



**Proposal to Provide Professional Services to West Virginia
Public Defender Services**



Rubino & Company, Chartered
6903 Rockledge Drive, Suite 1200
Bethesda, Maryland 20817-1818
T (301) 564-3636 F (301) 564-2994
www.rubino.com

July 29, 2014
Contract Manager:
J. Michael Stephens, CPA
Phone: 301-564-3636
Fax: 301-564-2994
mstephens@rubino.com

TABLE OF CONTENTS

Description	Page
Cover Letter	1
Our Understanding of Your Needs	2
About our Firm	2 - 3
Public Sector Industry Experience	3 - 5
Audit Services and Approach	5 - 7
Professional Staff Bios	7 - 8
Peer Review Report	9
Request For Quotation Forms	
Solicitation Form	
Exhibit A – Pricing Page	
Exhibit B – Certified Public Accountant Designation	
Exhibit C – Prior Experience	
Addendum Acknowledgement Form	
Purchasing Affidavit	
Certification and Signature Page	

Mr. Guy Nisbet, Senior Buyer
Department of Administration
Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

Dear Mr. Nisbet:

On behalf of Rubino & Company, Chartered, (Rubino & Company) we would like to thank you for the opportunity to introduce our firm and to provide you with information regarding professional auditing services that we provide in the areas of financial reporting and regulatory compliance.

For over 30 years, Rubino & Company has provided outstanding audit, accounting, regulatory compliance, tax advisory, and financial services to clients in the Washington, DC metropolitan area and nationwide. Rubino & Company provides a full spectrum of audit, accounting, and consulting services including audits, reviews, compilations, compliance audits, regulatory consulting, tax preparation and planning, and general business planning and consulting.

One of Rubino & Company's differentiating factors is the depth and breadth of the experience of our professionals. This experience enables our firm to offer a significant array of services to clients in a number of fields, but with particular focus on companies and organizations in the public sector. While Rubino & Company has a strong foothold in the Mid-Atlantic region, our firm also delivers audit and consulting services to organizations across the nation.

Our response to the Request for Quotation (RFQ) provides information regarding the nature of the services we can provide to the West Virginia Public Defender Services. Please contact Mike Stephens at 301-564-3636 or mstephens@rubino.com should you have any questions or require additional information.

Very Truly Yours,



J. Michael Stephens, CPA
Rubino & Company, Chartered

Our Understanding of Your Needs

We understand that the West Virginia Public Defender Services, under the Department of Administration Purchasing Division, is seeking financial statement and compliance audits performed under *Government Auditing Standards* of its seventeen (17) Public Defender Corporations for the fiscal year ended June 30, 2014. Although individual not-for-profit organizations under 501(c)(3), these corporations are blended component units and will be included as a special revenue fund in the State of West Virginia's Comprehensive Annual Financial Report (CAFR). Because these audits will be included in the CAFR, time is of the essence to complete and the Public Defender Services requires draft audit reports by September 15, 2014 and final audit reports by October 15, 2014.

Our extensive experience in the public sector has made us extremely aware of the importance of deadlines. This is critical to the audit of the Public Defender Corporations as they are component units of the state and as such are required to be reported in the state's CAFR. We are committed to providing the resources necessary to complete these engagements within the time frames specified in the Request for Quotation.

About our Firm

Our History

Rubino & Company, Chartered was established in 1980. Since then, we have experienced steady growth and currently employ over 65 full time professional degreed accountants, lawyers and CPA's. We are consistently ranked among the largest local firms in the *Washington Business Journal's* annual listing of the largest accounting firms in the Washington, DC metropolitan area. Although Rubino & Company offers a full spectrum of services typical of a CPA firm to clients in a variety of industries, the primary emphasis of our practice is in providing financial, accounting and tax services to public sector and government related organizations. Several of our partners are nationally recognized experts, serving as intra-industry consultants, teachers, editors and expert witnesses. By concentrating our accounting and auditing efforts in this fashion, we believe that we can better develop and draw upon our expertise in the government and non-profit arenas so that responsive services can be provided to our clients in these complex and sophisticated regulatory environments. This level of national recognition as well as Rubino & Company's continued growth demonstrates our ability and commitment to provide the best service to our clients.

