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## Header 3

[List View](#)

## General Information

[Contact](#)[Default Values](#)[Discount](#)[Document Information](#)

Procurement Folder: 436907

Procurement Type: Central Master Agreement

Vendor ID: 

Legal Name: SUNGARD AVAILABILITY SERVICES LP

Alias/DBA:

Total Bid: \$83,984.00

Response Date: Response Time: 

SO Doc Code: CRFQ

SO Dept: 0210

SO Doc ID: ISC1800000012

Published Date: 4/30/18

Close Date: 5/10/18

Close Time: 13:30

Status: Closed

Solicitation Description: 

Total of Header Attachments: 3

[Apply Default Values to Commodity Lines](#)[View Procurement Folder](#)



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

**State of West Virginia  
 Solicitation Response**

**Proc Folder :** 436907

**Solicitation Description :** Addendum 1-Mainframe Disaster Recovery Services (OT18037)

**Proc Type :** Central Master Agreement

Date issued	Solicitation Closes	Solicitation Response	Version
	2018-05-10 13:30:00	SR 0210 ESR05101800000005149	1

VENDOR
000000121888 SUNGARD AVAILABILITY SERVICES LP

**Solicitation Number:** CRFQ 0210 ISC1800000012

**Total Bid :** \$83,984.00      **Response Date:** 2018-05-10      **Response Time:** 13:28:52

**Comments:** Dear State of West Virginia Office of Technology, Please find attached Sungard AS' Order describing the Disaster Recovery Services to be provided to State of West Virginia, The discounted pricing of \$5,957/month was based on a term of 48 months as listed on the order - however, we understand SWV would like a 12 month term so we will provide three (3) 12 month renewal terms after the initial 12 months as requested in the RFQ while keeping the discounted pricing intact - there will be NO annual increase fees. As part of the Mainframe and Network requirements within the Order, we are including 80 hours of annual test time included in the monthly cost above, SWV can choose any of Sungard AS' recovery facilities including Philadelphia, PA, Carlstadt, NJ or Scottsdale, AZ. Sungard AS respectfully takes exception to the General Terms and Conditions - we propose that if Sungard AS be selected as the successful bidder, the general terms and conditions of the contract shall be governed by the terms and conditions of the attached Order and GMSA. In addition, Sungard AS will provide State Funding Out Language to be included as an Addendum to the GMSA if selected as the successful bidder. We look forward to discussing our bid along with terms and conditions that are agreeable to SWV while providing the expertise and flexibility SWV expects from a Disaster Recovery partner. Thank you for your consideration and please let me know if you have any questions or need anything additional.

**FOR INFORMATION CONTACT THE BUYER**  
 Jessica S Chambers  
 (304) 558-0246  
 jessica.s.chambers@wv.gov

<b>Signature on File</b>	<b>FEIN #</b>	<b>DATE</b>
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All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Contract Service #1 - Recovery Center Access	12.00000	MO	\$5,957.000000	\$71,484.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** Monthly pricing for all services - please refer to attached Sungard AS Order # 3010757100 v. 1.0 and Sungard AS GMSA for more details.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	Contract Service #2 - Network Access	12.00000	MO	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** See comment above.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Contract Service #3 - Agcy Declaration of DR/Incr. Connect.	1.00000	EA	\$5,000.000000	\$5,000.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.3 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity - The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

**Comments:** Network Declaration Fee is included if Mainframe declared at the same time.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Contract Service #4 - Recovery Center - Usg Rate for 3 Days	3.00000	DAY	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.4 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for quantity of three (3) days.

**Comments:** Included in pricing.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	Contract Service #5 - Recovery Center - Extended Usg Rate	1.00000	DAY	\$2,500.000000	\$2,500.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

**Comments:** Network Daily Usage Fee included if Mainframe declared at the same time.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Opt. Renewal Y2 - Contr Srv #1 - Recovery Center Access	12.00000	MO	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** Included in pricing.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	Opt. Renewal Y2 - Contr Srv #2 - Network Access	12.00000	MO	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** Included in pricing.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	Opt. Renewal Y2 - Contr Srv #3 - Agcy DCL of DR/Incr. Connec	1.00000	EA	\$5,000.000000	\$5,000.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.3 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity - The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

**Comments:** See comment above re: network.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	Opt. Renewal Y2 - Contr Srv #4 - Rcvy Cntr/Usgr Rate - 3 Days	3.00000	DAY	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.4 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for quantity of three (3) days.

**Comments:** Included in pricing.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	Opt. Renewal Y2 - Contr Srv #5 - Rcvy Cntr-Extended Usgr Rate	1.00000	DAY	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

**Comments:** Included in pricing.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
11	Opt. Renewal Y3 - Contr Srv #1 - Recovery Center Access	12.00000	MO	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** Included in pricing.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
12	Opt. Renewal Y3 - Contr Srv #2 - Network Access	12.00000	MO	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** Included in pricing.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
13	Opt. Renewal Y3 - Contr Svr #3 - Agcy DCL of DR/Incr. Connec	1.00000	EA	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.3 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity - The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

**Comments:** Included - See comment above.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
14	Opt. Renewal Y3 - Contr Svr #4 - Rcvy Cntr/Usg Rate - 3 Days	3.00000	DAY	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.4 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for quantity of three (3) days.

**Comments:** Included.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
15	Opt. Renewal Y3 - Contr Svr #5 - Rcvy Cntr-Extended Usg Rate	1.00000	DAY	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

**Comments:** Included.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
16	Opt. Renewal Y4 - Contr Srv #1 - Recovery Center Access	12.00000	MO	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** Included.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
17	Opt. Renewal Y4 - Contr Srv #2 - Network Access	12.00000	MO	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**Comments:** Included.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
18	Opt. Renewal Y4 - Contr Svr #3 - Agcy DCL of DR/Incr. Connec	1.00000	EA	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.3 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity - The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

**Comments:** Included.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
19	Opt. Renewal Y4 - Contr Srv #4 - Rcvy Cntr/Usg Rate - 3 Days	3.00000	DAY	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.4 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for quantity of three (3) days.

**Comments:** Included.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
20	Opt. Renewal Y4 - Contr Srv #5 - Rcvy Cntr-Extended Usg Rate	1.00000	DAY	\$0.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :** 5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

**Comments:** Included.



**Order Number 3010757100 v. 1.0**  
**For Services Governed by the**  
**Global Master Services Agreement**  
**Between**  
**SUNGARD AVAILABILITY SERVICES, LP ("Sungard AS") and**  
**STATE OF WEST VIRGINIA OFFICE OF TECHNOLOGY**

Dated June 1, 2018

Page 1 of 11

**PART 1 - SUMMARY AND SERVICES**

Order Reference Name: Recovery

This is a new Order having a Term of 48 months with a commencement date of June 1, 2018.

**SUMMARY OF SERVICES AND FEES**

Selected Services	Base Test Periods
<b>Center-Based Recovery Services</b>	
Hotsite	10
<b>Network Services</b>	
<b>Monthly Fee (US Dollar):</b>	<b>\$5,957.00</b>

By the signatures of their duly authorized representatives below, Sungard AS and Customer, intending to be legally bound, agree to all of the provisions of this Order and ratify the terms of the Agreement. This Order is not binding until executed and delivered by both parties hereto.

SUNGARD AVAILABILITY SERVICES, LP

STATE OF WEST VIRGINIA OFFICE OF TECHNOLOGY

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_



Verified for form: \_\_\_\_\_  
Sungard AS Sales Ops

DOC ID: 3010757100 VER. 1.0  
 ACCOUNT NUMBER: 1658052  
 QUOTE ID: 1055763  
 PRICE VALID UNTIL: June 9, 2018  
 PRINTED: May 10, 2018 12:43:45 PM



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This Order is governed by Global Master Services Agreement Number 6003558540.

Sungard AS reserves the right to increase the fees by 0% annually on each anniversary of the commencement date.



DOC ID: 3010757100 VER. 1.0  
ACCOUNT NUMBER: 1658052  
QUOTE ID: 1055763  
PRICE VALID UNTIL: June 9, 2018  
PRINTED: May 10, 2018 12:43:45 PM

THE TERMS OF THIS ORDER ARE CONFIDENTIAL



**BILLING SCHEDULE**

<b>Invoice From:*</b>	<b>Monthly Fee (US Dollar):</b>
06/01/2018	\$5,957.00

\*If all or a portion of the Services are made available by Sungard AS before the billing date above, Sungard AS will invoice Customer a one-time fee for such Services. The billing and payment dates for the Services that have been made available for consumption will not be deferred if a delay in the implementation or use of the Services is attributable to Customer.

**Customer Information:**

Covered Location Address:

10 HALE STREET, THIRD FLOOR  
CHARLESTON, WV, 25301, US  
LARRY MCDONNELL  
LARRY.D.MCDONNELL@WV.GOV

Bill To Address:

10 HALE STREET, THIRD FLOOR  
CHARLESTON, WV, 25301, US  
LARRY MCDONNELL  
LARRY.D.MCDONNELL@WV.GOV

Notification Address:

10 HALE STREET, THIRD FLOOR  
CHARLESTON, WV, 25301, US  
LARRY MCDONNELL  
LARRY.D.MCDONNELL@WV.GOV

**Sungard AS Information:**

Notification Address:

SUNGARD AVAILABILITY SERVICES, LP  
Attn: Contract Administration  
680 E. Swedesford Rd  
Wayne, PA 19087  
Fax: 1-610-225-1125  
Email: contract.admin@sungardas.com



DOC ID: 3010757100 VER. 1.0  
ACCOUNT NUMBER: 1658052  
QUOTE ID: 1055763

PRICE VALID UNTIL: June 9, 2018  
PRINTED: May 10, 2018 12:43:45 PM

**Center-Based Recovery Services**

Qty	Hotsite 1		Disaster Fees	
			Declaration Fee	Daily Usage
			\$5,000.00	\$2,500.00
1	IBM zEnterprise Processor			
	2	LPAR		
	1	zIIP Engine		
	2	IFL Engine (for Linux only)		
	436	IBM MIPs		
	73728	MB Memory		
	2	OSA-Express Ethernet 10GB Port		
	2	OSA-Express3 Ethernet 10/100/1000Mbps Port		
	1	OSA-Express3 Ethernet Gigabit Port		
	436	IBM MIPs		
	73728	MB Memory		
	2	OSA-Express Ethernet 10GB Port		
	2	OSA-Express3 Ethernet 10/100/1000Mbps Port		
	1	OSA-Express3 Ethernet Gigabit Port		
1	Xerox DocuPrint 135MX EPS with DocuSP Controller			
1	HP LaserJet 8150 Printer			1,2
1	HP LaserJet 3015 Multifunction (Print/Copy/Scan/Fax) Printer			
1	IBM 3584 Library and TS7740 VE (3957-V07, 256 Adrs., 9TB Cache, 600MB/s, (16) 3592-E05 Encryption Capable Backstore Drives)			
	6	IBM 3592-E05 (TS1120) Tape Drive (Encryption capable - FICON Attached)		
	500	Slots		
15	TB of Mainframe DASD - RAID protected			
1	Cisco Catalyst 3560G Ethernet Switch			1,2
	24	10/100/1000 Ethernet Port		1,2

**Network Services**

Qty	Network 1		Disaster Fees	
			Declaration Fee <sup>3</sup>	Daily Usage
			\$2,500.00	\$375.00
	Web ReDirect Services			
	1	Web ReDirect Services (100)Mbps		
	32	Additional Sungard AS Addresses		
		Destination(s):		
		Philadelphia, PA - (401 N Broad, 19108)		

\* If the configuration numbering is out of sequence, the configurations have been intentionally deleted.

**FOOTNOTES**

1. To be governed by the terms and conditions applicable to Mobile Resources.
2. Subject to the terms and conditions of Priority Resources.
3. If a Declaration Fee of equal or greater value is charged in association with a Center-Based or Mobile Configuration defined on this Order, then the Declaration Fee for the applicable Network Services will be deemed included in such fee.

