



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

**State of West Virginia
 Centralized Request for Quote
 Service - Misc**

Proc Folder: 1132536		Reason for Modification:	
Doc Description: Statewide Contract for Debt Collection Services - (DEBT23)		Addendum #1 to attach Vendor Questions and Answers	
Proc Type: Statewide MA (Open End)			
Date Issued	Solicitation Closes	Solicitation No	Version
2022-11-16	2022-11-23 13:30	CRFQ 0212 SWC2300000007	2

BID RECEIVING LOCATION

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

11/22/22 09:43:19
 WV Purchasing Division

VENDOR

Vendor Customer Code: 000000126266
Vendor Name : Penn Credit Corporation
Address :
Street : 2800 Commerce Drive
City : Harrisburg
State : Pennsylvania **Country :** United States **Zip :** 17110
Principal Contact : Dale Brumbach
Vendor Contact Phone: 717-329-8695 **Extension:** N/A

FOR INFORMATION CONTACT THE BUYER
 Jessica L Hovanec
 304-558-2314
 jessica.l.hovanec@wv.gov

Vendor Signature X  **FEIN#** 23-2470030 **DATE** 11/21/22

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

ADDITIONAL INFORMATION

Addendum #1 to attach Vendor Questions and Answers.

The West Virginia Purchasing Division is requesting bids for a statewide, open-end Contract for Debt Collection Services for all West Virginia State Agencies and political subdivisions, per attached documents.

Note: Online responses to this solicitation are prohibited. Please see the Instructions to Bidders ifor additional information.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Debt collection services - Colleges and Universities	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - Per Debt % of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Debt collection services - Worker's Compensation	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - Default Account% of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Debt collection services - WV Department of Tax and Revenue	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - New Accounts % of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Debt collection services - WV Department of Tax and Revenue	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - Levy Account % of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Debt collection services - Div. of Environmental Protection	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - Per Debt% of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Debt collection services - Other Spending Units	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - Per Debt % of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	Debt collection services - Rate of Second Placement	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - Per Debt% of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	Debt collection services - Rate of Second Placement-Colleges	0.00000			

Comm Code	Manufacturer	Specification	Model #
84101704			

Extended Description:

Type of Account - Colleges % of Amount Collected -

Note: Vendor shall use Exhibit_C Pricing Page for bid pricing. Online bid submission is prohibited. Vendor shall enter pricing into the Exhibit_C Pricing Page and must attach with bid.

SCHEDULE OF EVENTS

Line	Event	Event Date
1	Technical Questions Due by 10:00am EST	2022-11-14

	Document Phase	Document Description	Page 6
SWC2300000007	Final	Statewide Contract for Debt Collection Services - (DEBT23)	

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 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 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 emails should have the solicitation number in the subject line.

Question Submission Deadline: **November 14, 2022 at 10:00am ET**

Submit Questions to: **Jessica L. Hovanec, Senior Buyer**
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-3970
Email: Jessica.L.Hovanec@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 on or before the date and time of the bid opening listed in section 7 below. Vendors can submit bids electronically through *wvOASIS*, in paper form delivered to the Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the Purchasing Division at the number listed below. Notwithstanding the foregoing, 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*. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via email. Bids submitted in paper or facsimile form must contain a signature. Bids submitted in *wvOASIS* are deemed to be electronically signed.

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.

~~**For Request for Proposal ("RFP") Responses Only:** Submission of a response to a Request for Proposal is not permitted in *wvOASIS*. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified in Section 7 below, plus N?A convenience copies of each to the Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.~~

Bid Delivery Address and Fax Number:

Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130
Fax: 304-558-3970

A bid submitted in paper or facsimile form should contain the information listed below on the face of the submission envelope or fax cover sheet. Otherwise, the bid may be rejected by the Purchasing Division.

VENDOR NAME:

BUYER: Jessica Hovanec

SOLICITATION NO.: CRFQ 0212 SWC230000007

BID OPENING DATE: 11/23/2022

BID OPENING TIME: 1:30 PM ET

FAX NUMBER: 304-558-3970

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: **November 23, 2022 at 1:30 PM ET**

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: 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: 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 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. 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.

23. EMAIL NOTIFICATION OF AWARD: The Purchasing Division will attempt to provide bidders with e-mail notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the Purchasing Division with a valid email address in the bid response. Bidders may also monitor *wvOASIS* or the Purchasing Division’s website to determine when a contract has been awarded.

24. ISRAEL BOYCOTT CERTIFICATION: Vendor’s act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel. This certification is required by W. Va. Code § 5A-3-63.

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, 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: The Initial Contract Term will be for a period of ONE (1) YEAR. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

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:

the contract will continue for _____ years;

the 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).

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.

Construction/Project Oversight: This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

Other: Contract Term specified in _____

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

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

Open End Contract: Quantities listed in this Solicitation/Award Document 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.

Construction: This Contract is for construction activity more fully defined in the specifications.

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

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

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 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 that insurance requirement is listed in this section.

Vendor must maintain:

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

Automobile Liability Insurance in at least an amount of: _____ per occurrence.

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: \$1,000,000.00 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: \$1,000,000.00 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.

9. WORKERS' COMPENSATION INSURANCE: 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. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

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.

Liquidated Damages Are Not Included in this Contract.

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: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

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, included in the Contract, 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. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding 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.

Revised 09/12/2022

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 NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they 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.

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. NO DEBT CERTIFICATION: 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. By submitting a bid, or entering into a contract with the State, Vendor is affirming 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, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. 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.

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

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

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

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

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

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. 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
 2. 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.

42. 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.

43. 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 disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work 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.

44. 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.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of 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.

(Printed Name and Title) Dale Brumbach

(Address) Penn Credit Corporation, 2800 Commerce Drive, Harrisburg, PA 17110

(Phone Number) / (Fax Number) 717-329-8695 Fax: 717-238-1370

(email address) dale.brumbach@penncredit.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract 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/Contract 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 this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; 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; 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.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

Penn Credit Corporation

(Company)

(Signature of Authorized Representative)

Thomas Foley, Jr., Chief Executive Officer

11/21/22

(Printed Name and Title of Authorized Representative) (Date)

800-800-3328 ext 3005 Fax: 717-238-1370

(Phone Number) (Fax Number)

marketing@penncredit.com

(Email Address)

REQUEST FOR QUOTATION
CRFQ 0212 SWC230000007
(DEBT23)
Debt Collection Services

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is requesting bids for a statewide, open-end Contract for Debt Collection for all West Virginia State Agencies and political subdivisions. This solicitation is for NEW placements only. Current placements will be permitted to run their course.

