

MAR. 28. 2014 12:01PM WV DIV OF PURCH

NO. 6369 P. 2



State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25306-0130

Solicitation

NUMBER
WWV14128

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
BETH COLLINS 304-558-2157

RFQ COPY

TYPE NAME/ADDRESS HERE

DIAZ DATA SERVICES, LLC
331 SCHUYLKILL ST
HARRISBURG PA 17110

WORKFORCE WEST VIRGINIA
OFFICE OF ADMIN. SUPPORT-5302
112 CALIFORNIA AVENUE
CHARLESTON, WV
25305-0112 304-558-2631

DATE PRINTED
03/26/2014

BID OPENING DATE: 04/08/2014

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
ADDENDUM NO. 01						
THIS ADDENDUM IS ISSUED TO MODIFY THE ORIGINAL SOLICITATION PER THE ATTACHED DOCUMENTATION.						
0001	1	EA	961-72	TRANSCRIPTION SERVICES, LEGAL AND MEDICAL		
***** THIS IS THE END OF RFQ WWV14128 ***** TOTAL:						

04/08/14 10:01:38AM
West Virginia Purchasing Division

SIGNATURE <i>[Signature]</i>	TELEPHONE (717) 333-6664	DATE 4/7/14
TITLE President	PEIN 27-3558592	ADDRESS CHANGES TO BE NOTED ABOVE

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

SOLICITATION NUMBER: WWW14128**Addendum Number: 01**

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:

To provide answers to vendor submitted questions.

To also change the bid opening date to April 8, 2014 at 1:30PM EST.

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

Vendor Submitted Questions and Agency Answers for WWV14128

3/25/2014

Q1. Who is the current vendor?

A1. imedX is the current vendor.

Q2. What is the current price per page?

A2. Records of the Purchasing Division are available to be reviewed at no charge and/or copied during normal business hours, Monday through Friday, 8:15 a.m. to 4:30 p.m., holidays and weekends excluded.

Copies of records are available upon written request from the vendor. A cost of 50 cents per page (minimum of \$10) is charged to furnish copies. Copy charges must be paid in advance. Copies of most bids can be obtained from the Purchasing Division website (www.state.wv.us/admin/purchase/bids). Previous Bid # WWV14127.

If you have any questions or wish to make arrangements for copies of the requested documents, please feel free to contact our Support Services Supervisor: Beverly Toler at your convenience at Beverly.A.Toler@Wv.gov.

Q3. Can you please send an example of a current hearing transcript with correct formatting on all pages, so we may better understand the requirements?

A3. The example provided as attachment two (2) is the latest formatting for hearings that is available.

Q4. With regards to hearings, will the audio be sent to the vendor via telephone communication?

A4. The audio file is transmitted electronically via computer.

Q5. How many hearings will be sent via cassette versus digital recording format?

A5. The hearings sent via cassette hearings are less than one per cent of the hearings, there has not been any cassette hearings sent in the previous year. The hearings sent via digital recording format are more than 99% of the hearings sent.

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: WV14128

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)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> 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.

DIAZ DATA SERVICES, LLC

Company

[Signature]
Authorized Signature

4/7/14

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.
Revised 5/8/2012

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 20, 2014 at 5:00PM EST

Submit Questions to: Beth Collins

2019 Washington Street, East
Charleston, WV 25305
Fax: 304-568-3970
Email: beth.a.collins@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 may not 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 at 1:30PM EST

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 award
and extends for a period of one 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 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 a 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.
-
-
-
-
-
-

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.

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.

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SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of WorkForce West Virginia to establish an open-end contract for transcription services of hearings conducted by the Board of Review and decisions resulting from those hearings.
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 Item” or “Contract Items”** means the list of items identified in Section 3, Subsection 1 below.
 - 2.2 **“Pricing Pages”** means the schedule of prices, estimated order quantity, and totals attached hereto as Exhibit A and used to evaluate the RFQ.
 - 2.3 **“RFQ”** means the official request for quotation published by the Purchasing Division and identified as WWV14128.
 - 2.4 **“Board of Review”** is part of the West Virginia Unemployment Division that governs the initiation and conduct of hearings in contested unemployment claims before the Board of Review.

3. **GENERAL REQUIREMENTS:**

- 3.1 **Contract Items and Mandatory Requirements:** Vendor shall provide Agency with the Contract Items listed below on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.

3.1.1 **Hearing Transcriptions**

3.1.1.1 The first page of the hearing transcript shall have 1” margin.

3.1.1.2 All subsequent pages of the hearing transcript shall have header on line 5 leaving 5/8” margin at top. All pages of the hearing transcript shall have 1” margin on left and 5/8” margin on the right side.

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- 3.1.1.3 Hearing transcripts shall include single spacing Questions and Answer format.
- 3.1.1.4 Hearing transcripts shall include Arial 12 point Font type and size.
- 3.1.1.5 Hearing transcripts shall include a style of the case and appearances on page one of Attachment I.
- 3.1.1.6 Hearing transcripts shall include an Index of Direct, Cross, Redirect, Recross, etc. and exhibits on the second page.
- 3.1.1.7 Certification shall be included on the last page of the transcript.
- 3.1.1.8 Hearing transcripts shall include a header with the claimant's name and case number in Arial 12 point font type bold capital letters/numbers.
- 3.1.1.9 The first typing line on all hearing transcripts shall be on line 8 on all pages after first and end on line 59 leaving 51 typing lines per page.
- 3.1.1.10 Hearing transcripts shall include an Index of key words at the end of the transcript.
- 3.1.1.11 The completed hearing transcripts shall be printed on 8.5" by 11", 20#, White Bond as "mini pages" using four-to-a-page formatting compatible with Microsoft Office Word 2010 or equal.

3.1.2 Decisions/Orders

- 3.1.2.1 The first page of the Board of Review decisions/orders shall have a 1" margin at the top.

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3.1.2.2 All subsequent pages of the Board of Review decisions/orders shall have a header on line 5, leaving a 5/8" margin at the top. All pages will have a 1" margin on the right hand side of each page.