**PART 2 - SERVICE DESCRIPTIONS**

**A. DISASTER DECLARATION PROCESS & WARRANTY**

Disaster
"Covered Location" is defined as the Customer address specified on the Order for which Services are to be provided as specified herein.
"Disaster" is defined as any unplanned event or condition that renders Customer unable to use the Covered Location or the equipment situated there for its intended computer processing and related purposes.
"Recovery Resources" are defined as the facilities, equipment, network and other resources used to provide the Services identified on the Order.
"Disaster Declaration" is defined as the notification provided by one of Customer's designated representatives to Sungard AS indicating that a Disaster has occurred, identifying the affected Covered Location and specifying which Services Customer requires.
Disaster Declaration Process
Customer will provide its Disaster Declaration notice to Sungard AS in the manner described in the Users' Guide and will specify the Services identified in this Order required by Customer.
Warranty
Sungard AS warrants to Customer that the Recovery Resources shall be maintained in a state of readiness at all times, consistent with Sungard AS' obligations under the Agreement and the Order.

**B. CENTER-BASED RECOVERY SERVICES**

Hotsite - Features
Sungard AS will provide a fully operational computer system and networking capability installed in a Sungard AS facility ("Hotsite"), equal to or better than, in all material respects, the Hotsite Configuration described in the Order.
Office Space - Features
Sungard AS will provide an adequate and reasonable amount of office space which can accommodate terminals, to operate a Hotsite in the same Sungard AS facility where the Hotsite is located.

Center-Based Recovery Services - General

All Center-Based Recovery Services are available for Customer's immediate and exclusive use following a Disaster Declaration.

Customer may use the Center-Based Recovery Services for 6 weeks following a Disaster Declaration. If a Disaster continues for longer than the 6 week period, Customer may continue to use the Center-Based Recovery Services; provided that this extended use is subject to immediate termination if and when any other customer declares a disaster and requires use of the Center-Based Recovery Services then being utilized by Customer.

**C. NETWORK SERVICES**

Web ReDirect Services - Features

Sungard AS will provide on-demand access to the Internet from the Sungard AS facility described in this Order (Service does not include domain or network configuration).

Network Services - General

Customer may use the Network Services for 6 weeks following a Disaster Declaration. If a Disaster continues for longer than the 6 week period, Customer may continue to use the Network Services; provided that this extended use is subject to immediate termination if and when any other customer declares a disaster and requires use of the Network Services then being utilized by Customer.

Sungard AS will make the Network Services available within 2 hours of a Disaster Declaration.

The Network Services are provided subject to the availability of the necessary services by Sungard AS' underlying network and Internet service providers.

Network availability excludes downtime attributable to routine and preventative maintenance.

**D. TEST SERVICES**

Test Services - Features

Sungard AS will provide certain Recovery Resources to Customer for Customer testing of its disaster recovery capability ("Test") for the number of Test Periods stated in this Order.

Each test period equals 8 hours of consecutive Test time per contract year on a non-cumulative basis ("Test Period").

Customer will comply with Sungard AS' Test Scheduling & Cancellation Policy set forth in the Users' Guide. All Tests are subject to immediate cancellation by Sungard AS if and when any other customer declares a disaster and requests use of the Recovery Resources being tested. Any such cancelled Test will be rescheduled as soon as possible.

**E. SUPPORT SERVICES**

Support Staff - Features

Sungard AS will provide support staff consisting of operations, communications, security, transportation, systems software and customer support personnel, as appropriate (collectively "Support Staff") on a 24-hour-a-day, 7-day-a-week basis, as needed while Customer is using the Recovery Services at a Sungard AS facility during a Test or Disaster.

User's Guide and Customer Portal - Features

Sungard AS will provide access to the Users' Guide for the Recovery Services and all applicable updates and revisions, as and when issued, via the customer Portal <http://www.mysungardas.com> .

**PART 3 - SERVICE CONDITIONS****A. MULTIPLE DISASTER PROVISIONS**

Customer's rights of immediate and exclusive use of the Recovery Services is subject to the possibility that one or more other customers ("other affected customers") may declare a disaster and require use of the same Recovery Resources at the same time as Customer ("Multiple Disaster"). The following provisions are intended to avoid or minimize contention for Recovery Resources during a Multiple Disaster.

Customer will have priority rights of access to and use of Recovery Resources designated by Sungard AS as "Priority Resources" that are not then being used by other affected customers who previously declared disasters. Use of such Priority Resources is exclusive for as long as Customer is entitled to use them.

Customer and all other customers experiencing a disaster will have equal rights of access to and use of Recovery Resources designated by Sungard AS as "Shared Resources", irrespective of the order in which disasters occur or are declared and, in such cases, Customer will reasonably cooperate with Sungard AS and the other affected customers in the use of the Shared Resources.

All Recovery Resources are designated by Sungard AS as either Shared Resources or Priority Resources in Sungard AS' reasonable discretion and are subject to change without notice; provided that Sungard AS shall not change the designation of a Recovery Resource at any time that a customer is using such Recovery Resource during a disaster.

If applicable Priority Resources and applicable Shared Resources are both available, Customer may choose which type to use. In an effort to avoid the need for shared or allocated use of any Shared Resources, Sungard AS will, to the fullest extent possible under the circumstances, take full advantage of, and provide access to, all of its other available Shared Resources.

Sungard AS will maintain records of its receipt of disaster declarations, which will be the exclusive basis for determining the order in which disasters are declared.

Sungard AS will not grant any other customer greater rights of access to or use of the Recovery Resources than are granted to Customer.

By signing or amending this Order, Customer warrants that the Covered Location is not at that time experiencing a Disaster.

Sungard AS will not enter an agreement to provide use of any Recovery Resources at a time when the customer location to be serviced is then currently experiencing a disaster.

Sungard AS will monitor approaching storms or other situations of which Sungard AS is aware that might cause a Multiple Disaster, and will use commercially reasonable efforts to coordinate contingency plans with all potentially affected customers.

**B. GENERAL SERVICE CONDITIONS**

Before the conclusion of any Test or Disaster, Customer will remove, erase or destroy all Customer data and information it maintained in any form, recorded on any medium, or stored in any storage system as part of its use of the Recovery Services.

Sungard AS may change the Recovery Resources and, in such event will: (a) Notify Customer in writing at least 60 days before making any change that might substantially and adversely impact Customer; (b) Provide Customer a reasonable number of free additional Test Periods to Test the affected Recovery Services; and (c) Allow Customer to terminate the affected Recovery Services if Customer reasonably believes such change substantially and adversely affects Customer use thereof. Customer's written notice of termination must be provided no later than 10 days after Customer first uses the affected Recovery Services for either a Disaster or Test.

Customer will be responsible for (a) all communications and similar third party charges resulting from Customer's use of the Recovery Resources, (b) all power, fuel and other utility charges resulting from Customer's use of the Recovery Resources during a Disaster, except during the first 6 weeks of Hotsite use, (c) all costs associated with the transportation, delivery, operation and ongoing support of Mobile Recovery Resources used by Customer, and (d) all costs associated with the installation and de-installation of Mobile Recovery Resources used by Customer at non-Sungard AS locations.

"Sungard Availability Services" is a trademark of SunGard Data Systems Inc. or its affiliate, used under license. "MegaVoice," "MetroCenter," "Recover2Cloud," "Secure2Disk" and "Mobile Data Center" are registered marks of Sungard AS or its affiliates. The Sungard AS logo by itself is a trademark of Sungard Availability Services Capital, Inc. or its affiliate.



**CONFIDENTIAL**  
Agreement Number: 6003558540

## GLOBAL MASTER SERVICES AGREEMENT

This Global Master Services Agreement ("**Agreement**") between STATE OF WEST VIRGINIA OFFICE OF TECHNOLOGY (the "**Customer**") and SUNGARD AVAILABILITY SERVICES, LP ("**Sungard AS**"), as signed below by the duly authorized representatives of both Parties intending to be legally bound, is effective as of June 1, 2018 ("**Effective Date**").

<b>Sungard AS</b>	<b>Customer</b>
<b>SUNGARD AVAILABILITY SERVICES, LP</b>	<b>STATE OF WEST VIRGINIA OFFICE OF TECHNOLOGY</b>
680 E. Swedesford Road	10 HALE STREET, THIRD FLOOR
Wayne, PA, 19087, United States	CHARLESTON, WV, 25301, US
Print Name:	Print Name:
Print Title:	Print Title:
By:	By:
Date Signed:	Date Signed:

Verified for form: -----  
Sungard AS Sales Ops

## GENERAL TERMS AND CONDITIONS

### INTRODUCTION

This Agreement is comprised of the general terms and conditions set forth below (including any appendices hereto) and the terms and conditions of a particular service purchased and set forth in an applicable order, schedule and/or exhibit (collectively referred to herein as an "**Order**"). The services described in an Order are referred to collectively as the "**Services**". Each Order represents a separate contract and may be signed by Sungard AS and Customer or one or both of their Affiliates, in which case such Affiliate(s) shall be deemed to be "Sungard AS" or "Customer", as applicable, for purposes of the Agreement. If there is a conflict between the general terms and conditions of the Agreement and an Order, the Order shall take precedence with regard to the Services provided under that Order.

Capitalized terms not otherwise defined will have the meaning given them in the "**Definitions**" section.

### FEES

- 1.1 As consideration for the Services, Customer will:
- (a) Pay Sungard AS the fees specified in the Order;
  - (b) Reimburse Sungard AS for travel and out-of-pocket expenses that it incurs in performing this Agreement that have been pre-approved in writing or otherwise authorized in an Order by Customer;
  - (c) Pay Sungard AS for any non-contracted or overage fees relating to additional services requested or received by the Customer; and
  - (d) Unless Customer provides a valid exemption certificate, be responsible for any tax, tariff, customs duty, surcharge, or other fee imposed by Law from time to time in connection with the Services, which Sungard AS is required to pay to any taxing or other regulatory or municipal authority.
- 1.2 All recurring fees specified in an Order will be invoiced by Sungard AS in advance at the billing address defined in the Order. All one-time fees specified in an Order will be invoiced by Sungard AS upon the Parties' execution of the Order. Payment, whether for Services or reimbursement, which Customer is required to make under this Agreement will be made not later than thirty (30) days after the date of Sungard AS' invoice. Past due balances will accrue interest per month at 1.5% or at the maximum applicable statutory rate, whichever is lower.

### CONFIDENTIALITY

- 2.1 Each Party will use the other's Confidential Information solely to perform its obligations under this Agreement. Accordingly, each Party will disclose the other's Confidential Information only to those of its agents, contractors, and employees who need to know the information for purposes of performing this Agreement, *provided that* they are legally bound, in writing, not to disclose the other Party's Confidential Information except as permitted by this Agreement.
- 2.2 Each Party will hold the other Party's Confidential Information in confidence and will take all reasonable security



measures to protect the other's Confidential Information against unauthorized disclosure. All Confidential Information transmitted, or made available by Customer to Sungard AS which contains personal information or other sensitive Customer data will be encrypted by Customer so that it is unintelligible before Customer transmits, or makes available, such Confidential Information to Sungard AS.

- 2.3 To the extent legally permitted, each Party will give the other prompt written notice if disclosure of the other's Confidential Information is being sought by legal process.
- 2.4 Sungard AS may receive personal information from Customer (e.g., a contact person within the Customer's organization, etc.) (hereinafter "Customer Personal Information"). Customer represents and warrants that it has the authority to provide Customer Personal Information to Sungard AS for processing as contemplated by this Agreement. Further, Customer agrees that as the data controller, it is entitled to transfer its Confidential Information, including relevant Customer Personal Information to Sungard AS, the data processor, so that it, its Affiliates and third-party contractors may process the Confidential Information for purposes of providing the Services under the Agreement.
- 2.5 Customer shall be responsible for maintaining secure and complete back-up of its data, except with respect to any Services provided by Sungard AS that specifically include data back-up.
- 2.6 Under no circumstances will Sungard AS be considered the official custodian or record keeper of Customer's data for regulatory, litigation, or other purposes.