West Virginia State Code §14-1-18A empowers the Secretary of the Department of Administration to collect, or cause to be collected, debts and claims due to the State of West Virginia and/or its spending units. Any changes made in the law will be communicated to the successful vendor(s) by the Purchasing Division of the Department of Administration and made a part of the contract. All collections must be in accordance with West Virginia State Code Chapter 46A The West Virginia Consumer Credit and Protection Act, and Chapter 46A-2-122-129 (attached as **Exhibit_A**); along with any Federal law that may preempt the West Virginia Consumer Credit and Protection Act.

The current contract (DEBT19) expires 12/31/2022 and will not be renewed. The current contract may be viewed using the following link:

<http://www.state.wv.us/admin/purchase/swc/DEBT.htm>

SPECIAL NOTE: Due to the numerous state agencies, political subdivision, municipalities, etc. that may utilize this contract, the Purchasing Division does not currently track spending/usage information or have this information in its possession. Section 9 of these Specifications will require successful contract holders to provide quarterly usage reports under the new Contract(s) to help in providing this information for future solicitations.

This will be a new open-end contract to be used as needed by the agency and any usage is not guaranteed or implied. Any previous contract(s) and usage associated with a previous contract or contracts, including spending, category, type, backlog, etc., should not be considered as an estimation or indication of future usage for the new contract.

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

2.1 “Contract Services” means debt collection services for New Placements, Primary and Secondary as specified below. Current placements will be permitted to run their course.

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2.2 “Pricing Page” means the pages upon which Vendor should list its proposed price for the Contract Services. The Pricing Page is either included on the last page of this CRFQ or attached hereto as **Exhibit_C**.

2.3 “CRFQ” means the official request for quotation published by the Purchasing Division and identified as CRFQ 0212 SWC2300000007.

2.4 “Primary Placement” is an account that has never been placed with another collection company or collection attorney.

2.5 “Second Placement” is an account that another collection company or collection attorney has previously tried to collect and failed.

3. QUALIFICATIONS: Vendor shall have the following minimum qualifications:

3.1 The collection agency must be a full-service agency and have the ability to handle several classifications of accounts including but not limited to educational, medical, and any other account that may be assigned. This is a statewide contract and is available to State agencies, spending units, and political subdivisions.

Twenty-two (22) state spending units have indicated to the Purchasing Division that they anticipate the utilization of collection services. Other State Agencies may elect to use the collection services provided by the successful bidders.

The spending units indicating usage are –

- 3.1.1** Marshall University – Huntington, WV
- 3.1.2** West Virginia State University – Institute, WV
- 3.1.3** Shepherd College – Shepherdstown, WV
- 3.1.4** West Liberty State College – West Liberty, WV
- 3.1.5** Bluefield State College – Bluefield, WV
- 3.1.6** Glenville State College – Glenville, WV
- 3.1.7** Concord College – Athens, WV
- 3.1.8** West Virginia Northern Community College – Wheeling, WV
- 3.1.9** West Virginia Graduate College – Institute, WV
- 3.1.10** Potomac State College – Keyser, WV
- 3.1.11** WV University Institute of Technology – Montgomery, WV
- 3.1.12** WV School of Osteopathic Medicine – Lewisburg, WV
- 3.1.13** West Virginia University – Morgantown, WV
- 3.1.14** Fairmont State College – Fairmont, WV

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- 3.1.15** Southern West Virginia Community College – Logan, WV
- 3.1.16** West Virginia Division of Highways – Charleston, WV
- 3.1.17** West Virginia Department of Transportation – Charleston, WV
- 3.1.18** West Virginia Dept. of Health and Human Resources – Charleston, WV
- 3.1.19** West Virginia Dept. of Tax and Revenue – Charleston, WV
- 3.1.20** Barboursville Veterans Home – Barboursville, WV
- 3.1.21** WV Workers' Compensation – Charleston, WV
- 3.1.22** WV Division of Environmental Protection – Charleston, WV

3.2 Out-of-State Collection Agencies: Out-of-state collection agencies without an office in the State of West Virginia are restricted to contacting residents of this State for the collection of debts by letters and telephone calls. Prior to award the successful bidder is required to designate to the Tax Commissioner a resident agent (name, address and phone number) upon whom notices, orders or other communications may be served and upon whom process may be served. West Virginia Secretary of State may be designated as the resident agent for service process pursuant to West Virginia State Code §56-3-33 attached as **Exhibit_B**.

4. MANDATORY REQUIREMENTS:

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

- 4.1.1** Vendor must attempt to collect debts on behalf of the State of West Virginia and/or its spending units.
- 4.1.2** The Department of Administration reserves the right to request an examination or audit of any or all records relating to matters covered by this contract.
- 4.1.3** All records must be kept a minimum of six (6) years by the vendor.
- 4.1.4** In accordance with national direct student loan guidelines, all fees charged against student loan accounts will apply only to the original principal and interest owed by the debtor, excluding any added collection costs.

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4.1.5 Placements: (Both Primary Placement and Secondary Placement)

4.1.5.1 The vendor(s) must have the ability to handle several account classifications of accounts separately, in order to provide the spending unit with information on the collection performance for each class of accounts.

4.1.5.2 By West Virginia State law, a spending unit must attempt to collect a claim for three (3) months before a claim can be placed with a collection agency. When submitting the claim for collection, the agency will be able to provide more information about collection attempts.

4.1.5.3 Upon Placement of an account with a collection agency, the spending unit will forward a letter of transmittal to the collection agency in its designated area. These transmittals will contain the following –

4.1.5.3.1 Type of Account and description of service

4.1.5.3.2 Name of whom the claim is made against

4.1.5.3.3 Address, including zip code

4.1.5.3.4 Balance Due

4.1.5.3.5 Date of Service or age of account

4.1.5.3.6 Telephone number (Optional if available)

4.1.5.3.7 Previous collection reports received on individual accounts when available

4.1.5.3.8 Any other information deemed important by the spending unit.

4.1.5.4 The collection agency will have a minimum of 180 calendar days to attempt to collect debts. Upon expiration of 180 calendar days, the collection agency will transfer all uncollected debts back to the originating spending unit. Collection agencies are not required to transfers accounts back to the spending unit on which payments are still being received at the end of the 180 day period or that are in dispute or nearing settlement, however all accounts not paid in full at the end of two (2) years, inclusive of the 180 day period, will be referred back to the originating spending unit unless exempted by the Secretary of

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Administration. When returning a claim, the collection agency must submit a completed litigation referral form.

4.1.5.5 The vendor will implement collection procedures and attempt to achieve maximum recovery from debtors. These procedures will include:

4.1.5.5.1 Minimum of two (2) monthly telephone calls and one (1) monthly letter.

4.1.5.5.2 Direct mailing efforts and skip tracing procedures when the address is identified as undeliverable by the post office.

4.1.6 Payments and Reporting to Agency:

4.1.6.1 The collection agency will forward all payments collected during any month by the 15th day of the following month to the originating spending unit accompanied by the report specified below. The collection effort will continue until an account is paid in full, except as otherwise restricted, until the spending unit desires collection efforts to be terminated, or until the 180 period has lapsed.

