



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

State of West Virginia
 Centralized Request for Quote
 Fuels

RECEIVED
 03/22/21 11:14:18
 WV PURCHASING DIVISION

Proc Folder: 853102		Reason for Modification:	
Doc Description: FUEL - TANKER WAGON STATEWIDE CONTRACT (FUELW21)		CMA FUELW21 Solicitation	
Proc Type: Statewide MA (Open End)			
Date Issued	Solicitation Closes	Solicitation No	Version
2021-03-09	2021-03-24 13:30	CRFQ 0212 SWC2100000014	2

BID RECEIVING LOCATION

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

VENDOR

Vendor Customer Code: 000000 202498
 Vendor Name: Tri State Petroleum Corp.
 Address :
 Street : 2627 Vance Avenue
 City :
 State : Wheeling Country : US Zip : 26003
 Principal Contact : Cheryl Rogers
 Vendor Contact Phone: 304-277-3232 Extension: 220

FOR INFORMATION CONTACT THE BUYER
 Mark A Atkins
 (304) 558-2307
 mark.a.atkins@wv.gov

Vendor Signature X *Cheryl L. Rogers* FEIN# 55-0544468 DATE 3/18/2021

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

ADDITIONAL INFORMATION

ADDENDUM_1: Is issued for the following:

1. To publish the Purchasing Divisions' response to the questions submitted by Vendors during the Technical Questioning period.

No other changes made.

Statewide Contract Request for Quotation

The West Virginia Purchasing Division is soliciting bids on behalf of the State of West Virginia to establish an open-end contract for Tank Wagon (T/W) delivery of Motor and Heating Fuels per the attached documents.

The Contract may be utilized by West Virginia State agencies and all political subdivisions of the State in all fifty-five (55) counties. This was originally solicited as: SWC170000011 and bids opened on: 02/22/2017. Bid Results may be viewed at: <http://www.state.wv.us/admin/purchase/Bids/FY2017/BO20170222.html>

This contract may be awarded to multiple vendors.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Motor and Heating Fuels - Tanker Wagon Delivery	0.00000			

Comm Code	Manufacturer	Specification	Model #
15100000			

Extended Description:

Note: Vendor shall complete Exhibit_A Pricing Page(s) for bid pricing and must attach with bid.

If vendor is submitting a bid online, Vendor should enter \$0.00 in the Oasis commodity line.

See section 18 of Instructions to Bidders for additional information.

SCHEDULE OF EVENTS

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Technical Questions due by 10:00am EST;	2021-03-12

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ 0212 SWC2100000014

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

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

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Tri State Petroleum Corp
Company
Cheryl Rogus
Authorized Signature
3/18/2021
Date

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

SOLICITATION NUMBER: CRFQ 0212 SWC2100000014
Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as CRFQ 0212 SWC2100000014 (“Solicitation”) to reflect the change(s) identified and described below.

Applicable Addendum Category:

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

Description of Modification to Solicitation:

- 1. To publish the Purchasing Divisions’ response to the questions submitted by Vendors during the Technical Questioning period.**

No other changes made.

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

Terms and Conditions:

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

Question #1: We might bid on district 3 and need to know if there are any underground tanks used in that district.

Response #1: Per Specification 6.2 DELIVERY LOCATION; The Purchasing Division does not have access to this information. The vendor must be prepared to delivery Tank Wagon deliveries to any location within the quoted District. This will include the ability to provide fuel in both above ground and below ground tanks.

Question #2: Under #6 DELIVERY AND RETURN, 6.3, the trucks we would use to deliver fuel to District 3 locations do not have vapor recovery on them. If any tanks in that district are underground, that would change things for us.

Response #2: Please see response #1.

Question #3: Also, under 6.2 DELIVERY LOCATION, 6.2.1, it states that our drivers are required to stick tanks, however, in the past in District 6. Our drivers have been reprimanded by the safety personnel at a couple of DOH location for being on top of tanks. How do we handle this situation?

Response #3: The requirement will remain. Any delivery location that desires to prevent this requirement will need to forward their concerns to the DOH District buyer and the DOH Central Purchasing Group for assistance.

Question #4: Specification 3.1.2 Diesel Fuel requiring a minimum Cetane Rating of 50. Is this a typo error? Previous contracts have had cetane ration at 40. Very few fuels at the terminal level will have a Cetane of 50.

Response #4: This is not a typographical error. The minimum Cetane Rating of 50 for diesel fuel will remain as required. Minimum Cetane Rating of 50 is recommended by ASTM and by diesel engine manufacturers.



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

State of West Virginia
 Centralized Request for Quote
 Fuels

Proc Folder: 853102		Reason for Modification:	
Doc Description: FUEL - TANKER WAGON STATEWIDE CONTRACT (FUELW21)		Addendum_1	
Proc Type: Statewide MA (Open End)			
Date Issued	Solicitation Closes	Solicitation No	Version
2021-03-15	2021-03-24 13:30	CRFQ 0212 SWC2100000014	3

BID RECEIVING LOCATION

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

VENDOR

Vendor Customer Code:

Vendor Name :

Address :

Street :

City :

State : **Country :** **Zip :**

Principal Contact :

Vendor Contact Phone: **Extension:**

FOR INFORMATION CONTACT THE BUYER
 Mark A Atkins
 (304) 558-2307
 mark.a.atkins@wv.gov

Vendor
Signature X **FEIN#** **DATE**

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

ADDITIONAL INFORMATION

ADDENDUM_1: Is issued for the following:

1. To publish the Purchasing Divisions' response to the questions submitted by Vendors during the Technical Questioning period.