#### **WARRANTIES**

- 3.1 Sungard AS warrants that it will use qualified personnel, and will perform the Services in accordance with the Agreement and Orders.
- 3.2 OTHER THAN THE EXPLICIT WARRANTIES AND THOSE WHICH CANNOT BE EXCLUDED BY APPLICABLE LAW, AND ANY WARRANTIES SPECIFICALLY PROVIDED IN AN ORDER, SUNGARD AVAILABILITY SERVICES PROVIDES THE SERVICES "AS IS," AND DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESSED, IMPLIED AND STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

#### **TERM & TERMINATION**

- 4.1 This Agreement shall continue as long as there is an Order in effect. The term of an Order shall be set forth on the Order (the "**Term**"), after which it will renew automatically in one-year increments (each a "**Renewal**") unless a Party notifies the other in writing at least thirty (30) days before expiration of the Term or Renewal of an intent not to renew.
- 4.2 A Party may terminate an Order on no less than five (5) business days' notice if: (a) the other materially breaches it and fails to remedy the breach within thirty (30) days after receiving written notice of it, provided that, if a longer period is reasonably required to remedy the breach and the remedy is promptly begun, such remedy period shall be extended for as long as the remedy is being diligently carried out to completion; or (b) the material breach is of a type which cannot be remedied. Notwithstanding the foregoing, if the breach is Customer's noncompliance with the AUP or with Law, Sungard AS may immediately, without liability, interrupt or suspend the Services as

necessary to avoid a violation of Law, to prevent a service interruption by an Internet service provider or other network services provider, or to protect the integrity of Sungard AS' network or the security of the Services.

- 4.3** If this Agreement or applicable Order is terminated **(a)** on account of Customer's un-remedied material breach; or **(b)** if Customer properly exercises an expressly granted right by Sungard AS to cancel an Order before the end of its Term for any reason other than Sungard AS' un-remedied material breach, then within thirty (30) days after termination, Customer shall pay to Sungard AS a termination fee, which may include: **(i)** the unamortized balance attributable to any equipment and software purchased by Sungard AS on behalf of Customer; and **(ii)** reimbursement to Sungard AS for any cancellation charges for third party services purchased by Sungard AS on behalf of Customer.
- 4.4** The sections entitled "Warranties", "Indemnities", "Limits of Liability", "Confidentiality" and "General Provisions" will survive expiration or termination of this Agreement or any applicable Order.

## INDEMNITIES

### 5.1 Sungard AS Indemnity

- (a) Scope.** Sungard AS will defend and indemnify Customer and its Affiliates, employees and agents, and hold them harmless against third-party claims that the Services, as delivered, infringe any Intellectual Property recognized under the applicable Law in the jurisdiction in which the Services are being provided, and will pay costs, expenses (including reasonable attorneys' fees), and damages finally awarded against Customer, or settlements agreed, on account of such claims.
- (b) Remedies.** If Customer's use of the Services will be enjoined—or in Sungard AS' opinion is either likely to be enjoined or that a claim, action, proceeding or suit is likely to occur due to the alleged infringing Services—Customer's sole and exclusive remedy will be for Sungard AS to: (i) replace the affected portion of the Services with a substitute that is functionally equivalent in all material aspects and free of any infringement or violation, at no additional fee; (ii) modify the Services so that they will be free of the infringement or violation; or (iii) procure for Customer a license or other right to use the Services, provided that if none of these options is commercially practical, then upon written notice to Customer, Sungard AS may terminate the affected portion of the Services in the applicable Order and Sungard AS will refund to Customer any prepaid fees for such Services that were not yet rendered.
- (c) Exclusions.** No Sungard AS indemnity obligation will extend to an alleged infringement arising out of or relating to (i) Sungard AS' adherence to a design modification, specification of hardware or software, drawing, or written instruction (including, but not limited to Sungard AS' provision of the specific components listed on any Order), which Sungard AS is directed by Customer to follow; (ii) Sungard AS' adherence to instructions to apply Customer's trademark, trade name, or other Customer identification; (iii) software, hardware or data furnished or specifically requested by Customer to Sungard AS for use under this Agreement; (iv) Customer's use of the Services in combination with other products or services, which combination was not installed, recommended, or approved by Sungard AS; or (v) any claim specified as a Customer indemnity obligation.

### 5.2 Customer Indemnity

- (a) **Scope.** Customer will defend and indemnify Sungard AS and its Affiliates, employees and agents, and hold them harmless, against third-party claims arising out of or relating to: (i) Content; (ii) Customer's improper use of the Services (including any alleged AUP violation); (iii) Customer's infringement of Intellectual Property; (iv) Customer's combination of the Services with products or services not approved by Sungard AS; and (v) Customer's modification of the Services. Customer will pay costs, expenses (including reasonable attorneys' fees), and damages finally awarded against Sungard AS, or settlements agreed, on account of such claims.
- (b) **Exclusions.** No Customer indemnity obligation will extend to any claim specified as a Sungard AS indemnity obligation.

- 5.3 Conditions.** Each Party's indemnity obligations are conditional on the other Party (a) giving prompt written notice after learning of a claim; and (b) providing the indemnifying Party sole control of the defense and settlement of the claim. The indemnified party shall provide all assistance reasonably requested by the other Party and may participate in the defense or settlement at its own expense, but will have no authority to settle a claim or admit liability without the indemnifying party's prior written consent.

#### LIMITS OF LIABILITY

- 6.1 Scope.** Each Party's total liability for all claims arising out of or related to an Order (whether in contract, tort or under any other form of liability as applicable) shall be limited in the aggregate to the total fees paid or payable during the twelve (12) months preceding the incident which gave rise to the claim. If the claim arises within the first twelve (12) months of that Order, the limit will be the aggregate of the total fees scheduled to be paid in that first year of the Order.

- 6.2 AS PART OF THE CONSIDERATION FOR SERVICES PROVIDED BY SUNGARD AVAILABILITY SERVICES AND FOR THE FEES PAID BY CUSTOMER UNDER THE AGREEMENT OR ANY ORDER, EXCEPT FOR THE EXCLUSIONS SET FORTH BELOW IN SECTION 6.3 OR OTHERWISE PROHIBITED BY LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER (WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER FORM OF LIABILITY, AND WHETHER OR NOT THE OTHER PARTY IS AWARE OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) FOR:**

- (a) CONSEQUENTIAL, INDIRECT, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES;
- (b) LOST PROFITS;
- (c) LOSS OF REVENUE;
- (d) LOSS OR CORRUPTION OF CONTENT; OR
- (e) BUSINESS INTERRUPTION.

THIS DISCLAIMER AND LIMITATION OF LIABILITY ARE MATERIAL INDUCEMENTS FOR THE PARTIES TO ENTER INTO THIS AGREEMENT AND ARE INTENDED TO SURVIVE A FINDING BY A COURT OR ARBITER THAT THE EXCLUSIVE REMEDIES UNDER THIS AGREEMENT OR ANY ORDER FAIL OF THEIR ESSENTIAL PURPOSE.

- 6.3 Exclusions.** The limitations of liability in Sections 6.1 and 6.2 will not apply to claims for:

- (a) Breach of an obligation with respect to confidentiality or publicity, in which case the aggregate direct or

consequential liability for all such claims under this Agreement will not exceed one million United States dollars (\$1 million) or the foreign exchange equivalency;

- (b) Each Party's respective indemnity obligations set forth above in Sections 5.1 (a) and 5.2 (a), in which case the aggregate direct or consequential liability for all such claims under this Agreement will be unlimited;
- (c) Breach of the other Party's Intellectual Property, in which case the aggregate direct or consequential liability for all such claims under this Agreement will be unlimited;
- (d) Fees for Services under an Order;
- (e) Bodily injury, death, or damage to real or tangible property caused by a Party's negligence, in which case the aggregate direct liability under this Agreement will be unlimited; or
- (f) Any other claims that cannot be limited or excluded under applicable law.

## GENERAL PROVISIONS

- 7.1 Acceptable Use Policy (AUP).** Customer will comply with the AUP in its use of Services and also will require its agents, contractors, customers, and employees to do so.
- 7.2 Assignment.** Either Party may assign this Agreement or any part thereof with the other Party's prior written consent, which consent will not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party not currently under notice of breach may assign this Agreement, in whole or in part, without the other Party's consent, to its Affiliate or in connection with a merger, acquisition, divestiture, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties, their respective successors and permitted assigns.
- 7.3 Choice of Law and Jurisdiction.** This Agreement and each Order shall be governed by the substantive law of the jurisdiction in which the Sungard AS entity providing the applicable Service(s) is domiciled without regard to choice or conflicts of law rules unless otherwise stated in the Order (hereafter "Governing Law Jurisdiction"). The domicile of the Sungard AS entity entering this Agreement is the Commonwealth of Pennsylvania. The Parties agree that the courts having exclusive jurisdiction to resolve all matters under the Agreement and Orders are those courts situated within the Governing Law Jurisdiction.
- 7.4 Construction.** The construction and interpretation of this Agreement will be in accordance with its explicit language and excluding the Parties' course of dealing or to usage of trade. The Parties acknowledge that the Agreement and any Order are the result of negotiation between the Parties which are represented by sophisticated counsel and therefore none of the Agreement's or Order's provisions will be construed against the drafter.
- 7.5 Waiver of Jury Trial.** Each Party waives any right to a jury trial in connection with any action arising out of or related to this Agreement or any Order.
- 7.6 Force Majeure.** Neither Party will be liable for a delay or failure in its performance caused by an occurrence

beyond its reasonable control.

- 7.7 Entire Agreement.** With respect to the terms and conditions for the Services, this Agreement contains the full understanding between the Parties and supersedes all prior representations or agreements (oral or written) between them. A purchase order (PO) is not required to be submitted by Customer to Sungard AS. If Customer elects to submit a PO, it shall be used only for invoice processing purposes and have no legal effect. Further, the absence of a PO does not lessen Customer's obligation to pay the fees specified in the Order.
- 7.8 Modification.** For a modification of this Agreement to be legally binding, it must be specified in writing and signed (either by actual or electronic signature) by both Parties.
- 7.9 Notices.** Notices will be in writing, addressed to the signatories at the addresses indicated in the Agreement and, if distinct, applicable Order, and shall be deemed to have been given upon: **(a)** personal delivery; **(b)** the second business day after first class mailing; **(c)** the first business day after sending via a reputable overnight carrier; or **(d)** the first business day after sending via email (provided email shall not be sufficient for notices of termination, breach, or an indemnity claim).
- 7.10 Publicity.** Either Party may publicly refer to the other by name as a provider or customer, as applicable, and may disclose the general nature and existence of the Agreement, but not any of its specific terms or performance information. Neither Party will issue a press release regarding the Agreement or the relationship without the other Party's review and written consent.
- 7.11 Regulatory Compliance.** Each Party will comply with all Laws applicable to it under this Agreement and any Order, including, but not limited to Laws related to data privacy, data protection, anti-corruption and export control. Customer represents that it is not doing business in sanctioned markets and/or with sanctioned individuals or parties.
- 7.12 Relationship of the Parties.** Customer and Sungard AS are independent contractors. Nothing in this Agreement creates, or is intended to create, an agency, employment, franchise, joint venture, or partnership relationship between the Parties. Each Party represents that it, its employees or agents have not received nor offered any illegal or improper bribe, kickback, payment, gift, or thing of material value from the other Party, its employees or agent in connection with the execution of the Agreement or any Order. If either Party learns of any violation of the above restriction, it will provide prompt notice to the other Party.
- 7.13 Enforcement.** Each Party acknowledges that the provisions of this Agreement regarding confidentiality and access to and use of the other Party's resources are reasonable and necessary to protect the other party's legitimate business interests and that any breach of such provisions shall result in irreparable injury to the other for which money damages could not adequately compensate. If there is a breach of such provisions, then the injured Party shall be entitled, in addition to all other rights and remedies which it may have at law or in equity, to have a decree of specific performance or an injunction issued by any competent court, requiring the breach to be cured or enjoining all persons involved from continuing the breach. The existence of any claim or cause of action that a Party (or any other person involved in the breach) may have against the other Party shall not constitute a defense or bar to the enforcement of such provisions.
- 7.14 Severability.** If any provision of this Agreement is found by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as to best accomplish the objectives of the original

provision to the fullest extent permitted by law, and the remaining provisions of the Agreement shall remain in effect.