Today

Today, Rubino and Company, Chartered is made up of eleven shareholders, eight senior managers, and more than forty professional staff with the same commitment to industry expertise that was established at the beginning. This expertise has resulted in our ability to serve public sector clients nationally because these clients know that we have a thorough understanding of not only their financial reporting, but the business aspect of their operations and what they deal with every day.

Commitment to Quality

Rubino & Company's emphasis on quality control is a major factor in our reputation for delivering exceptional professional services. We require that each audit engagement undergo a concurring review by a technically qualified member of senior management who is not directly responsible for the services performed. This reviewer is tasked to judge the soundness of accounting principles applied and the adequacy of audit procedures performed. This concurring level of review provides the capstone to our quality control program and ensures that the services rendered by the firm are the best that can be provided.

In addition, all professional staff receive at least 40 hours per year of continuing professional education. With our emphasis on specialized industries, much of this continuing education is focused on the public sector.

Rubino & Company's commitment to quality is evidenced by our stellar peer review record. In all of Rubino & Company's peer reviews, conducted by an independent CPA firm, we have received unqualified reports without a letter of comment. This accomplishment has been achieved by less than ten percent of CPA firms in the country and speaks to the level of our commitment to providing quality audit and review services. Our commitment to quality is not limited to audit and attestation engagements. Quality control is ingrained in all of the services we provide.

Public Sector Industry Experience

Our Professionals

The Firm's founding shareholders, Lou Rubino & Pat McGeehin, started the Firm by providing services solely to not-for-profit organizations and government contractors. Rubino & Company was founded on the principle of industry specialization when the majority of accounting firms were generalists. Rubino & Company's practice has grown out of these two industries, and although we offer a full spectrum of services typical of a CPA firm across a variety of industries, the primary emphasis of our practice continues to be providing financial and accounting services to the public sector, including not-for-profit, government, and government contractor clients.

For West Virginia Public Defender Services, this means efficient, cost-effective audit services. We already understand the financial and accounting considerations and regulatory issues unique to governmental and not-for-profit organizations. The majority of Rubino & Company's professional staff has direct experience with public sector organizations. Our expertise in performing audits in accordance with Government Auditing Standards and the financial and compliance reporting issues associated with these organizations is extensive.

Our public sector specialists possess a mix of industry, public accounting and government regulatory experience that enables them to provide expert support and assistance in addressing all issues facing organizations in this industry. Rubino & Company can assist the Corporations in answering any questions that may arise.

We believe the audit process can benefit organizations financially, operationally, and in complying with regulatory requirements. While we cannot overstate the importance of the audit and reporting process, our experience has found that as a result of that process, our professionals can provide insights that go beyond the audit to help both the individual Corporations and the Department in its

oversight role. With the combination of our experience in not-for-profits as well as public defender offices as described below, the agency receives the benefit of familiarity with industry best practices.

In addition, staff assigned to your engagement have experience with Public Defender organizations through prior work with the Administrative Office of the U.S. Courts and the entire CAFR process through experience auditing both component units and primary governments. Under a Federal Court contract, Federal Public Defender offices were audited in accordance with Government Auditing Standards and the Administrative Office Guide. This structure is similar to the West Virginia Public Defender Services and the related Corporations in that the Administrative Office acts as oversight for the offices and monitors financial activity and compliance. Experience with CAFR's comes from auditing special purpose governmental units as component units of Counties and States and the audit of other primary governmental units with component units including utilities, transportation, development, and schools.

Industry Involvement

Our shareholders and managers are active in numerous professional activities and organizations in which they obtain near-constant updates as to the latest developments in public sector accounting, auditing, tax, and operational issues. Past and current memberships include the following:

- Board of Directors of the Greater Washington Society of CPAs,
- Chairs of state CPA society not-for-profit committees,
- Chair of the Greater Washington Society of CPAs Nonprofit Financial Accountability Task Force,
- American Institute of Certified Public Accountants Tax Exempt Organization Taxation Technical Resource Panel,
- Member of the Government Financial Officers Association
- Chairs of the annual Greater Washington Society of CPAs Not-for-Profit Organizations Symposium, and
- Member of the Single Audit Roundtable of the American Institute of Certified Public Accountants, and
- Voluntary members of the Board of Directors for more than ten local and regional charitable organizations

These activities are done on a volunteer basis as our contribution and commitment to the public sector industry and the accounting profession. But the information we acquire keeps us on the cutting edge of the profession.

