



Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

State of West Virginia
 Request for Quotation
 01 - Agricultural

Proc Folder: 68816

Doc Description: WILDFLOWER SEED MIX

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2015-02-05	2015-03-04 13:30:00	CRFQ 0803 DOT1500000054	1

BID RECEIVING LOCATION

BID CLERK
 DEPARTMENT OF ADMINISTRATION
 PURCHASING DIVISION
 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Name, Address and Telephone Number:

Applewood Seed Company
 5380 Vivian Street
 Arvada, Colorado 80002
 Ph (303)431-7333

02/27/15 11:04:19
 WV Purchasing Division

FOR INFORMATION CONTACT THE BUYER

Misty DeLong
 (304) 558-8802
 misty.m.delong@wv.gov

Signature X

FEIN # 84-0671900

DATE 2/17/2015

All offers subject to all terms and conditions contained in this solicitation

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	WILDFLOWER SEEDS- RED STRAIGHT POPPY/FLANDER	100.00000	LB	\$14.65/1b	\$1,465.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :
INDIVIDUAL SPECIES RED STRAIGHT POPPY/FLANDERS POPPY- PAPAVER RHOEAS (PAPAVERACEAE)

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	WILDFLOWER SEEDS- DWARF CORNFLOWER/STRAIGHT BLUE	200.00000	LB	\$5.42/1b	\$1,084.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :
INDIVIDUAL SPECIES DWARF CORNFLOWER/STRAIGHT BLUE BACHELOR'S BUTTON - CENTAUREA CYANUS (ASTERACEAE)

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	WILDFLOWER SEEDS- PLAINS COREOPSIS/CALLIOPSIS -	200.00000	LB	\$12.78/1b	\$2,556.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :

INDIVIDUAL SPECIES PLAINS COREOPSIS/CALLIOPSIS - COREOPSIS TINCTORIA (ASTERACEAE)

INVOICE TO	SHIP TO
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER
No City US	No City US
WV99999	WV 99999

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	WILDFLOWER SEEDS-WILD COSMOS	300.00000	LB	\$8.84/lb.	\$2,652.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :

INDIVIDUAL SPECIES WILD COSMOS - COSMOS BIPINNATUS (ASTERACEAE)

INVOICE TO	SHIP TO
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER
No City US	No City US
WV99999	WV 99999

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	WILDFLOWER SEEDS-YELLOW COSMOS	100.00000	LB	no bid	

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :

INDIVIDUAL SPECIES YELLOW COSMOS - COSMOS SULPHUREAUS (ASTERACEAE)

Applewood Seed Co.
5380 Vivian Street
Arvada, CO 80002

INVOICE TO		SHIP TO	
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No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	WILDFLOWER SEEDS-ROCKET LOCKSPUR	300.00000	LB	\$14.38/lb	\$4,314.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :
INDIVIDUAL SPECIES ROCKET LOCKSPUR - DELPHINIUMS AJACIS

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	WILDFLOWER SEEDS-TICKSEED/LANCE-LEAVED	100.00000	LB	\$14.18/lb.	\$1,418.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :
INDIVIDUAL SPECIES TICKSEED/LANCE-LEAVED COREOPSIS- COREOPSIS LANCEOLATA (ASTERACEAE)

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	WILDFLOWER SEEDS-OX-EYED DAISY- CHRYSANTHEMUM	100.00000	LB	\$16.00/lb	\$1,600.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :
 INDIVIDUAL SPECIES OX-EYED DAISY- CHRYSANTHEMUM LEUCANTHEMUM

INVOICE TO	SHIP TO
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER
No City US	No City US
WV99999	WV 99999

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	WILDFLOWER SEEDS-BUTTERFLY WEED	100.00000	LB	\$104.00/lb.	\$10,400.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :
 INDIVIDUAL SPECIES BUTTERFLY WEED- ASCLEPIAS TUBEROSA (ASCLEPIADACEAE)

