



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

State of West Virginia  
 Request for Quotation  
 34 - Service - Prof

Proc Folder: 766012

Doc Description: Addendum 3 - MARKETING AND ADVERTISING SERVICES

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2020-08-21	2020-09-03 13:30:00	CRFQ 0705 LOT2100000001	4

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

WV 25305

RECEIVED  
 2020 AUG 28 AM 9:58

WV PURCHASING  
 DIVISION

Vendor Name, Address and Telephone Number:

Doe-Anderson, Inc.  
 680 South 4th Street  
 Louisville, KY 40202  
 (502) 589-1700

FOR INFORMATION CONTACT THE BUYER

Linda B Harper  
 (304) 558-0468  
 linda.b.harper@wv.gov

Signature X

FEIN # 61-0525990

DATE August 27, 2020

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

Addendum 3 issued for the following reason:

1. To publish a copy of vendor questions, with responses.

No other changes

ACCOUNTS PAYABLE LOTTERY PO BOX 2067  CHARLESTON  US	WW25327-2067	PURCHASING LOTTERY 900 PENNSYLVANIA AVE  CHARLESTON  US	WW 25302
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Advertising				

Comm Code	Manufacturer	Specification	Model #
82100000			

**Extended Description :**

Vendors should enter the TOTAL BID AMOUNT from the Exhibit A Pricing Page and upload the Exhibit A Pricing Page as an attachment.

**SCHEDULE OF EVENTS**

Line	Event	Event Date
1	Question Deadline 3:00 p.m.	2020-08-17

<b>LOT2100000001</b>	<b>Document Phase</b> Draft	<b>Document Description</b> MARKETING AND ADVERTISING SERVICES	<b>Page 3</b> <b>of 3</b>
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**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

## **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  
Revised 01/09/2020

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: Monday, August 17, 2020, 3:00 p.m.

Submit Questions to: Linda Harper  
2019 Washington Street, East  
Charleston, WV 25305  
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)  
Email: Linda.B.Harper@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: Advertising  
BUYER: Linda Harper  
SOLICITATION NO.: CRFQ LOT210000001  
BID OPENING DATE: 08/24/2020  
BID OPENING TIME: 1:30 pm  
FAX NUMBER: 304-558-3970

Revised 01/09/2020

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

**For Request For Proposal ("RFP") Responses Only:** In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus 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:** Monday, August 24, 2020, 1:30 p.m.

**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:** **Initial Contract Term:** This Contract becomes effective on 1/1/2021 and extends for a period of one (1) year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

**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.

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**4. NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

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

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

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

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

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

**6. 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.

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 per occurrence.
- Automobile Liability Insurance** in at least an amount of: 500,000 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.
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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-I-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.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).

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

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

Revised 01/09/2020

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 of 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.

**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.

 C.O.O.  
\_\_\_\_\_  
(Name, Title) John B. Birnsteel, Chief Operating Officer  
\_\_\_\_\_  
(Printed Name and Title) Doe-Anderson, Inc. 680 S. 4th St., Louisville, KY 40202  
\_\_\_\_\_  
(Address) p. (502) 523-8151 f. N/A  
\_\_\_\_\_  
(Phone Number) / (Fax Number) jbirnsteel@doeanderson.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.

Doe-Anderson, Inc.

\_\_\_\_\_  
(Company)

 C.O.O.  
\_\_\_\_\_  
(Authorized Signature) (Representative Name, Title)

John B. Birnsteel, Chief Operating Officer

\_\_\_\_\_  
(Printed Name and Title of Authorized Representative)

August 27, 2020

\_\_\_\_\_  
(Date)

p. (502) 589-1700 f. N/A

\_\_\_\_\_  
(Phone Number) (Fax Number)

**ADDENDUM ACKNOWLEDGEMENT FORM  
SOLICITATION NO.:**

**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 checked="" type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

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

Doe-Anderson, Inc.

\_\_\_\_\_  
Company

  
\_\_\_\_\_  
Authorized Signature

August 27, 2020

\_\_\_\_\_  
Date

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



REQUEST FOR QUOTATION  
MARKETING & ADVERTISING SERVICES

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SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Lottery to establish an open-end contract to provide the Lottery with marketing services and supplies including, but not limited to, advertising, public relations, website development and maintenance, promotional materials, promotional prizes, promotional trips and accommodations, event management, drawing equipment and/or services, retailer point-of-sale materials, research, novelty items, and any other advertising service or commodity requested by the Lottery.
  
2. **DEFINITIONS:** The terms listed shall have the meanings assigned to them. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1. **Account Management** means Administration of the day-to-day functions, which provide professional support to meet the Lottery's requirements.
  - 2.2. **Accounting** means the receipt and payment of invoices through the systematic process of identifying, recording, measuring, classifying, verifying, summarizing, interpreting, and communicating financial information.
  - 2.3. **Application Programming Interface (API)** is a set of functions and procedures allowing the creation of applications that access the features or data of an operating system, application, or other service.
  - 2.4. **Contract Items** means the list of items identified in Section 3.1 below and on the Pricing Pages. These include, but are not limited to, providing advertising, public relations, website build and/or maintenance, promotional event management, drawing equipment or services, retailer materials, research, novelty items, and other advertising services and commodities that are specified in this RFQ.
  - 2.5. **Clerical Services** means document preparation, correspondence, filing, accounting, secretarial support, data imaging, sharing, and storage, and all other miscellaneous office activities relating to the Lottery's account. These services shall be included in the hourly rate for Account Management on the Pricing Page (Exhibit A) and shall include all, written, electronic, and verbal correspondence.
  - 2.6. **Content Management System (CMS)** means a software application used to manage the creation and modification of digital content. Content management systems are used in the collaborative authoring of websites and may include text with embedded graphics, photos, video, audio, maps, and program code that display content and interact with the user.
  - 2.7. **Creative Planning** means the method of offering innovative solutions for marketing

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strategies, special events, computer graphics, layout and designs, art direction, advertising campaigns, copywriting, and all concepts related to advertising, and advertising production.