- 7.15 Subcontractors.** Sungard AS will have the right to use subcontractors to perform any part of the Services, provided that (a) each subcontractor is legally bound by terms and conditions on Confidential Information substantially similar to those specified in this Agreement; and (b) Sungard AS remains primarily liable to Customer for all work performed by subcontractors.
- 7.16 Third-Party Beneficiary.** There are no third party beneficiaries to this Agreement, except Affiliates where expressly stated.
- 7.17 Waiver.** No waiver will be effective unless made explicit and in writing. Waiver of one breach will not constitute waiver of any other breach.
- 7.18 Counterparts and Originals.** This Agreement and Orders hereto may be executed and delivered in two or more counterparts, each of which when so executed and delivered will be deemed an original, but all of which together will constitute one and the same instrument. Once signed by an authorized signatory of a party, any reproduction of the original signature (i.e. facsimile, electronic scan, photocopy) or application of a digital signature made by a reliable means will be considered an original.

## DEFINITIONS

"**Acceptable Use Policy (AUP)**", found at <http://www.sungardas.com>, means the policy governing transmissions through, and use of, the network over which the Services are provided.

"**Affiliate**" of a party means any entity that controls, is controlled by or is under common control with such party and is providing or receiving the Services.

"**Confidential Information**" means a disclosing Party's proprietary or non-public information, including, but not limited to a Party's Intellectual Property, the terms of this Agreement or any Order, and the Services. It does not include information (a) lawfully received from third parties without confidentiality obligations to the disclosing Party; (b) in the public domain; or (c) developed without reliance on the non-disclosing Party's Confidential Information.

"**Content**" means Customer or third party data and other information provided by or through Customer to Sungard AS.

"**Intellectual Property**" means the copyrights, trademarks, patents, trade secrets and other intangible assets pertaining to the creative works, inventions and ideas of a Party or a third party.

"**Law**" means the applicable law, treaty or regulation applicable to the Services or subject matter at issue.

"**Party**" may refer to Sungard AS or Customer or their Affiliates, as applicable, and collectively they may be referred to as the "**Parties**".



## Appendix A to the Global Master Services Agreement

<b>General Service Conditions</b>
For Advanced Recovery Services, Managed Services, or Cloud Services, Sungard AS will provide technical support, problem resolution and change management in accordance with its Support and Infrastructure Guide located in the Customer Portal.
If Customer ships items to Sungard AS' facilities and such items are not installed or removed by Customer within 60 days from date of delivery, Sungard AS will return said items to Customer at the notice address listed in the applicable Order and at Customer's expense.
The Order does not create any interest in real estate and is strictly an agreement for the provision of services, which are personal in nature to the parties. Customer will not permit any Customer-related third party liens to be placed against all or any portion of the Services or any Sungard AS-provided equipment or software.
Sungard AS shall perform such janitorial services, environmental systems maintenance, power maintenance and other services as are reasonably required to maintain the Sungard AS facilities used to provide Services.
Prior to Customer's occupancy, and during the Term of the Order, Customer will procure and maintain the following minimum insurance coverage: (i) Workers' Compensation in compliance with all applicable statutes of appropriate jurisdiction; Employer's Liability with limits of \$500,000 each accident; (ii) Commercial General Liability with combined single limits of \$2,000,000 each occurrence; and (iii) "All Risk" Property insurance covering the Customer-provided equipment. Customer shall provide to Sungard AS a certificate of insurance demonstrating that it has obtained the required insurance coverage prior to Customer's use of the Services. Customer shall notify Sungard AS of any cancellation promptly. Customer shall require any contractor accessing a Sungard AS facility on its behalf to procure and maintain the same types and amounts of insurance as set forth above.
Customer will not interfere with any other Sungard AS customer's use of Sungard AS' facilities or services.
Customer represents and warrants that it has the full legal right to utilize any Customer-provided equipment and software
Within 10 business days of the termination or expiration of the Order, Customer will return, at Customer's expense, all Sungard AS-provided equipment and software (whether located at a Customer or Sungard AS facility), return Customer occupied areas within a Sungard AS facility in the same condition as received (reasonable wear and tear excepted), and remove all Customer-provided equipment and software. If Customer fails to remove its equipment and software as required, Sungard AS will provide notice to Customer, and Customer will have 10 additional business days from the date of Sungard AS' notice to remove all Customer-provided equipment and software. Upon expiration of the foregoing notice period, Sungard AS may dispose of such equipment and any Customer data or applications without liability to Customer. Sungard AS may redeploy any Sungard AS-provided equipment in any manner in its sole discretion and shall delete all Customer software and data residing on such equipment before redeployment.
In the event Customer has not contracted for Operational Support Services, to the extent requested by Customer, Sungard AS will provide the requested Operational Support Services at Sungard AS' then current hourly rate.
Customer will reasonably cooperate with Sungard AS, as requested from time to time, in connection with Sungard AS' change, delivery, or improvement of the Services. Sungard AS will not be responsible for service delivery issues related to Customer's failure to reasonably cooperate.
Sungard AS may deploy technology to support Sungard AS' internal monitoring and reporting platform. The settings and configurations associated with such technology will be managed and maintained by Sungard AS. Sungard AS will not be responsible for failing to meet a relevant SLA due to Customer modifications to the settings, accounts or configurations of such technology.
Customer must apply all security patches within 28 calendar days of the patch release. If the patch is not applied within the



foregoing timeframe, Sungard AS will apply the patch and shall not be responsible for any service delivery issues, including the failure to meet a relevant SLA.
Customer has sole control and visibility over the types of data stored as part of the Services and therefore, has sole responsibility for ensuring that the Services it purchases allows Customer to comply with applicable Laws or other requirements related to the storage, security, or processing of the same, including, but not limited to, those relating to data protection or payment card information.
Promptly following the execution of the applicable Order, Customer agrees to make its technical staff available, as reasonably required by Sungard AS, to review and document the requirements and timelines for implementation of the Services. In the event: (i) Customer does not make its staff available or otherwise does not participate in the pre-implementation planning; (ii) as a result of the planning, a material change in the scope or requirements is discovered; or (iii) the original design of the solution jointly agreed by the Parties creates a failure in the Services which needs to be corrected, then Sungard AS will not be liable for any failure to implement the Services and Customer shall remain liable for payment of the fees identified in the Order on the due dates set out therein. If any change to the Services is required as a result of (i)-(iii) above, an amendment to the applicable Order must be executed.
Sungard AS' global delivery and operational model is in English language only. Sungard AS can only provide and support this Service for systems with English language and locales. Any Customer systems with the presence of anything other than English will be removed from scope and Sungard AS will not be responsible to provide alternative solutions.

<b>SLAs General</b>
If Sungard AS fails to meet the same SLA 3 times within any 12 month period, Customer may terminate the Order by providing Sungard AS advance written notice no later than 60 days following the third SLA failure.
All VM and Application Availability SLA calculations are based on a calendar month period.
If Sungard AS fails to meet an SLA, Customer is entitled to receive the applicable credit as Customer's sole monetary remedy.
In no event will the total credits for all occurrences during a month exceed the Order's then current Monthly Fee.
Credits and termination rights accrue solely with respect to the root or primary SLA failure and not for SLA failures that occur as a result of a root or primary SLA failure.
Sungard AS will not be responsible for the failure to meet an SLA if the failure is caused by: <ul style="list-style-type: none"> <li>• A breach of the Agreement by Customer, its employees, subcontractors or agents ("Customer representatives");</li> <li>• The negligence or intentional acts or omissions of Customer or Customer Representatives (including Customer retention of root or admin access and changes to data or configurations);</li> <li>• Customer requiring Sungard AS to continue to maintain or utilize unsupported software or hardware releases;</li> <li>• Scheduled or emergency maintenance (including upgrades, repair or component replacement or scheduled backups) or other mutually agreed-to downtime. Scheduled maintenance on Sungard AS' shared infrastructure, applications, and platforms ("Lifecycle Maintenance") is currently scheduled every third Sunday during the hours of 01:00am and 06:00am (local time) and no further notice to Customer is required. If Sungard AS changes its Lifecycle Maintenance window, Sungard AS will provide Customer with 30 days' advance notice;</li> <li>• The absence of a patch, repair, policy, configuration or maintenance change recommended by Sungard AS but not approved by Customer, or configurations or architectures that are not supported or recommended by the applicable vendor;</li> <li>• Failure of the Customer's software or hardware, except where Sungard AS is responsible under the applicable Order for the management or operation of the same, or where such failure results from a breach by Sungard AS of its obligations under the applicable Order;</li> </ul>



**CONFIDENTIAL**

Agreement Number: 6003558540

- Except in the case of Enterprise Cloud Services, equipment malfunction (provided said equipment has been maintained by Sungard AS in accordance with the terms of the Agreement), or the failure of any software to perform in accordance with its specifications ("Software Failure") and such Software Failure is not caused by Sungard AS' negligence, willful misconduct or failure to maintain a maintenance contract on such software. In the event of a Software Failure, if in the reasonable discretion of Sungard AS and Customer, such Software Failure cannot be corrected, Customer may, as its sole and exclusive remedy, terminate the Order without penalty, upon written notice to Sungard AS;
- In the case of Managed Cloud – Hosted Private Services, issues arising from IOPs performance normalized to anything other than a 4K block size.



**ADDITIONAL INFORMATION**

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Office of Technology (WVOT) to establish an open-end contract for mainframe disaster recovery services. The objective of the disaster recovery service is to restore essential functioning capacity at a remote location. In the event of an emergency and for regular testing, these services will support the Agency's function at the remote location, per the terms and conditions and specifications as attached.

DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Contract Service #1 - Recovery Center Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Modal#
81112004			

**Extended Description :**

5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Contract Service #2 - Network Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Modal#
81112004			

**Extended Description :**

5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

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DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 <b>KANA'WHA BLVD E</b> , BLDG 510TH FLOOR CHARLESTON WV25305 US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 <b>KANAWHA BLVD E</b> CHARLESTON WV 25305 US

Una	CommInDesc	Qty	Unit Issue	Unit Price	Total Prtce
3	Contract Service #3 - Agcy Declaration of DR/Iner. Connect.	1.00000	EA		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.3 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity - The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

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Line	CommInDesc	Qty	Unit Issue	Unit Price	Total Price
4	Contract Service #4 - Recovery Center - Usg Rate for 3 Days	3.00000	DAY		

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Dlnn:rlptlon :**

5.1.3.4 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for quantity of three (3) days.

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DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 <b>KANAVVHA BLVD E</b> , BLDG 510TH FLOOR CHARLESTON WV25305 US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 <b>KANAWHA BLVD E</b> CHARLESTON WV 25305 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Contract Service #5 Recovery Center - Extended Usg Rate	1.00000	DAY		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Opt Renewal Y2- Contr Srv #1 - Recovery Center Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :**

5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Opt. Renewal Y2 - Contr Srv #2 - Network Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

<b>IMVO 1"</b>	<b>Wffl'TO</b>
DEPARTMENT OF <b>ADMINISTRATION</b> OFFICE OF TECHNOLOGY 1900 <b>KANAWHA</b> BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 <b>US</b>	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 <b>KANAWHA</b> BLVD E CHARLESTON WI/ 25305 <b>US</b>

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	Opt. Renewal Y2 - Contr Svr #3 - Agcy DCL of DR/Iner. Connec	1.00000	EA		

Comm Code	Manufacturer	Specification	Model /
81112004			

**Extended Description :**

5.1.3.3 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity - The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

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DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 <b>US</b>	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 <b>US</b>

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Opt. Renewal Y2 - Contr Srv #4 - Rcvy Cntr/Usg Rate - 3 Days	3.00000	DAY		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.4 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for quantity of three (3) days.

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DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 <b>US</b>	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 <b>US</b>

Line	CommLnDeac	Qty	Unit Issue	Unit Price	Total Price
10	Opt Renewal Y2 - Contr Srv #5 - Rcvy Cntr-Extended Usg Rate	1.00000	DAY		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

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DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON                      \JW25305  US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 <b>KANAWHA</b> BLVD E CHARLESTON                      \JW 25305  US

Linc	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	Opt. Renewal Y3 - Contr Srv #1 - Recovery Center Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

!INVOICE TO	aHIPTO
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON                      WJ25305  US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON                      \JW 25305  US

Lina	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	Opt Renewal Y3 - Contr Srv #2 - Network Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

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DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
13	Opt Renewal Y3 - Contr Svr #3 - Agcy DCL of DR/Iner. Connec	1.00000	EA		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description:**

5.1.3.3 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity - The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

<b>twVOICHTO</b>	<b>SHIPTO</b>
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
14	Opt. Renewal Y3 - Contr Srv #4 - Rcvy Cntr/Usg Rate - 3 Days	3.00000	DAY		

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :**

5.1.3.4 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency Immediately upon Agency-Declaration for quantity of three (3) days.