4.1.6.2 The collection agency must send a completed report to the spending unit on or before the 15th of every month for the preceding month, whether or not any payments were received.

4.1.6.3 The following information must be included in each report by debtor in alphabetical order, by debtors' surname:

4.1.6.3.1 Debtor's name(s) and social security number(s) or other identification number(s) as agreed upon by the spending unit and collection agency.

4.1.6.3.2 Placement date of accounts

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- 4.1.6.3.3 Beginning amount to collect, additional amount authorized for collection, amounts previously collected, amounts collected for current month, total collections to date, and balance owed.
- 4.1.6.3.4 Amount(s) forwarded to spending unit and balance due to spending unit.
- 4.1.6.3.5 Fees assessed, amount collected and balance due
- 4.1.6.3.6 Reason for returned or closed accounts (if applicable)
- 4.1.6.3.7 Remarks
- 4.1.6.3.8 Percent of dollar amounts collected to date
- 4.1.6.3.9 All collection agencies shall have the capacity to add accrued interest to applicable accounts on a monthly basis, this shall be included in the report

4.1.7 Litigation – Accounts that have not been collected by the collection agencies may be referred to the Attorney General’s Office for litigation. When returning a claim to the referring state spending unit, the collection agency must submit a completed litigation referral form which must contain all information requested.

4.1.8 HIPPA - Any Collection Agency doing business with any State Agency that is bound by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) must sign the attached agreement and return prior to award of bid (see **Exhibit_D**).

5. CONTRACT AWARD:

5.1 Contract Award: The Contract is intended to provide Agency with a purchase price for all the Contract Services listed. If it is in the best interest of the State, the contract will be a progressive award. The Contract award may be limited to the three (3) lowest bidders meeting the specifications per line item. Award will be made for low bid percentage to high percentage and usage will be in the same manner, per line item. Under this scenario, it will be possible for a Vendor to be awarded a Contract for only a portion of the line items they bid. If the lowest vendor awarded for a line item cannot provide the needs for the Facility at the requested time, the second lowest vendor awarded for the same line item will be contacted. Each vendor will be allowed

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48 hours after notification for service to determine if they will be able to meet our needs. If they cannot meet the need, the vendor must notify the agency immediately in written form (letter or email) that they cannot supply the required service.

AGENCIES WILL SELECT FROM THE SUCCESSFUL BIDDERS PER CONTRACT LINE ITEM BASED ON LOWEST BID FOR THAT CONTRACT LINE ITEM. IF THE LOWEST BIDDER CANNOT PERFORM THE REQUEST, THEN THE SECOND LOWEST BIDDER WILL BE CONTACTED, AND SO ON UNTIL THE REQUEST IS FULFILLED. VENDORS ARE NOT ASSIGNED TO A SPECIFIC AGENCY; THE AGENCY WILL UTILIZE THE CONTRACT PER THE CONTRACT LINE ITEM AWARDED.

5.2 Pricing Page: Vendor must complete the **Exhibit_C** Pricing Page and submit with their bid. Online responses (electronic in wvOasis) is prohibited. The fees stated in the cost proposal must be wholly contingent on collection. Cost proposals must be bid in the form of percentage rates, as a percentage of collections. Price shall be a straight overall percentage. The quoted fees in the bid proposal shall be all inclusive and shall include all expenses to be incurred in connection with the services to be performed.

Vendor should complete the **Exhibit_C** Pricing Page for each commodity line item they wish to provide. Vendor may bid any or all commodity line items to be considered for an award for that line item.

Vendor should type or electronically enter the information into the **Exhibit_C** Pricing Page to prevent errors in the evaluation and must submit with their bid.

- 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. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.
- 7. PAYMENT:** Upon payment to the spending unit of all sums collected on behalf of the spending unit by the collection agency, the collection agency will invoice the spending unit for the fee assessed. Compensation will be paid only if the debtor pays all or a portion of the account due. The collection agency is prohibited from retaining its fee from the amount collected on behalf of the State. Furthermore, fess assessed by the

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collection agency for collecting a claim shall never exceed the fee specified in the purchase order issued by the Purchasing Division of the Department of Administration, or the amount specified by law. Agency shall pay for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. In the event an account currently held by the vendor contacts a debtor and the debtor pays the agency directly (direct pay), the agency will notify the vendor of the direct pay payment and will pay the vendor the agreed upon fee for the account.

8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
9. **PURCHASING DIVISION USAGE REPORT:** The Contractor shall provide to the State of West Virginia's primary contact person quarterly utilization reports containing at a minimum the following information pertaining to the State of West Virginia agencies, boards, commissions, and political subdivisions:
- a. Ordering Entity;
 - b. Purchase order number;
 - c. Description of service;
 - d. Quantity;
 - e. Price.

These reports must be provided in Excel format and sent via email on a quarterly basis as follows:

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

The contract number **CMA 0212 DEBT23** must be included on all Quarterly Usage Reports. Send reports to: Mark.A.Atkins@wv.gov and Jessica.L.Hovanec@wv.gov
Failure to provide the requested information may result in contract cancellation.

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10. FACILITIES ACCESS: Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:

10.1 Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.

10.2 Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.

10.3 Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.

10.4 Anyone performing under this Contract will be subject to Agency's security protocol and procedures.

10.5 Vendor shall inform all staff of Agency's security protocol and procedures.

11. VENDOR DEFAULT:

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

11.1.1 Failure to perform Contract Services in accordance with the requirements contained herein.

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

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

11.1.4 Failure to remedy deficient performance upon request.

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

11.2.1 Immediate cancellation of the Contract.

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

11.2.3 Any other remedies available in law or equity.

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12. MISCELLANEOUS:

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

Contract Manager: Dale Brumbach

Telephone Number: 717-329-8695

Fax Number: 717-238-1370

Email Address: dale.brumbach@penncredit.com

WEST VIRGINIA CODE: §14-1-18a**§14-1-18a. Consignment of claims to debt collector.**

Any account, claim or debt that an agency of this state is not able to collect within three months after trying with due diligence to do so may be referred to the commissioner of finance and administration for consignment by the commissioner to a responsible licensed and bonded debt collection agency or similar other responsible agent for collection. The commissioner shall not handle or consign any such account, claim or debt unless he is satisfied that the referring agency has made a diligent effort to collect the debt on its own; that the account or claim is justly, properly and clearly due the state; and that the collection of any such debt would not impose an undue, unjust, unfair or unreasonable hardship or burden upon the health or general welfare of the party owing the debt. In any such case of undue, unjust, unfair or unreasonable hardship or burden, the commissioner may, in his discretion, and with the review and approval of the Attorney General, compromise, settle or dismiss the debt or claim. If he is satisfied that the aforesaid terms of and conditions for collectibility have been met, the commissioner may consign the account, claim or debt to a responsible licensed and bonded debt collection agency or similar other responsible agent for collection. In any such case, the collection agency or other agent shall stand in the place of the state as creditor and shall have the same claims, rights and remedies against the debtor as the state has, and the debtor shall have the same rights, claims, defenses and setoffs against the collection agency or other agent as he has against the state.