- 2.8. **Estimated Hours for Account Services** means the amount of time required for Contract Services during the State fiscal year (July 1 through June 30). The estimated hours for account services provided on the Pricing Page (Exhibit A) are based on hours billed during fiscal year 2020.
- 2.9. **Film Production** means administration, direction, and oversight by the Vendor that includes obtaining bids, preplanning, shooting, and editing film creations for the Lottery.
- 2.10. **Incidental Charges** means an expense to the Vendor, which includes but is not limited to, telecommunications, facsimile, copying, color copies, postage and delivery charges, payroll, payroll taxes, mileage, travel expenses, and meals for all full-time, part-time, intern, and contractual employees.
- 2.11. **Lottery** means the state agency known as the West Virginia Lottery.
- 2.12. **Lottery Headquarters** means the Lottery facility located at 900 Pennsylvania Avenue, Charleston, West Virginia 25302.
- 2.13. **Marketing Supplies and Promotional Materials** means the point of purchase items, promotional items, promotion equipment/supplies, prizes for promotions including trips, Lottery apparel and accessories, draw game equipment or services, event equipment, and other semi-permanent items that are used by the Lottery and its retailers and players.
- 2.14. **Media Event** means public events focused on a news announcement or press conference for major events planned events and including speeches or demonstrations. For example, the Lottery uses this type of event to announce certain Lottery winners to media outlets.
- 2.15. **Media Planning and Buying** means the purchase and analysis of media placements through various channels of communication including, but not limited to, television, radio, newspaper, interactive, social media, and print ads.
- 2.16. **MUSL** means the Multi-State Lottery group that administers Powerball® and Lotto America®.
- 2.17. **NASPL** means North American Association of State and Provincial Lotteries.
- 2.18. **On-line** means connected to a central computer via telecommunication lines, satellites and/or wireless devices, such as ticket generating terminals used by lottery retailers to

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sell lottery products.

- 2.19. On-line Games** means Lottery games played through dedicated gaming terminals installed in licensed Lottery retail establishments. Examples of on-line games include: Cash25, Lotto America®, daily numbers games (Daily 3 and Daily 4), POWERBALL® and Power Play®, MegaMillions® and Megaplier®, and Keno Go with Bonus.
- 2.20. Pricing Page** means the pages, contained in wvOASIS or attached hereto as Exhibit A, upon which Vendor should list its proposed prices for the Contract Services.
- 2.21. Printing** means obtaining bids and production of various Lottery point of purchase items, informational pieces, brochures, newsletters, signs, banners, coupons, and any other production items that require a commercial printing company.
- 2.22. Promotion Planning** means the development and design of marketing, event, or drawing activities that are organized by the Lottery. This would include, but is not limited to, support personnel; event staffing; purchasing promotional materials, promotional prizes, promotional trips and accommodations, promotional equipment, and supplies on behalf of the Lottery.
- 2.23. Public Relations** means public interactions promoting integrity that fosters mutual understanding, trust, and support with and for the Lottery. These interactions may also include Lottery support of arts, charitable causes, education, tourism, senior programs, sporting events, and other civic engagements.
- 2.24. Research** means the process of collecting data, detailing what methods will be employed, how the methods will be used, and the intended means for analyzing data collected. To establish effective marketing tools, information is collected from consumer observation, surveys, interviews, and from published sources. Research also includes determining actual demand in a cost effective and timely manner to create or assist in the creation of Lottery products and promotions that satisfy demand, including post-buy analysis and comparative data for Lottery promotions and marketing campaigns.
- 2.25. Secure File Transfer Protocol (SFTP)** - SFTP, or SSH File Transfer Protocol, or Secure File Transfer Protocol, is a packaged separate file transfer over a secure connection. The objective of SFTP is a secure connection to transfer files and traverse the file system on both the local and remote system.
- 2.26. Solicitation** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
- 2.27. Sponsorship (Collegiate, Fairs, and Festivals)** means organized events by outside entities that may be supported by the Lottery.

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MARKETING & ADVERTISING SERVICES**

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- 2.28. Strategic Planning** means the ability to use the Lottery's long-term and tactical goals to create bench marks to achieve all marketing objectives. Strategic Planning is shaped by the marketing strategy, post-buy analysis of media placements, return on investment for all special events, evaluation of consumer behaviors, and market conditions.
- 2.29. Vendor Hourly Rate or Hourly Rate** means the hourly rate requested on the Pricing Page (Exhibit A), which the Vendor shall provide, and adhere to, for all Contract Services.
- 2.30. Vendor Warehouse** means the current Gaming System and Services vendor (IGT) facility located at 4998 S Elk River Road Unit J, Elkview, West Virginia 25071.
- 2.31. Web Hosting and Domain** means maintenance and stewardship of established space on a server through a third party World Wide Web host provider on behalf of the Lottery.
- 2.32. Website Maintenance** means updating game information, jackpot alerts, banners, search tools, player's circle, and any additional website function required by the Lottery including website redesign if required. It also requires working with various vendors or associations, such as MUSL, with which the Lottery may be conducting business in order to obtain data and information.
- 3. QUALIFICATIONS:** Vendor, or Vendor's staff if requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:
- 3.1** Vendor must have a minimum of five (5) years of previous experience in providing a wide variety of advertising services to agencies or companies with similar marketing needs. Those advertising services include, but are not limited to, creation, planning, media purchasing, point-of-sale marketing, digital marketing and design, social media marketing and design, project management, public relations, and research to provide a quality product on time, as scheduled.
- 3.2** Vendor should possess marketing experience in the retail industry and/or in the entertainment industry.
- 3.3** Vendor must have at least one (1) staff member assigned to each of the following areas: graphic design, creative development, media planning and buying, social media development, application development, Webmaster, accounts payable and receivable, and other areas as requested by the Lottery. A staff member may be dedicated to one or more areas listed above to fulfill this requirement, provided that the staff member dedicated has experience in the areas for which he or she is assigned.