INVOICE TO	SHIP TO
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER
No City US	No City US
WV99999	WV 99999

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	WILDFLOWER SEEDS-BLACK-EYED SUSAN	200.00000	LB	\$15.90/lb	\$3,180.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :
 INDIVIDUAL SPECIES BLACK-EYED SUSAN - RUDBECKIA HIRTA (ASTERACEAE)

Applewood Seed Co.
 5380 Vivian Street
 Arvada, CO 80002

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	WILDFLOWER SEEDS-SUNFLOWER DWARF	200.00000	LB	\$12.80/lb	\$2,560.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :

INDIVIDUAL SPECIES SUNFLOWER DWARF SUNSPOT - HELIANTHUS ANNUUS

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	WILDFLOWER SEEDS-PERENNIAL MIX	2000.00000	LB	\$15.98/lb.	\$31,960.00

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :

PERENNIAL MIX

INVOICE TO		SHIP TO	
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
13	WILDFLOWER SEEDS-ANNUAL MIX	2000.00000	LB	\$11.48/lb.	\$22,960.00

Applewood Seed Co.
5380 Vivian Street
Arvada, CO 80002

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :

ANNUAL MIX

INVOICE TO	SHIP TO
ALL STATE AGENCIES VARIOUS LOCATIONS AS INDICATED BY ORDER	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER
No City WV99999	No City WV 99999
US	US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
14	WILDFLOWER SEEDS-BEE-FRIENDLY MIX	2000.0000 2000	LB	no bid	

Comm Code	Manufacturer	Specification	Model #
10151900			

Extended Description :

BEE-FRIENDLY MIX

**Applewood Seed Co.
5380 Vivian Street
Arvada, CO 80002**

DOT1500000054	Document Phase Final	Document Description WILDFLOWER SEED MIX	Page 8 of 8
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

Applewood Seed Co.
5380 Vivian Street
Arvada, CO 80002

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. Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: February 16, 2015

Submit Questions to: Misty DeLong
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)
Email: Misty.M.Delong@wv.gov

- 5. VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication 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 submitted electronically through wvOASIS or 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 electronic submission via wvOASIS, 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

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope or the bid may be rejected by the Purchasing Division.:

SEALED BID:

BUYER: Misty DeLong

SOLICITATION NO.: CRFQ DOT1500000054

BID OPENING DATE: March 4, 2015

BID OPENING TIME: 1:30 PM, EST.

FAX NUMBER: 304-558-3970

In the event that Vendor is responding to a request for proposal, and chooses to respond in a manner other than by electronic submission through wvOASIS, the Vendor shall submit one original technical and one original cost proposal plus n/a convenience copies of each to the Purchasing Division at the address shown above. Additionally, if Vendor does not submit its bid through wvOASIS, 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: (This only applies to CRFP)

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 confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

March 4, 2015, 1:30 PM, EST.

Bid Opening Date and Time:

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.
10. **ALTERNATES:** Any model, brand, or specification listed in this Solicitation 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. **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.
13. **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.
14. **UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
15. **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 Vendor Preference Certificate form has been attached hereto to allow Vendor to apply for the preference. Vendor's failure to submit the Vendor Preference Certificate form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.
16. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid, 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 contract award 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.

17. **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.

GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Award Document 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 or 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. **"Award Document"** 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 contract holder.
 - 2.6. **"Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
 - 2.7. **"State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
 - 2.8. **"Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

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

Term Contract

Initial Contract Term: This Contract becomes effective on Upon award and extends for a period of one (1) year(s).

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be submitted to the Purchasing Division 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 three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 36 months in total. 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.

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

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional _____ successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed _____ months in total. Automatic renewal of this Contract is prohibited.

One Time Purchase: The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will 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 Award Document will be considered notice to proceed.
5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.
- Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
 - Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
 - Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
 - One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

- BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.
- PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of _____. The performance bond must be 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 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.
- 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: In the amount of \$1,000,000.00 _____ or more.