3.1.2.3 The Board of Review decisions/orders shall be single-spaced with appropriate paragraphing.

3.1.2.4 The Board of Review decisions/orders shall include Arial 12 point Font type and size.

3.1.2.5 The first typing line on page 1 of the Board of Review decisions/orders shall be on line "7" and shall end at approximately "59", for 52 typing lines on page 1.

3.1.2.6 All subsequent pages of the Board of Review decisions/orders shall begin on line "8" and end approximately on line "59" leaving 51 typing lines per page.

3.1.2.7 The persons dictating decisions/orders will reference certain preformatted language. The Board of Review will provide this language to the successful vendor for insertion into the decisions/orders. The Board of Review will update and change the preformatted language as necessary.

3.1.3 Hearing Transcriptions and Decisions/Orders

3.1.3.1 The vendor must provide receipt of the dictations of the hearings and decisions or orders by employees of the Board of Review. A direct phone number will be provided the successful vendor upon award.

3.1.3.2 Upon award the successful vendor must provide two (2) references to the agency

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documenting they have accommodated simultaneous dictation of decisions/orders and hearings. A minimum of two (2) lines shall be in place to accommodate simultaneous dictation.

- 3.1.3.3 The vendor will transcribe hearings and decisions/orders from cassette tapes or digital recordings if telephone communication or other electronic means is unavailable due to malfunction of equipment. If vendor's equipment malfunctions, the equipment must be repaired within a maximum of three (3) working days. The cassettes shall be delivered via U.S. Mail to the successful vendor at the mailing address specified by the vendor, unless other arrangements are mutually agreed to by the vendor and the Board of Review.
- 3.1.3.4 The vendor must be available for in-person pick-up of files and digital recordings each day by 5:00 P.M. The pick-up location will be in the Charleston, West Virginia area.
- 3.1.3.5 The vendor must electronically mail hearing transcripts and decisions/orders to the Board of Review in format compatible with the Board of Review software such as Microsoft Office Word 2010 or equal.
- 3.1.3.6 The vendor must electronically mail the typed hearing transcripts and decisions/orders to the electronic mail address provided by the Board of Review for printing at the local office within two working days of receiving the dictation. For example, a decision dictated by 5:00 p.m. on Friday must be transcribed and returned to the Board of Review no later than close of business on the end of the second working day.

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- 3.1.3.7 The vendor must indicate the security in place for electronic transfer and storage of information. The vendor must ensure the security for the electronic transfer and storage of information. The vendor must also accommodate the requirement of the Board of Review to prioritize the order in which the dictations of decisions are typed.
- 3.1.3.8 The vendor will retain a "copy" of the electronically transmitted documents for a 45 day period.
- 3.1.3.9 The vendor will provide to the Board of Review the previous month's transcription of hearings and decision/orders on a mass magnetic storage device (such as a compact disc) within ten (10) days of the end of each month.
- 3.1.3.10 If electronic mail is unavailable for a 24-hour period, the vendor shall deliver the transcribed hearing transcripts and decision/orders to the Board of Review by magnetic mass storage device (such as a compact disc).
- 3.1.3.11 The vendor shall keep all dictation of hearing transcripts and decisions/orders, for a minimum of five (5) years and all data retained must remain confidential. This shall include, but shall not be limited to: ensuring that all data stored on any computer, server or other digital storage devices is protected via the then current encoding/firewall protection against potential hacking; all employees shall be bonded; and, all hard copies of documentation shall be secured away from public access and viewing. The vendor is not required to keep the transcribed materials stored for any specified period of time and shall only store it for whatever standard period of time the vendor deems appropriate

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for their internal needs. Transcribed material must be destroyed thru a secure document destruction method and a certificate of destruction must be retained by the vendor for a minimum of six (6) months.

- 3.1.3.12 The vendor's quality of the hearing transcripts and decisions/orders shall be subject to a quality review by the Board of Review. If the quality of the documents falls below 95% accuracy or if there is a consistent loss of dictations material (either to or from the Board of Review and the successful vendor), contract from this RFQ may be terminated. The Board of Review considers three or more errors per page of typed hearing transcript and decisions/orders to exceed an acceptable level. This includes typing, grammar and English context or spelling errors. If the vendor fails to cure the problem, the contract is terminated, and all work in progress shall be delivered to the Board of Review.
- 3.1.3.13 Vendor must accommodate the requirements of the Board of Review to prioritize work and comply with special requests regarding the order in which dictations are transcribed.
- 3.1.3.14 The vendor will provide keyword indexing at the end of each transcript. The indexing will be an alphabetical listing of all words in the transcript, their page number in parenthesis "()" and their line number.
- 3.1.3.15 The vendor will provide multiple copies of transcribed documents as requested by the Board of Review.
- 3.1.3.16 The vendor should provide references for the transcription services performed over the past five years. The agency would also prefer that the vendor

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provide examples of this work with their submitted bid.

3.1.3.17 The West Virginia Executive Branch

Confidentiality Agreement must be signed by the successful vendor and all staff who are part of providing the transcriptions services for the Board of Review. See Exhibit 1.

4. CONTRACT AWARD:

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

4.2 Pricing Pages: Vendor should complete the Pricing Pages by providing an all-inclusive cost for any and all fees that may be associated with the service requested in this RFQ. Vendor should complete the Pricing Page in its entirety as failure to do so may result in Vendor's bids being disqualified.

The Pricing Page contains a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied.

Notwithstanding the foregoing, the Purchasing Division may correct errors at its discretion. Vendor should type or electronically enter the information into the Pricing Pages to prevent errors in the evaluation. The Pricing Pages were created as a Microsoft Excel document and Vendor can request an electronic copy for bid purposes by sending an email request to the following address: Beth.A.Collins@wv.gov

5. ORDERING AND PAYMENT:

5.1 Ordering: Vendor shall accept orders by regular mail, facsimile, e-mail, or any other written forms of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the

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ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Any on-line ordering system must have the capability to restrict prices and available items to conform to the Catalog originally submitted with this RFQ. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

- 5.2 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

6. DELIVERY AND RETURN:

- 6.1 Delivery Time:** Vendor shall deliver transcribed hearings and decisions/orders in accordance within the schedule described in Section 3 and shall not hold orders until a minimum delivery quantity is met.