No other changes made.

Statewide Contract Request for Quotation

The West Virginia Purchasing Division is soliciting bids on behalf of the State of West Virginia to establish an open-end contract for Tank Wagon (T/W) delivery of Motor and Heating Fuels per the attached documents.

The Contract may be utilized by West Virginia State agencies and all political subdivisions of the State in all fifty-five (55) counties. This was originally solicited as: SWC1700000011 and bids opened on: 02/22/2017. Bid Results may be viewed at: <http://www.state.wv.us/admin/purchase/Bids/FY2017/BO20170222.html>

This contract may be awarded to multiple vendors.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Motor and Heating Fuels - Tanker Wagon Delivery	0.00000			

Comm Code	Manufacturer	Specification	Model #
15100000			

Extended Description:

Note: Vendor shall complete Exhibit_A Pricing Page(s) for bid pricing and must attach with bid.

If vendor is submitting a bid online, Vendor should enter \$0.00 in the Oasis commodity line.

See section 18 of Instructions to Bidders for additional information.

SCHEDULE OF EVENTS

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Technical Questions due by 10:00am EST:	2021-03-12

	Document Phase	Document Description	Page
SWC2100000014	Final	FUEL - TANKER WAGON STATEWIDE CONTRACT (FUELTW21)	3

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

SOLICITATION NUMBER: CRFQ 0212 SWC2100000014

Addendum Number: 2

The purpose of this addendum is to modify the solicitation identified as CRFQ 0212 SWC2100000014 (“Solicitation”) to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error: Page two (2) of the Addendum_1 Response containing questions 5 and 6 was inadvertently omitted in the first addendum.
- Other

Description of Modification to Solicitation:

1. To publish the Purchasing Divisions’ response to the questions submitted by Vendors during the Technical Questioning period. Page two (2) of the Addendum_1 Response containing questions 5 and 6 was inadvertently omitted in the first addendum.

No other changes made.

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

Terms and Conditions:

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

Question #5: Can you tell me if you will be requiring the districts to order their fuel under a purchase system that would result in us being paid by check?

Response #5: The Purchasing Division cannot enforce upon any user of the contract a specific payment method. Vendors must be prepared to accept all forms of payment such as EFT, Check, and Pcard. See General Terms & Conditions section 15 "Payment Methods" for further information.

Question #6: If a Pcard method of payment is utilized, would the State accept a convenience fee that would cover the cost of the credit card processing fees that we incur?

Response #6: The issuance of a separate convenience fee is prohibited for any payment method. The State can only pay the single contracted price submitted in the vendors bid response. Any fees not specifically identified and permitted to be itemized separately in the solicitation must be included in the vendor's markup per gallon bid pricing.

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

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

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

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

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

A **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 individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying 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: March 12, 2021 due by 10:00am EST

Submit Questions to: Mark Atkins, Senior Buyer
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)
Email: Mark.A.Atkins@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: Fuel- Tanker Wagon
BUYER: Mark Atkins
SOLICITATION NO.: CRFQ 0212 SWC210000014
BID OPENING DATE: 03/24/2021
BID OPENING TIME: 1:30pm EDT
FAX NUMBER: 304-558-3970

Revised 02/10/2021

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 a 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 N/A 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: March 24, 2021 @ 1:30pm EDT

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. ALTERNATE MODEL OR BRAND: Unless the box below is checked, 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.

This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

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 be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at:

<http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

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 §§ 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.

22. INTERESTED PARTY DISCLOSURE: West Virginia Code § 6D-1-2 requires that the vendor submit to the Purchasing Division a disclosure of interested parties to the contract for all contracts with an actual or estimated value of at least \$1 Million. That disclosure must occur on the form prescribed and approved by the WV Ethics Commission prior to contract award. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

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 context requires.

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 context requires.

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

Term Contract

Initial Contract Term: This Contract becomes effective on Upon Award and the initial contract term extends until One (1) Year.

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)

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.

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

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

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

Other: See attached _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for “Fixed Period Contract” or “Fixed Period Contract with Renewals” has been checked in Section 3 above. If either “Fixed Period Contract” or “Fixed Period Contract with Renewals” has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the contract via change order to memorialize the official date that work commenced.

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

Open End Contract: Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

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

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

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

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

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

BID 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.

PERFORMANCE BOND: The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

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.

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.

LICENSE(S) / CERTIFICATIONS / PERMITS: In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

Specification 3.2.2 - Vendor must provide proof that it is licensed by the West Virginia State Tax Department as a Motor Fuel Transporter, Motor Fuel Distributor, or Motor Fuel Importer. Should provide proof with bid but will be required prior to contract award.

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

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of: \$1,000,000.00 per occurrence.

Automobile Liability Insurance in at least an amount of: \$250,000.00 per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

Commercial Crime and Third Party Fidelity Insurance in an amount of: _____ per occurrence.

Cyber Liability Insurance in an amount of: _____ per occurrence.

Builders Risk Insurance in an amount equal to 100% of the amount of the Contract.

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

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 _____

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. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: 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. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

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 term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

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.

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. 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>.

31. 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.

32. 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.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. 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.

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

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, 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.