WEST VIRGINIA CODE: §46a-2-122

§46A-2-122. Definitions.

For the purposes of this section and sections one hundred twenty-three, one hundred twenty-four, one hundred twenty-five, one hundred twenty-six, one hundred twenty-seven, one hundred twenty-eight, one hundred twenty-nine and one hundred twenty-nine-a of this article, the following terms shall have the following meanings:

(a) "Consumer" means any natural person obligated or allegedly obligated to pay any debt.

(b) "Claim" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or service which is the subject of the transaction is primarily for personal, family or household purposes, whether or not such obligation has been reduced to judgment.

(c) "Debt collection" means any action, conduct or practice of soliciting claims for collection or in the collection of claims owed or due or alleged to be owed or due by a consumer.

(d) "Debt collector" means any person or organization engaging directly or indirectly in debt collection. The term includes any person or organization who sells or offers to sell forms which are, or are represented to be, a collection system, device or scheme, and are intended or calculated to be used to collect claims. The term excludes attorneys representing creditors provided the attorneys are licensed in West Virginia or otherwise authorized to practice law in the State of West Virginia and handling claims and collections in their own name as an employee, partner, member, shareholder or owner of a law firm and not operating a collection agency under the management of a person who is not a licensed attorney.

WEST VIRGINIA CODE: §46A-2-123

§46A-2-123. Practice of law by debt collectors.

Unless a licensed attorney in this state, no debt collector shall engage in conduct deemed the practice of law. Without limiting the general application of the foregoing, the following conduct is deemed the practice of law:

- (a) The performance of legal services, furnishing of legal advice or false representation, direct or by implication, that any person is an attorney;
- (b) Any communication with consumers in the name of an attorney or upon stationery or other written matter bearing an attorney's name; and
- (c) Any demand for or payment of money constituting a share of compensation for services performed or to be performed by an attorney in collecting a claim.

WEST VIRGINIA CODE: §46A-2-124

§46A-2-124. Threats or coercion.

No debt collector shall collect or attempt to collect any money alleged to be due and owing by means of any threat, coercion or attempt to coerce. Without limiting the general application of the foregoing, the following conduct is deemed to violate this section:

(a) The use, or express or implicit threat of use, of violence or other criminal means, to cause harm to the person, reputation or property of any person;

(b) The accusation or threat to accuse any person of fraud, any crime, or any conduct which, if true, would tend to disgrace such other person or in any way subject him to ridicule, or any conduct which, if true, would tend to disgrace such other person or in any way subject him to ridicule or contempt of society;

(c) False accusations made to another person, including any credit reporting agency, that a consumer is willfully refusing to pay a just debt, or the threat to so make false accusations;

(d) The threat to sell or assign to another the obligation of the consumer with an attending representation or implication that the result of such sale or assignment would be that the consumer would lose any defense to the claim or would be subjected to harsh, vindictive or abusive collection attempts;

(e) The threat that nonpayment of an alleged claim will result in the:

(1) Arrest of any person; or

(2) Garnishment of any wages of any person or the taking of other action requiring judicial sanction, without informing the consumer that there must be in effect a judicial order permitting such garnishment or such other action before it can be taken; and

(f) The threat to take any action prohibited by this chapter or other law regulating the debt collector's conduct.

WEST VIRGINIA CODE: §46A-2-125

§46A-2-125. Oppression and abuse.

No debt collector shall unreasonably oppress or abuse any person in connection with the collection of or attempt to collect any claim alleged to be due and owing by that person or another. Without limiting the general application of the foregoing, the following conduct is deemed to violate this section:

- (a) The use of profane or obscene language or language that is intended to unreasonably abuse the hearer or reader;
- (b) Engaging any person in telephone conversation without disclosure of the caller's identity and with the intent to annoy, harass or threaten any person at the called number;
- (c) Causing expense to any person in the form of long distance telephone tolls, telegram fees or other charges incurred by a medium of communication, by concealment of the true purpose of the communication; and
- (d) Calling any person more than thirty times per week or engaging any person in telephone conversation more than ten times per week, or at unusual times or at times known to be inconvenient, with intent to annoy, abuse, oppress or threaten any person at the called number. In determining whether a debt collector's conduct violates this section, the debt collector's conduct will be evaluated from the standpoint of a reasonable person. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after eight o'clock antemeridian and before nine o'clock postmeridian, local time at the consumer's location.

WEST VIRGINIA CODE: §46A-2-126

§46A-2-126. Unreasonable publication.

No debt collector shall unreasonably publicize information relating to any alleged indebtedness or consumer. For purposes of this section, a debt collector does not unreasonably publicize information relating to any alleged indebtedness by identifying themselves to the debtor by name, identifying the debt collector's employer by name, if expressly requested by the debtor, or by providing a telephone number or other contact information to the debtor. Without limiting the general application of the foregoing, the following conduct is deemed to violate this section:

- (a) The communication to any employer or his agent before judgment has been rendered of any information relating to an employee's indebtedness other than through proper legal action, process or proceeding;
- (b) The disclosure, publication or communication of information relating to a consumer's indebtedness to any relative or family member of the consumer if such person is not residing with the consumer, except through proper legal action or process or at the express and unsolicited request of the relative or family member;
- (c) The disclosure, publication or communication of any information relating to a consumer's indebtedness to any other person other than a credit reporting agency, by publishing or posting any list of consumers, commonly known as "deadbeat lists", except lists to prevent the fraudulent use of credit accounts or credit cards, by advertising for sale any claim to enforce payment thereof, or in any manner other than through proper legal action, process or proceeding; and
- (d) The use of any form of communication to the consumer, which ordinarily may be seen by any other persons, that displays or conveys any information about the alleged claim other than the name, address and phone number of the debt collector.

Nothing in this chapter shall prohibit a creditor or debt collector from communicating with any person other than the consumer for the purpose of acquiring or confirming the consumer's location information provided they do so in a manner consistent with the provisions of 15 U. S. C. § 1692b, as the same may be amended from time to time. For purposes of this section, "communication" or "communicating" or any derivation of those terms shall not include the filing of a complaint or other document, pleading or filing with any court.

WEST VIRGINIA CODE: §46A-2-127

§46A-2-127. Fraudulent, deceptive or misleading representations.