- 6.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

Any Agency seeking to obtain items from a third party under this provision must first obtain approval of the Purchasing Division.

- 6.3 Delivery Payment/Risk of Loss:** Standard order delivery shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery. The Agency will pay delivery charges on all emergency orders provided that Vendor invoices those delivery costs as a separate charge with the original freight bill attached to the invoice.

- 6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

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6.5 Return Due to Agency Error: Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

7. MISCELLANEOUS:

- 7.1 No Substitutions:** Vendor shall supply only Contract Items submitted in response to the RFQ unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 7.2 Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 7.3 Reports:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.
- 7.4 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: GEORGIANNE SARBAUGH
Telephone Number: (717) 233-6664
Fax Number: (717) 233-5858
Email Address: gsarbaugh@diazdata.com

Exhibit A

PRICING PAGE FOR WWV14128

HEARING & DECISIONS/ORDERS TRANSCRIPTION SERVICES

DESCRIPTION	ESTIMATED ANNUAL PAGES	COST PER PAGE	EXTENDED ANNUAL COST
Transcribing Hearings from Cassette Tapes of Digital Recordings and Transcribing Telephone Dictation	37,000 x	\$ 2.75	\$ 101,750.00
Typing of Decisions/Orders	20,000 x	\$ 3.52	\$ 70,400.00
Documentation copying (original)	2,500 x	\$.10	\$ 250.00
Multiple copy charges	2,500 x	\$.10	\$ 250.00
			TOTAL 172,650.00

The quantities listed above are for bid evaluation purposes only and the actual amount may vary.

EXHIBIT I

WEST VIRGINIA EXECUTIVE BRANCH CONFIDENTIALITY AGREEMENT



WEST VIRGINIA EXECUTIVE BRANCH CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement, including any addenda, (collectively this "Agreement") is entered into between the State of West Virginia (the "State") and the undersigned, a member of the Workforce (the "User"). The State and the User are jointly referred to herein as the "Parties".

WHEREAS, the purpose of this Agreement is to secure the Confidential Information the State collects, stores, uses and discloses. Accordingly, the State is concerned with protecting the Privacy, Confidentiality, Integrity and Availability of this information, in its paper, electronic and verbal forms; and

WHEREAS, this Agreement is being instituted to ensure that all members of the Workforce fully understand their obligations to limit their Use of Confidential Information and to protect such information from Unauthorized Disclosure.

NOW, THEREFORE, the Parties agree as follows:

1. Definitions:

a. **Confidential Information** means information that includes, but is not limited to, demographic, medical, and financial information in any form protected by statute or when the release of which would constitute an unreasonable invasion of Privacy, unless the public interest by clear and convincing evidence requires Disclosure in the particular instance, as approved by the designated State counsel or designee. Confidential Information also includes Personally Identifiable Information (PII), as that term is defined below. Confidential Information may be in paper, electronic and verbal forms, and includes images as well as text. Confidential Information includes all information designated confidential by law, rule, policy or procedure, as may be amended from time to time, (collectively referred to herein as "Policy"), such as passwords, client names, trade secrets, information concerning any taxpayer (from any return, declaration, application, audit, investigation, film, record or report) and security audits.

b. **Disclosure** means the release, transfer, provision of access to, sale, divulgence or communication in any other manner of information outside the entity holding the information, in accordance with Policy, as may be amended from time to time.

c. **Need to Know** means the principle that states a User shall only have Access to the minimum information necessary to perform a particular function in the exercise of his or her responsibilities.

d. **Personally Identifiable Information** or PII means all information that identifies, or can be used to identify, locate, contact, or impersonate a particular individual. PII also includes Protected Health Information (PHI) as that term is defined below. PII is contained in public and non-public records. Examples may include but are not limited to a specific individual's: first name (or initial) and last name (current or former); geographical address; electronic address (including an e-mail address); personal cellular phone number; telephone number or fax number dedicated to contacting the individual at his or her physical place of residence; social security account number; credit and debit card numbers; financial records, including checking, savings and other financial account numbers, and loan accounts and payment history; consumer report information; mother's maiden name; biometric identifiers, including but not limited to, fingerprints, palm prints, facial recognition, full face image and iris scans; driver identification number; birth date; birth, adoption or death certificate numbers; physical description; genetic information; medical, disability or employment records, including salary information; computer information, including information collected through an internet Cookie; and criminal records and history. When connected with one or more of the items of information specified above, PII includes any other information concerning an individual that, if disclosed, identifies or can be used to identify a specific individual physically or electronically.

e. **Protected Health Information** or PHI is a subset of PII and means, with regard to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) covered entities (see 45 C.F.R. §106.103), individually identifiable health information, including demographic information, whether oral or recorded in any form or medium that relates to an individual's health, health care services and supplies, or payment for services or supplies, and which identifies the individual or could reasonably be used to identify the individual. This includes information that relates to the past, present, or future physical or mental health condition of an individual; the provision of health care to an individual including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care as well as counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status of an individual or that affects the structure or function of the body; or the past, present, or future payment for the provision of health care to an individual; and which includes identity information, such as social security number or driver's license number, even if the name is not included, such that the health information is linked to the individual. Protected Health Information does not include records covered by the Family Educational Right and Privacy Act, 20 U.S.C. 1232g, and employment records held by the entity in its role as employer.

f. **Use** means the access, utilization, employment, application, examination or analysis of information within an entity that maintains such information.

g. **Workforce** means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for the State, is under the control of the State, whether or not the State pays them. Workforce does not include Vendors.

h. Any terms not defined herein shall have the definitions afforded them within the Privacy Policy Definitions currently located at www.privacy.wv.gov.