38. 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”), provided that both the Other Government Entity and the Vendor agree. 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. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

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

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

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

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

41. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider’s employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Revised 02/10/2021

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

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

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
- c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

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

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a

“substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

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

44. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, 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. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

45. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

REQUEST FOR QUOTATION
CRFQ 0212 SWC210000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELTW21)

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the State of West Virginia to establish an open-end contract for Tank Wagon (T/W) delivery of Motor and Heating Fuels as defined below.

The Contract may be utilized by West Virginia State agencies and all political subdivisions of the State in all fifty-five (55) counties. This was originally solicited as: SWC1700000011 and bids opened on: 02/22/2017. Bid Results may be viewed at: <http://www.state.wv.us/admin/purchase/Bids/FY2017/BO20170222.html> .

Current Operating Environment:

The State has been divided geographically into ten (10) Districts (which are the same as the ten (10) State of West Virginia DOH Districts). See **Exhibit_B** and are as follows:

- District 1:** Mason, Putnam, Kanawha, Clay and Boone counties.
District 2: Cabell, Wayne, Lincoln, Logan and Mingo counties.
District 3: Pleasants, Wood, Ritchie, Wirt, Calhoun, Roane, and Jackson counties.
District 4: Doddridge, Harrison, Marion, Taylor, Monongalia, and Preston counties.
District 5: Grant, Hardy, Mineral, Hampshire, Morgan, Berkeley and Jefferson counties.
District 6: Tyler, Wetzell, Marshall, Ohio, Brooke and Hancock counties.
District 7: Gilmer, Barbour, Lewis, Braxton, Upshur and Webster counties.
District 8: Tucker, Randolph, Pendleton and Pocahontas counties.
District 9: Nicholas, Fayette, Greenbrier, Summers and Monroe counties.
District 10: Raleigh, Wyoming, McDowell and Mercer counties.

NOTE: Vendors must provide Tank Wagon (T/W) deliveries to any location within the vendors quoted District. Submitting a bid for a District represents the vendor's express agreement to deliver to any location within that district as required.

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
- 2.1 “Contract Item”, “Contract Items”, or “Fuel”** means the list of items identified in Section 3.1 below and on the Pricing Pages.
- 2.2 “Pricing Pages”** means the schedule of prices, estimated order quantity, and totals contained in wvOASIS or attached hereto as Exhibit A, and used to evaluate the Solicitation responses.

REQUEST FOR QUOTATION
CRFQ 0212 SWC210000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUELW21)

- 2.3 “Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
- 2.4 “E10 Fuel”** means E10, a mixture of 10% anhydrous ethanol and 90% gasoline.
- 2.5 “Cetane Rating”** CN means (C₁₆H₃₄) is an indicator of the combustion speed of diesel fuel and compression needed for ignition. It is an inverse of the similar octane rating for gasoline. The Cetane Number is an important factor in determining the quality of diesel fuel and is determined by ASTM D 613-86 “Ignition Quality of Diesel Fuel by the Cetane Method”.
- 2.6 “Motor Fuel Transporter”** means an entity licensed as a Motor Fuel Transporter with the State of West Virginia to transport motor fuel outside the bulk transfer terminal system by means of transport vehicle.
- 2.7 “Motor Fuel Distributer”** means an entity licensed as a Motor Fuel Distributer with the State of West Virginia to acquire motor fuel within West Virginia and distribute it within West Virginia.
- 2.8 “Motor Fuel Importer”** means an entity licensed as a Motor Fuel Importer with the State of West Virginia to purchase fuel outside West Virginia and delivers it inside West Virginia.
- 2.9 “Tank Wagon”** means a 2500 to 4500-gallon delivery vehicle.
- 2.10 “Tank Truck”** means a 5000 to 11500-gallon delivery trailer. Combination Tractor and Trailer.
- 2.11 “OPIS”** means Oil Price Information Service as published by United Communications Group, 1300 Rockville Pike, Suite 1100, Rockville, MD, 20852 1-800-929-4824. 9737 Washingtonian Blvd., Suite 200, Gaithersburg, MD. 20878 1.888.284.2000

3. GENERAL REQUIREMENTS:

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

REQUEST FOR QUOTATION
CRFQ 0212 SWC210000014
Miscellaneous Motor & Heating Fuels – Tanker Wagon
(FUEL TW21)

3.1.1 UNLEADED GASOLINE:

3.1.1.1 Unleaded Gasoline must comply with the most recent ASTM D 4814-07b “Standard Specification for Automotive Spark-Ignition Engine Fuel.”

3.1.1.2 Unleaded Gasoline must be compatible with octane 87

3.1.1.3 E10, Ethanol (87 Octane minimum) shall be an acceptable fuel for unleaded gasoline. Whenever E-10 is delivered it must be noted as such on the Vendor’s Invoice at time of delivery.

3.1.1.4 Unleaded Gasoline must be free from water, grit, acid, and fibrous or other foreign matter. Vendor is responsible for straining the Gasoline to ensure compliance with this subsection.

3.1.1.5 Unleaded gasoline must also be free from contamination. State Agencies and Political Subdivisions shall reserve the right to sample, inspect and test fuel quality in accordance with Federal Specifications upon delivery, prior to unloading. The supplier will allow samples to be taken prior to discharging of product into tanks. Should test results show fuel contains contamination, it will be rejected. Samples will be taken without prior notices.

3.1.1.6 Contamination is defined as any element which enters pure refined product either naturally or by purposeful action which is not a product of refined crude oil with the exception of winter additives, detergents, and identifying dyes.