No debt collector shall use any fraudulent, deceptive or misleading representation or means to collect or attempt to collect claims or to obtain information concerning consumers. Without limiting the general application of the foregoing, the following conduct is deemed to violate this section:

- (a) The use of any business, company or organization name while engaged in the collection of claims, other than the true name of the debt collector's business, company or organization;
- (b) Any false representation that the debt collector has in his possession information or something of value for the consumer that is made to solicit or discover information about the consumer;
- (c) The failure to clearly disclose the name and full business address of the person to whom the claim has been assigned for collection, or to whom the claim is owed, at the time of making any demand for money;
- (d) Any false representation or implication of the character, extent or amount of a claim against a consumer, or of its status in any legal proceeding;
- (e) Any false representation or false implication that any debt collector is vouched for, bonded by, affiliated with or an instrumentality, agent or official of this state or any agency of the federal, state or local government;
- (f) The use or distribution or sale of any written communication which simulates or is falsely represented to be a document authorized, issued or approved by a court, an official or any other legally constituted or authorized authority, or which creates a false impression about its source, authorization or approval;
- (g) Any representation that an existing obligation of the consumer may be increased by the addition of attorney's fees, investigation fees, service fees or any other fees or charges when in fact such fees or charges may not legally be added to the existing obligation; and
- (h) Any false representation or false impression about the status or true nature of or the services rendered by the debt collector or his business.

WEST VIRGINIA CODE: §46A-2-128

§46A-2-128. Unfair or unconscionable means.

No debt collector may use unfair or unconscionable means to collect or attempt to collect any claim. Without limiting the general application of the foregoing, the following conduct is deemed to violate this section:

(a) The seeking or obtaining of any written statement or acknowledgment in any form that specifies that a consumer's obligation is one incurred for necessities of life where the original obligation was not in fact incurred for such necessities;

(b) The seeking or obtaining of any written statement or acknowledgment in any form containing an affirmation of any obligation by a consumer who has been declared bankrupt except where such affirmation is obtained pursuant to applicable bankruptcy law;

(c) The collection or the attempt to collect from the consumer all or any part of the debt collector's fee or charge for services rendered: Provided, That attorney's fees, court costs and other reasonable collection costs and charges necessary for the collection of any amount due upon delinquent educational loans made by any institution of higher education within this state may be recovered when the terms of the obligation so provide. Recovery of attorney's fees and collection costs may not exceed thirty-three and one-third percent of the amount due and owing to any such institution: Provided, however, That nothing contained in this subsection shall be construed to limit or prohibit any institution of higher education from paying additional attorney fees and collection costs as long as such additional attorney fees and collection costs do not exceed an amount equal to five percent of the amount of the debt actually recovered and such additional attorney fees and collection costs are deducted or paid from the amount of the debt recovered for the institution or paid from other funds available to the institution;

(d) The collection of or the attempt to collect any interest or other charge, fee or expense incidental to the principal obligation unless such interest or incidental fee, charge or expense is expressly authorized by the agreement creating or modifying the obligation and by statute or regulation;

(e) Any communication with a consumer made more than three business days after the debt collector receives written notice from the consumer or his or her attorney that the consumer is represented by an attorney specifically with regard to the subject debt. To be effective under this subsection, such notice must clearly state the attorney's name, address and telephone number and be sent by certified mail, return receipt requested, to the debt collector's registered agent, identified by the debt collector at the office of the West Virginia Secretary of State or, if not registered with the West Virginia Secretary of State, then to the debt collector's principal place of business. Communication with a consumer is not

prohibited under this subsection if the attorney fails to answer correspondence, return phone calls or discuss the obligation in question, or if the attorney consents to direct communication with the consumer. Regular account statements provided to the consumer and notices required to be provided to the consumer pursuant to applicable law shall not constitute prohibited communications under this section; and

(f) When the debt is beyond the statute of limitations for filing a legal action for collection, failing to provide the following disclosure informing the consumer in all written communication with such consumer that:

(1) When collecting on a debt that is not past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 U. S. C. 1681c: "The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) cannot sue you for it. If you do not pay the debt, (INSERT OWNER NAME) may report or continue to report it to the credit reporting agencies as unpaid"; and

(2) When collecting on debt that is past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 U. S. C. 1681c: "The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) cannot sue you for it and (INSERT OWNER NAME) cannot report it to any credit reporting agencies."

WEST VIRGINIA CODE: §46A-2-129

§46A-2-129. Postal violations.

No debt collector shall use, distribute, sell or prepare for use any written communication which violates or fails to conform to United States postal laws and regulations.

WEST VIRGINIA CODE: §56-3-33

§56-3-33. Actions by or against nonresident persons having certain contacts with this state; authorizing Secretary of State to receive process; bond and fees; service of process; definitions; retroactive application.

(a) The engaging by a nonresident, or by his or her duly authorized agent, in any one or more of the acts specified in subdivisions (1) through (7) of this subsection shall be deemed equivalent to an appointment by such nonresident of the Secretary of State, or his or her successor in office, to be his or her true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or her, in any circuit court in this state, including an action or proceeding brought by a nonresident plaintiff or plaintiffs, for a cause of action arising from or growing out of such act or acts, and the engaging in such act or acts shall be a signification of such nonresident's agreement that any such process against him or her, which is served in the manner hereinafter provided, shall be of the same legal force and validity as though such nonresident were personally served with a summons and complaint within this state:

- (1) Transacting any business in this state;
- (2) Contracting to supply services or things in this state;
- (3) Causing tortious injury by an act or omission in this state;
- (4) Causing tortious injury in this state by an act or omission outside this state if he or she regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;
- (5) Causing injury in this state to any person by breach of warranty expressly or impliedly made in the sale of goods outside this state when he or she might reasonably have expected such person to use, consume or be affected by the goods in this state: Provided, That he or she also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;
- (6) Having an interest in, using or possessing real property in this state; or
- (7) Contracting to insure any person, property or risk located within this state at the time of contracting.

(b) When jurisdiction over a nonresident is based solely upon the provisions of this section, only a cause of action arising from or growing out of one or more of the acts specified in subdivisions (1) through (7), subsection (a) of this section may be asserted against him or her.