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DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 <b>KANAWHA</b> BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US

Line	CommLnDesc	Qty	Unit Issue	Unit Price	Total Price
15	Opt. Renewal Y3 - Contr Srv #5 - Rcvy Cntr-Extended Usg Rate	1.00000	DAY		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description:**

5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

Invoice To	City	State	Zip	Country
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	CHARLESTON	WV	25305	US
1S&C • CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US	CHARLESTON	WV	25305	US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
16	Opt. Renewal Y4 - Contr Srv #1 - Recovery Center Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description:**

5.1.3.1 Contract Service #1: Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

Invoice To	City	State	Zip	Country
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	CHARLESTON	WV	25305	US
IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US	CHARLESTON	WV	25305	US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
17	Opt Renewal Y4 - Contr Srv #2 - Network Access	12.00000	MO		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.3.2 Contract Service #2: Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 510TH FLOOR CHARLESTON WV25305 US	8111PTO IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
18	Opt. Renewal Y4 - Contr Svr #3 - Agcy DCL of DR/Iner. Connec	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
81112004			

**Extended Description :**

5.1.33 Contract Service #3: Agency Declaration of Disaster Recovery and Increased Network Connectivity-The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and including increased network connectivity.

DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 US	8111PTO IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
19	Opt Renewal Y4 - Contr Srv 114 - Rcvy Cntr/Usgr Rate - 3 Days	3.00000	DAY		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description :**

5.1.34 Contract Service #4: Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for quantity of three (3) days.

DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 US	8111PTO IS&C - CHIEF FINANCIAL OFFICER DEPARTMENT OF ADMINISTRATION BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25305 US
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Line	CommLnDesc	Qty	Unit Issue	Unit Price	Total Price
20	Opt Renewal Y4 - Contr Srv #5 - Rcvy Cntr-Extended Usgr Rate	1.00000	DAY		

Comm Code	Manufacturer	Specification	Model#
81112004			

**Extended Description:**

5.1.3.5 Contract Service #5: Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days.

## **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.

[ZJA 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 nonbinding.

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

Question Submission Deadline: April 25, 2018 at 9:00 AM (EST)

Submit Questions to: **Jessica Chambers**  
2019 Washington Street, East  
Charleston, WV 25305  
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)  
Email: [Jessica.S.Chambers@wv.gov](mailto:Jessica.S.Chambers@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: Jessica Chambers  
SOLICITATION NO.: CRFO ISC1800000012  
BID OPENING DATE: 5/03/2018  
BID OPENING TIME: 1:30 PM (EST)  
FAX NUMBER: (304)558-3970

The Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. Submission of a response to an Expression of Interest or Request for Proposal is not permitted in wvOASIS.

**For Request For Proposal ("RFP") Responses Only:** In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus \_\_\_\_\_ convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID *TYPE*: (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).

Bid Opening Date and Time: **May 3, 2018 at 1:30 PM (EST)**

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

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

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

**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.

**18. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

**19. NON-RESPONSIBLE:** The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules§ 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform, or lacks the integrity and reliability to assure good-faith performance."

**20. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules§ 148-1-4.5. and§ 148-1-6.4.b."

**21. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ SA-3-1 et seq., 5-22-1 et seq., and SG-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

**DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.**

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

**22. INTERESTED PARTY DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$100,000, the vendor must submit to the Purchasing Division a disclosure of interested parties to the contract, prior to contract award. That disclosure must occur on the form prescribed and approved by the WV Ethics Commission. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission.

"Interested parties" means: { 1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors; (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract; and (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency: Provided, That subdivision (2) shall be inapplicable if a business entity is a publicly traded company: Provided, however, That subdivision (3) shall not include persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.

**23. WITH THE BID REQUIREMENTS:** In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

## 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. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.

**2.3. "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.

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

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

**2.6. "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.

**2.7. "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

**2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as contextrequires.

**2.9. "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 contextrequires.

**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:

### **IZJ 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 delivered to the Agency and then 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. Unless otherwise specified below, 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 the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

**D Alternate Renewal Term** - This contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

**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.

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

**D 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 of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for \_\_\_\_\_ year(s) thereafter.

**O 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.

**D Other:** See attached.

Revised 02/16/2018

**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.

**0 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.

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

**I|Z| 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.

**0 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. 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.

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

**DBID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid 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.

**0 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.

**O 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. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

**D 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.

**O 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. [Reserved]**

**11. LIQUIDATED DAMAGES:** 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. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

\_\_\_\_\_ for \_\_\_\_\_

**D**Liquidated Damages Contained in the Specifications

**12. ACCEPTANCE:** Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

**13. 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.

**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. 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.

**16. 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.

**17. ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

**18. 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.

**19. 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 §148-1-5.2.b.

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

**21. 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.

**22. COMPLIANCE WITH LAWS:** 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 laws, regulations, and ordinances.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

**23. 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.

**24. 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). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

**25. 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 tenn, 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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.

**30. 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.

**31. PRIVACY, SECURITY, AND 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>.

**32. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code § § 29B-1-1 et seq.

**DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.**

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

**33. LICENSING:** In accordance with West Virginia Code of State Rules § 148-1-6.1.e, 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. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. 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.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

**34. 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 Stafo of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

**35. 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.

**36. 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.

**37. 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.

**38. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5-22-1(i), the contracting public entity shall not award a contract for a construction project to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees. Accordingly, prior to contract award, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

**39. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by 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"). Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. 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.

**40. 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.

**41. 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.regquisitions@wy.gov](mailto:purchasing.regquisitions@wy.gov).

**42. 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

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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.

**43. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § SA-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 § SA-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 of such operations, from steel made by the open hearth, 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.

**44. 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, (i) 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.

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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.

**45. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$100,000, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. "Interested parties" means: (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors; (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of: the applicable contract; and (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency: Provided, That subdivision (2) shall be inapplicable if a business entity is a publicly traded company: Provided, however, That subdivision (3) shall not include persons or business entities performing legal services related to the negotiation or drafting of the applicable contract. The Agency shall submit a copy of the disclosure to the Ethics Commission within 15 days after receiving the supplemental disclosure of interested parties.

**DESIGNATED CONTACT:** Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

John Gray, Regional Account Manager  
\_\_\_\_\_  
(Name, Title)  
\_\_\_\_\_  
Sungard AS  
\_\_\_\_\_  
john.gray@sungardas.co  
\_\_\_\_\_  
m  
\_\_\_\_\_  
(513) 265-3883  
\_\_\_\_\_

**CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated 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.

\_\_\_\_\_  
(Sungard AS)  
\_\_\_\_\_  
John Gray  
\_\_\_\_\_  
(Authorized Signature) (Representative Name, Title)  
\_\_\_\_\_  
(Printed Name and Title of Authorized Representative)  
\_\_\_\_\_  
5/10/18  
\_\_\_\_\_  
513-265-3883  
\_\_\_\_\_

REQUEST FOR QUOTATION  
**Mainframe Disaster Recovery Services**

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**SPECIFICATIONS**

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Office of Technology (WVOT) to establish an open-end contract for mainframe disaster recovery services. The objective of the disaster recovery service is to restore essential functioning capacity at a remote location. In the event of an emergency and for regular testing, these services will support the Agency's function at the remote location.
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 **"Business Hours"** means Monday - Friday 8:00 AM to 5:00 PM EST excluding weekends and Federal and State holidays, which are as follows:

- New Year's Day (January 1)
- Martin Luther King Day (Third Monday in January)
- President's Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- West Virginia Day (June 20)
- Independence Day (July 4)
- Labor Day (First Monday in September)
- Columbus Day (Second Monday in October)
- Veterans Day (November 11)
- Thanksgiving (Fourth Thursday in November)
- Day After Thanksgiving (Fourth Friday in November)
- Christmas Day (December 25)

2.2 **"CICS"** means Customer Information Control System

2.3 **"Contract Services"** means to provide mainframe disaster recovery services as more fully described in these specifications.

2.4 **"GB"** means gigabyte: 1,000,000,000 bytes of data.

2.5 **"IFL"** means Integrated Facility for Linux, a central processor dedicated to Linux workloads.

2.6 **"LC"** means Lucent Connector

2.7 **"LPAR"** means Logical Partition allowed by the (PRISM)

2.8 **"MIPS"** means million computer instructions per second.

2.9 **"OSA ports"** means Open System Adapter ports

REQUEST FOR QUOTATION  
Mainframe Disaster Recovery Services

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- 2.10 **"PR/SM"** means Processor Resource/System Manager in IBM mainframe terminology refers to virtual partitions.
- 2.11 **"Pricing Page"** means the pages, contained wvOASIS or attached hereto as Exhibit C, upon which Vendor should list its proposed price for the Contract Services.
- 2.12 **"Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
- 2.13 **"SX SFP"** means Small Form Factor Pluggable. SX transceivers allow for a maximum distance of 550m at 1.25 Gbits.
- 2.14 **"TB"** means terabyte: 1,000,000,000,000 bytes of data
- 2.15 **"VMLPAR"** means Virtual Machine Logical Partition

**3. CURRENT ENVIRONMENT:**

- 3.1. The West Virginia Office of Technology Data Center provides server and storage services to multiple West Virginia agencies. Exhibit A provides a list of hardware and enterprise server software utilized by the WVOT Data Center. Exhibit B provides a summary of the equipment in the current operating environment for the agency's mainframe.

**4. QUALIFICATIONS:** Vendor, or Vendor's staff if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:

- 4.1. The Vendor shall have at least three (3) years of experience in assisting clients of comparable size in recovering IBM mainframe-based applications at its recovery center(s). The Vendor must provide documentation upon request.
- 4.2. The Vendor shall adhere the Internal Revenue Service's IRS Publication 1075 Requirements. Upon request, the Vendor shall provide proof in the form of an internal or a third-party audit that applicable security controls have been validated.
- 4.3. The Vendor shall be Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health (HITECH) compliant. An executed BAA (see Appendix 1) will be required prior to award.

**5. MANDATORY REQUIREMENTS:**

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

REQUEST FOR QUOTATION  
Mainframe Disaster Recovery Services

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**5.1.1 Recovery Center Requirements**

- 5.1.1.1** The Vendor shall provide an alternate processing facility/ disaster recovery center available to the Agency for use in scheduled disaster recovery testing and, immediately, in the event of an Agency-declared disaster.
- 5.1.1.2** Recovery services in support of the Agency shall be concentrated at a single recovery center. The recovery center shall be located no further than 500 miles from the customer's site, which is located at 1900 Kanawha Boulevard East, Charleston, WV 25305. Considering the imperatives of prompt system restoration, and the uncertainties of post-disaster transportation, the Agency deems 500 miles to be the maximum distance its recovery team can travel to reach the recovery center and still have adequate time to rebuild its system.
- 5.1.1.3** The Vendor shall maintain technical compatibility with the Agency as the Agency upgrades hardware, software, and network configurations during the life of the contract resulting from this solicitation. The Agency will notify the Vendor of such upgrades, and the Vendor shall work with the Agency to update the contract as Change Orders may be required.
- 5.1.1.4** The Agency's current operating environment listed in Exhibit Bis not static, but a dynamic one. Environment changes include, but are not limited to, changes in MIPS, processors, storage, connectivity, and / or bandwidth. The Vendor must support the Agency's environment changes as Change Orders may be required.
- 5.1.1.5** At no additional cost, the Agency shall have access to, and use of, the vendor's recovery center, and equipment configuration as specified in Exhibit B, for up to 80 hours each year, in order to test its disaster procedures. The Agency anticipates performing one inclusive test each calendar year, but it reserves the right to perform multiple tests. In either case, the total test-time will not exceed 80 hours a year.
- 5.1.1.6** The Agency will consult with the Vendor in scheduling test time. The Vendor shall provide the Agency with a scheduled block of test time within 30 days of Agency request. The vendor will provide a starter system with a base SMS configuration for the TS7740 environment. The Agency's testing shall include, but not be limited to: loading and testing the Agency's mainframe operating systems, restoration of the State's backbone network,

REQUEST FOR QUOTATION  
**Mainframe Disaster Recovery Services**

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restoration of critical State applications and databases, batch processing, and communications testing.