Builders 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. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. 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.

11. LIQUIDATED DAMAGES: Vendor shall pay liquidated damages in the amount of

N/A
for N/A

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.

- 12. 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 Award Document, upon receipt.
- 13. 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.
- 14. 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.
- 15. 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.
- 16. 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 also 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.
- 17. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 18. 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.
- 19. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable law.
- 20. 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.

- 21. 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.
- 22. 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.
- 23. 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.
- 24. 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.
- 25. 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.
- 26. 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.
- 27. 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.
- 28. 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.

29. 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>.

30. 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. and the competitive bidding laws found West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-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. 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. Additionally, pricing or cost information will not be considered exempt from disclosure and requests to withhold publication of pricing or cost information 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.

31. 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.

32. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document 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.

33. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer 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 Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer 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 or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer 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.

34. 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.

35. 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.

- 36. 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.
- 37. 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.
- 38. 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.
- 39. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an 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.
- 40. 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.

41. 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.

42. 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:
- c. 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

- d. 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.

43. 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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Wildflower Seed Products

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Division of Highways to establish an open-end contract to provide Wildflower seeds for use at locations throughout the State of West Virginia by the WV Division of Highways as part of the Operation Wildflower program and in cooperation with the WV Department of Environmental Protection.

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 3.1.1 below.
 - 2.2 **“Pricing Pages”** means the schedule of prices, estimated order quantity and totals contained in wvOASIS or attached hereto as Exhibit A and used to evaluate the Solicitation responses.
 - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division
 - 2.4 **“WVDOH”** used throughout this Solicitation means the West Virginia Division of Highways.
 - 2.5 **“PLS”** used throughout this Solicitation means Pure Live Seed – the industry standard language to explain the percentage of seed that has the potential to germinate within a measured one pound weight of any seed lot..
 - 2.6 **“Contractor” or “Vendor”** used throughout this Solicitation and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, adopted 2010, as modified by all subsequent annual Supplemental Specifications, are interchangeable.

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.

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3.1.1 Wildflower seeds packaged as:

Individual Seeds – packaged in 8 pound bags

Custom Perennial Seed Mix – packaged in 8 pound bags

Annual Seed Mix – packaged in 8 pound bags

Bee Friendly Seed Mix – packaged in 8 pound bags

3.1.2 Seed Requirements: Seed must be PLS and United States origin. With each delivery of seed, the awarded Vendor must provide documentation that the seed is grown in North America for a period of three growing seasons prior to seed harvest. No substitutions of species will be accepted.

3.1.3 Quality Requirement: Minimum purity percentage must be no less than 98%. Minimum germination percentage must be no less than 80%. Vendors must provide purity and germination percentages for each Contract Item bid on the Information Attachment Sheet. If these percentages are not provided on the Information Attachment Sheet, the Vendor's submitted price for a Contract Item will be disqualified.

With each delivery of seed, the awarded Vendor must provide proof of purity and germination. No substitutions of species will be accepted.

All seed shipped must meet West Virginia Code, Chapter 19, Article 16, Section 2, labeling requirements. A copy of this Section of the West Virginia Code is following these specifications. All seed shall be tested by a certified seed laboratory with certified results submitted to the WVDOH in writing at the time of delivery. The WVDOH will randomly test seed for purity and germination. Material failing to comply with these quality requirements will not be accepted.

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 cost per pound, per Contract Item.

4.2 Pricing Pages: Vendor may submit a price for any or all Contract Items. For each submitted Contract Item, Vendor shall provide the purity percentage, the germination percentage and the unit cost per pound, per item on the Information Attachment Sheet. The unit cost per pound shall be per pound of PLS and must

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be inclusive of all associated costs including the cost of delivery. Vendors that do not provide purity and germination percentages for each Contract Item bid, on the Information Attachment Sheet will be disqualified for that item. Any Contract Item that a Vendor provides purity and germination percentages that do not meet the minimum requirements as described in Section 3.1.3 shall be disqualified for that item.