(c) Service shall be made by leaving the original and two copies of both the summons and the complaint, and the fee required by section two, article one, chapter fifty-nine of this code with the Secretary of State, or in his or her office, and such service shall be sufficient upon such nonresident: Provided, That notice of such service and a copy of the summons and complaint shall forthwith be sent by registered or certified mail, return receipt requested, by a means which may include electronic issuance and acceptance of electronic return receipts, by the Secretary of State to the defendant at his or her nonresident address and the defendant's return receipt signed by himself or herself or his or her duly authorized agent or the registered or certified mail so sent by the Secretary of State which is refused by the addressee and which registered or certified mail is returned to the Secretary of State or to his or her office, showing thereon the stamp of the post-office department that delivery has been refused. After receiving verification from the United States Postal Service that acceptance of process, notice or demand has been signed, the Secretary of State shall notify the clerk's office of the court from which the process, notice or demand was issued by a means which may include electronic notification. If the process, notice or demand was refused or undeliverable by the United States Postal Service, the Secretary of State shall create a preservation duplicate from which a reproduction of the stored record may be retrieved which truly and accurately depicts the image of the original record. The Secretary of State may destroy or otherwise dispose of the original returned or undeliverable mail. Written notice of the action by the Secretary of State must then be provided by certified mail, return receipt requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process, notice or demand was issued. If any defendant served with summons and complaint fails to appear and defend within thirty days of service, judgment by default may be rendered against him or her at any time thereafter. The court may order such continuances as may be reasonable to afford the defendant opportunity to defend the action or proceeding.

(d) The fee remitted to the Secretary of State at the time of service shall be taxed in the costs of the action or proceeding. The Secretary of State shall keep a record in his or her office of all such process and the day and hour of service thereof.

(e) The following words and phrases, when used in this section, shall for the purpose of this section and unless a different intent be apparent from the context, have the following meanings:

(1) "Duly authorized agent" means and includes among others a person who, at the direction of or with the knowledge or acquiescence of a nonresident, engages in such act or acts and includes among others a member of the family of such nonresident or a person who, at the residence, place of business or post office of such nonresident, usually receives and receipts for mail addressed to such nonresident.

(2) "Nonresident" means any person, other than voluntary unincorporated associations, who is not a resident of this state or a resident who has moved from this state subsequent to engaging in such act or acts, and among others includes a nonresident firm, partnership or corporation or a firm, partnership or corporation which has moved from this state

subsequent to any of said such act or acts.

(3) "Nonresident plaintiff or plaintiffs" means a nonresident of this state who institutes an action or proceeding in a circuit court in this state having jurisdiction against a nonresident of this state pursuant to the provisions of this section.

(f) The provision for service of process herein is cumulative and nothing herein contained shall be construed as a bar to the plaintiff in any action or proceeding from having process in such action served in any other mode or manner provided by the law of this state or by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction.

(g) This section shall not be retroactive and the provisions hereof shall not be available to a plaintiff in a cause of action arising from or growing out of any of said acts occurring prior to the effective date of this section.

Vendor must complete this schedule, for items being bid. The fee structure submitted to the State of West Virginia is as follows:

Agency	Type of Account	% of Amount Collected*
1. Colleges and Universities	Per Debt	5.84%
2. Worker's Compensation	Default Account	5.73%
3. WV Department of Tax and Revenue	New Accounts	4.48%
4. WV Department of Tax and Revenue	Levy Account - Where our employee is instrumental in the preparation of the levies.	4.48%
5. Division of Environmental Protection	Per Debt	5.74%
6. Other Spending Units	Per Debt	5.74%
7. Rate of Second Placement	Per Debt	10.43%
8. Rate of Second Placement	Colleges	10.43%

* Rates bid shall be all inclusive and must include all expenses to be incurred in connection with the services performed. (see Specifications 5.2)

Bidder Contact Info

Vendor: Penn Credit Corporation

Bidder Name (Print): Thomas Foley, Jr, Chief Executive Officer

Contact Name (Print): Dale Brumbach, VP of Client Relations

Phone: 717-329-8695

Fax: 717-238-8441

E-mail: marketing@penncredit.com

Bidder Signature:



WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE ADDENDUM

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

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

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

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

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

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

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

2. Permitted Uses and Disclosures.

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

3. Obligations of Associate.

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

f. Support of Individual Rights.

- i. Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR §164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:

 - the date of disclosure;
 - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
 - a brief description of the PHI disclosed; and
 - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

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

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

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

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

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

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

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

4. Addendum Administration.

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

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

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

5. General Provisions/Ownership of PHI.

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

AGREED:

Name of Agency: _____

Name of Associate: Penn Credit Corporation

Signature: _____

Signature: 


Title: _____

Title: Chief Executive Officer

Date: _____

Date: November 21, 2022

Form - WVBA-012004
Amended 06.26.2013

APPROVED AS TO FORM THIS 26th
DAY OF Jan 20 17

Patrick Morrissey
Attorney General
BY _____

Appendix A

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

Name of Associate: Penn Credit Corporation

Name of Agency: _____

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

All possible Personal Health Information.

- Any and all personally identifiable information including but not limited to patient name, address, date of birth, Social Security Number, telephone number, and insurance information.

SOLICITATION NUMBER: CRFQ SWC2300000007
Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as CRFQ SWC2300000007 (“Solicitation”) to reflect the change(s) identified and described below.

Applicable Addendum Category:

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

Description of Modification to Solicitation:

- 1) To attach Vendor Questions and Answers

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

Terms and Conditions:

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

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ SWC230000007

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

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

Addendum Numbers Received:

(Check the box next to each addendum received)

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

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that 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.

Penn Credit Corporation

Company

Authorized Signature

November 21, 2022

Date

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

Question #1: What is your target date for contract award?

Response #1: The State anticipates the new contract to begin immediately at the conclusion of the current contract which expires 12/31/2012.

Question #2: By Line Item, what is the overall historical liquidation rate / recovery rate achieved by the incumbent(s)?

Response #2: Specifications 1 Purpose and Scope contains a weblink to the current providers (DEBT19) which has this information at the following link:
<http://www.state.wv.us/admin/purchase/swc/DEBT.htm>

Question #3: In the most recent fiscal year, what dollar amount did each of your current contractors retain in fees?

Response #3: Due to the numerous state agencies, political subdivision, municipalities, etc. that may utilize this contract, the Purchasing Division does not track this information or have this information in its possession. This will be a new open-end contract to be used as needed by the agency and any usage is not guaranteed or implied. Any previous contract(s) and usage associated with a previous contract or contracts, including spending, category, type, backlog, etc., should not be considered as an estimation or indication of future usage for the new contract.

Question #4: Are digital signatures allowed on required bid forms? Our company utilizes DocuSign, which provides certified legally binding digital signatures of contract documents. The signer will be a person legally authorized to bind our company.

Response #4: Yes.

Question #5: CRFQ page 2 under “ADDITIONAL INFORMATION” says, “Online responses to this solicitation are prohibited. Please see the Instructions to Bidders for additional information.” The Instructions to Bidders section says, “Vendors can submit bids electronically through wvOASIS, in paper form delivered to the Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the Purchasing Division at the number listed below. Notwithstanding the foregoing, the Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion.” Please confirm whether online responses are allowed.

Response #5: Online responses are prohibited. The wvOasis electronic submission reference in these sections do not apply to this RFQ as online submission is prohibited.

Addendum_1

Question #6: For each department/agency that used a collection agency during the current contract, please identify which collection agency was used by the department/agency.

Response #6: See Response #3.