References

Below is a sample of our not-for-profit clients we serve which we encourage you to contact.

Client: Ocean Leadership (Not-for-profit education and research agency)
Contact: Yan Xing, VP & CFO, 202-448-1236

Client: Danya, Inc. (Administers Head Start programs nationally)
Contact: Jim Belanger, Director of Fiscal Operations, 267-781-4018

Client: Washington Latin Public Charter School (Not-for-profit with compliance requirements)

Contact: Mr. Mark Lerner, 202-715-5201

Client: AIR (Government contractor requiring compliance with state regulations)

Contact: Marijo Ahlgrimm, CFO, 202-403-5048

Audit Services and Approach

Below we have provided information regarding our audit approach for both the financial statement and compliance audits required under the Request for Quotation.

Financial Statement Audit Approach

The financial statement audits of the Corporations will be performed in accordance with both auditing standards generally accepted in the United States and *Government Auditing Standards*. An audit is a detailed engagement and contemplates risk assessments, understanding of internal controls and gathering sufficient credible audit evidence to support our conclusions and render an opinion on whether the financial statements are presented in accordance with Generally Accepted Accounting Principles. As such, an audit of each Corporation would be expected to include the following:

- Obtain an understanding of the business environment and the control environment that the Corporation operates in, including communication with those charged with governance.
- Obtain an understanding of the internal controls in place at the Corporation. Perform walkthroughs of key internal control cycles to assist in our assessment of risk and determine if we can rely on those controls.
- Perform appropriate risk analyses, including a fraud risk analysis, to identify areas of increased risk of material misstatement.
- Perform appropriate tests of account balances and transaction cycles based on our risk assessment with a focus on material accounts. Testing will include tests of controls if deemed reliable, external confirmation, reconciliation, vouching to source documents, search for unrecorded transactions, and analytical procedures.
- Test revenues and expense including basis for revenue recognition, classification of expenses, and recalculation of balances. Our approach is to test analytically first to identify any potential areas of risk, and then perform detail testing as necessary.
- Perform analytical procedures during planning, testing, and concluding phases of the audit.
- Express an opinion on the financial statements based on our audit.
- Meet with those charged with Governance and any designated oversight bodies.

Under *Government Auditing Standards*, we are required to test internal controls and we will rely on those controls where appropriate. When we are unable to rely, we expand our substantive testing of account balances and report control deficiencies accordingly.

Compliance Audit Approach

Under *Government Auditing Standards*, we are required to test compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters and report accordingly. As such,

an audit of each Corporation would be expected to include the following:

- Identify and obtain an understanding of the applicable laws, regulations, contracts, and grant agreements applicable to each Corporation and identify any specific compliance requirements. This will be based on review of related documentation and communication with those knowledgeable about the requirements both within and outside the entity.
- Obtain an understanding of the internal controls over compliance in place at the Corporation. Perform walkthroughs of key internal controls over compliance to assist in our assessment of risk of noncompliance and gain an understanding of those controls.
- Perform tests of controls over compliance to identify both internal control and compliance exceptions as they relate to the applicable laws, regulations, and agreements.
- Review any exceptions with management to ensure exception was properly identified and assess the magnitude of such exceptions.
- Report on exceptions based on determination of the determined magnitude as a material weakness, significant deficiency, or other matter.

Under these standards, we do not opine on internal control or compliance. Our report will identify any exceptions found or report that none were identified.

Use of Technology in the Audit

We strive to make use of technology to increase our efficiency in the performance of audits and communicating with clients. To that end:

- We perform our audits through the use of third party electronic audit work paper software package, Pro-System Fx Engagement.
- We utilize third party vendor software package PPC Checkpoint Tools for our audit programs, checklists, standard correspondence and accounting research tools.
- We use an electronic “portal” for the transfer of sensitive documents. This portal allows for both the upload and download of data that is password protected and encrypted. This helps us ensure that the integrity of the Corporations’ data is protected.

Other Services

In addition to performing financial statement audits, we can also provide a wide-range of other services to Public Defender Services should the need arise.

Any consulting or other non-audit services provided would be done so within the constraints imposed by professional standards to ensure our independence as auditors is not impaired. We would also expect to obtain Agency approval before proceeding with any consultations beyond providing routine financial advice.