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**3.4** The members of Vendor's team, composed of management level and key personnel proposed for this account, shall each have five (5) years of marketing related experience as defined in Section 3.1 and Section 3.3. In addition to work experience, the Vendor's management level and key personnel proposed for this account must each possess a bachelor's degree in advertising, communications, or a related field such as journalism or marketing/sales. If the Vendor substitutes staff for this account, the experience and qualification levels must be of a similar quality. The Lottery reserves the right to approve and/or reject Vendor's personnel recommended to work on the Lottery's account. The Lottery reserves the right to request Vendor staff changes throughout the term of the contract and approval thereof.

**3.5** Vendor must meet staff qualifications listed in Sections 3.3 and 3.4, as well as have adequate staff to fulfill requirements listed in Section 4 prior to bid submission.

Compliance with experience requirements will be determined prior to contract award by the State through references provided by the Vendor with its bid or upon request, through knowledge or documentation of the Vendor's past projects, or another method that the State determines to be acceptable. Vendor should provide a current résumé which includes information regarding the number of years of qualification, experience and training, and relevant professional education for each individual that will be assigned to this project. Vendor must provide any documentation requested by the State to assist in confirmation of compliance with this provision. References, documentation, or other information to confirm compliance with this experience requirement are preferred with the bid submission, but are required before the contract award.

**3.6** Vendor shall provide dedicated account services, creative direction, creative talent, production, and technical expertise as requested by the Lottery. The Vendor must be able to assist in developing and implementing advertising and promotional campaigns, promotional activities, retailer and player information, and other marketing-related services. Such services include, but are not limited to, radio, television, Internet, social media, and print advertising (including both indoor, outdoor and transit advertising), printed materials, ad hoc event logistics on a twenty four hours per day, seven days per week, three hundred sixty five days per year (24/7/365) basis, supplemental event staffing, website design and maintenance, updates, and server operations, qualitative and quantitative research, development and procurement of promotional items, including promotional prizes, promotional trips and accommodations, for both retailers and players, pickup and delivery of any hard copy correspondence as needed between the Lottery and Vendor at Lottery headquarters, and oversight of specific or special ad hoc projects. The Lottery shall have final approval on all Vendors staffing for advertising, promotional, and public relations projects. All paid staff positions on broadcast production projects will require Lottery approval.

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- 3.7 Vendor must have the ability to contract with outdoor advertising agents for all West Virginia Lottery billboards containing satellite-fed jackpot signage units, as well as, additional advertising units located across the State leased from various Vendors.
- 3.8 Vendor may use subcontractors for promotion event and/or drawing services, research services, website development, website maintenance, graphic design, database management, upkeep, and configuration, leasing of server solutions for web hosting, and firewall and other software services with the Lottery's prior approval.
- 3.9 Vendor must have experienced staff to be assigned to the Lottery's account, current business strategies, and infrastructure in place upon bid submission to service the Lottery account.

**4. MANDATORY REQUIREMENTS:**

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

- 4.1 Vendor shall provide professional services necessary to develop and maintain successful marketing campaigns, including a minimum of two (2) full time employees to serve as account representatives, one (1) of whom shall be a dedicated account representative who will be on-call 24 hours a day, seven days a week with an in-person response time to Lottery Headquarters of, at maximum, sixty (60) minutes.
- 4.2 Vendor shall provide account representatives or two (2) staff members to assist with promotional activities, whether full-time Vendor employees or qualified temporary Vendor employees, for summer fairs and festivals, retailer-based promotions, retailer rallies, or special events as determined by the Lottery.
- 4.3 Vendor is required to attend all internal marketing meetings and any other meetings requested by the Lottery, and may be required to attend one NASPL conference annually.
- 4.4 The account representatives must attend monthly Lottery marketing meetings, *ad hoc* marketing meetings, media events, and special promotions held during daytime, evening and weekend hours upon the Lottery's request. The Vendor must have consistent and reliable transportation on a 24/7/365 basis for in-person representation. The Lottery reserves the right to visit and inspect all Vendor facilities and offices.
- 4.5 Vendor will provide personnel to pick up and deliver work-related materials and documents to the West Virginia Lottery's Headquarters as needed or requested by Lottery.