Question #7: Just to confirm, is each bidders required to bid and provide services on all debt types (line items)? Or may a bidder submit a bid on specific line items that are in their area of specialty?

Response #7: Per Specification 5.2 Pricing Page paragraph 2: “Vendor should complete the Exhibit_C Pricing Page for each commodity line item they wish to provide. Vendor may bid any or all commodity line items to be considered for an award for that line item”.

Question #8: In the Solicitation documents, we see the following sections to complete and return with our bid:

- Designated Contact
- Certification and Signature
- 12.1 Contract Manager completed
- Exhibit C – Pricing Page

Is there anything else we need to submit with our bid? If yes, please clarify.

Response #8: Please refer to the Instructions to Bidders Section 6. BID SUBMISSION for additional instructions and follow the General Terms and Conditions last page (Certification and Signature). The wvOasis electronic submission reference in these sections do not apply to this RFQ as online submission is prohibited. It is highly recommended that all the forms requiring a vendor to input information be submitted with the vendors' bid. Please read all the RFQ documents thoroughly and follow all instructions provided therein.

Question #9: What information are you seeking in a proposal response? Are there specific questions that you require a response to, or is the State only asking for the signed solicitation forms and Exhibit C Pricing Page be returned?

Response #9: See Response #8.

Addendum_1

Question #10: Can proposals be submitted via the wvOasis portal? Page 2 of the file named "SWC23-07 Solicitation Documents: states that online responses are not permitted. However page 7. Bid Submission, state that vendors can submit bids electronically through wvOASIS.

Response #10: See Response #5.

Question #11: Can the vendor bid on a selection of the listed agencies but not all of the listed agencies?

Response #11: No, per Specification 3.1 "This is a statewide contract and is available to State agencies, spending units, and political subdivisions".

Question #12: What is the annual liquidation rate of your present collection agencies for the individual portfolios?

Response #12: See Response #2.

Question #13: How long will agencies retain the account? If there is a retention period, what happens to these accounts after the time period has expired?

Response #13: See Specification 4.1.5.2. and 4.1.5.4.

Question #14: Given the communication preferences of today's consumers and the existence of Regulation F, will the vendor given permission to contact individuals via text and email.

Response #14: See Specification 4.1.5.5. Any additional contact method approval(s) will be at the discretion of the spending agency.

Question #15: What is your level of satisfaction with your current agencies?

Response #15: The Purchasing Division does not utilize this contract and is unable to answer this question.

Question #16: What is driving the RFP? (contract expiration, performance, etc.)?

Response #16: Contract Expiration.

Addendum_1

Question #17: What are the names of your incumbent collection vendors?

Response #17: The current DEBT19 contract and vendors can be viewed on the Purchasing Division website: <http://www.state.wv.us/admin/purchase/swc/DEBT.htm>

Question #18: How long have your current vendor(s) provided collection services on behalf of your organization?

Response #18: The current DEBT19 contract vendors have been in place since 1/01/2019.

Question #19: What is the estimated contract award date?

Response #19: See Response #1.

Question #20: Will account volume assigned to your incumbent collection vendors(s) be recalled and reassigned to the winning bidders(s)?

Response #20: See Specification 2.1.

Question #21: How long will account volume be retained (prior to recall) with the winning bidder(s)?

Response #21: See Response #20 and Specification 4.1.5.4.

Question #22: What are your organization's recall parameters (e.g., accounts recalled 180 days post-account assignment with no payment received in the last 90 days)?

Response #22: See Specification 4.1.5.4.

Question #23: Will the winning bidder(s) receive account placements that were previously assigned with your incumbent collection agencies?

Response #23: Per Specifications 2.1, this contract is for new placements only. Current placements will be permitted to run their course.

Question #24: What is the reconciliation process for this project?

Response #24: Per Specification 2.1 this is for new placement accounts.

Question #25: What debtor information will be provided (e.g., SSN, telephone, address, amount owed)?

Response #25: See Specification 4.1.5.3.

Question #26: What is the average age of accounts that will be assigned for collection (by account type)?

Response #26: See Response #2.

Question #27: What are the fee rates of your incumbent collection vendor(s)? How are the fees calculated.

Response #27: See Response #17.

Question #28: What metrics, results, and/or processes are you seeking to improve or enhance under this contract?

Response #28: See Response #15.

Question #29: After the initial account placement, will collection vendors be assigned “future flow” account placements (perhaps based on their competitive performance)?

Response #29: Account placement will be by lowest bidder for each contract line item.

Question #30: What are the roles of the individuals who comprise the evaluation committee?

Response #30: To evaluate all proposals per the RFQ requirements.

Question #31: Does the contract require any special handling of debtor correspondence?

Response #31: The State does not understand “special handling”. All requirements placed upon bidders are included in the RFQ documents.

Question #32: On average, how much does your current vendor collect monthly (expressed as dollars recovered and liquidation rate)?

Response #32: See Response #3. Also, Accounts will be assigned as needed by the spending units desiring to utilize the contract.

Question #33: What is the total number of delinquent accounts (expressed as a number and dollar amount) that will be assigned for collections?

Response #33: Accounts will be assigned as needed by the spending units desiring to utilize the contract.

Question #34: How often will accounts be assigned with the vendor(s) (e.g., daily, weekly, monthly, quarterly)?

Response #34: Per Specification 4.1.5.2 a spending unit must attempt to collect a claim for three (3) months before a claim can be placed with a collection agency.

Question #35: On average, how many accounts (expressed as number and dollar amount) do you anticipate placing with the successful vendor monthly?

Response #35: Unable to determine. Agencies will place accounts on an as-needed basis.

Question #36: How are balances updated on the vendor's system? Do you provide a daily update of the entire inventory?

Response #36: See Specification section 4.1.6.

Question #37: What are the current vendor's historical recovery rate (liquidity rates) on accounts over the last three years?

Response #37: See Response #3.

Question #38: What are the dollar amounts and contingency fees paid to your incumbent vendor(s) over the last three years (please include by account type if applicable)?

Response #38: See Response #2.

Question #39: What are your target or anticipated fee rates for this contract?

Response #39: This is a competitively bid solicitation to lowest bidder. There are no target or anticipated fee rates.

Question #40: Will the winning collection vendor(s) use its own collection platform, or will a preferred platform be provided?

Response #40: The successful bidders shall provide the services bid according to the RFQ specifications listed in the RFQ documents for each commodity line item awarded.

Question #41: Is there a testing plan in place for the collection process?

Response #41: No.

Question #42: Is there a testing plan in place for account transmission?

Response #42: No.

Question #43: Do you have a data processing file schedule?

Response #43: Account data will be transmitted from the agency to the vendor per specification section 4.1.5 and from the vendor to the agency per specification 4.1.6. Additionally, Specification Section 6 Performance: Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverable, unless such a schedule is already included herein by the Agency.