The following is a representative list of the types of services Rubino & Company provides to public sector organizations that have government contracts and/or grants:

- Assistance with Pre-Award Audit Issues
- Accounting System Design and Review
- Cost Allowability and Allocability Determinations under Federal or State Cost Principles
- Cost Accounting Standards Consulting
- Proposal Preparation and Review

- Indirect Cost Rate Submissions
- Support in Defense of Fraud, Waste and Abuse Investigations
- Management System Reviews and Assistance
- Time Reporting Surveys
- Tax Preparation Services

Key Audit Staff Bios

Patrick J. Curtis, CPA Audit Shareholder

Patrick is the face of the firm to a wide range of clients, including both large and small public sector and not-for-profit organizations. Patrick performs audit and attest functions for his clients and also consults with government contractors and grantees on a wide range of issues from cost allowability issues to CAS Disclosure statement preparation. Patrick brings a high level of expertise and knowledge to the table to assist them in areas where they need technical guidance.

He received his BA from University of Maryland, College Park.

Member of: American Institute of CPAs
Greater Washington Society of CPAs
Maryland Association of CPAs

Relevant Clients: Head Start
Montgomery Community Action Agency
Pine Belt Multipurpose Agency
Piedmont Community Action Agency
Society for Public Health Education

J. Michael Stephens, CPA Audit Sr. Manager

Mike is responsible for management on recurring audit and attestation engagements (audits and agreed upon procedures) along with providing periodic consulting services. His experience is with all types of governmental and non-profit component unit entities including quasi-governmental business type entities, municipalities, counties, and state and federal level funds. He has helped a variety of clients with complicated accounting issues, regulatory matters, and specialized reporting requirements mandated by grants, oversight agencies, and other funding sources.

In his 29 years of experience, he has acquired extensive auditing experience in the public sector. As described previously, through a contract with the Administrative Office of the U.S. Courts, he has previously audited Public Defender offices. In addition, he has audited non-profit and special purpose governmental entities created by governmental agencies as component units to function for specific purposes. Most of these entities, in addition to a variety of financial reporting requirements other than Generally Accepted Accounting Principles, required audits of compliance in accordance with Government Auditing Standards including single audits under OMB Circular A-133 as well as other state and local guidance.

Mike received his BS in Accounting from Loyola University.

Member of: American Institutes of CPAs,
Maryland Association of CPAs

Relevant Clients: West Virginia Department of Transportation
Administrative Office of the U.S. Courts (including Public Defender Offices)
Baltimore City Healthy Start (Component Unit of City)
Baltimore Healthcare Access (Component Unit of City)
Baltimore Hotel Corporation (NFP Component Unit of City)
Virginia Resource Authority (Component Unit of State of VA)

Donald Meloy, CPA

Audit Manager

Donald is an experienced consultant with seven years of accounting experience. He has helped clients identify and rectify areas of risk in internal controls and compliance. He specializes in audits of not-for-profit clients that must comply with OMB Circular A-133, as well as FAR compliance and indirect rates. He also assists clients with implementing emerging industry standards.

Member of: American Institute of CPAs
Greater Washington Society of CPAs

Relevant Clients: College Summit
Say Yes to Education

Claudia Dicaro, CPA

Audit Manager

Claudia is responsible for supervising audit and review engagements for a wide range of clients, with a primary focus on not-for-profit entities. This includes audits of not-for-profit organizations receiving federal grant awards and other grant funding. These engagements include the specialized requirements of audits performed under *Government Auditing Standards* and OMB Circular A-133. She also performs audits of employee benefit plans to include IRC 403(b) Plans, helps identify and assess key internal controls and provides advice on how to improve them.

Claudia received a BS in Accounting from George Mason University.

Member of: American Institute of CPAs
Greater Washington Society of CPAs

Relevant Clients: Community Connections, Inc.
Romark Corporation

Additional staff will be included based on experience and scheduling of the audit engagements.

PEER REVIEW REPORT



System Review Report

August 16, 2012

To the Shareholders of
Rubino & McGeehin, Chartered
and the Peer Review Committee of the Maryland Association of CPAs

We have reviewed the system of quality control for the accounting and auditing practice of Rubino & McGeehin, Chartered (the firm) in effect for the year ended April 30, 2012. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included an engagement performed under the *Government Auditing Standards* and audits of employee benefit plans.