2. Treatment of Confidential Information:

a. The User shall only collect and retain Confidential Information in conformity with Policy.

b. To the extent that the User has a Need to Know Confidential Information, the User may have Access to and shall use such Confidential Information, in conformity with Policy, as may be amended from time to time.

c. The User shall not disclose to anyone, directly or indirectly, any such Confidential Information, unless the individual who is the subject of the Confidential Information consents to the Disclosure in writing or the Disclosure is made pursuant to Policy. At no time shall the Confidential Information be disclosed or used for a personal or non-work-related reason. If information-specific release provisions and restrictions do not exist, then the User shall only disclose Confidential Information (1) upon approval of the designated State counsel or designee; or (2) to individuals who are known by the User to have prior authorization by his or her supervisor to have Access to the information. All of the above applies to release of information in total or fragmented form. When Confidential Information is disclosed, care should be taken to prevent the redisclosure of that information to unauthorized persons or entities. Further, the User shall not misuse any media, documents, forms, or certificates in any manner which might compromise Confidentiality or Security or be otherwise illegal or violate policy, such as altering a record or using a certificate improperly.

d. The User shall protect Confidential Information from unauthorized collection, Use, Access, transfer, sale, Disclosure, alteration, retention or destruction whether accidental or intentional and shall take necessary precautions to secure such Confidential Information to the extent possible.

e. The User is bound by this Agreement and shall continue to protect the Confidential Information to which the User previously had Access, even when he or she no longer has Access to the same, including after termination of the Workforce relationship. The User shall report Incidents pursuant to the Response to Unauthorized Disclosures procedure located at www.privacy.wv.gov.

f. If the User has any questions about this Agreement or the Confidentiality of information or its collection, Use or release, he or she shall request clarification from his or her immediate supervisor or appropriate Privacy Officer.

g. Any document, report, study, article or other written information in whatever format that the User prepares, or information in whatever format that might be given to the User as a member of the Workforce, and any software, computer equipment, or any other property including, but not limited to, copyrighted materials that may be made available from time to time, are the property of the State, or in the custody or control of the State, and shall remain in the State's possession, except as specifically consented to by the State. The User has no ownership rights to or interest in any information owned by or in the custody or control of the State.

h. The User's Access to Confidential Information is at the sole discretion of the State, and may be monitored, audited, modified, suspended, or terminated at any time.

i. The User shall comply with this Agreement and any applicable Privacy or Security policy. Such Compliance is a condition of employment and the User's failure to so comply may subject the User to disciplinary action up to and including dismissal. In addition, the State reserves the right to seek any remedy available at law or in equity for any violation of this Agreement. Further, the User may be subject to civil and criminal penalties for the unauthorized Use or Disclosure of Confidential Information.

Printed Name: LUISA J. DIAZ

Signature: 

Date: 4/7/2014

ATTACHMENT I

TRANSCRIPT SAMPLE

5. will have an effect of denying entitlement to Extended Benefits in accordance with the West Virginia Unemployment Compensation Law [§21A-6A-1(12)(G)].

JUDGE: Good afternoon. This matter will be recorded. We're on the record. Today is October 2, 2013, in Charleston for an in-person hearing. The Employer is participating by telephone. My name is T. Sayre. I'm the Administrative Law Judge assigned to hear the case and write a decision.

Claim Number [redacted] The Claimant, [redacted] is present in person. The Employer, [redacted] is present by phone.

The matter's pending on the Claimant's appeal of the Deputy's September 10, 2013, decision which [redacted]

6 ruled the Claimant disqualified; discharged for an act of gross misconduct.

[redacted] and [redacted] please raise your right hand. Do you swear or affirm the testimony you give will be the truth, the whole truth and nothing but the truth?

CLAIMANT: Yes, sir.

JUDGE: Mr. [redacted] answered in the affirmative. He swore to tell the truth. Mr. [redacted] please raise your right hand. Do you swear or affirm the testimony you give will be the truth, the whole truth and nothing but the truth?

MR. [redacted]: Yes, sir.

JUDGE: Mr. [redacted] answered in the affirmative. He swore to tell the truth.

I offer as an exhibit ALJ Exhibit 1, the one-page Deputy's [redacted]

7 Decision September 10, 2013. [redacted] I've handed the Deputy's Decision to you. You have reviewed it. Do you have an objection to a copy of the Deputy's Decision being admitted into the record?

CLAIMANT: No.

JUDGE: [redacted] do you have a copy of the Deputy's Decision?

[redacted]: Yes, sir, I do.

JUDGE: Have you reviewed it?

[redacted]: I have.

JUDGE: Do you have an objection to a copy of it being admitted into the record?

[redacted]: No, sir.

JUDGE: ALJ Exhibit 1 is admitted.

(WHEREUPON, the document referred to was marked as ALJ Exhibit 1 and received as evidence.) [redacted]

8 JUDGE: ALJ Exhibit 2 is a one-page Fact-Finding Statement signed by the Claimant August 22, 2013. [redacted] I've handed the Fact-Finding Statement to you. You have reviewed it. Do you have an objection to a copy of it being admitted into the record?

CLAIMANT: No, sir.

JUDGE: [redacted] do you have a copy of the Fact-Finding Statement?

[redacted]: Yes, sir.

JUDGE: Have you reviewed it?

[redacted]: I have.

JUDGE: Do you have an objection to a copy of it being admitted into the record?

[redacted]: No, sir.

JUDGE: ALJ Exhibit 2 is admitted.

(WHEREUPON, the document referred to was marked as [redacted])

ALJ Exhibit 2 and received as evidence.)

JUDGE: If this is a discharge case the issue is whether the Claimant was discharged for misconduct, and if there was misconduct was there simple or gross misconduct. It's the Employer's burden to prove the Claimant committed misconduct.

The Employer would offer evidence first. The Claimant would offer evidence next or second. Each party may ask questions of the other party, the other party's witnesses, and ask questions of their own witnesses.

After the hearing is concluded, a decision will be mailed to the parties within three weeks. [redacted] do you have any questions about the issues or procedures to be followed?

CLAIMANT: Yeah, per state or [redacted]

Employer, like how they run stuff or.