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- 4.6** Vendor must acknowledge and agree that any agent, servant, or employee assigned to the Lottery account and any employee with influence or control over those agents, servants, or employees, and family members residing in the same household of such agent, servants, and employees are restricted from wagering, winning, or participating in any racetrack video lottery or limited video lottery games, traditional games, table games, sports wagering, iGaming, or other product regulated by the Lottery Commission. Vendor must agree to convey this restriction to such agents, servants and employees as well as to any employee with influence or control over such employees by obtaining from each a signed statement providing that the aforesaid individuals will not play, or collect any prize in any video lottery game, traditional game, table game, or other form of gaming regulated by the Lottery and that failure to comply with this restriction may result in forfeiture of any winnings, termination of the offending agent, servant or employee and/or termination of this contract. Upon contract award, Vendor must provide the Lottery with the signed statements of its agents, servants and employees, who are working on or who have influence over those working on the Lottery's account.
- 4.7** Vendor shall provide full public relations services to be utilized on an ad hoc basis.
- 4.8** Vendor must have successfully completed at least three (3) comprehensive marketing projects of similar size and scope less than two (2) years from the date of the bid. These projects must include at minimum media-related advertising and the subsequent buy, point-of-sale advertising and its positioning, publications, web pages, public relations endeavors, and other pertinent materials. Campaigns or projects that did not use aired or published, paid media shall not be considered to satisfy the aforementioned requirement. All projects must be submitted on a flash drive, with a duplicate copy, for review prior to award of contract.
- 4.9** Vendor must provide a detailed monthly summary and annual cumulative reports of all actual and projected expenditures and remaining balances to the Lottery, sorted by Lottery-specified categories and available to the Lottery electronically, in Excel spreadsheet format. Vendor must provide game and campaign cost summary reports for evaluation of ads or campaigns and any ad hoc reports requested.
- 4.10** Vendor must possess licensed software to edit, process, and view graphic and other necessary files between the Vendor and the Lottery. In addition,
- 4.10.1** Vendor must have software that is compatible with media and print outlets. At minimum the Vendor must have the capability of using the most current version of Adobe Creative Suite and the ability to work with both Macintosh and PC formats. Vendor must have the ability to transfer to and receive files from the Lottery via an SFTP platform.

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- 4.10.2** Vendor must have the ability to accept data electronically from disk, USB drive, CD, CDR, CDRW, DVD, DVDR, DVDRW or tape or file transfer. E-mail capabilities must be provided by the Vendor.
- 4.11** Vendor shall conduct research in order to make recommendations with respect to media selection, themes, copy, multi-media presentations, and brand positioning and counsel Lottery staff regarding the same.
- 4.12** Vendor shall provide research concerning the target consumer and retailer base, including behaviors, attitudes, and opinions, upon the Lottery's request. A minimum of one baseline study and one focus group study shall be conducted annually. Ad hoc research projects, including web-based surveys/polls shall be provided on an "as needed" basis. Research projects concerning the target consumer and retailer base will be subcontracted to a qualified firm selected by the Lottery based upon project research methodologies, techniques, and cost comparisons. Projects will include baseline studies, quantitative game analysis, and ad hoc research such as web-based surveys/polls. Vendor shall provide payment for such research on behalf of the Lottery. For purpose of this contract, qualified research firms shall not be considered a partner entity of the vendor.
- 4.13** Vendor, or a contracted production company, shall provide talent for all radio, television, and media productions. Vendor must obtain talent not covered by collective bargaining agreements in addition to obtaining talent involving the Screen Actors Guild (SAG) and American Federation of Radio and Television Artists (AFTRA). West Virginia based talent and production shall be considered whenever possible. Vendor shall negotiate the best possible rate for all talent. If Vendor chooses to use talent covered by collective bargaining agreements, Vendor shall provide written justification to the Lottery in a timely manner, and it will be at the discretion of the Lottery to approve or disapprove all talent. Vendor must obtain talent releases for all talent used in all radio, television, and media production. Vendor must keep all releases on file and provide to the Lottery upon request.
- 4.14** Vendor shall provide thorough research of rights, trademarks, and legal procurement of stock photography, musical scores and vocals, film segments, commercial production talent releases, and any other copy written materials to be used in Lottery marketing endeavors.
- 4.15** Vendor must work with the Lottery's Marketing Department to determine the proper time schedule in which all advertising and promotions are to take place.
- 4.16** Vendor shall develop, produce, and place advertising materials in all media including, but not limited to newspapers, web-based mediums (Internet), mobile platforms, social media, radio, outdoor and transit mediums, as well as, network and cable television broadcasts.



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- 4.17** Vendor shall work with Lottery on establishing media advertising and short-term, long-term and permanent signage commitments. This includes billboards, radio network advertising, and long term television station commitments.
- 4.18** All broadcast media must be placed at the local level. Upon the Lottery's request, all media placements and cancellations shall be implemented within five (5) days of the request.
- 4.19** Vendor shall conduct post-buy analysis and provide results to the Lottery in a reasonable time frame following special events, promotions, and advertising campaigns.
- 4.20** Vendor shall create, produce and provide central delivery of promotional materials and services to be used in advertising and marketing activities. Activities and services include, but are not limited to, point-of-sale materials, promotional items, promotional prizes or other awards, drawing equipment or services, and any requested semi-permanent items and signage for use at the retailer level. The Vendor may be requested to lease storage space for such items, as necessary, on Lottery's behalf.
- 4.21** Vendor must have the ability to design, maintain, monitor and update web content of the Lottery's Internet website and related services including, but not limited to, large scale data base server space for Internet-based marketing endeavors. Vendor shall coordinate with existing Vendor to guarantee continuity. Vendor shall coordinate with the Lottery and its gaming system and/or drawing vendor(s) of record. Vendor will assure accurate information that is updated in a timely manner. Vendor will provide 24/7/365 contact person for unplanned changes or disruptions to the website, so that they may be remedied in an expedient manner. Website design, upgrades, and website maintenance may be provided to the Vendor on behalf of the Lottery, at the Lottery's request.
- 4.21.1** The public web domain is [www.wvlotterv.com](http://www.wvlotterv.com). The Lottery operates and manages the web site via a content management system (WordPress) and via a secure file transfer protocol (SFTP). The SFTP requires the use of key encryption which WordPress does not allow. The Vendor is required to maintain a relay server, which receives the SFTP files and sends them to WordPress updating the site. The relay server must be secured. The Vendor must support and update algorithms, certain locked page designs, page designs and creation outside the scope of the content management, design of static web banner advertising space, winning numbers for draw games via API, RSS feed and integration, and other variations of data communication and transfer with the online gaming system vendor, the Lottery, and any other entity at the Lottery's request. The Lottery owns all rights and content on this web domain and its content. The Vendor must work with the Lottery to ensure that current and future applications and processes are easily transferrable to any subsequent Vendor.