Question #44: Instructions to Vendors Submitting Bids, 6. Bid Submission: How many hardcopy originals, copies, and/or USB should be submitted?

Response #44: Only one (1) paper bid submission is required.

Question #45: Is the following physical address good to use for FedEx deliveries? Department of Administration, Purchasing Division, Attn: Jessica Hovanec, 2019 Washington Street East, Charleston, WV 25305-0130, Phone: 304-558-2314.

Response #45: Yes.

Addendum_1

Question #46: Instructions to Vendor's Submitting Bids, 8. Addendum Acknowledgement: We cannot find the Addendum Acknowledgement Form, Will this be provided?

Response #46: Yes. Addendum Acknowledgement Form will be provided with any addendum's issued for this solicitation.

Question #47: Instructions to Vendors Submitting Bids, 9 Bid Formatting: The RFQ doesn't seem to ask for bidders' experience, capabilities, or approach to this project. Please confirm that submission of the following documents will comprise a complete and responsive proposal:

- Completed Request for Quote, including Vendor information and signature on cover page, Terms and Conditions: Designated Contact Info, Certification and Signature, Specifications: Contract Manager Info
- Exhibit C- Pricing Page
- Exhibit D – HIPAA Business Associate Addendum
- Addendum Acknowledgement Form
- WV Ethics Commission Disclosure of Interested Parties to Contracts Form

Response #47: See Response #8.

Question #48: General Terms and Conditions, 15. Payment Methods: Is acceptance of just EFT sufficient, or must vendors accept both P-Card and EFT as payment forms?

Response #48: Vendor must accept both EFT and P-Card payments.

Question #49: Specifications,3.1: Are state agencies, including those listed in the RFP, required to utilize the collection vendors selected through this procurement? Or are state agencies allowed to engage collection agencies on their own, outside of the DEBT23 contract?

Response #49: Only State Agencies under WV Code §5a-3 are required to use the contract. Agencies not under this section of code are permitted to use the contract if desired.

Question #50: Specifications, 4.1.5.3: To comply with Reg F guidelines, will spending units also provide the itemization date for each debt placed?

Addendum_1

Response #50: State agencies will be required to follow all applicable State and Federal laws and regulations at the time of account placement.

Question #51: Specifications, 4.1.5.5 and 4.1.7: Are you able to provide a sample of the Litigation Referral Form that must accompany all returned claims?

Response #51: No. The Purchasing Division does not have this form available. Each agency will provide the required form utilized in their agency.

Question #52: Specifications, 4.1.5.4: To confirm our understanding, are all accounts reaching two (2) years of placement required to be returned even if they are actively paying? What is the process to request exemption?

Response #52: Yes. The exemption would be requested by the agency (spending unit) to the Secretary of Administration to allow the account to remain with the vendor past the 2-year period.

Question #53: Please reconfirm the due date for this procurement by providing it in response to the answers to questions.

Response #53: The due date may be changed by addenda depending on circumstances. Therefore, the State cannot provide a due date in the question responses. Please See the latest addendum for the most current due date.

Question #54: What is the date by which you will answer these questions?

Response #54: Responses are provided in this addendum.

Question #55: Are bidders permitted to deviate in any way from any manner of quoting fees you may be expecting? For example, if there is a pricing page in the RFP, can bidders submit an alternate fee structure? If there is no pricing page in the RFP, do you have any preference for how bidders should quote fees or can bidders create their own pricing categories?

Response #55: See Specification 5.2. and Section 11 Of the Instructions to Vendors Submitting Bids.

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Question #56: Please describe your level of satisfaction with your current or recent vendor(s) for the same purchasing activity, if applicable.

Response #56: Not applicable.

Question #57: Who is the incumbent, and how long has the incumbent been providing the requested services?

Response #57: See Response #17 and Response #18.

Question #58: How are fees currently being billed by any incumbent(s), by category, and at what rates?

Response #58: See Response #17.

Question #59: What estimated or actual dollars were paid last year, last month, or last quarter to any incumbent(s)?

Response #59: See Response #3.

Question #60: To how many vendors are you seeking to award a contract?

Response #60: See Specification 5.1.

Question #61: What is the total dollar value of accounts available for placement now by category, including any backlog.

Response #61: Per Specifications 2.1, this contract is for new placements only. Current placements will be permitted to run their course.

Question #62: What is the average balance of accounts by category?

Response #62: This information is tracked by each agency. The Purchasing Division does not track this information.

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Question #63: What is the average age of accounts at placement (at time of award and/or on a going-forward basis), by category?

Response #63: Per Specification section 4.1.5.2, the agency will attempt to collect a claim for three (3) months. When submitting the claim, the agency will be able to provide more information about collection attempts.

Question #64: What is the monthly or quarterly number of accounts expected to be placed with the vendor(s) by category?

Response #64: See Response #3.

Question #65: What is the monthly or quarterly dollar value of accounts expected to be placed with the vendor(s) by category?

Response #65: See Response #3.

Question #66: What has been the historical rate of return or liquidation rate provide by any incumbent(s), and/or what is anticipated or expected as a result of this procurement?

Response #66: See Response #2 and Response #3.

Question #67: What billing service do you utilize?

Response #67: Do not understand the question.

Question #68: Have all cases been fully adjudicated by the time of placement?

Response #68: The Purchasing Division does not have access to the requested information.

Question #69: If applicable, will accounts held by any incumbent(s) or any backlog be moved to any new vendor(s) as a one-time placement at contract start up?

Response #69: See Response #20.

Question #70: What is your case management/accounting software system of record?

Response #70: .

Question #71: Who is your electronic payment/credit card processing vendor?

Response #71: US Bank NA.

Question #72: What process should a vendor follow, or which individual(s) should a contact, to discuss budget-neutral services outside of the scope of this procurement, but related to it, designed to recover more debt prior to outside placement and lower collection costs?

Response #72: Vendor's are free to market their company services to any state agency.

Question #73: How do your current processes and/or vendor relationship(s) systematically determine if the death of a responsible party has occurred?

Response #73: The Purchasing Division does not have access to all the end users policies or procedures. This may be discussed with the agency submitting an account for placement.

Question #74: How do your current processes and/or vendor relationship(s) handle the death of a responsible party?

Response #74: See Response #73.

Question #75: Do you have a designated process or policies around deceased accounts today, and what is envisioned in the future?

Response #75: See Response #73.

Question #76: Do you currently search and file probated estate claims? Have you considered an automated tool to identify and file probated estate claim?

Response #76: No. See Response #73.

Question #77: Can you please indicate what inbound and outbound contact methods, beyond phone calls or letters (such as email and text), would be permitted by the scope of work?

Response #77: See Specification 3.2 and 4.1.5.5. as well as Exhibit A and Exhibit B.