3.1.1.7 Unleaded Gasoline not meeting specifications is unacceptable and must be removed from tank at vendor’s expense.

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3.1.2 DIESEL FUEL

3.1.2.1 Diesel Fuel shall comply with the most recent version of ASTM D 975-07b “Standard Specification for Diesel Fuel Oils” except the Cetane Rating (CN) shall be a minimum of 50, maximum of .05 weight of sulfur, a maximum aromatic content of 35 volume percent, and free of visible evidence of blue dye 1.4 dialkylamine-anthraquinone.

3.1.2.2 Diesel Fuel cloud points must be complying as below
TYPE II +10F
TYPE II Ultra Low Sulphur

3.1.2.3 Diesel Fuel shall be an Ultra-Low Sulfur all-purpose diesel fuel intended for use in all automotive type diesel engines under normal conditions of service.

3.1.2.4 Diesel Fuel must be free from water, grit, acid, and fibrous or other foreign matter. Vendor is responsible for straining the Diesel Fuel to ensure compliance with this subsection.

3.1.2.5 Diesel Fuel must also be free from contamination. State Agencies and Political Subdivisions shall reserve the right to sample, inspect and test fuel quality in accordance with Federal Specifications upon delivery, prior to unloading. The supplier will allow samples to be taken prior to discharging of product into tanks. Should test results show fuel contains contamination, it will be rejected. Samples will be taken without prior notices. Contamination is defined as any element which enters pure refined product either naturally or by purposeful action which is not a product of refined crude oil with the exception of winter additives, detergents, and identifying dyes

3.1.2.6 Only clear (white) low sulfur diesel fuel is acceptable.

3.1.2.7 A bio-based fuel component not to exceed 5.0 Percent is acceptable.

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3.1.3 SPECIAL DIESEL REQUIREMENTS:

3.1.3.1 During the period of November 1st to February 28th agencies may require winterized diesel motor fuels. If required, the diesel fuel shall be blended with a permissible diesel additive to reduce operability parameters (cloud point, cold filter plug point) and to increase winter operability, maintaining State/Federal mandated regulatory specifications for on-road diesel fuel.

Any after-market additive used shall be identified by brand or trade name and manufacturer's purchase/exchange. An additive, if used shall be Environmental Protection Agency (EPA) approved, and compatible with the refiner's product. Additives which increase emissions of sulfur and other substances proven to damage the environment which are disallowed by the EPA regulations will not be accepted.

3.1.3.2 Diesel Fuel not meeting specifications is unacceptable and must be removed from tank at vendor's expense.

3.1.4 HEATING OIL/KEROSENE:

3.1.4.1 Heating Oil must be Grade #1 or Grade #2, fuel oil for various types of fuel burning equipment.

3.1.4.2 Heating Oil specifications must meet the specifications of ASTM Heating Oil D396-08 "Standard Specification for Fuel Oils" the most recent edition.

3.1.4.3 The Heating Oil herein specified shall be hydrogen oils free from grit, acid and fibrous or other foreign matter.

3.1.4.4 Vendor must strain Heating Oil through a filter or wire of 16 mesh per inch. (U.S. Standard sieve 16, ASTM 1, 190 microns). The clearance area through the strainers shall be at least twice the area of the suction pipe and strainers shall be in duplicate.

3.1.4.5 Fuel oil shall conform to the detailed requirements for Fuel Oils "National Bureau of Standards" CS-12-48, dated September 25, 1948, or the latest edition.

3.1.4.6 Fuel oil not meeting specifications is unacceptable and must be removed from tank at vendor's expense.

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3.2 ADDITIONAL REQUIREMENTS:

- 3.2.1** Vendor must have operated as a licensed refiner, distributor, or dealer of one or more of the Contract Items for a minimum of three (3) years. Must provide proof upon request.
- 3.2.2** Vendor must provide proof that it is licensed by the West Virginia State Tax Department as a Motor Fuel Transporter, Motor Fuel Distributor, or Motor Fuel Importer. Should provide proof with bid but will be required prior to contract award.
- 3.2.3** Vendor must file all required reports associated with the transport of Contract Items with the appropriate government entities.
- 3.2.4** Vendor must transport Contract Items in accordance with all applicable laws, rules, and regulations that govern the transport of all Contract Items.

4. CONTRACT AWARD:

- 4.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price on **all** Contract Items listed for each District. A Contract will be awarded for each district to the vendor that has the lowest District Total in that district as shown on **Exhibit A Pricing Pages**.
- 4.2 Pricing Pages:** Vendor should complete the **Exhibit A Pricing Pages** by inserting the terminal location or locations from which each Fuel Item will be pulled. To aid in evaluation, each type of Fuel in every district being bid should have a terminal location Fuel is to be pulled from. For example:

<u>District</u>	<u>Fuel Type</u>	<u>Terminal Location Fuel is Pulled From</u>
1	Unleaded Gasoline/E10	CWV (Charleston, WV)
	No. 2 Diesel	CWV (Charleston, WV)
	No. 2 Diesel w/ Winter Add.	CWV (Charleston, WV)
	No. 1 Heating/Kerosene	CWV (Charleston, WV)
	No. 2 Heating	CWV (Charleston, WV)

Notwithstanding the foregoing, if Vendor omits a terminal delivery location, the Purchasing Division reserves the right to request that information prior to contract award. Vendor must also list its Vendor Markup per Gallon for each Fuel type in each district being bid. The **Firm Fixed Markup must be quoted in dollar form.** For example, inserting a 0.5 would equal \$0.50 (fifty cents) per gallon markup. (**Percentage markups are not acceptable**) That Markup will then be added to the

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OPIS Hypothetical Terminal Cost and multiplied by the Six Month Estimated Need to arrive at the Extended Cost. The Extended Cost for each Fuel type in the District in question will be added to arrive at the District Total.