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- 4.21.2** Vendor must have software that is compatible with the website and servers. At minimum the Vendor must have the capability of using the most current version of Adobe Dreamweaver and the ability to work with both Macintosh and PC formats. Vendor must have the ability to use WordPress and receive files from the Lottery via an SFTP platform.
- 4.22** Vendor shall provide the continued graphic development, data transfer, and website maintenance of the Lottery's Internet web site and the leasing of server space and related software. The Vendor shall provide continuous monitoring and restoring of services after an outage. Each outage shall be reported to the Lottery in a timely manner and services restored as quickly as possible. Vendor shall also provide the leasing of any additional web-based programs and increased server space for database management at Lottery's discretion, which may include, but not be limited to, the West Virginia Lottery Players' Circle; interactive promotions, such as second chance drawings; and software adhering to guidelines set forth in section 4.30. Vendor is required to adapt to the lottery industry changes, selling processes, and marketing strategies.
- 4.22.1** The Lottery recognizes changes in technology may necessitate rebuilding of the Lottery's existing internet web site and other related digital services and/or components. Barring any technological needs, the Lottery will refresh its website a minimum of every two years. For a refresh or rebuild, the Vendor shall perform the service at the same contracted rate and guidelines. Projects of this magnitude must include the following; a rebuild timeline document which outlines each step of the building process, the scope of work to be completed for each step, the number of billable hours for each step, the names of employees included in those billable hours, items or deliverables required by the Vendor or the Lottery, and dates when those items are expected to be completed. The Lottery reserves the right to adjust the project and scope of work at any time. The Lottery reserves the right to adjust the project and scope of work if it is determined that an individual included in those billable hours is inessential to completing the scope of work. The Vendor shall ensure appropriate staffing to avoid delays in completing the scope of work and supply wireframes or digital imagery mark-ups for rebuilds. The Vendor shall be responsible for determining all requirements necessary before completing the scope of work and submit the scope of work or any deliverables to the Lottery for approval before implementation.
- 4.23** All contracts, papers, correspondence, copy, books, accounts, vendor expenses, and other information in the Vendor's care relating to the business of the Lottery shall be open to inspection and examination by an authorized representative of the Lottery at all reasonable times.
- 4.23.1** All records, including subcontracts, shall be kept for a minimum of five (5) years for billing purposes and internal audits. The Lottery's Advertising Manager must be

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copied on all outside emails with production companies, media outlets, or others providing services on Lottery's behalf.

- 4.24** All layouts, sketches, art work, computer images, coding/programming and copy including, but not limited to, advertising copy, film, master tapes, typesetting, photocopies, storyboards, and computer data storage disks/cards used in advertisements or other materials developed or placed by the Vendor for the Lottery, shall become the exclusive property of the Lottery.
- 4.25** The Lottery shall have the full and free right to possess and use any and all said property in any way deemed by the Lottery to be necessary or advisable, either directly or through the Vendor without incurring additional costs beyond the initial creative development and production hourly rates.
- 4.26** Vendor must have the ability to pledge and place commitments of advertising media up to \$1.5 million and additionally \$40,000 to \$200,000 in pass-through expenses to other vendors at any one time prior to any reimbursement from the Lottery. Bidding vendor must supply audited financial statements for the past three (3) years prior to contract award to meet the aforementioned requirement.
- 4.27** The Lottery shall approve all work to be written, developed, or otherwise performed by the Vendor before the Vendor incurs any costs. Work that does not have prior written approval shall not be paid by the Lottery.
- 4.28** Vendor shall see that the Lottery receives all media cash discounts, rebates, frequency discounts, or special adjustments allowed to the Vendor for ads placed for and on behalf of the Lottery. Vendor shall conduct post audits and require refunds for advertising not aired or placed according to the buy. Any obligatory correction or replacement of inventory must be authorized by the Lottery. Vendor shall make available to the Lottery copies of all invoices, including broadcast affidavits.
- 4.29** The Vendor's payment processing to third party providers shall be included in the Vendor's hourly rate for Account Management on the Pricing Page (Exhibit A). Invoices and invoice statement(s) for services and/or materials provided to the Vendor on behalf of the Lottery must be submitted weekly in digital format to the Lottery's Advertising Manager or designee. The Lottery's approval of invoices is required for payment. Invoices sent for approval must have a date received stamp. Lottery will process and approve or deny for payment digitally. The Vendor shall issue respective payment(s) for the Invoice(s) and invoice statement(s) for services and/or materials within fourteen (14) business days of Lottery's approval of each. Vendor shall NOT withhold any payments to third party providers prior to Lottery reimbursement.
- 4.30** Vendor shall obtain competitive bids or cost estimates for all products and services requested and procured on behalf of the Lottery. A minimum of three (3) detailed bids

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or cost estimates from three (3) different subcontractors shall be presented for the Lottery's review on all procurements of commodities or services, with the exception of media buys or services that are sole source. Overall quality and creative treatment of film and video production services must also be considered. Vendor shall be excluded from submitting a bid for film and video production and must provide a detailed project scope to the Lottery for review and approval prior to presenting the project scope to bidding subcontractors.