Vendors shall provide the Pricing Pages and the Information Attachment Sheet in their Bid Response to be evaluated for award.

Vendors should be cautioned as the quantities listed are estimates only. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery, whether more or less than the quantities shown. No future use of the contract or any individual items is guaranteed.

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: crystal.g.rink@wv.gov.

5. ORDERING AND PAYMENT:

5.1 Ordering: Vendor shall accept orders through wvOASIS, 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 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. 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. 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.

6. DELIVERY AND RETURN:

6.1 Delivery Time: Vendor shall deliver standard orders within thirty (30) working days after orders are received unless an alternative delivery date has been agreed upon between the awarded vendor and the WVDOH location issuing the Delivery

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Order. Vendor shall deliver emergency orders within an agreed upon time frame after the Delivery Order has been issued. Vendor shall ship all orders in accordance with the agreed schedule 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.

- 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. VENDOR DEFAULT:

- 7.1** The following shall be considered a Vendor default under this Contract.

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- 7.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2 Failure to comply with other specifications and requirements contained herein.
- 7.1.3 Failure to comply with any laws, rules and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4 Failure to remedy deficient performance upon request.
- 7.2 The following remedies shall be available to Agency upon default.
 - 7.2.1 Immediate cancellation of the Contract.
 - 7.2.2 Immediate cancellation of one or more release orders issued under this Contract.
 - 7.2.3 Any other remedies available in law or equity.
- 8. **MISCELLANEOUS:**
 - 8.1 **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.
 - 8.2 **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.
 - 8.3 **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.
 - 8.4 **Contract Manager:** During its performance of the 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

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issues related to this Contract. Vendor should list its Contract Manager and his or her contact information below.

Contract Manager: Diane Wilson
Telephone Number: (303) 431-7333
Fax Number: (303) 467-7886
Email Address: dwilson@applewoodseed.com

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PER SECTION 3.1 of specifications above from the West Virginia Code, Chapter 19, Article 16, Section 2:

§19-16-2. Label requirements.

Each container of agricultural, forest or vegetable seed which is sold, offered for sale or exposed for sale within the state for sowing purposes, shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(a) For agricultural and forest seeds:

(1) Commonly accepted name of

(a) Kind and variety of each agricultural or forest seed component in excess of five percent of the whole, and the percentage by weight of each in order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(b) If the variety is unknown, that fact shall be stated for each agricultural or forest seed component in excess of five percent of the whole.

(2) Lot number or other lot identification.

(3) Origin, if known, of alfalfa, red clover, forest seeds and field corn (except hybrid corn). If the origin is unknown that fact shall be stated.

(4) Percentage by weight of all weed seeds.

(5) The name and approximate number of each kind of noxious weed seed: (a) Per ounce in *Agrostis* spp., *Poa* spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues, alsike and white clover, reed, canary grass, Dallas grass, ryegrass, foxtail millet, alfalfa, red clover, sweet clovers, lespedezas, smooth brome, crimson clover, *Brassica* spp., flax, *Agropyron* spp., and other agricultural seeds of similar size and weight, or mixtures within this group.

(b) Per pound in proso, Sudan grass, wheat, oats, rye, barley, buckwheat, sorghums, vetches and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

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All determinations of noxious weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations under this article.

(6) Percentages by weight of agricultural seeds (which may be designated as "crop seeds"), other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural or forest seed: (a) Percentage of germination exclusive of hard seed; (b) percentage of hard seed, if present; (c) the calendar month and year the test was completed to determine each percentage.

Following (a) and (b) the "total germination and hard seeds" may be stated as such, if desired.

(9) Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this state.

(10) For agricultural or forest seeds which germinate less than the standard last established by the commissioner under this article, the label shall show in addition to the previous requirements of this section, the words "germination below standard" in not less than eight point type.