Vendor Markup per Gallon must include all costs associated with the production and delivery of the Fuel via Tank Wagon to any location in the District being bid. The Markup per Gallon does not include, however, any applicable taxes and fees (see Item 5.3 of these specifications) payable by the State.

Vendor's should also include in the Pricing Pages its Emergency Delivery Fee for expedited 24-hour delivery. Failure to list an Emergency Delivery Fee will result in the Vendor being required to deliver on an expedited basis at no additional charge.

Vendor should complete the **Exhibit A Pricing Pages** in their entirety as failure to do so may result in Vendor's bids being disqualified.

The **Exhibit A Pricing Pages** were created in MS Excel and contain a list of the Contract Items and estimated purchase volume. The estimated purchase volume for each item represents the approximate volume of anticipated purchases only. No future use of the Contract or any individual item is guaranteed or implied. Vendor is responsible for ensuring the calculation for their bid is correct before submission. In the event of an error, Unit Pricing shall prevail.

Vendor should download and electronically enter the information into the **Exhibit A Pricing Pages** as attached as an electronic document within wvOASIS Vendor Self Service site. Vendors may request an electronic copy of the **Exhibit A Pricing Pages** for bid purposes by sending an email request to the following address: Mark.A.Atkins@wv.Gov.

NOTE: Vendor's Failure to bid every Fuel item in a district may result in disqualification of Vendor's Bid.

The bid prices for one (1) District shall not be conditioned on the award of any other District.

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5. ORDERING AND PAYMENT:

5.1 – Ordering: Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written form of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Any on-line ordering system must have the capability to restrict prices and available items to conform to the Pricing originally submitted and awarded with this solicitation. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

5.1.1 Vendor Acknowledgement Procedure: The vendor must email State agencies and Political Subdivisions upon receipt of an order, showing order confirmation and providing tentative delivery information.

5.1.2 Minimum Order Quantity – Vendor is not required to deliver in quantities less than 500 gallons but is not prohibited from doing so provided contract pricing is maintained.

5.2 Billing and Payment: After delivery has occurred, Vendor will Bill agency for the quantity delivered. Quantity will be determined in accordance with the procedures outlined in the delivery section. The price billed will be determined as follows:
Pricing per gallon includes:

Avg. Weekly terminal price from OPIS (for appropriate terminal) +	
State Excise Tax (motor fuels only)	+
Federal L.U.S.T. Fee	+
<u>Vendor's mark-up as quoted in the contract</u>	+
EQUALS Price per Gallon delivered	

5.2.1 OPIS Terminal Price: The terminal from which Vendor obtains Weekly Average OPIS Price will be determined as follows:

5.2.1.1 Single Terminal Location, Pickup From Terminal Listed – If
Vendor lists a single terminal location for a district on the Pricing Pages and picks up Fuel from that terminal then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for that terminal

5.2.1.2 Single Terminal Location, Pickup From A Different Terminal – If
Vendor lists a single terminal location for a district on the Pricing

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Pages and picks up Fuel from a different terminal then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for the less expensive of the two terminals.

5.2.1.3 Multiple Terminal Locations, Pickup From Terminal Listed – If Vendor lists multiple terminal locations for a district on the Pricing Pages and picks up Fuel from one of those listed terminals, then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for the least expensive terminal listed.

5.2.1.4 Multiple Terminal Locations, Pickup From Terminal Not Listed – If Vendor lists multiple terminal locations for a district on the Pricing Pages and picks up Fuel from a terminal that is not listed, then Vendor will utilize the OPIS WEEKLY AVERAGE on the DAY OF ORDER for the least expensive of the terminals listed (submitted with the bid).

Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. Methods of acceptable payment must include the West Virginia Purchasing Card (P Card). Payment in advance is not permitted.

5.3 TAXES: The State of West Virginia agencies are exempt from the Federal Excise Tax, and the State Consumers Sales Tax. State of West Virginia agencies are not exempt from State Excise Tax. West Virginia State agencies currently pay a variable rate component of the motor fuel excise tax on motor fuel sold or used of \$0.1520 per gallon. State agencies also currently pay \$0.2050 per gallon for the flat rate component of the West Virginia Excise Tax (See **Exhibit_C**). WV Motor Fuel Rates can also be accessed at: (<https://tax.wv.gov/Documents/TaxForms/2018/MotorFuelRates.pdf>) . The WV Motor Fuel Rates are from January 01 thru December 31 of each year and the current year rates will be published on the Statewide Contracts page of the Purchasing Division Website for each year of the contract.

In addition, state agencies are responsible for the **Federal L.U.S.T. Fee** which is assessed at 0.01cents per gallon.

No other fuel taxes or fees shall be charged to state agencies.

Any Superfund Tax must be included in the bidder's mark-up price. The State will not accept bids from bidders who cannot meet the above conditions regarding taxes.