JUDGE: Would you like for me to go over the issues and procedures with you again?

CLAIMANT: Yes, sir, please.

JUDGE: If this is a discharge case the issue is whether the Claimant was discharged for misconduct, and if there was misconduct was there simple or gross misconduct. It's the Employer's burden to prove the Claimant committed misconduct.

The Employer will present evidence first. The Claimant will offer evidence next or second. Each party may ask questions of the other party, the other party's witnesses, and ask questions of their own witnesses.

[redacted] do you have any questions about the issues or procedures to be followed?

CLAIMANT: Not at this moment, no.

JUDGE: [redacted], do you have any questions about the issues or procedures to be followed?

[redacted] No, sir.
(Witness Sworn)

WHEREUPON, [redacted] called as a witness, being first duly sworn to tell the truth, testified as follows:

EXAMINATION

BY JUDGE:

Q [redacted] what does the Employer do for a business?

A We mine coal, sir.

Q Did the Claimant quit or was he fired?

A He was fired, sir.

Q In the file are seven pages. There's a discipline form August 14, 2013; a disciplinary form 6-21-13; a mine timesheet revised 6-24-

2013; notes 10-8-12; notes 9-15 and 9-22; an employee disciplinary form 10-1-12 and 10-3-12; a disciplinary Form 9-22-12. [redacted] did you want to offer any or all of these documents as an exhibit?

A All of them, sir.

Q [redacted] are there any other documents the Employer would like to offer as an exhibit?

A No, sir.

Q Employer Exhibit 1 is seven pages, as described. [redacted] why was the Claimant discharged? What happened?

A He - as you can see in the exhibits, we gave him numerous chances, and we even - he was even suspended back in October of last year.

We brought him back in and gave him another - you know, went over everything with him. And that's what the notes are concerning, sir.

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And then back - then in June of this year he was late for three hours where the Superintendent told him to go home, and we even gave him another chance at that time. And then he was late on 8-14, and that's when we terminated, sir - well, we suspended him and then brought him in, and with all our findings here, we thought it was best to separate there.

Q Why was the Claimant suspended in October of 2012?

A For October 2012, because of absentee - for tardiness, sir.

Q [REDACTED] is there anything else you'd like to add or present?

A No, sir.

JUDGE:

before you begin your presentation, [REDACTED] first [REDACTED] do you have any questions for [REDACTED] [REDACTED]

CLAIMANT: No, not right at [REDACTED]

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the moment. I do have a statement.
(Witness Sworn)

WHEREUPON,

[REDACTED] called as a witness, being first duly sworn to tell the truth, testified as follows:

EXAMINATION

BY JUDGE:

Q Go ahead with your statement.

A The claim that he's claiming back in June, that was not three hours. That was two hours. And I was told to come in, and then on the way coming in they told me that it would be okay since we wasn't busy for the day, that it was taken care of, not to worry about it, for me to go home. And then when I get my paycheck stub it says it's an unexcused absence.

There was no disciplinary action taken, nor the superintendent, nor the coordinator said anything to me [REDACTED]

15
about it. They asked me what the problem was, and I explained to them the problem. I took fault for it. And therefore, it was just apparently dismissed under my discretion because I was given no piece of paper stating that.

Q Why were you late two hours?

A It's like I explained to them, it wasn't an excuse. I don't get headaches often. I don't get them very - if at any. And I had taken some Tylenol PM the night before and I had overslept.

Q Is there - Employer Exhibit 1, those pages, seven pages, you have - I've handed them to you. You have reviewed them. Do you have an objection to Employer Exhibit 1 being admitted into the record?

A Yes, because I have the same copy and there's been evidently some other stuff added to it after [REDACTED]

16
my signature and copy had been handed to me.

Q So you wanted to offer your copy as an exhibit?

A Yes, please.

Q [REDACTED] I can make a copy for you so you can leave with what you came.

A Okay.

Q You're talking about the incident 8-14-13. What about the other documents?

A No, sir, I do not have those available to me at the time.

Q Do you have any other objections to the documents, other than the disciplinary form dated August 14, 2013?

A I can't read this here. I don't know if it says 10-8-13 or 13.

Q Okay. Let me see it and I'll help you.

A The very bottom one. [REDACTED]

Q I'm looking at the other years that are in the dates and it appears to be a 12, 10-8-12. Also this is October the 2nd, 2013.

A Yes, sir.

Q So it's likely not October the 8th, 2013, on a document.

A Yes, sir, I understand that completely. I just wanted to make it clear, though. I have an objection to Exhibit 8 of 9, I believe it is, prior to last year's incident.

Q The next to last page?

A Yes, sir.

Q Okay. Go ahead. It states right here that the last offense was 9-22-2012, which was last year, for tardiness. And I was apparently - received a written warning.

Other offense was on 9-15-2012, which was a verbal warning, which I was not issued. They were all



issued on one piece of paper, and it clearly states in the employee handbook that each discretion has to be separated and signed by both Employer and employee and given the information that I'm looking at that I'm not familiar with, because I did not see one.

These rules and regulations are going backwards from what the employee handbook says to go by. So I'd have to object to page 8 of 9 in remnants of last year's incident. Other than that, sir, I have no objections besides page 2 and page 8 of 9.

JUDGE: Employer Exhibit 1 is admitted and will be given appropriate weight, as will the Claimant's objections, comments and disagreements.

(WHEREUPON, the document referred to was marked as Employer Exhibit 1 and received as



evidence.)

BY JUDGE:

Q [REDACTED] how many hours a week did you work for the Employer?

A It was a set forty hours, but sometimes it was, depending on if we was to load any type of load out equipment, such as train or barges, it could be anywhere from 48 to 52. With aspects of working the - I believe the Sunday that I - the Sunday before I was discharged, I was told to work 19 hours straight, and nothing was ever said about that. They split the time up, which is not right in my view. And then it's just a big mess-up is what it is, sir.

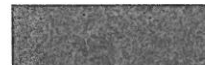
Q [REDACTED], is there anything else you'd like to add on any issue?