(b) For vegetable seeds:

(1) Name of kind and variety;

(2) For seeds which germinate less than the standard last established by the commissioner under this article: (a) Percentage of germination, exclusive of hard seed; (b) percentage of hard seed, if present; (c) the calendar month and year the test was completed to determine such percentages; (d) the words "below standard" in not less than eight point type; and

(3) Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within the state.

(c) For seed potatoes:

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Only "certified" seed potatoes which grade from the standpoint of physical defects better than the minimum requirements of U.S. No. 1 may be offered for sale as seed. There shall be attached to each bag or container a tag showing by whom certified the standard or conditions under which said certification is made, and the name of the official state or governmental agency making the inspection upon which the certification is made.

Wildflower Seeds

Applewood Seed Co.
5380 Vivian Street
Arvada, CO 80002

INFORMATION ATTACHMENT

The Vendor shall provide the PURITY and GERMINATION percentage for each Contract Item bid.
If the PURITY and GERMINATION percentage is NOT provided for each Contract Item bid, that Contract Item will be disqualified from evaluation and award.

Line Item #	Description	Minimum PURITY no less than 98%	Minimum GERMINATION no less than 80%
1	Individual Species Red Straight Poppy/Flanders Poppy - Papaver rhoeas (Papaveraceae)	99	85
2	Individual Species Dwarf Cornflower/Straight Blue Bachelor's Button - Centaurea cyanus (Asteraceae)	99	85
3	Individual Species Plains Coreopsis/Calliopsis - Coreopsis tinctoria (Asteraceae)	98	85
4	Individual Species Wild Cosmos - Cosmos bipinnatus (Asteraceae)	98	85
5	Individual Species Yellow Cosmos - Cosmos sulphureus (Asteraceae)	—	—
6	Individual Species Rocket Lockspur - Delphiniums Ajacis	99	85
7	Individual Species Tickseed/Lance-leaved Coreopsis - Coreopsis lanceolata (Asteraceae)	98	85
8	Individual Species Ox-Eyed Daisy - Chrysanthemum Leucanthemum	98	80
9	Individual Species Butterfly Weed - Asclepias Tuberosa (Asclepiadaceae)	98	85
10	Individual Species Black-Eyed Susan - Rudbeckia hirta (Asteraceae)	98	80
11	Individual Species Sunflower Dwarf Sunspot - Helianthus Annuus	98	85
12	Perennial Mix - must contain the following:		
	Maximum Shasta Daisy - Chrysanthemum - 20% by Weight, 25.3% by Seed	98	85
	Tickseed/Coreopsis, Lance-leaved - Coreopsis lanceolata, 32% by Weight, 26.2% by Seed	98	85
	Purple Coneflower - Echinacea purpurea, 40% by Weight, 22.9% by Seed	98	85
	Black-Eyed Susan - Rudbeckia hirta, 8% by Weight, 25.6% by Seed	98	80
13	Annual Mix - must contain the following:		
	Dwarf Cornflower - Centaurea cyanus, 25% by Weight, 8.4% by Seed	99	85
	Plains Coreopsis - Coreopsis tinctoria, 5% by Weight, 20.7% by Seed	98	85
	Wild Cosmos - Cosmos bipinnatus, 20% by Weight, 5.2% by Seed	98	85
	Yellow Cosmos - Cosmos sulphureus, 35% by Weight, 6.8% by Seed	98	80
	California Poppy - Eschscholzia California, 10% by Weight, 8.7% by Seed	99	80
	Red Poppy - Papaver rhoeas, 5% by Weight, 50.2% by Seed	99	85

INFORMATION ATTACHMENT

Applewood Seed Co.
5380 Vivian Street
Arvada, CO 80002

The Vendor shall provide the PURITY and GERMINATION percentage for each Contract Item bid.

If the PURITY and GERMINATION percentage is NOT provided for each Contract Item bid, that Contract Item will be disqualified from evaluation and award.

