we're unclear what happened in '99 when he died from the total?
A Correct.
Q The changes that you saw radiographically, could they be due to...like you've indicated, could be due to a number of conditions?

[redacted]

A Yes.
Q The clinical course that you saw between January of 2011 and March of 2011, is that typical clinical presentation you see in someone with simple coal workers' pneumoconiosis?
A No. I do not know the exact etiology of the nodules or the emphysema found in this gentleman's lungs. I do know that he had a stable pneumoconiosis that accounted for approximately 20% earlier. We found 20% during his living claim. He died a respiratory death. I'm not saying that pneumoconiosis was the main cause of his death. I'm just saying it was a material contributing factor in his death.
Q And based on what...I mean 20% impairment, is that a significant amount of impairment?
A It can be, yes.
Q And between no further dust exposure in 1982 until he died in 2011, with his condition remaining relatively stable, why do you believe that OP was a material contributing factor?
A If he'd had that 20% of lung function, he may have lived another year or two. I don't know and to me that's significant.
Q Do you have any...what is the clinical basis for believing that it did progress due to OP as opposed to any of these other conditions?
A I didn't say he progressed due to OP. I said he had a 20% impairment during his living claim. I do not know what the other conditions were. I cannot tell you what the diagnosis was. Entertainment of progressive massive fibrosis, in my opinion, is not clinically sound because you do not see progressive massive fibrosis as we've discussed develop in that short a period of time after that many years of loss with a lack of exposure.

So what his current process was at the time of his death I'm not sure. He did have an aspergillus cultured that grew positive. He had infection and had been treated with steroids. It could have been some other infection that we don't have. We don't have the pathology to state what that was. We don't know. I don't know what his emphysema was in his upper lobes.

It could have been from a lot of different causes, but the most common cause we see as cigarette smoking isn't there. His

emphysema could have been contributed by his previous dust exposure. I can't state that with reasonable medical certainty that it is, but it is a possibility. In the final analysis, this gentleman died a respiratory death.

He had three main processes that I would point out in his lungs. He had some nodules in the lower lobes that I'm not sure were pneumoconiosis, but probably were inflammatory or some other disease. He had a severe amount of emphysema in his upper lobes that was present, and I'm not sure of the etiology of that. And he had simple coal workers' pneumoconiosis.

So it's difficult for me to say that his simple pneumoconiosis wasn't a material contributing factor when you review the CT scans and the x-rays in conjunction with his clinical history.

MS. [redacted]: I have no further questions of Dr. [redacted].

CROSS-EXAMINATION OF DR. [redacted]

BY THE ALJ:

Q Dr. [redacted], you've heard the testimony of Dr. [redacted] and Dr. [redacted]. Do you agree with it and also give us your opinion of the evidence of record?

A I think it's been reviewed quite extensively. I think the determining factor is that we don't have a great etiology of the emphysema and whether his coal dust, other exposures during his working process, caused the emphysema. I think it's the portion that gives us cause to give the Claimant the benefit of the doubt. I would agree with their opinions otherwise.

JUDGE [redacted]: Okay. [redacted], do you have any questions of Dr. [redacted]?

[redacted]: Yeah.

CROSS-EXAMINATION OF DR. [redacted]

BY [redacted]:

Q With his clinical history, with his course of the long term exposure to the coal dust, just because, do you agree, that just because, you know, he retired in '82, that dust exposure may have subsided at that time; but that disease progression does not subside, it continues?

A It can continue. It doesn't always continue.

Q And the emphysematous changes, taking into consideration his clinical history,

his long term history again of the dust exposure, you're affirming that he did have a simple coal workers' pneumoconiosis. Can you say that those emphysematous changes within his lungs are not related directly to progression of the disease?

A That is the...that in lies the question, and we're saying we cannot state that. That if he had smoked 20 years, we wouldn't even be talking about this.

Q Right, he hadn't.

A So obviously the etiology of that, those emphysematous changes, is a big question mark. And because we don't have another etiology, we're giving him the benefit of the doubt.

Q Because Dad, his smoking history was virtually nil (phonetic)?

A I agree.

Q He was honest and, you know, it was back many, many...it was virtually nothing.

JUDGE [redacted]: Okay. Is there anything further? Okay, Ms. [redacted].

CROSS-EXAMINATION OF DR. [redacted]

BY MS. [redacted]:

Q Dr. [redacted], in the interest of time if I asked you the same questions as I did Dr. [redacted] and Dr. [redacted], would your testimony be substantially the same?

A Yes, ma'am.

Q In light of the date of last exposure and the atypical presentation clinically and radiographically and the fact that you are not able to state within a reasonable degree of medical certainty as to the cause of those radiographic changes and the emphysema, do you still remain of the opinion that OP was a material contributing factor in this gentleman's death?

A Yes, ma'am.

Q And are smoking and coal dust exposure the only known causes of emphysema?

A No, ma'am.

MS. [redacted]: I have no additional questions.

JUDGE [redacted]: Okay. In that case, the hearing is concluded and an Order will be issued submitting the claim upon receipt of the transcript. Thank you all for coming in.

[redacted]

STATE OF WEST VIRGINIA,
WORKERS' COMPENSATION OFFICE OF JUDGES, to wit:

I hereby certify that the foregoing proceeding was transcribed from a digital recording.

This, the 25th day of June, 2013.

[redacted]

[redacted]

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: INS14015

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:
(Check the box next to each addendum received)

[X]	Addendum No. 1	[ ]	Addendum No. 6
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[ ]	Addendum No. 3	[ ]	Addendum No. 8
[ ]	Addendum No. 4	[ ]	Addendum No. 9
[ ]	Addendum No. 5	[ ]	Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further 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.

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Company

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4/1/14
Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.
Revised 6/8/2012