A Yes, sir. I'd like to point out the fact that the reason I am



here appealing this hearing is because I have enrolled in college. I am very dependent on this unemployment at the moment because I need it for my schooling. And I would also like to point out that I worked for this company, not Alpha Natural Resources, but the property for in excess of over - right at 13 years, actually 12 years and 11 months.

And I was only tardy - if you look at it as a whole, I believe it was nine times in 13 years. So for the Employer to actually comment and state that it's excessive tardiness, I mean, I'm not an Employer. I can't judge that. I took fault for the ones that I was tardy. I gave a reason. And on the very last incident that I was discharged for, I had called. I had called in just right at probably 30 minutes beforehand. I



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did not talk to the person that they stated I talked to on Exhibit 2 of 8. I talked to my crew leader, which would be [REDACTED] and explained to him that my car was having trouble and that I would call him and let him know when I was on the way.

I gave him another phone call because the superintendent or anybody else is not there at that time of morning, so I called my crew leader that I knew that was there and explained to him that my car was running and I would be there. I was thirteen minutes late that day.

And the reason that I went through that is because that's what it states in the handbook and it's what the superintendent had told me this time last year. His exact words that came out of his mouth was, "[REDACTED] if you're going to be [REDACTED]

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late, you need to call."

So therefore, my next incident I was at fault back in June. And then this incident I called and I explained to them the situation. And they said everything was okay. Now I was suspended for that.

And that's why I object this Exhibit 2 of 8 because there's nothing on this piece of paper that states that I was terminated. It says suspended for three days. Call HR for a return to work meeting, with a check mark beside the box that says "this one up to". So I was actually that week I was on vacation. I was called in from my vacation to be informed that I no longer work for Alpha Natural Resources due to apparent gross misconduct from stuff that they were bringing up last year that I corrected last year. And that's pretty much my statement at the [REDACTED]

23

moment.

Q Anything else you want to add, [REDACTED]

A No. I hate - I hated to leave that job, I really did. I took pride in that job. I was a very good employee. Anybody that you could ask outside of HR then they would tell you that I was one of the top five employees at that property and for them to let me go was - it was actually depressing, and it hurt a lot.

But I'm moving forward now. And that's why I'm appealing this hearing to receive some type of assistance while I'm getting a better education to better my life.

Q Anything else, [REDACTED]

A I think that will conclude, sir.

JUDGE: [REDACTED] through me, do you have any questions for [REDACTED]?

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[REDACTED] I do. I wasn't quite sure what the objection to which article, sir. I did know on the notes there was an objection or something. Could you tell me what he was objecting to?

BY JUDGE:

Q [REDACTED]?

A Yes, sir. The paper that I signed the day that I had arrived for the HR return to work meeting did not have any last offense, other offenses or anything on it prior to my signing from the superintendent, which was [REDACTED]. The paper that I have with me now does not have that in there and -

[REDACTED]: Okay. Which one is that?

CLAIMANT: It's from 8-14-2013.

[REDACTED]: Okay. What's missing on it?

25

CLAIMANT: The bottom half after my signature.

JUDGE: [redacted], the Claimant's going to offer the one that he has as an exhibit. I'll mail it to you and let you compare the two.

[redacted]: Yes, sir. All that is is first offense, other offenses, sir, that you already have as an exhibit. They're just on there.

CLAIMANT: Well, it should have been there before I signed it and agreed with it.

[redacted]: No. I keep those. They don't keep those on file, sir, because of the privacy act. I keep those in my office locked up.

JUDGE: Okay. So you can address that when you note your objections to Claimant Exhibit 1.

[redacted]: Yes, sir.

JUDGE: [redacted], do you

[redacted]

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have any other questions of [redacted]?

[redacted]: I do. On the February - he said that on 9-15-2012 that he wasn't given a verbal warning, that there is no documentation of that.

BY JUDGE:

Q Would you like to address that, [redacted]?

A Which one was it?

Q 9-15-12.

[redacted]: 9-15-2012.

CLAIMANT: 9-15 of 2012.

[redacted]: Yeah. You said there wasn't any verbal warning for being tardy.

CLAIMANT: It is also stated apparently after I had signed the documentation through the last offense and other offense, but it was not on that piece of paper. I do not have proof of that though, so.

[redacted]

27

[redacted]: Okay. Well, sir, in my exhibit for my notes on 10-8-2012, that was a back to work meeting, the one that has [redacted] and myself.

As you can see down at the bottom our notes that we were taking at that time during our back to work meeting for that suspension; 9-15 verbal, [redacted] verbal warning being late overslept. So that was addressed and that was an issue in that meeting to the back to work.

CLAIMANT: [redacted] did not give me a verbal warning. He wasn't even at that meeting.

[redacted]: No. He works there. He's the supervisor right now.

CLAIMANT: He's a traffic coordinator.

[redacted]: That's right.

[redacted]

28

CLAIMANT: He's not a supervisor.

JUDGE: Any other questions [redacted], for [redacted]?

[redacted]: Yes, actually. [redacted], when we had this back to work meeting with you back in October of last year and we sat down and went over every step that we needed to do because we wanted you to get back on track, did we not state that this was your last chance?

BY JUDGE:

Q Did they?

A No, sir, they did not. They explained that further incidents would be taken care of and what not.

JUDGE: Any other questions for him?

[redacted]: No, sir. That is all right there.

[redacted]

29

BY JUDGE:

Q [redacted] anything else you want to add or state?

A I'm just - I was really out in left field about this 9-15 incident with [redacted] verbally warning. [redacted] didn't verbally warn me. [redacted] didn't receive the call that I had called in from this last incident, so I just - I'm going to have to ask why - why [redacted] name are all over these documents, [redacted] when I haven't spoken to him about any of he situations whatsoever.

JUDGE: Do you know, [redacted]?

[redacted]: Yes, I do, sir. If you can see on that exhibit there, this was all our notes from that date. He did not protest any of these and I actually signed them. Because [redacted] is the guy that takes care of all that over there. He's

[redacted]

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actually in a supervisor position. He makes sure the load out people are there, along with [redacted]. They coordinate together to ensure because it's such a big operation. And he knows about all this that's going on. Actually, that's why his name is all over these.