- 5.1.1.7** Immediately upon the conclusion of each of the Agency's tests and actual disaster recovery events, the vendor shall perform a minimum initialization of the Direct Access Storage Device (DASD) volumes that were used by the Agency. If the Agency requires a more thorough erasure of its data from DASD, the Agency will be responsible for performing the task, and will perform it after each test (within the 80-hour window) or immediately upon the conclusion of any actual disaster recovery event.
- 5.1.1.8** The Vendor shall provide technical support personnel, including systems programmers and network engineers, to assist the Agency in the planning of tests, and during events at the recovery facility. The same support shall be available to the Agency 24/7 during tests and customer-declared disasters.
- 5.1.1.9** The Agency will ship a router to the Vendor after award of bid. The Vendor shall provide rack space, power, and a quantity of two (2) 1Gb network connections, install the router, house it in a secure cabinet, and ensure that it remains fully operational at all times. At the time of a scheduled disaster recovery test or declared disaster, the Vendor shall provide Internet connectivity for the router, and a connection to the Vendor-provided Cisco GbE layer 3 switch with a minimum of four (4) ports available for Agency use. The Vendor shall, upon Agency request, provide the exact cabinet location of the router.
  - 5.1.1.9.1** For the purpose of disaster recovery testing and declaration of disaster, the Vendor must provide a Cisco GbE layer 3 switch since WVOT network engineers have subject matter expertise with this product line. This will prevent delays in configuring an alternative manufacturer's switch when trying to recover time sensitive data.
- 5.1.1.10** The Agency will utilize the Internet for connectivity to the Vendor's facility. The Vendor will permit all IP and protocol traffic.
- 5.1.1.11** The Vendor will allow Generic Routing Encapsulation (GRE) over an Internet Protocol (IP) internetwork.

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**Mainframe Disaster Recovery Services**

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**5.1.1.12** The Vendor must allow all protocols necessary to maintain internet protocol security (IPSec) connection.

**5.1.1.13** The recovery center shall feature uninterruptible power supply (UPS) units, batteries, diesel generators, redundant transformers, redundant chillers/air conditioners, smoke and water detectors, fire suppression systems, 24-hour guard service, and closed-circuit TV monitoring.

**5.1.1.13.1** The Vendor must provide documentation validating these requirements prior to award.

**5.1.1.14** The Vendor shall provide the Agency with office facilities during testing and disasters. The facilities shall be located at the recovery center and shall include at least 600 square feet of office space, chairs, work surfaces, terminals connected to the recovery CPU, at least six (6) telephones connected to long-distance service, a printer, and Internet access.

**5.1.1.15** The Vendor shall provide an overview of its proposed recovery center. The overview shall include at least a written description of the facility and should include photographs of the facility; driving directions to the facility from the Agency's site at 1900 Kanawha Boulevard East, Charleston, WV; driving directions to the facility from nearby airports; and a map(s) indicating the location of the facility, recommended routes, and nearby lodging upon request.

**5.1.1.16** The Vendor shall provide a computer that has pre-configured access to the Web Specialist GUI on the 7740 Virtual Tape System (VTS). The Vendor shall provide the computer by the beginning of the disaster recovery test and / or as soon as a disaster is declared.

## **5.1.2 Pre-Test Specifications**

**5.1.2.1** At least two weeks prior to the start of disaster recovery tests, the Vendor shall provide the Agency with the names, phone numbers, electronic mail (e-mail) addresses, and hours of availability, of individuals who will be assisting the Agency, remotely, in preparation for the test, and at the recovery center during the test. The Vendor shall also indicate who will be available to provide similar assistance to the Agency, at the recovery site, during hours outside of prime shift (8:00 a.m.- 5:00 p.m.) and shall provide similar contact information for those individuals.

**5.1.2.2 Modem Test:** Approximately 12 hours prior to a scheduled disaster recovery test, the Vendor shall work with the Agency's networking

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staff to facilitate an end-to-end mini-test to ensure connectivity between the Agency's modem and the recovery center's modem and router. After successful connectivity to the disaster recovery center's modem and router, the Agency will remotely configure the router located at the recovery center.

**5.1.2.3 Router Test:** At the start of the disaster recovery test, the Agency and the Vendor shall work together to establish connectivity between the Agency's data center and the Vendor.

**5.1.2.4** After the conclusion of the disaster recovery test, the Vendor shall save the Agency's router settings. The Vendor shall load the configuration during the Agency's next mini-test, disaster recovery test, or Agency-declared disaster.

**5.1.3 Contracted Services**

**5.1.3.1 Contract Service #1:** Recovery Center Access - Vendor must provide the recovery center for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**5.1.3.1.1** The current operating environment of the Agency's mainframe is listed in Exhibit B - Equipment Summary of Agency's Mainframe - Current Operating Environment The Vendor must provide the equivalent capacity at the recovery center.

**5.1.3.2 Contract Service #2:** Network Access - The Vendor must provide the recovery center with the following networking related services for scheduled testing, and immediately upon Agency-Declaration of a disaster for a minimum of 12 months from the date of award.

**5.1.3.2.1** The annual Disaster Recovery test, the Vendor shall provide ingress to \ egress from DR site at rate of no less than 100Mbps.

**5.1.3.2.2** Vendor must provide a quantity of one (1) remote secure console port access to agency-owned router as specified in Section 5.1.1.9.

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**5.1.3.2.3** Vendor must install and house one (1) agency-owned router per Section 5.1.1.9.

**5.1.3.2.4** Vendor must provide the Agency with a quantity of ten (10) non-RFC 1918 IP addresses.

**5.1.3.3 Contract Service #3:** Agency Declaration of Disaster Recovery and Increased Network Connectivity-The Vendor shall provide the Agency with the cost of a disaster recovery declaration fee and increased network connectivity.

**5.1.3.3.1** In the event of a declared disaster, the vendor shall provide ingress to\ egress from the DR site at the rate of no less than 500Mbps, with the ability to adjust upward as the workloads dictate.

**5.1.3.4 Contract Service #4:** Recovery Center Usage Rate - The Vendor shall provide access to the Recovery Center to the Agency immediately upon Agency-Declaration for a minimum of three (3) calendar days.

**5.1.3.5 Contract Service #5:** Extended Recovery Center Daily Usage Rate - The Vendor shall provide the Agency with the option to extend usage of the Recovery Center for a daily rate after the initial three (3) days as defined in 5.1.3.4.

**6. CONTRACT AWARD:**

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

**CONTRACT WILL BE AWARDED BY TOTAL BID AMOUNT, HOWEVER, INITIAL CONTRACT PERIOD WILL BE FOR A PERIOD OF ONE YEAR.**

Renewal options for years 2, 3, and 4 will be initiated by the Agency, agreed to by the Vendor and processed by the West Virginia Purchasing Division as Change Orders for subsequent years.

**6.2 Pricing Page:** Vendor must complete the Pricing Page by providing the monthly cost for contract service items #1 through #2 and unit cost for contract items #3 through #5.

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Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Vendor should type or 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: [Jessica.S.Chambers@wv.gov](mailto:Jessica.S.Chambers@wv.gov).

Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

7. **PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.
8. **PAYMENT:** Agency shall pay a monthly rate for Contract Service items #1 and #2, a flat rate for Contract Service items #3 and #4, and a daily rate for Contract Service item #5 if emergency extends beyond the initial three days as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
9. **TRAVEL:** Vendor shall be responsible for all Vendor mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
10. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:
  - 10.1. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.
  - 10.2. Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
  - 10.3. Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.
  - 10.4. Anyone performing under this Contract will be subject to Agency's security protocol and procedures.
  - 10.5. Vendor shall inform all staff of Agency's security protocol and procedures.

REQUEST FOR QUOTATION  
Mainframe Disaster Recovery Services

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**11. VENDOR DEFAULT:**

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

- 11.1.1. Failure to perform Contract Services in accordance with the requirements contained herein.
- 11.1.2. Failure to comply with other specifications and requirements contained herein.
- 11.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 11.1.4. Failure to remedy deficient performance upon request.

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

- 11.2.1. Immediate cancellation of the Contract.
- 11.2.2. Immediate cancellation of one or more release orders issued under this Contract.
- 11.2.3. Any other remedies available in law or equity.

**12. MISCELLANEOUS:**

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

**Contract Manager:** John Gray Telephone

**Number:** 513-265-3883

**Fax Number:** \_\_\_\_\_

**Email Address:** \_

john.gray@sungardas.com-----  
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**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software**  
**Effective: 05/08/17**

<b>CPU</b>		
1	IBM zBC12 (Model 2828-H06) capacity setting U02 downgraded to S02 Enterprise Server also containing two IFLs and one zIIP engine	
<b>DASO</b>		
1	EMC Symmetrix	VMAX 20K with 15 TB and 4 FICON Ports,
1	S2-3D	VMAX 20K DELTA INFRAST
8	S2-DE15-DIR	VMAX 20K 15SLT DR ENCL
1	S2-64D-BASE	VMAX 20K BASE-64GB with Encryption
52	MF4151461B	VMAX 20K 4G 15K 146GB Drives
52	MF4153001B	VMAX 20K 4G 15K 300GB Drives
2	S2-FE00040E	VMAX 20K 8Gb 4M FIC
4	S2-FE00040E	VMAX 20K 8Gb 4M FIC
2	S2-ACON3P-50	ADPTR AC 3PH SOA W/3/41N CONDUIT ADPTR
2	S2-PCBL3DHR	SOA 3PH DELTA HBL-RSTOL
1	ESRS-GW-20	EMC SECURE REMOTE SUPPORT GATEWAY CLIENT
1	PP-SE-SYM	PPATH SE SVM
1	SYMM-LS-SN	SYMM LICENSE SOLUTION PSNT
1	457-002-011	ENGINUITY FOR VMAX 20K BASE LICENSE
22	456-006-065	ENGINUTIY FOR VMAX 20K N-S 15-25TB
22	456-106-480	ADV SW SUITE 20K NON-SATA 15-25TB=CB
1	S2-0B-DIR-3D	VMAX 20K SB DIR DELTA
1	S2-08-SPS	VMAX 20K SB SPS
22	V-MF-1LR02	VMAX MNFRM PKGL 20K SWR REG 1TB 15-25TB
<b>VTL (CHAS)</b>		
1	3957-VEA	TS7720 Virtualfzation Engine Server
2	201	9 Micron LC/LC 31 Meter
2	1033	1Gb Grid Dual Port Optical SW Connection
1	2715	Console Attachment
2	3442	FICON LW Attachment
1	4015	Grid Enablement
1	5268	100 MB/sec Increment
1	9000	Mainframe Attachment
1	9268	100 MB/sec Throughput
1	9461	8GB Memory Upgrade
1	3956-CSS	TS7720 SATA Cache Controller

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software**  
**Effective: 05/08/17**

1	7114	32TB SATA Storage
2	3956-XS7	TS7720 SATA Cache Module
2	7114	32TB SATA Storage
1	3952-F0S	Tape Frame
1	1903	Dual AC Power
1	1904	Redundant AC Power
1	2732	TS3000 System Console
1	2733	Internal Modem
1	5759	Integrated Control Path
1	7322	TS7720 Base Frame
1	9954	NEM A LG-30 Power Cord
VTL (FLATI)		
1	3957-V06	TS7740 Vrtualization Engine Server
		--
2	201	9 Micron LC/LC 31 Meter
2	1033	1Gb Grid Dual Port Optical SW Connect ion
1	2715	Console Attachment
2	3442	FICON LW Attachment
1	4015	Grid Enablement
1	5240	Dual Port FC HBA
1	5267	1TB Cache Enablement
1	5268	100MB/sec Increment
1	9000	Mainframe Attachment
1	9219	TS3500 Attach
1	9461	8GB Memory Upgrade
1	9900	Encryption Configuration
1	3956-CCS	TS7740 Cache Controller
1	7123	9.6TB Fibre Storage
1	3952-F0S	Tape Frame
1	1903	Dual AC Power
1	1904	Redundant AC Power
1	2732	TS3000 System Console
1	2733	Internal Modem
1	5759	Integrated Control Path
1	7312	TS7700 Base Frame

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software  
Effective: 05/08/17**