CONT.

Line Item #	Description	Minimum PURITY no less than 98%	Minimum GERMINATION no less than 80%
14	Bee-Friendly Mix - must contain the following:		
	Maximum Shasta Daisy - Chrysanthemum maximum, 4% by Weight, 7.46% by Seed	98	85
	Lance Leaved Coreopsis - Coreopsis lanceolata, 6% by Weight, 7.27% by Seed	98	85
	Plains Coreopsis - Coreopsis tinctoria, 1% by Weight, 7.68% by Seed	98	85
	Wild Cosmos - Cosmos bipinnatus, 5% by Weight, 2.44% by Seed	98	85
	Sulphur Cosmos - Cosmos sulphureus, 10.5% by Weight, 3.79% by Seed	98	80
	Purple Coneflower - Echinacea purpurea, 8% by Weight, 6.77% by Seed	98	85
	Wild Annual Sunflower - Helianthus annuus, 10% by Weight, 1.12% by Seed	98	80
	Dwarf Sunspot - Helianthus annuus, 8% by Weight, 0.40% by Seed	98	85
	Sweet Alyssum - Lobularia maritima, 1% by Weight, 9.20% by Seed	99	90
	Baby Blue Eyes - Nemophila menziesii, 6% by Weight, 7.24% by Seed	99	85
	Lacy Phacelia - Phacelia tanacetifolia, 5% by Weight, 6.44% by Seed	99	90
	Yellow Prairie Coneflower - Ratibida clunaris, 1% by Weight, 6.75% by Seed	98	80
	Mexican Hat - Ratibida clunaris, 1% by Weight, 6.75% by Seed	98	80
	Black-Eyed Susan - Rudbeckia hirta, 1.50% by Weight, 7.09% by Seed	98	80
	African Marigold - Tagetes erecta, 8% by Weight, 5.97% by Seed	98	90
	Crimson Clover - Trifolium incarnatum, 3% by Weight, 3.72% by Seed	99	80
	White Dutch Clover - Trifolium repens, 1% by Weight, 4.66% by Seed	98	80
	Zinnia - Zinnia elegans, 20% by Weight, 5.27% by Seed	98	90

CERTIFICATION AND SIGNATURE PAGE

By signing below, or submitting documentation through wvOASIS, 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, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Applewood Seed Company

(Company)

Diane Wilson Diane Wilson/Bid Manager
(Authorized Signature) (Representative Name, Title)

(303) 431-7333, (303) 467-7886 2/17/2015

(Phone Number) (Fax Number) (Date)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: DOT1500000054

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.

Applewood Seed Co.

Company

Duane Wilson

Authorized Signature

2/25/15

Date

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

Revised 6/8/2012

SOLICITATION NUMBER: CRFQ DOT1500000054

Addendum Number: 1

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

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error
- Other

Description of Modification to Solicitation:

1. To respond to technical questions submitted, via attachment.
 2. To change the quantity of line 14, from 20,000 to 2,000.
- No other changes.

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

CRFQ DOT1500000054 – Wild Flower Seeds – Technical Questions

1. I would like to just clarify that the Bee Mix RFQ quantity is 20,000 lbs, all other mixes were 2,000 lbs as was the Bee Mix on last years RFQ?
 - a. The correct amount should be 2,000 lbs. This has been corrected as part of Addendum #1.

Also per Section 4.2 of the specifications, “Vendors should be cautioned as the quantities listed are estimates only. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery, whether more or less than the quantities shown. No future use of the contract or any individual items is guaranteed.”

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

MANDATE: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

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

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

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

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: Applewood Seed Company
Authorized Signature: Diane Wilson Date: Feb. 17, 2015

State of Colorado

County of Jefferson, to-wit:

Taken, subscribed, and sworn to before me this 17 day of February, 2015.

My Commission expires May 20th, 2017.

AFFIX SEAL HERE

NOTARY PUBLIC Kendal A. Holdren