JUDGE: [redacted] do you have any other questions for [redacted]?

CLAIMANT: Yeah,

WHEREUPON,

[redacted] recalled as a witness, being previously duly sworn to tell the truth, further testified as follows:

CROSS-EXAMINATION

BY CLAIMANT:

Q In the employee handbook it says for the absentee policy - it says if the employen commits a third infraction, which this wasn't even a third infraction, or a more

[redacted]

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serious infraction, the supervisor will consult with higher management and the local HR to prepare a written warning.

A What -

Q That warning wasn't given to me until the time of suspension.

JUDGE: Would you like to address that, [redacted]?

[redacted]: Well, sir, do we have an exhibit in there about our handbook?

CLAIMANT: An exhibit, no, there's not an exhibit. There's -

[redacted]: And did you exhibit that in there? I mean, sir, is there an exhibit of a copy of our handbook and what it states?

JUDGE: Can I see the exhibit?

CLAIMANT: This is mine. I don't know what his -

JUDGE: It's the one by your right hand.

[redacted]

32

CLAIMANT: Oh, yes.

JUDGE: The first page is employee disciplinary form, 8-14-2013. The 'next page,' employee disciplinary report, 6-21-2013. The next page -

[redacted]: Right. These are all disciplinary actions. What he's reciting is things that he's trying to recite out of our handbook.

JUDGE: Okay. I asked the Claimant if he had a statement. He asked you a question. I asked him if he had a question for you, he made a statement.

[redacted]: All right.

JUDGE: [redacted] asked if he wanted to respond that and [redacted] asked him a question. What we're going to do is back up.

[redacted]: Okay.

JUDGE: [redacted], what further statements do you have that

[redacted]

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you want to add?

CLAIMANT: Statement, not a question there. I have - I have concluded my statements as part -

JUDGE: Okay. You've concluded your statement.

CLAIMANT: Yes.

JUDGE: [REDACTED] do you have any other questions for [REDACTED] [REDACTED]: No, sir, I do not at this time.

RE-EXAMINATION

BY JUDGE:

Q [REDACTED] what other statement do you want to make?

A Just that on October the 12th we brought him back. That is what this was for. We went through the progression of like he was stating from the handbook. He was late, late, suspend - we written - written warning, suspension. And then we even brought him back. He [REDACTED]

34

was late. We didn't suspend him. We gave him another chance. So I think that the company went beyond what our policy actually states. That's my statement there, sir.

Q [REDACTED] the Claimant has offered as an exhibit a disciplinary report form 8-14-2013.

A Yes, sir.

Q He's saying that it does not have these last offense, other offenses. And if you want me to mail you a copy of this so you can review it and provide written objections to the Board of Review, I will. Do you have a copy of this document or do you want me to mail it to you?

A No, I have a copy of it, sir.

Q Okay.

A I would like to make a statement on that, if I can.

Q So you have reviewed it?

A Yes, I have. [REDACTED]

35

Q What objections or statement do you want to make about it?

A It's a statement. You can see on each write-up - I have one for 9-22. That just corresponds to each write-up, sir, the disciplinary form. That's all that is.

CLAIMANT: That's the altered-

JUDGE: Any other objection or statements you want to make, [REDACTED] [REDACTED] No, sir. There's nothing wrong with that form at all.

JUDGE: Okay. This will be Claimant Exhibit 1 admitted into the record and will be given appropriate weight, as will the Employer's objections, comments and disagreements.

(WHEREUPON, the document referred to was marked as Claimant Exhibit 1 and received as [REDACTED])

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evidence.)

JUDGE: [REDACTED], is there anything else you want to add, sir?

[REDACTED] No, sir.

JUDGE: [REDACTED], what other questions do you have for [REDACTED] [REDACTED]?

CLAIMANT: I believe I've questioned [REDACTED] enough today.

JUDGE: Okay. [REDACTED] is there anything else you want to add or state?

CLAIMANT: Yes. I would like to state that I don't see how it is fair for an employee to have an Employer sign a piece of paper and then altercate that piece of paper later on.

JUDGE: Anything else?

CLAIMANT: No, sir.

JUDGE: [REDACTED] do you have any questions for [REDACTED] [REDACTED]

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[REDACTED] No, sir.

JUDGE: [REDACTED], is there anything further for the Employer?

[REDACTED] No.

JUDGE: [REDACTED], is there anything further for the Claimant?

CLAIMANT: I hate it had to be like this. That's it.

JUDGE: Anything else, sir?

CLAIMANT: No.

JUDGE: [REDACTED] any other questions for [REDACTED] No, sir. That's all.

JUDGE: [REDACTED] is there anything further for the Employer?

[REDACTED] No, sir.

JUDGE: [REDACTED] is there anything further for the Claimant?

CLAIMANT: No, sir.

[REDACTED]

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JUDGE: This concludes the hearing. There'll be a written decision mailed to the parties within three weeks. Thank you. Good-bye.

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO-WIT:

I hereby certify that the foregoing testimony was taken from a recorded tape and transcribed into the English language to the best of my skill and ability.

This, the 10th day of November, 2013.

[REDACTED]

[REDACTED]

ATTACHMENT II

AIJ DECISION SAMPLE

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Page 1

Attachment II

Board of Review
WORKFORCE West Virginia
112 California Avenue
Charleston, West Virginia 25305
304-558-2636/1-800-635-0189

SAM A JONES
43 DALEWOOD AVENUE
WOODY, WV 25006

Case No. R-2013-XXXX

IN THE MATTER OF:

Claimant: SAM A JONES
S.S. No. :
Address : 43 DALEWOOD AVENUE WOODY, WV 25006

Employer: SMITH'S WHOLESALE, INC.
Address : P.O. BOX 11 WOODY, WV 25006

This case came on for hearing before ROBERT SMITH, Administrative Law Judge on January 03, 2014, at Charleston, West Virginia.