In our opinion, the system of quality control for the accounting and auditing practice of Rubino & McGeehin, Chartered in effect for the year ended April 30, 2012, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Rubino & McGeehin, Chartered has received a peer review rating of *pass*.

Heinold-Banwart, Ltd.



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

Solicitation

NUMBER
 PDS201410

PAGE
 1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
 GUY NISBET
 304-558-2596

RFQ COPY
 TYPE NAME/ADDRESS HERE

PUBLIC DEFENDER SERVICES
 ONE PLAYERS CLUB DRIVE
 SUITE 301
 CHARLESTON, WV
 25311 304-558-3905

V
E
N
D
O
R

S
H
I
P
T
O

DATE PRINTED
 06/19/2014

BID OPENING DATE: 07/22/2014

BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		946-20	\$74,600	\$74,600
AUDITING SERVICES FOR PUBLIC DEFENDER REQUEST FOR QUOTATION (RFQ) THE WEST VIRGINIA PURCHASING DIVISION FOR THE AGENCY, WEST VIRGINIA PUBLIC DEFENDER SERVICES, IS SOLICITING BIDS FROM QUALIFIED VENDOR TO PROVIDE THE AGENCY WITH AUDITING SERVICES FOR THE FINANCIAL AND COMPLIANCE AUDIT OF SEVENTEEN (17) PUBLIC DEFENDER CORPORATIONS LOCATED THROUGHOUT THE STATE OF WEST VIRGINIA, PER THE ATTACHED SPECIFICATIONS, TERMS AND CONDITIONS, AND BID REQUIREMENTS. ***** THIS IS THE END OF RFQ PDS201410 ***** TOTAL: \$74,600						

SIGNATURE: *[Signature]* TELEPHONE: 301-564-3636 DATE: July 29, 2014
 OWNER: [Name] FEIN: 52-1186096 ADDRESS CHANGES TO BE NOTED ABOVE
 WHEN RESPONDING TO SOLICITATION, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

REQUEST FOR QUOTATION
PDS201410 Professional Auditing Services

Exhibit A – Pricing Page

COST PROPOSAL:

Breakdown by Circuit:

Dollars

Brooke, Hancock & Ohio	\$4,500
Marshall, Tyler & Wetzel	4,200
Calhoun, Jackson, Mason & Roane	4,200
Cabell & Wayne	4,600
Logan	4,200
McDowell	4,200
Mercer	4,600
Raleigh	4,200
Greenbrier & Pocahontas	4,600
Fayette	4,200
Kanawha	4,700
Harrison	4,200
Preston	4,600
Berkley, Jefferson, & Morgan	5,000
Boone & Lincoln	4,200
Nicholas	4,200
Mingo	4,200

Total all-inclusive fee for all circuits:

\$74,600

REQUEST FOR QUOTATION
PDS201410 Professional Auditing Services

Exhibit B – Certified Public Accountant Designation

Name	WV CPA
Patrick Curtis	Yes
J. Michael Stephens	Yes
Donnie Meloy	Yes
Claudia Dicaro	Yes
Dawit Negari	Yes
Vidur Bhalla	No
Mallory Green	No
Matthew Murakami	No

REQUEST FOR QUOTATION
PDS201410 Professional Auditing Services
Exhibit C – Prior Experience

Entities defined in 3.2

The list below is not all inclusive of the firm's audits:

Audit Year

WV Department of Transportation	2009 2010
Afterschool Alliance	2013
American Assembly of America	2013
America's Promise – The Alliance for Youth	2013
American Association of Blood Banks	2009
American Council of Trustees	2013
American Diabetes Association	2009
American Horticultural Society	2013
American Indian Higher Education Consortium	2001
American Institutes for Research	2013
American Nursery and Landscape Association	2013
American String Teachers Association	2013
American Symphony Orchestra League	2013
The Aspen Institute	2013
Carlos Rosario International Public Charter School	2013
Center for Human Services	2012
Center for Security Policy	2013
Children's Aid Society	2013
Community Connections, Inc.	2013
Community of Hope, Inc.	2011
Consortium for Ocean Leadership	2013
Consortium for Oceanographic Research	2013
Consortium for Oceanographic Research & Education, Inc.	2013
Consortium of Universities for the Advancement of Hydrologic Science	2013
Creative Learning, Inc.	2013
Defense Forum Foundation	2011
Fleet Reserve Association	2013
Foundation for the Defense of Democracies, Inc.	2013
Institute for the Advancement of Social Work Research	2013
International City/County Management Association	2013
International Food Service	2013
IODP Management International Inc.	2011
Joint Oceanographic Institutions	2012
Learning Systems, Group	2013
Legal Aid Society of DC	2013
Mosaic Foundation	2013
My Sister's Place	2013
National Building Museum	2013
National Fallen Firefighters Foundation	2013
National Medical Association	2013

WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum ("Addendum") is made a part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency"), and Business Associate ("Associate"), and is effective as of the date of execution of the Addendum.

The Associate performs certain services on behalf of or for the Agency pursuant to the underlying Agreement that requires the exchange of information including protected health information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act"), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as "HIPAA"). The Agency is a "Covered Entity" as that term is defined in HIPAA, and the parties to the underlying Agreement are entering into this Addendum to establish the responsibilities of both parties regarding HIPAA-covered information and to bring the underlying Agreement into compliance with HIPAA.

Whereas it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI), and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, the HITECH Act and its associated regulations, and the parties do agree to at all times treat the PHI and interpret this Addendum consistent with that desire.

NOW THEREFORE: the parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>.
 - b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
 - c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
 - d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
 - e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111th Congress (2009).

- f. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164.
- g. **Protected Health Information** or PHI shall have the meaning given to such term in 45 CFR § 160.103, limited to the information created or received by Associate from or on behalf of Agency.
- h. **Security Incident** means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.
- i. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information found at 45 CFR Parts 160 and 164.
- j. **Subcontractor** means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

2. Permitted Uses and Disclosures.

- a. **PHI Described.** This means PHI created, received, maintained or transmitted on behalf of the Agency by the Associate. This PHI is governed by this Addendum and is limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the original Agreement, and is described in Appendix A.
- b. **Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, or as required by law, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or Associate, or violate the minimum necessary and related Privacy and Security policies and procedures of the Agency. The Associate is directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Agency.
- c. **Further Uses and Disclosures.** Except as otherwise limited in this Addendum, the Associate may disclose PHI to third parties for the purpose of its own proper management and administration, or as required by law, provided that (i) the disclosure is required by law, or (ii) the Associate has obtained from the third party reasonable assurances that the PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party by the Associate; and, (iii) an agreement to notify the Associate and Agency of any instances of which it (the third party) is aware in which the confidentiality of the information has been breached. To the extent practical, the information should be in a limited data set or the minimum necessary information pursuant to 45 CFR § 164.502, or take other measures as necessary to satisfy the Agency's obligations under 45 CFR § 164.502.

3. Obligations of Associate.

- a. **Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than as stated in this Addendum or as required or permitted by law.
- b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as stated in this Addendum or as required or permitted by law. Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI unless Agency gives written approval and the individual provides a valid authorization. Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Associate will report to Agency any use or disclosure of the PHI, including any Security Incident not provided for by this Agreement of which it becomes aware.
- c. **Safeguards.** The Associate will use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI, except as provided for in this Addendum. This shall include, but not be limited to:
 - i. Limitation of the groups of its workforce and agents, to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary or a Limited Data Set;
 - ii. Appropriate notification and training of its workforce and agents in order to protect the PHI from unauthorized use and disclosure;
 - iii. Maintenance of a comprehensive, reasonable and appropriate written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations, in compliance with the Security Rule;
 - iv. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- d. **Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules.
- e. **Mitigation.** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum, and report its mitigation activity back to the Agency.

f. **Support of Individual Rights.**

- i. **Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. **Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. **Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:
 - the date of disclosure;
 - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
 - a brief description of the PHI disclosed; and
 - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. **Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. **Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

- g. **Retention of PHI.** Notwithstanding section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. **Agent's, Subcontractor's Compliance.** The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- j. **Federal and Agency Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- k. **Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. This review may take up to ten (10) days.
- l. **Notification of Breach.** During the term of this Addendum, the Associate shall notify the Agency and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by e-mail or web form upon the discovery of any Breach of unsecured PHI; or within 24 hours by e-mail or web form of any suspected Security Incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency Procurement Officer at www.state.wv.us/admin/purchase/vrc/agencyli.htm and,

unless otherwise directed by the Agency in writing, the Office of Technology at incident@wv.gov or <https://apps.wv.gov/ot/ir/Default.aspx>.