**5. CONTRACT AWARD:**

- 5.1. CONTRACT AWARD:** The Contract is intended to provide Lottery with a purchase price for all Contract Services. The Contract shall be awarded to the Vendor that provides Contract Services meeting the required specifications for the lowest TOTAL BID AMOUNT as shown on the Pricing Page.
- 5.2. PRICING PAGE:** Vendor should complete the Pricing Page (Exhibit A) by calculating the TOTAL BID AMOUNT. The Vendor shall provide an hourly rate for the services listed on the Pricing Page (Exhibit A). The Vendor must provide the hourly rate for each CONTRACT SERVICE (1-20). The hours listed on the Pricing Page (Exhibit A) are for bidding purposes only and will vary monthly. The Vendor should complete the Pricing Page (Exhibit A) in full as failure to complete may result in Vendor's bid being disqualified.
- EXTENDED COST PER SERVICE for each CONTRACT SERVICE is calculated by taking the provided ESTIMATED HOURS and multiplying that figure by the VENDOR'S HOURLY RATE FOR EACH YEAR THEN ADDING YEAR ONE THROUGH YEAR FOUR TO DETERMINE THE TOTAL EXTENDED COST FOR SERVICE. The hourly rate for each service may vary but must be rounded to the nearest whole dollar. An Excel spreadsheet is attached to this solicitation and should be used to prevent errors in calculation. Vendors will enter the hourly rate per year, and the spreadsheet will sum automatically
  - The TOTAL EXTENDED HOURLY COST PER SERVICE for vendor services is calculated by taking the sum of all the TOTAL EXTENDED COST PER SERVICE for each CONTRACT SERVICE.
  - MEDIA BUYING ADD-ON is calculated by taking the Vendor percentage for media buying activities (not to exceed 5%) and

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multiplied by \$2,500,000 to get the TOTAL MEDIA ADD-ON COST.

- TOTAL BID AMOUNT is calculated by adding the TOTAL EXTENDED HOURLY COST and TOTAL MEDIA ADD-ON COST.

Vendor should type or electronically enter the information into the Excel Exhibit A - Pricing Page. Vendors submitting bids electronically through wvOasis should enter the TOTAL BID AMOUNT from the Exhibit A Pricing Page (as the Contract Amount) and upload as an attachment and include with their bid.

- 5.3. HOURLY RATE:** The Lottery shall pay an hourly rate as proposed by the Vendor, as shown on the Pricing Page (Exhibit A), for all Contract Services performed and accepted under this contract. Invoices submitted by the Vendor must reflect the categorized hourly rates for Contract Services.

The hourly rate must include all costs necessary to fulfill requirements described in this RFQ, excluding third-party commodities and services. The hourly rate shall be billed to the Lottery in 15-minute increments, on a monthly basis. The hourly rate bid by Vendor must also be sufficient to cover the following costs provided in Sections 5.3.1, 5.3.2, and 5.3.3, as Vendor will be responsible for all costs listed and may not invoice Lottery separately for these costs.

- 5.3.1.** Incidental charges must be included in the hourly rate for general Account Management proposed by the Vendor on the Pricing Page (Exhibit A). Incidental charges that are incurred in order to perform the routine conduct of business including, but not limited to, telecommunications, facsimile, copying, color copies, postage and delivery charges, payroll, payroll taxes, mileage, travel expenses, meals, for all full-time, part-time, interning, and contractual employees.
- 5.3.2.** Overhead expenses must be included in the hourly rate for Account Management. Overhead expenses include, but are not limited to, accounting fees, depreciation, insurance, interest, legal fees, rent, repairs, supplies, taxes, telephone bills, and utilities.
- 5.4.** The Lottery will reimburse Vendor for third party commodities and/or services at Vendor's net cost, with no additional markup. Any services or materials provided to the Vendor on behalf of the Lottery shall be approved and reimbursed without any additional mark up. Public service

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announcements are not subject to media charges. Media placements will be reimbursed at net cost only, with no additional markup beyond what is submitted on the Pricing Page (Exhibit A).

- 6. PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. Vendor shall perform in accordance with the release orders that may be issued against this Contract.
  - 6.1** Vendor must have prior written authorization from the Lottery Director, the Director's designee, or the Lottery Marketing Director for all work prior to performance and submission of an invoice for payment by the Vendor. Billing for work of any nature without prior written authorization will not be paid by the Lottery.
  - 6.2** Total expenditures for the Lottery's advertising and promotions program shall not exceed the amount approved by the Lottery unless such change is requested, and by mutual consent is agreed upon in writing by the Lottery and the Vendor. Detailed payment information is located in Section 7.
  
- 7. PAYMENT TO VENDOR:** The Vendor shall submit invoices, in arrears, to the Lottery at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract. The Lottery shall pay an hourly rate as proposed by the Vendor, as shown on the Pricing Page (Exhibit A), for all Contract Services accepted and performed under this contract.
  - 7.1** Vendor shall submit reimbursements for invoices paid on a monthly basis. Payment to the Vendor from the Lottery shall directly reflect the reimbursement of services from outside entities. All invoices to be paid by the Lottery shall show the net cost to the Vendor.
  - 7.2** Vendor will work with Lottery financial staff on the format of invoices. All invoices must include a detail of all hours worked by each employee, a copy of all invoices paid to third party providers, and a copy of the check showing payment to the third-party providers. If any future changes to invoicing are required by the State Auditor's Office or by State Rule or Law, vendor must adhere to these changes as necessary.
  - 7.3** Vendor must provide proof of payment of all third-party invoices that were used to provide production services or materials for the Lottery's account. That proof may come in the form of cleared checks, or other standard financial recording. Such proof shall be made available to the Lottery for audit once per month, or upon request.