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5.4 Verification of Product Pricing: Since the commodities listed on this contract are subject to weekly price changes, State agencies utilizing this contract must be able to verify product pricing using the OPIS Weekly Average Price (as of the day of order). **This will require that Agencies obtain an OPIS subscription.**

Average rack/terminal price from OPIS	+
State Excise Tax (motor fuels only)	+
Federal L.U.S.T. Fee	+
Vendor's mark-up as quoted in the contract	_____+
EQUALS Price per Gallon delivered	

5.5 Invoicing: Vendors are encouraged to utilize a paperless invoice process, submitting the following information via e-mail to the ordering location:

5.5.1 Delivery Ticket number (s) for the fuel delivery, date and time of delivery and order location.

5.5.2 Fuel type, total quantities, unit price, applicable taxes, total price and the terminal source of supply for all deliveries.

5.5.3 Vendors shall process invoices within four (4) calendar days of the delivery date.

6. DELIVERY AND RETURN:

6.1 DELIVERY TIME:

6.1.1 Standard Delivery: Vendor shall deliver standard orders within four (4) calendar days after orders are received. Vendor is prohibited from assessing additional charges for standard delivery. Unless prior arrangements have been made, deliveries shall be made during normal work hours 7:30 AM to 3:30 PM. EST. Monday through Friday.

6.1.2 Emergency Delivery: Vendor shall deliver emergency orders within twenty-four (24) hours after orders are received. Vendors may assess a one-time emergency delivery fee if the fee is included on the **Exhibit A, Pricing Page**. Unless prior arrangements have been made, deliveries shall be made during normal work hours 7:30 AM to 3:30 PM. EST. Monday through Friday.

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6.2 DELIVERY LOCATION: Vendor must deliver to any location within the District for which Vendor is awarded a Contract. Delivery locations are not available to the purchasing division and therefore are not provided in this solicitation. Delivery location for each district will be provided by the agency upon order placement.

Delivery Quantity: Quantities delivered shall be based upon the actual quantities delivered to the Agency location. Vendors must provide Tank Wagon (T/W) deliveries to any location within the vendors quoted District. Submitting a bid for a District represents the vendor's express agreement to deliver to any location within that district as required.

6.2.1 Partial Compartment Delivery: Deliveries of partial compartments shall include a legible **metered** delivery ticket which has been processed through a meter certified and sealed by the State of West Virginia, Division of Weights and Measures and stamped with quantities location, time (am / pm), date driver and product. When bulk deliveries are made the driver must also stick the tank before and after the fuel is delivered and enter both readings onto the delivery ticket. In the event of a conflict between the metered measurement and the stick readings, the stick readings shall prevail. Delivery documents must be signed by the driver and include the location where the delivery was made, the product (s) delivered, the blend percentages, the number of gallons delivered, and the rack price or prices for blended fuels.

6.2.2 Complete Compartment Delivery: Tank Wagons (T/W) may make a delivery of a complete compartment and are permitted to substitute the allocation metered ticket from the loading point for the metered delivery ticket. West Virginia Code 47-1-11 adopts National Institute of Standards and Technology Handbook 130 part "Uniform Engine Fuels...Regulation", Section 3 of that regulation subparagraph 3.1.1 concerning documentation. When complete compartment deliveries are made the driver must also stick the tank immediately after the Fuel is loaded at the loading point and after the fuel is delivered and enter both readings onto the allocation metered ticket. In the event of a conflict between the metered measurement and the stick readings, the stick readings shall prevail. A Bill of Lading from the terminal source location is an acceptable substitute for the allocation metered ticket provided that the bill of lading contains location, time, date, driver, product, and the stick measurements. Delivery documents must be signed by the driver and include the location where the delivery was made, the product (s) delivered, the blend percentages, the number of gallons delivered, and the rack price or prices for blended fuels.

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6.2.3 State Agency or Political Subdivisions reserve the right to inspect bulkheads and to measure contents of tanks before, and the time of and/or after delivery. The State Agency or Political Subdivision measurement at the time of delivery shall prevail.

6.3 Fuel Tank Requirements: Vendors must have the capability to deliver to above ground storage tanks utilizing a remote fill system (catch can) on the tank. All Tank Wagon (T/W) fuel deliveries to underground storage tanks shall be made using a vapor recovery nozzle. Tank Wagon (T/W) deliveries to underground storage tanks without a properly equipped vapor nozzle will be denied by the state agency.

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

A penalty of \$250.00 (reduction of invoice total) can be imposed for failure to provide delivery of fuel within the four (4) calendar day period of the order placement, unless such delay is attributed to terminal allocations. Vendors are permitted to submit documentation related to allocation issues to avoid the penalty.

Notwithstanding the preceding paragraph, Vendors shall not be liable for damages for delays in shipment or failure to deliver caused by fire, flood, Acts of God, Acts of Government, Act of alien enemy, or by any other circumstance which in the opinion of the State agency is beyond the control of the Contract Vendor. The State Agency may, purchase the needed products on the open-market, until such time as products become available by the vendor/supplier. Agencies are required to document their purchases should any of delivery issues arise.

6.5 Delivery Payment/Risk of Loss: All deliveries shall be F.O.B. destination to the Agency's location. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount and is not permitted to charge the Agency separately for such delivery.

6.6 Returns: The awarded vendor shall be responsible for the removal of the Fuel from State or Political Subdivision property within three (3) calendar days after requested to do so should the Fuel fail to comply with these specifications. The vendor shall also be responsible for all cleanup required to all State agency or Political Subdivision property, storage facilities and equipment as a result of noncompliance

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with specifications. Furthermore, the vendor shall be fully responsible for any and all cost incurred by the State Agency or Political Subdivision for any equipment sustaining damage, which is attributed to a contaminated fuel), which the vendor has delivered.