1	9954	NEMA L6-30 Power Cord
1	3584-L23	TS3S00 Tape Library
6	1515	3592 Fibre Drive Mounting Kit
1	1659	16 Additional 3592 Slots
1	1692	Entry ALMS
1	1693	Intermediate ALMS
1	1694	Full ALMS
1	1950	Power Distribution Unit
1	2710	Remote Support Facility
1	2732	TS3000 System Console
1	2733	Internal Modem
1	4871	TS7700 BE SW Mounting Hardware
1	<b>4872</b>	TS7700 BE 4Gb Switch
1	9217	Attach to 3953 LM/TS7700
1	9700	No Host Cables from Plant
1	9954	Nema 16-30 Power Cord
1	9900	Encryption Configuration
6	3592-E05	IBM TS1120 Tape Drive
12	6013	13 Meter LC/LC Fibre Channel Cable
6	9000	zSeries ESCON/FICON Attachment
6	9216	zSeries Linux Attachment
6	9592	Encryption Capable
1	35999-014	IBM Tape Cartridge 3592 Extended Data
10	4020	20 Pack 3592 Extended Data Cartridges
1	3599-017	3592 Tape Cartridge (cleaning)
2		5 Pack Cleaner Cartridges
<b>Printers</b>		
2		IBM InfoPrint 4000 Printer (Models 1D1/1D2)
1		Xerox DocuTech 128 Highlight Printer- cut sheet
<b>Supplementary Printing Equipment</b>		
2		Roll Systems 800152 Unwinder
2		Roll Systems 800162 Folder/Job Separator
2		Roll Systems 501254 Output Unloader
1		Roll Systems 503176 Cutter
1		Roll Systems 503410 Trimmer
1		Roll Systems 500777 Stacker

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software  
Effective: 05/08/17**

1	Roll Systems 50386601 Web Handler
<b>Communications Equipment</b>	
1	<b>Cisco 6513 (10GBB)</b>
1	Cisco Nexus C7010
10	Cisco FEX

<b>IS&amp;C DATA CENTER ENTERPRISE SERVER SOFTWARE</b>	
<b>Effective 05/08/17</b>	
<b>VENDOR/SOFIWARE</b>	<b>FUNCTION</b>
<b>IBM</b>	
z/OS	Operating System
Version 2, Release 1 <b>(5694-A01)</b>	
<b>RMF</b> <b>V2 ,R2</b> (5694-A01}	Provides basis for tuning the system to user requirements and tracks resource utilization
DFSMS/DFP /DSS/HSM V2 , R2 (5694-A01)	Provides data management, device support, program library management, utility functions, user and system catalog support, hierarchical storage manager, and dataset services for ESA operating system
<b>SMP/E</b> V36,R67 <b>(5694-A01)</b>	Supports software changes and new functions, corrective and preventative service, and user modifications in ESA
z/OS Security Server (RACF) <b>V2 ,R2</b> (5694-A01)	Security server
EREP V2, R2 <b>(5654-260)</b>	Reports on hardware/software exceptions and conditions
SecureWay Communications Server V2, R2	Telecommunications access met hod.

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software  
Effective: 05/08/17**

<b>(5694-A0I)</b>	
TSO/E	Allows users to Interactively share computer time and resources
<b>V2,R2</b>	
<b>(5694-A0I)</b>	
<b>z/VM</b>	Operating system (z/VM).
<b>V6, R3</b>	
<b>(5741-A0S)</b>	
<b>D82</b>	Relational database management system that allows definition, access, and recovery of data.
<b>VIO, RI.0</b>	
<b>(5675-D82)</b>	
CICS Transaction Server for z/OS	Transaction processor
<b>V4, R2.0</b>	
<b>(5655-MIS)</b>	
D82 Connect Unlimited Edition for Linux & z Series V9.7 & V10.5	Allows remote access to D82 mainframe databases.
InfoPrint Server	Supports remote printing
V2, R2	
<b>(5694-A0I)</b>	
AFP Collection Fonts	Advanced function printing
V4,RS	
<b>(5648-113)</b>	
Page Printer Formatting Aids/370	Advanced function printing
VI, RI.0	
(5688-190)	
Overlay Generation Language	Advanced function printing
(OGL/370)	
VI, RI.0	
(5688-191)	
Print Services Facility	Advanced function printing
<b>V4,RS</b>	
(5655-M32)	

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software**  
**Effective: 05/08/17**

ACIF	Indexing facility for PSF
V4 ,RS	
(5655-M32)	
DFSORT	Sort and merge
V2 ,R2	
(5694-A0I)	
Enterprise COBOL for z/OS	Programming language
V4 ,R2	
(5655-G53)	
High Level Assembler	Language base required in operating system
V2,R2	
(5694-A0I)	
SDSF	Productivity aid used in conjunction with ISPF/PDF (TSO)
V2 ,R2	
(5694-A0I)	
SDFII/TICS	CJCS screen definition facility
VI,R4	
(5665-366)	
ISPF	TSO programmer productivity aid
V2,R2	
(5694-A0I)	
OS/PL/1 Optimizer, Compiler	PI/1 compiler with optimizer
V2, R3.0	and Library
(5668-910)	
GDDM/MVS	Graphical data display manager
V2,R2	
(5694-A0I}	
HTTP Server	Web Server
VS.3	
(5694-A0I)	
Tivoli Media Manager	TSM for z/OS Media

**Exhibit A: 1S&C Data Center Hardware & Enterprise Server Software**  
**Effective: 05/08/17**

V6.3.2	
(5698-201)	
z/OS C/C++ Compiler	Compiler
V2, R2	
<b>(5694-AOI}</b>	
Ported Tools for z/OS	Provides secure encryption for remote login to the z/OS shell and to
VI, R3	remote file transfer
(5655-M23)	
DITTO/ESA for MVS	Tape utility
<b>V1.03</b>	
<b>(56S5-103}</b>	
XML Toolkit for z/OS	<u>Assists</u> in creating, integrating, <u>an.!</u> <u>m int aining</u>
<b>VI.10</b>	business-tobusiness solutions (open source code)
(5655-JSI)	
<b>AF/OPERATOR</b>	Data Center Automation
<b>V340</b>	
<b>ISKLM</b>	Encryption key-manager
<b>V1.1.0</b>	
64 bit SOK z/OS	Java software development kit
<b>V7, RI</b>	
<b>(5655-R32)</b>	
<b>31 bit SOK z/OS</b>	Java software development kit
<b>V7, RI</b>	
<b>(5655-R31)</b>	
<b>ASG</b>	
The Monitor for CJCS	CICS performance monitor
<b>V3.3</b>	
The Monitor for D82	DB2 performance monitor
<b>VS.a</b>	

## Exhibit A: IS&C Data Center Hardware & Enterprise Server Software

**Effective: 05/08/17**

ViewDirect for MVS	Report distribution
<b>V6.70</b>	
Document Direct	Report distribution for the client
<b>V4.4.2</b>	
(for DHHR use only... with JPMorgan Chase)	
Connect: Direct for z/OS	Host-to-Host file transfer
VS, R2.00	
BMC Software	
Control-M	Batch job scheduler
VS.0.03	
Control-M/Restart	Batch job restart facility
<b>VS.0.03</b>	
Chicago-Soft	
MVS/QuickRef	Online message and code reference
R7.9	
Computer Associates	
CA-UNICENTER TNG	Common services and enabling technology for CA systems management solutions
R14 SPOI	
CA-PMA/LOOK	Real-time system performance measurement
<b>R7.1</b>	
CA-1	Tape management system
R14SP0	
CA-InterTest	CRCS source code tool
R8.5	
	--

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software**  
**Effective: 05/08/17**

<b>CA-N-VISION/TPX</b>	VTAM session manager
RS.4	
<b>CA-LIBRARIAN/VS</b>	User source code library
<b>V4.4</b>	
Plan Analyzer	DB2 development aids
Unicenter PPA V16	
Batch Processor	DB2 development aids
Unicenter RBP V16	
RC/Migrator	DB2 development aids
Unicenter RCM V16	
RC/QUERY	D82 development aids
Unicenter RCQ V16	
RC/Secure	D82 development aids
Unicenter RCS V16	
RC/Update	D82 development aids
Unicenter RCU V16	
Info-Refiner	0B2 development aids
<b>Advantage</b> INFOREF V16	
PRF	D82 development aids
Adv. Rept. Facility V16	
VISION:RESULTS	4GL information management and report generator
R12.0	
VISION:Sixty	Fixed-form report generator and extended utility
R12.0	
SYSVIEW Realtime Performance	Monitor and manage mainframe MVS and CICS resources
Management Option for CICS	
<b>R14.2</b>	
SYSVIEW Realtime Performance	Monitor and manage mainframe D82 resources

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software  
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Management Option for DB2 R19.0	
Dovetailed Technologies	Adds functionality to openSSH. Enhanced SFTP.
Co:2 Toolkit 3.5.1	
MacKinney Systems	
Batch To CICS V1.6	Allows programmers to <i>move</i> all or part of files in and Out of CJCS via TSO
<b>KWIK-KEY</b> <b>R3.3</b>	VSAM alternate index builder
<b>CICS/MORNING NEWS</b> <b>R3.1</b>	Broadcasts news to CICS users
CICS/MESSAGE RS.1	Sends messages to terminals, userids, and operator consoles
Merrill Consulting	
<b>MXG</b> <b>R34.01</b>	SAS-based capacity and performance planning software
Novell	
Linux	Operating System
SLES 10 and SLES 11	SUSE Linux Enterprise Server
Oracle	
Oracle 9i,10G, and 11g <b>R9.2.0.3.0</b>	Relational data base management system
Pitney Bowes	

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software  
Effective: 05/08/17**

StreamWeaver	Provides added prfnt design functionality
R6.61	
Software AG (for DHHR use only)	
<b>ADABAS</b>	Relational database facility
<b>RS.3.2</b>	
ADABAS CICS Interface	Relational database facility
RS.1.3	Upgrade to RS.3.1 in progress
NATURAL	Software development tool
R4.2.S	Upgrade to RB.2.5 in progress
NATURAL CICS Interface	Software development tool
R4.2.S	Upgrade to RB.2.5 in progress
NATURAL Security	Software development tool
R4.2.S	Upgrade to RS.2.5 in progress
NATURAL TSO Interface	Software development tool
R4.2.5	Upgrade to RB.2.5 in progress
NATURAL for DB2	Software development tool
R4.2.5	Upgrade to R8.3.2 in progress
PREDICT	Data dictionary
R4.S.2	Upgrade to RB.2.3 in progress
SYSTEM MAINTENANCE AID	Software installation tool
Ri.1.2	
EntireX Broker	Messaging Server
R8.0.1	Upgrade to R9.7.0 in progress
SAS Institute	
<b>SAS</b>	Statistical analysis, data creation, report writing
R9.4M2	

**Exhibit A: IS&C Data Center Hardware & Enterprise Server Software  
Effective: 05/08/17**

<b>SAS ACCESS/D82</b>	D82 Interface
<b>R9.4 M2</b>	
<b>SAS/FSP</b>	Editing procedure for SAS datasets
<b>R9.4 M2</b>	
<b>SAS/SHARE</b> (for DOT use only)	SAS file updating tool
<b>R9.4</b>	
Serena International	
<b>COMPAREX</b>	Compares, and highlights the difference between, two files of any structure or organization
R6.2.0	
Serena StarTool FDM	Multipurpose online utility
<b>V7.7.1</b>	
SourceForge	
CPS Tools for Developers	Mainframe tools for capacity planning and SMF evaluation
Tibco	
CyberFusion MFT 7.1	Managed file transfer platform server