The Associate shall immediately investigate such Security Incident, Breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, the Associate shall notify the Agency Procurement Officer, and, unless otherwise directed by the Agency in writing, the Office of Technology of: (a) Date of discovery; (b) What data elements were involved and the extent of the data involved in the Breach; (c) A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data; (d) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (e) A description of the probable causes of the improper use or disclosure; and (f) Whether any federal or state laws requiring individual notifications of Breaches are triggered.

Agency will coordinate with Associate to determine additional specific actions that will be required of the Associate for mitigation of the Breach, which may include notification to the individual or other authorities.

All associated costs shall be borne by the Associate. This may include, but not be limited to costs associated with notifying affected individuals.

If the Associate enters into a subcontract relating to the Agreement where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum, all such subcontracts or downstream agreements shall contain the same incident notification requirements as contained herein, with reporting directly to the Agency Procurement Officer. Failure to include such requirement in any subcontract or agreement may result in the Agency's termination of the Agreement.

- m. **Assistance in Litigation or Administrative Proceedings.** The Associate shall make itself and any subcontractors, workforce or agents assisting Associate in the performance of its obligations under this Agreement, available to the Agency at no cost to the Agency to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Agency, its officers or employees based upon claimed violations of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inaction or actions by the Associate, except where Associate or its subcontractor, workforce or agent is a named as an adverse party.

4. Addendum Administration.

- a. **Term.** This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents

and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.

- c. **Termination for Cause.** Associate authorizes termination of this Agreement by Agency, if Agency determines Associate has violated a material term of the Agreement. Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.
- d. **Judicial or Administrative Proceedings.** The Agency may terminate this Agreement if the Associate is found guilty of a criminal violation of HIPAA. The Agency may terminate this Agreement if a finding or stipulation that the Associate has violated any standard or requirement of HIPAA/HITECH, or other security or privacy laws is made in any administrative or civil proceeding in which the Associate is a party or has been joined. Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.
- e. **Survival.** The respective rights and obligations of Associate under this Addendum shall survive the termination of the underlying Agreement.

5. General Provisions/Ownership of PHI.

- a. **Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand or destroyed at the Agency's option, at any time, and subject to the restrictions found within section 4.b. above.
- b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an individual must be held confidential and is also the property of Agency.
- c. **Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an individual must not be transmitted to another party by electronic or other means for additional uses or disclosures not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.
- d. **No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected individual's written consent.
- e. **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. **Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.
- g. **Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.
- h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process.

AGREED:

Name of Agency: Public Defender Service Name of Associate: Patrick J. Curtis, Jr

Signature: [Handwritten Signature] Signature: [Handwritten Signature]

Title: Director Title: Shareholder

Date: 06/19/2014 Date: July 29, 2014

Form - WVBA-012004
Amended 06.26.2013

APPROVED AS TO FORM THIS 26th
DAY OF July 2013
BY [Signature]
Patrick Morisy
Attorney General

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: PDS201410

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:

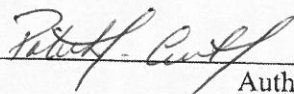
(Check the box next to each addendum received)

- | | | | |
|-------------------------------------|----------------|--------------------------|-----------------|
| <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.

Rubino & Company, Chartered

Company



Authorized Signature

July 29, 2014

Date

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

RFQ No. PDS201410

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: Rubino & Company, Chartered

Authorized Signature: *[Signature]* Date: July 29, 2014

State of Maryland

County of Montgomery, to-wit:

Taken, subscribed, and sworn to before me this 29 day of July, 2014

My Commission expires July 16, 2015

AFFIX SEAL HERE

NOTARY PUBLIC

[Signature]

Purchasing Affidavit (Revised 07/01/2012)

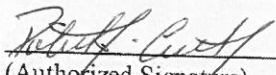


CERTIFICATION AND SIGNATURE PAGE

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.

Rubino & Company, Chartered

(Company)


Patrick J. Curtis, Jr.

(Authorized Signature)

Patrick J. Curtis, Jr., Shareholder

(Representative Name, Title)

301-564-3636

301-564-2994

(Phone Number)

(Fax Number)

July 29, 2014

(Date)