6.7 Return Due to Agency Error: Vendors may charge \$250.00 fee for errors on the part of State Agencies and or Political subdivisions which disallow delivery of ordered product.

6.8 Spillage and Cleanup: Vendor shall be responsible for any and all spillage which may occur during transit and unloading operations. The vendor shall immediately report any spillage to the office that ordered the fuel and cleanup the spillage according applicable EPA, State, county, and city guidelines and requirements. Failure to do so will initiate corrective action and back charge to the vendor of any incurred cost.

7. VENDOR DEFAULT:

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

7.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.

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

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

7.1.4 Failure to remedy deficient performance upon request.

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

7.2.1 Immediate cancellation of the Contract.

7.2.2 Immediate cancellation of one or more release orders issued under this Contract.

7.2.3 Any other remedies available in law or equity.

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8 MISCELLANEOUS:

8.1 No Substitutions: Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.

8.2 Vendor Supply: Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.

8.3 Reports: Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items purchased, quantities of items purchased, and total dollar value of the items purchased. Vendor shall also provide reports, upon request, showing the items purchased during the term of this Contract, the quantity purchased for each of those items, and the total value of purchases for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.

8.3.1 The Contractor shall provide to the State of West Virginia's primary contact person quarterly utilization reports containing at a minimum the following information pertaining to the State of West Virginia agencies, boards, commissions, and political subdivisions:

Ordering Entity;
Purchase order number;
Description;
Quantity;
Location;
Price.

8.3.2 These reports will be provided in Excel format and sent via email to Mark.A.Atkins@wv.gov on a quarterly basis as follows:

<u>PERIOD END</u>	<u>REPORT DUE</u>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

8.4 SAMPLING, INSPECTION, and TESTS: Sampling, inspection and testing shall be in accordance with Federal Specifications to obtain a fuel which meets the detailed requirements as specified and determined in the Department of Highway Laboratory. No allowances shall be made for any reproducibility factors in the prescribed test methods. The supplier will allow samples to be taken prior to discharging of product into localities tanks. Samples will be taken without prior notices.

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8.5 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: Cheryl Rogers

Telephone Number: 304-277-3232 Ext 220

Fax Number: 304-277-1437

Email Address: clrogers@fuelledbytristate.com

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.

Cheryl Rogers, Sales Rep
(Name, Title)
Cheryl Rogers, sales rep
(Printed Name and Title)
2627 Vance Avenue, Wheeling WV 26003
(Address)
304-277-3232 / 304-277-1437
(Phone Number) / (Fax Number)
crogers@fuelledbytristate.com
(email address)

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.

Tri State Petroleum Corp.
(Company)
Cheryl Rogers, Sales Rep
(Authorized Signature) (Representative Name, Title)
Cheryl Rogers, Sales Rep.
(Printed Name and Title of Authorized Representative)
3/18/2021
(Date)
304-277-3232 / 304-277-1437
(Phone Number) (Fax Number)

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: Tri State Petroleum Corporation

Authorized Signature: Cheryl Royce Date: 3/18/2021

State of West Virginia

County of Ohio, to-wit:

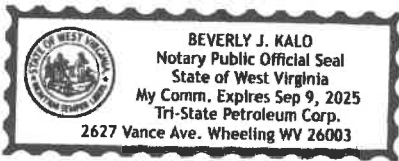
Taken, subscribed, and sworn to before me this 18th day of March, 2021

My Commission expires Sept. 9, 2025

AFFIX SEAL HERE

NOTARY PUBLIC

Beverly J. Kalo
Purchasing Affidavit (Revised 01/19/2018)



WEST VIRGINIA STATE TAX DEPARTMENT

MOTOR FUEL EXCISE TAX LICENSE

Effective: December 6, 2013

In accordance with West Virginia State Code §11-14C

TRI-STATE PETROLEUM CORPORATION

Is hereby licensed as:

License Type(s)	License Number(s)
<i>Importer</i>	<i>1600-8274</i>
<i>Exporter</i>	<i>1600-8272</i>
<i>Distributor</i>	<i>1600-8269</i>

This license is non-transferable and shall remain in effect until surrendered,
canceled or revoked.



Diana L. Webb, Tax Unit Supervisor
Excise Tax Unit

Tax Account Administration Division

VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. Application is made for 2.5% vendor preference for the reason checked:

- Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,
- Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification;
- Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; **or**,
- Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or**,

2. Application is made for 2.5% vendor preference for the reason checked:

- Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,

3. Application is made for 2.5% vendor preference for the reason checked:

- Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; **or**,

4. Application is made for 5% vendor preference for the reason checked:

- Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or**,

5. Application is made for 3.5% vendor preference who is a veteran for the reason checked:

- Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or**,

6. Application is made for 3.5% vendor preference who is a veteran for the reason checked:

- Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

7. Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.

- Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Tri-State Petroleum Corp Signed: Cheryl Rogers
Date: 3/18/2021 Title: Sales Rep

*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 \$1 million 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, but does not include publicly traded companies listed on a national or international stock exchange.

"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; website: www.ethics.wv.gov.