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- 7.4 Invoices may be requested by the Lottery outside of the monthly billing.
- 7.5 There shall be no additional markup charges on media, production or any other services provided by third-party entities.
- 7.6 The Lottery will reimburse Vendor for third party commodities and/or services at Vendor's net cost, with no additional Vendor markup. Media placements will be reimbursed at net cost only, with no additional markup beyond what is submitted on the pricing page (Exhibit A). Any services or materials provided to the Vendor on behalf of the Lottery shall be approved and reimbursed without any additional Vendor mark up. Public service announcements are not subject to media charges.
- 7.7 Progress payments may be made at the option of the Lottery on the basis of percentage of work completed per project. Any provision for progress payments must also include language for a minimum 50% retainage until the final deliverable is accepted.
- If progress payments are permitted, Vendor is required to identify points in the work plan at which compensation would be appropriate. Progress reports must be submitted to Lottery with the invoice detailing progress completed or any deliverables identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the Vendor's report. State law forbids payment of invoices prior to receipt of services.
8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Travel expenses associated with attending any Lottery related activities including, but not limited to, the NASPL conference, other conferences, marketing meetings, special promotions, media events, and retailer visits must be included in hourly rate for Account Management. These expenses include, but are not limited to, airline tickets, rental cars, mileage, meals, hotel accommodations, and conference fees. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately. Vendor will not bill Lottery for travel time between or among the Lottery's office in Charleston and the Vendor's office(s) or for travel time to Lottery events. This travel time shall be the responsibility of the Vendor.
9. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to the Lottery's facilities. In the event that access cards and/or keys are required:
- 9.1. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.

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- 9.2.** Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
- 9.3.** Vendor shall notify the Lottery immediately of any lost, stolen, or missing card or key.
- 9.4.** Anyone performing under this Contract will be subject to the Lottery's security protocol and procedures which will be provided to Vendor upon contract award.
- 9.5.** Vendor shall inform all staff of the Lottery's security protocol and procedures.

**10. VENDOR DEFAULT:**

- 10.1.** The following shall be considered a vendor default under this Contract.
- 10.2.** Failure to perform Contract Services in accordance with the requirements contained herein.
- 10.3.** Failure to comply with other specifications and requirements contained herein.
- 10.4.** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 10.5.** Failure to remedy deficient performance upon request.
- 10.6.** The following remedies shall be available to Lottery upon default.
  - 10.6.1.** Immediate Cancellation of the Contract.
  - 10.6.2.** Immediate Cancellation of one or more release orders issued under this Contract.
  - 10.6.3.** Any other remedies available in law or equity.



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**11. MISCELLANEOUS:**

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

**Contract Manager:** John B. Birnsteel  
**Telephone Number:** (502) 523-8151  
**Fax Number:** N/A  
**Email Address:** jbirnsteel@doeanderson.com

**12 LIQUIDATED DAMAGES:**

**12.1** According to West Virginia State Code §5A-3-4(a)(8), Vendor agrees that liquidated damages shall be imposed at any time during the course of the contract resulting from this Request for Quotation, or at any time during the course of possible renewal years, as described below. This clause shall in no way be considered exclusive and shall not limit the State or Lottery's right to pursue any other additional remedy to which the State or Lottery may have legal cause for action including further damages against the Vendor.

**12.1.1** Liquidated damages for Vendor default may include, but are not limited to:

**12.1.2** Failure to respond to a request for on-site staff within the specified sixty (60) minute timeframe requirement: **\$350 per incident per requested person.**

**12.1.3** Failure to provide and maintain account staffing at the experience and educational levels of, or similar levels to, those originally proposed: **\$350 per day, per person.**

**12.1.4** Failure to comply with the Covenant Related to Purchasing Lottery Tickets (Section 4.9): **Amount equal to the cash value of the prize won.**

**12.1.5** Failure to meet documented deadlines due to carelessness or poor planning

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on the part of the Vendor: **\$500 per day, per occurrence.**

- 12.1.6** Failure to make payments on the Lottery's behalf within fourteen (14) business days, upon receiving the West Virginia Lottery's approval of the invoiced statement: **\$100 per incident.**
- 12.2** Breach of any of the foregoing, or any action of the Vendor or any associate, agent or subcontractor of the Vendor involved in the contract, which reflects negatively upon the integrity, credibility, honesty, or security of the State Lottery Commission will result in decisive remedial action, and may include cancellation of the contract by the State of West Virginia.

The West Virginia Lottery Director shall have discretion to determine whether liquidated damages, as described in this section of the RFQ, will be assessed. The West Virginia Lottery Director's determination shall not be arbitrary or capricious. In the event of a dispute regarding the imposition or the amount of liquidated damages, the Vendor shall designate one (1), and only one (1), on-site individual to discuss the dispute with the West Virginia Lottery Director or West Virginia Lottery Commission. In all possible areas of liquidated damages assessment, there shall be no prorated damages unless otherwise expressed for partial periods. Excessive liquidated damages, and events leading to such, may be grounds for termination of the contract.

This clause shall in no way be considered exclusive and shall not limit the State or Lottery's right to pursue any other available remedy.