APPEARANCES:

CLAIMANT did not appear. Employer appeared by ELLEN FLETCHER, HR Manager, and DANIEL LYONS, Attorney.

ISSUE:

The Employer appealed from the decision of the deputy at Charleston, West Virginia, dated December 11, 2013, which held: "Claimant not disqualified; discharged but not for misconduct."

FINDINGS OF FACT:

1. The claimant worked for the above employer from July 1, 2012, to November 26, 2013. He worked as a deli outfitter, and at the time of his separation from employment earned \$10.77 per hour, as a full-time employee.
2. The employer is a national retail chain.
3. The claimant voluntarily quit his employment. The claimant was a no call/no show on November 12, 2013. At that time he was issued a final written warning. On November 19, 2013, the claimant called

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SAM A JONES DcenALJ.doc
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off with no reason. On November 20, 2013, the claimant was a no call/no show. On November 23, 2013, his next scheduled day, the claimant was a call-off with no reason. On November 24, 2013, the claimant was a no call/no show. On November 25, 2013, the claimant called-off but with no reason given. Under the employer's policies the claimant was considered to have abandoned his position.

4. The claimant voluntarily left his employment but not for good cause involving fault on the part of the employer.

CONCLUSIONS OF LAW and DISCUSSION:

Chapter 21A-6-3(1) of the West Virginia Code provides that an individual shall be disqualified from receiving unemployment compensation benefits for the week in which he or she left his or her most recent work voluntarily without good cause involving fault on the part of the employer, and until he or she returns to covered employment and has been employed therein at least thirty working days. The claimant has the burden of proving that this was good cause involving fault on the part of the employer for the claimant to leave employment.

The claimant voluntarily quit his employment but not for good cause involving fault on the part of the employer. The claimant did not work for five consecutive days commencing on November 19, 2013. He either was a no call/no show or he called off with no reason. Under the employer's policy absence of that period and these circumstances is considered to be a voluntary quit. That policy does not appear to be unusual and is not contrary to the unemployment statute.

Accordingly, it is concluded that the claimant voluntarily quit his employment but not for good cause involving fault on the part of the employer. The claimant is disqualified indefinitely and until he returns to covered employment and works in covered employment for an appropriate period of time.

DECISION:

The decision of the deputy is reversed. The claimant left work voluntarily without good cause involving fault on the part of the employer. The claimant is disqualified until he returns to covered employment and has been employed therein at least thirty working days.

This decision, if it becomes final, may result in an overpayment of benefits to the claimant, which will be collected as provided for in the Statute.

If West Virginia is in an Extended Benefit Period when your regular benefits are exhausted, this decision, if it becomes final, will have the effect of denying entitlement to Extended Benefits in accordance with the West Virginia Unemployment Compensation Law [§21A-6A-1(12)(G)].

This, the 15th day of January, 2014.

CASE NO. R-2013-XXXX
SAMA JONES DecmAL1.dot
Page 3



ROBERT J SMITH
ADMINISTRATIVE LAW JUDGE
BOARD OF REVIEW
WORKFORCE West Virginia

RJS/tc
Date Mailed: 01/15/2014
By: tc

RIGHT OF FURTHER APPEAL: This decision is final unless a party appeals to the Board of Review within EIGHT DAYS. If any party in this decision desires to take a further appeal, such appeal must be filed in writing within EIGHT DAYS from the date the decision was mailed to you, or not later than * 01/23/2014 at the local office where the claim was filed. The appeal may also be mailed directly to the Board of Review, 112 California Avenue, Charleston, WV 25305, and must be postmarked no later than the above * date, unless such date falls on a weekend or holiday, at which time the Board of Review will accept the appeal if it is filed on the next working day.

CC: One Stop Field Operations 5600
Patti Hardin 5106
Joanne Stone 5105
Gail Vitale 5105
Julie Roberts 5600

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: LUISA J. DIAZ

Signed: 

Date: _____

Title: President

RFQ No. WWV14128

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 exceeds 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: DIAZ DATA SERVICES LLC

Authorized Signature: [Signature] Date: 4/8/14

State of Pennsylvania

County of Dauphin, to-wit:

Taken, subscribed, and sworn to before me this 8th day of April, 2014.

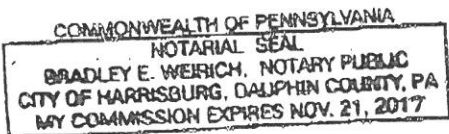
My Commission expires November 21, 2017, 2017.

AFFIX SEAL HERE

NOTARY PUBLIC

[Signature: Bradley E. Weirich]

Purchasing Affidavit (Revised 07/01/2012)

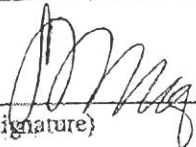


CERTIFICATION AND SIGNATURE PAGE

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.

DIAZ DATA SERVICES, LLC

(Company)



(Authorized Signature)

President

(Representative Name, Title)

(717) 233-6664

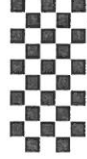
(Phone Number)

(717) 233-5858

(Fax Number)

4/7/2014

(Date)



FAX TRANSMITTAL FORM

FAX# 304-558-3970

ATTN: BETH COLLINS

SOLICITATION WWV 14128
BID OPENING DATE: April 8, 2014
BID OPENING TIME: 1:30 PM

56 pages including cover sheet

04/08/14 10:01:48AM
West Virginia Purchasing Division

DIAZ DATA SERVICES, LLC
COURT REPORTING AND TRANSCRIPTION
331 SCHUYLKILL STREET
HARRISBURG PA 17110
717-233-6664

**WORKFORCE WEST VIRGINIA
OFFICE OF ADMINISTRATIVE SUPPORT
2019 WASHINGTON STREET EAST
CHARLESTON, WV 25305-0130
ATTENTION: BETH COLLINS**

**SOLICITATION NUMBER WWV14128
BID OPENING DATE: April 8, 2014
BID OPENING TIME: 1:30 PM**

04/08/14 10:01:43AM
West Virginia Purchasing Division