West Virginia Ethics Commission
Disclosure of Interested Parties to Contracts

(Required by W. Va. Code § 6D-1-2)

Name of Contracting Business Entity: Tri State Petroleum Corp Address: 2627 Vance Avenue
Wheeling, WV 26003

Name of Authorized Agent: Cheryl Rogers Address: 2627 Vance Ave, Wheeling WV

Contract Number: CRFQ SWC21*14 Contract Description: Fuel-Tanker Wagon Delivery

Governmental agency awarding contract: WV Purchasing Division

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 entities performing work or service under the Contract

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

Harris Oil Woodford Oil BFS
Stuart Oil Englefield Oil

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

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)

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

Signature: Cheryl Rogers Date Signed: 3/18/2021

Notary Verification

State of West Virginia, County of Ohio:

I, Beverly J. Kalo, 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 18th day of March, 2021

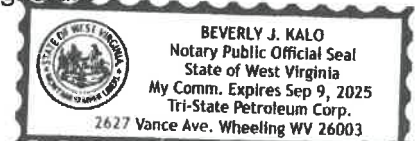
Beverly J. Kalo
Notary Public's Signature

To be completed by State Agency:

Date Received by State Agency: _____

Date submitted to Ethics Commission: _____

Governmental agency submitting Disclosure: Purchasing Division



FUELTW 21 VENDOR QUOTE SHEET

VENDOR: Tri-State Petroleum Corporation		Address: 2627 Vance Avenue, Wheeling, WV 26003				
DISTRICT	FUEL TYPE	Terminal Location Fuel is to be pulled from	Six Month's ESTIMATED NEEDS (gals.)	OPIS Hypothetical Terminal Cost	Fixed Firm Markup Gallon from OPIS	Extended Cost
ONE	Unleaded Gasoline/E 10	No Bid	200,000	2.250	\$ -	450,000.00
	No. 2 Diesel	No Bid	50,000	2.310	\$ -	115,500.00
	No. 2 Diesel w/ Winter add.	No Bid	170,000	2.310	\$ -	392,700.00
	No. 1 Heating/Kerosene	No Bid	1,000	2.571	\$ -	2,571.00
	No. 2 Heating	No Bid	2,500	2.571	\$ -	6,427.50
						Total District One
TWO	Unleaded Gasoline/E 10	No Bid	214,000	2.250	\$ -	481,500.00
	No. 2 Diesel	No Bid	33,000	2.310	\$ -	76,230.00
	No. 2 Diesel w/ Winter add.	No Bid	120,000	2.310	\$ -	277,200.00
	No. 1 Heating/Kerosene	No Bid	1,000	2.571	\$ -	2,571.00
	No. 2 Heating	No Bid	1,500	2.571	\$ -	3,856.50
						Total District Two
THREE	Unleaded Gasoline/E 10	MOH	166,000	2.250	\$ 0.2447	414,120.20
	No. 2 Diesel	MOH	63,000	2.310	\$ 0.2447	160,946.10
	No. 2 Diesel w/ Winter add.	MOH	181,000	2.310	\$ 0.2697	466,925.70
	No. 1 Heating/Kerosene	MOH	1,000	2.571	\$ 0.2447	2,815.70
	No. 2 Heating	MOH	2,200	2.571	\$ 0.2447	6,194.54
						Total District Three
FOUR	Unleaded Gasoline/E 10	No Bid	243,000	2.250	\$ -	546,750.00
	No. 2 Diesel	No Bid	87,000	2.310	\$ -	200,970.00
	No. 2 Diesel w/ Winter add.	No Bid	245,000	2.310	\$ -	565,950.00
	No. 1 Heating/Kerosene	No Bid	1,000	2.571	\$ -	2,571.00
	No. 2 Heating	No Bid	5,000	2.571	\$ -	12,855.00
						Total District Four

FIVE	Unleaded Gasoline/E 10	No Bid	167,000	2.250	\$ -	375,750.00
	No. 2 Diesel	No Bid	55,000	2.310	\$ -	127,050.00
	No. 2 Diesel w/ Winter add.	No Bid	143,000	2.310	\$ -	330,330.00
	No. 1 Heating/Kerosene	No Bid	1,000	2.571	\$ -	2,571.00
	No. 2 Heating	No Bid	25,500	2.571	\$ -	65,560.50
						Total District Five
SIX	Unleaded Gasoline/E 10	MOH	127,000	2.250	\$ 0.1147	300,316.90
	No. 2 Diesel	MOH	52,000	2.310	\$ 0.1147	126,084.40
	No. 2 Diesel w/ Winter add.	MOH	110,000	2.310	\$ 0.1147	266,717.00
	No. 1 Heating/Kerosene	MOH	1,000	2.571	\$ 0.1147	2,685.70
	No. 2 Heating	MOH	2,000	2.571	\$ 0.1147	5,371.40
						Total District Six
SEVEN	Unleaded Gasoline/E 10	No Bid	207,000	2.250	\$ -	465,750.00
	No. 2 Diesel	No Bid	98,000	2.310	\$ -	226,380.00
	No. 2 Diesel w/ Winter add.	No Bid	184,000	2.310	\$ -	425,040.00
	No. 1 Heating/Kerosene	No Bid	1,000	2.571	\$ -	2,571.00
	No. 2 Heating	No Bid	1,000	2.571	\$ -	2,571.00
						Total District Seven
EIGHT	Unleaded Gasoline/E 10	No Bid	126,000	2.250	\$ -	283,500.00
	No. 2 Diesel	No Bid	58,000	2.310	\$ -	133,980.00
	No. 2 Diesel w/ Winter add.	No Bid	170,000	2.310	\$ -	392,700.00
	No. 1 Heating/Kerosene	No Bid	12,000	2.571	\$ -	30,852.00
	No. 2 Heating	No Bid	440,000	2.571	\$ -	1,131,240.00
						Total District Eight

Tri State Petroleum Corp.