**13 DATA CONFIDENTIALITY:**

- 13.1** Any and all financial, statistical, personnel, customer and/or technical data supplied by the State to the Vendor are confidential (State Confidential Information). The Vendor must secure all data from manipulation, sabotage, theft or breach of confidentiality. The Vendor is prohibited from releasing any financial, statistical, personnel, customer and/or technical data supplied by the State and/or deemed to be confidential. The Vendor shall assume total financial liability incurred by the Vendor associated with any such breach of confidentiality.

**EXHIBIT A : PRICING PAGE -Modified for Addendum 2**

A. CATEGORY	CONTRACT SERVICES	Unit of Measure	ESTIMATED HOURS (BASED ON HOURS/ YEAR IN 2020)	VENDOR'S HOURLY RATE Year 1	VENDOR'S HOURLY RATE YEAR 2 OPTIONAL RENEWAL	VENDOR'S HOURLY RATE YEAR 3 OPTIONAL RENEWAL	VENDOR'S HOURLY RATE YEAR 4 OPTIONAL RENEWAL	EXTENDED COST PER SERVICE
ACCOUNT MANAGEMENT	1. Account Services	Hour(s)	1,200	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 501,000.00
	2. General Account Management	Hour(s)	200	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 83,500.00
	3. Public Relations	Hour(s)	40	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 16,700.00
	4. Research Services	Hour(s)	40	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 16,700.00
MEDIA	5. Media Planning and Buying of Radio and Streaming Services	Hour(s)	100					\$ -
	6. Media Planning and Buying of Television and Streaming Services	Hour(s)	300					\$ -
	7. Media Planning and Buying of Newspaper	Hour(s)	100					\$ -
	8. Media Planning and Buying of Outdoor Ads	Hour(s)	80					\$ -
	9. Media Planning and Buying of Social Media	Hour(s)	80					\$ -
CREATIVE	10. Illust/Layout/Design and Copywriting Adv.	Hour(s)	200	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 83,500.00
	11. Creative/Art Direction or Planning	Hour(s)	500	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 208,750.00
	12. Computer Graphics	Hour(s)	500	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 208,750.00
WEBSITE	13. Web Site Development and Maintenance	Hour(s)	700	\$ 135.00	\$ 140.00	\$ 145.00	\$ 150.00	\$ 399,000.00
	14. Web Hosting & Domain	Hour(s)	100	\$ 135.00	\$ 140.00	\$ 145.00	\$ 150.00	\$ 57,000.00
PRODUCTION	15. Printing	Hour(s)	200	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 83,500.00
	16. Film Production	Hour(s)	500	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 208,750.00
	17. Audio Production	Hour(s)	200	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 83,500.00
	18. Music Rights/ Trademark	Hour(s)	5	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 2,087.50
PROMOTIONS/ EVENTS	19. Sponsorships- Collegiate/ Fairs & Festivals	Hour(s)	35	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 14,612.50
	20. Marketing Promotions Planning, Materials, Prizes, Trips, and Accommodations	Hour(s)	200	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 83,500.00
	21. Promotion and Events Field Support	Hour(s)	100	\$ 100.00	\$ 102.50	\$ 105.00	\$ 110.00	\$ 41,750.00
<b>TOTAL EXTENDED HOURLY COST</b>								<b>\$ 2,092,600.00</b>

The sum of ESTIMATED HOURS (CONTRACT SERVICES 1-21) IS 5380 HOURS. The quantities shown are estimates only and may be more or less.

B. Media Buying Add-on Years (Year one (1) plus optional renewals Years two (2) - four (4)); All Vendors responding to this RFQ must provide a percentage of add-on media buying activities (not to exceed 5%). This percentage will be multiplied by \$2,500,000 and added to that total. The total media buy of \$2,500,000 is arbitrary and the actual amount may not reach or may exceed this amount.

**VENDOR'S ADD-ON FOR MEDIA BUYING TOTAL:**

5% x \$2,500,000 \$ 112,500.00

C. (Cost from A. and B. are to be added together to determine the total cost of the proposal.)

**TOTAL BID AMOUNT:**

**\$ 2,205,100.00**

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: Doe-Anderson, Inc.

Authorized Signature:  Date: August 27, 2020

State of Kentucky

County of Jefferson, to-wit:

Taken, subscribed, and sworn to before me this 27<sup>th</sup> day of August, 2020

My Commission expires 3-22-2024, 20  

**AFFIX SEAL HERE**

**NOTARY PUBLIC**



*Purchasing Affidavit (Revised 01/19/2018)*



# 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](mailto:ethics@wv.gov); website: [www.ethics.wv.gov](http://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: Doe-Anderson, Inc. Address: 680 S. 4th Street  
Louisville, KY 40202  
Name of Authorized Agent: John B. Birnsteel Address: 680 S. 4th Street  
Contract Number: CRFQ 0705 LOT2100000001 Contract Description: Marketing and Advertising Services  
Governmental agency awarding contract: West Virginia Lottery

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.
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: [Signature] Date Signed: August 27, 2020

**Notary Verification**

State of Kentucky, County of Jefferson:

I, John Birnsteel, 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 27<sup>th</sup> day of August 2020.

[Signature]  
Notary Public's Signature

**To be completed by State Agency:**  
Date Received by State Agency: \_\_\_\_\_  
Date submitted to Ethics Commission: \_\_\_\_\_  
Governmental agency submitting Disclosure: \_\_\_\_\_

**JULIE L. ICE**  
Notary Public, Notary ID # KYNP5209  
State at Large, Kentucky  
My commission expires Mar. 22, 2024