## Exhibit B: Equipment Summary - Current Operating Environment of the Agency's Mainframe

line Item	Quantity	Part Number	Product Description
1	1	IBM z-Series Enterprise Server	Capable of at least 872 MIPS utilizing, at a minimum 2 CP processors, 2 IFIs, 1 ZIIP, 144 GB of memory; partitioned using PR/SM into two LPARs; with a dynamic storage area of up to 8000 KB (for use on CICS): LPAR1 (z/OS production LPAR) LPAR2 (VM LPAR)
2	1	Enterprise Storage Server	Configured with 15TB of usable storage Server capable of supporting both 3390-9 and 3390-3 types of full-volume storage; and capable of performing; at a minimum, 3500 I/Os per second.
3	1	IBM 3957-V06	TS7740VTS
4	1	IBM 3584-L23	TS3500 Tape Library, capable of supporting IBM 3592 extended-data tape cartridges
5	6	IBM 3592-E0S	IBM TS1120 Tape Drives
6	200	IBM 3592 1/0 slots	Slots for extended-data tape cartridges
7	6	PC Workstations	For use as operator consoles and TN3270 sessions
8	1	OSA Express 5S GbE SX (2 Ports)	Total of 2 ports.
9	2	OSA Express 5S 1000 Base-T (2 Ports)	Total of 4 ports
10	4	OSA Express 5S 10 GbE SR (1 Port)	Total of 4 ports

11	1	Block IP Addresses	/29
12	1	Internet Bandwidth	minimum of 100 Mbps
13	1	CISCO GbE Switch	Configuration:WS-C3560G-24TS-S Catalyst 3560 2410/100/1000T + 4 SFP Standard Image; 2 GLC-SX-MM= GE SFP, LC connector SX transceivers; fiber cables as required to connect the switch to the OSA ports on the recovery enterprise server.
14	1	CISCO SMARTNET	24X7X4 for above equipment

## Exhibit B: Equipment Summary - Current Operating Environment of the Agency's Mainframe

Line Item	Quantity	Part Number	Product Description
1	1	IBM z-Series Enterprise Server	Capable of at least 872 MIPS utilizing, at a minimum 2 CP processors, 2 IFLs, 1 ZIIP, 144 GB of memory; partitioned using PR/SM into two LPARs; with a dynamic storage area of up to 8000 KB (for use on CICS): <b>LPAR1 (z/OS production LPAR)</b> <b>LPAR2 (VM LPAR)</b>
2	1	Enterprise Storage Server	Configured with 15TB of usable storage Server capable of supporting both 3390-9 and 3390-3 types of full-volume storage; and capable of performing, at a minimum, 3500 I/Os per second.
3	1	IBM 3957-VOG	TS7740VTS
4	1	IBM 3584-L23	TS3S00 Tape Library, capable of supporting IBM 3592 extended-data tape cartridges
5	6	IBM 3592-E0S	IBM TS1120 Tape Drives
6	200	IBM 3592 1/0 slots	Slots for extended-data tape cartridges
7	6	PC Workstations	For use as operator consoles and TN3270 sessions
8	1	OSA Express SS GbE SX (2 Ports)	Total of 2 ports.
9	2	OSA Express SS 1000 Base-T (2 Ports)	Total of 4 ports
10	4	OSA Express SS 10 GbE SR (1 Port)	Total of 4 ports

11	1	Block IP Addresses	/29
12	1	Internet Bandwidth	minimum of 100 Mbps
13	1	CISCO GbE Switch	Configuration:WS-C3560G-24TS-S Catalyst 3560 2410/100/1000T+ 4 SFP Standard Image; 2 GLC-SX-MM= GE SFP, LC connector SX transceivers; fiber cables as required to connect the switch to the OSA ports on the recovery enterprise server.
14	1	CISCO SMARTNET	24X7X4 for above equipment

**EXHIBIT C - Pricing Page**  
**Mainframe Disaster Recovery Services - OT18037**

Note to Vendors: The Pricing Page Is locked. Only the column for Unit Costs is unlocked.

Services#	Description	Measure	Unit Cost	Quantity	Price
5.1.3.1	<b>Contract Service #1-</b> Recovery Center Access - The Vendor must provide equivalent capacity of Exhibit B - Equipment Summary - Current Operating Environment of Agency's Mainframe at the recovery center.	Monthly		12	\$
5.1.3.2	<b>Contract Service #2-</b> Network Access	Monthly		12	\$
5.1.3.3	<b>Contract Service #3 -</b> Agency Declaration of Disaster Recovery and Increased Network Connectivity	Each		1	\$
5.1.3.4	<b>Contract Service #4 -</b> Recovery Center - Usage Rate for three (3) days	Days		3	\$
5.1.3.5	<b>Contract Service #5 -</b> Recovery Center - Extended Usage Rate - after the initial three (3) days	Day		1	\$
5.1.3.1	<b>Optional Renewal Year 2: Contract Service #1-</b> Recovery Center Access - The Vendor must provide equivalent capacity of Exhibit B - Equipment Summary of Agency's Mainframe at the recovery center.	Monthly		12	\$
5.1.3.2	<b>Optional Renewal Year 2: Contract Service #2 -</b> Network Access	Monthly		12	\$

5.1.3.3	<b>Optional Renewal Year 2: Contract Service #3</b> -Agency Declaration of Disaster Recovery and Increased Network Connectivity	Each		1	\$	-
5.1.3.4	<b>Optional Renewal Year 2: Contract Service #4</b> - Recovery Center - Usage Rate for three (3) days	Days		3	\$	-
5.1.3.5	<b>Optional Renewal Year 2: Contract Service #5</b> - Recovery Center - Extended Usage Rate - after the intital three (3) days	Day		1	\$	-
5.1.3.1	<b>Optional Renewal Year 3: Contract Service #1</b> - Recovery Center Access - The Vendor must provide equivalent capacity of Exhibit B - Equipment Summary of Agency's <b>Mainframe</b> at the recovery center.	Monthly		12	\$	-
5.1.3.2	<b>Optional Renewal Year 3: Contract Service #2</b> - Network Access	Monthly		12	\$	-
5.1.3.3	<b>Optional Renewal Year 3: Contract Service #3</b> -Agency Declaration of Disaster Recovery and Increased Network Connectivity	Each		1	\$	-
5.1.3.4	<b>Optional Renewal Year 3: Contract Service #4</b> - Recovery Center - Usage Rate for three (3) days	Days		3	\$	-
5.1.3.5	<b>Optional Renewal Year 3: Contract Service #5</b> - Recovery Center- Extended Usage <b>Rate</b> - after the intital three (3) days	Day		1	\$	-
5.1.3.1	<b>Optional Renewal Year 4: Contract Service #1</b> - Recovery Center Access - The Vendor must provide equivalent capacity of Exhibit B - Equipment Summary of Agency's Mainframe at the recovery center.	Monthly		12	\$	-

5.1.3.2	<b>Optional Renewal Year 4: Contract Service #2 - Network Access</b>	Monthly		12	\$	-
5.1.3.3	<b>Optional Renewal Year 4: Contract Service #3 - Agency Declaration of Disaster Recovery and Increased Network Connectivity</b>	Each		1	\$	-
5.1.3.4	<b>Optional Renewal Year 4: Contract Service #4 - Recovery Center - Usage Rate for three (3) days</b>	Days		3	\$	-
5.1.3.5	<b>Optional Renewal Year 4: Contract Service #S - Recovery Center - Extended Usage Rate - after the initial three (3) days</b>	Day		1	\$	-
					<b>TOTAL COST</b>	\$

**Please note: This information is being captured for auditing purposes.**

Contract will be evaluated on an lines but only awarded on first year. Renewal options for years 2, 3, and 4 will be initiated by the Agency, agreed to by the Vendor and processed by the West Virginia Procurement Division and Canceled Orders for subsequent years.

<b>Vendor Signature:</b>				<b>Date:</b>	

**WV STATE GOVERNMENT**

**HIPAA BUSINESS ASSOCIATE ADDENDUM**

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum (the "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 "HIPAAU"). 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. 111<sup>th</sup> 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 of 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 either 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 H/PAA, 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 obligation 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 3J. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. Agents. Subcontractors 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](http://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](mailto: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 my 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 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 omissions by the Associate, except where Associate or its subcontractor, workforce or agent is 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 Safes.** 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:  
Sungard AS

Name of Associate: John Gray

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Title \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Form: WVBAA-012004  
Amended 06.26.2013

APPROVED AS TO FORM THIS 2/12/13  
BY OF 2/12/13 20 13  
Patrick Morrisey  
Attorney General

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. PHI not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Associate: John Gray

Name of Agency: Sungard AS

Describe the PHI (do not include any actual PHI). If not applicable, please indicate the same.

## Appendix A - PHI Description

**Describe the PHI. If not applicable, please Indicate the same.**

PHI data elements that are stored on the WVOT IBM mainframe:

- Name
- Address
- Dates related to an individual
- Telephone numbers
- Fax number
- Email address
- Social Security number
- Medical record number
- Health plan beneficiary number
- Account number
- Certificate/license number
- Any vehicle or other device serial
- Device identifiers or serial numbers
- Web URL
- Internet Protocol (IP) address
- Finger or voice prints
- Photographic images
- Any other characteristic that would uniquely Identify the individual

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**CONSTRUCTION CONTRACTS:** Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on *any* monetary obligation owed to the state or a political, subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

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

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

**DEFINITIONS:**

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

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

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

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, 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**: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_, to wit:

Taken, subscribed, and sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission expires \_\_\_\_\_, 20\_\_.

**AFFIX SEAL HERE**

**NOTARY PUBLIC** \_\_\_\_\_



Date: 5/10/18 \_\_\_\_\_

Title: \_\_\_\_\_

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

## West Virginia Ethics Commission



### Disclosure of Interested Parties to Contracts

Pursuant to *W Va. Code* § 6D-1-2, a state agency may not enter into a contract, or a series of related contracts, that has/have an actual or estimated value of \$100,000 or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract. In addition, the business entity awarded a contract is obligated to submit a supplemental Disclosure of Interested Parties reflecting any new or differing interested parties to the contract within 30 days following the completion or termination of the applicable contract.

For purposes of complying with these requirements, the following definitions apply:

*"Business entity"* means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership or corporation.

*"Interested party" or "Interested parties"* means:

- (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors;
- (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract. (This subdivision does not apply to a publicly traded company); and
- (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency. (This subdivision does not apply to persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.)

*"State agency"* means a board, commission, office, department or other agency in the executive, judicial or legislative branch of state government, including publicly funded institutions of higher education: Provided, that for purposes of *W. Va. Code* § 6D 1-2, the West Virginia Investment Management Board shall not be deemed a state agency nor subject to the requirements of that provision.

The contracting business entity must complete this form and submit it to the contracting state agency prior to contract award and to complete another form within 30 days of contract completion or termination.

*This form was created by the State of West Virginia Ethics Commission, 210 Brooks Street, Suite 300, Charleston, WV 25301-1804. Telephone: (304)558-0664; fax: (304)558-2169; e-mail: [ethics@wv.gov](mailto:ethics@wv.gov); website: [www.ethics.wv.gov](http://www.ethics.wv.gov).*

*Revised October 7, 2017*

West Virginia Ethics Commission  
**Disclosure of Interested Parties to Contracts**

(Required by *W Va. Code* § 6D-1-2)

**Contracting Business Entity:** \_\_\_\_\_ **Address:** \_\_\_\_\_  
\_\_\_\_\_

**Authorized Agent:** \_\_\_\_\_ **Address:** \_\_\_\_\_

**Contract Number:** \_\_\_\_\_ **Contract Description:** \_\_\_\_\_

**Governmental agency awarding contract:** \_\_\_\_\_

**D Check here if this is a Supplemental Disclosure**

List the Names of Interested Parties to the contract which are known or reasonably anticipated by the contracting business entity for each category below (*attach additional pages if necessary*):

**1. Subcontractors or other entitles performing work or service under the Contract**

**D** Check here if none, otherwise list entity/individual names below.

**2. Any person or entity who owns 25% or more of contracting entity (not applicable to publicly traded entities)**

**D** Check here if none, otherwise list entity/individual names below.

**3. Any person or entity that facilitated, or negotiated the terms of, the applicable contract (excluding legal services related to the negotiation or drafting of the applicable contract)**

**D** Check here if none, otherwise list entity/individual names below.

Signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

***Notary Verification***

State of \_\_\_\_\_, County of \_\_\_\_\_

**I**, \_\_\_\_\_, the authorized agent of the contracting business entity listed above, being duly sworn, acknowledge that the Disclosure herein is being made under oath and under the penalty of perjury.

Taken, sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Notary Public's Signature

**To be completed by state Agency:**

Date Received by State Agency: \_\_\_\_\_

Date submitted to Ethics Commission: \_\_\_\_\_

Governmental agency submitting Disclosure: \_\_\_\_\_

*Revised October 7, 2017*