



The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at wvOASIS.gov. As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at WVPurchasing.gov with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

Header @ 5

List View

- General Information
- Contact
- Default Values
- Discount
- Document Information
- Clarification Request

Procurement Folder: 1128214

Procurement Type: Central Purchase Order

Vendor ID: 000000223571

Legal Name: ADVANTAGE TECHNOLOGY LLC

Alias/DBA: RICHARD WILBUR III

Total Bid: \$81,570.94

Response Date: 11/28/2022

Response Time: 13:45

Responded By User ID: gmcginnis

First Name: Gabe

Last Name: McGinnis

Email: gmcginnis@advantage.te

Phone: 3044213108

SO Doc Code: CRFQ

SO Dept: 0432

SO Doc ID: DCH2300000002

Published Date: 11/22/22

Close Date: 11/29/22

Close Time: 13:30

Status: Closed

Solicitation Description: Addendum No. 1 Culture Center: Networking Equipment

Total of Header Attachments: 5

Total of All Attachments: 5



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

**State of West Virginia
 Solicitation Response**

Proc Folder: 1128214
Solicitation Description: Addendum No. 1 Culture Center: Networking Equipment
Proc Type: Central Purchase Order

| Solicitation Closes | Solicitation Response | Version |
|---------------------|------------------------------|---------|
| 2022-11-29 13:30 | SR 0432 ESR11222200000002489 | 1 |

VENDOR
 000000223571
 ADVANTAGE TECHNOLOGY LLC

Solicitation Number: CRFQ 0432 DCH2300000002
Total Bid: 81570.94000000000232830643653 **Response Date:** 2022-11-28 **Response Time:** 13:45:57
Comments:

FOR INFORMATION CONTACT THE BUYER
 Toby L Welch
 (304) 558-8802
 toby.l.welch@wv.gov

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

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

| Line | Comm Ln Desc | Qty | Unit Issue | Unit Price | Ln Total Or Contract Amount |
|------|------------------|-----|------------|------------|-----------------------------|
| 1 | Network Switches | | | | 81570.94 |

| Comm Code | Manufacturer | Specification | Model # |
|-----------|--------------|---------------|---------|
| 43222612 | | | |

Commodity Line Comments:

Extended Description:

Vendor must enter a price on each line of Exhibit A pricing page and return the pricing page with their bid. Vendors should enter the grand total amount into the contract amount on the commodity line. the total cost must be a lump sum amount including all incidentals including freight charges.



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
 Info Technology

| | | | |
|---|----------------------------|---|----------------|
| Proc Folder: 1128214 | | Reason for Modification: | |
| Doc Description: Addendum No. 1 Culture Center: Networking Equipment | | Addendum No.1 is issued to publish questions and answers and to modify the bid opening date | |
| Proc Type: Central Purchase Order | | | |
| Date Issued | Solicitation Closes | Solicitation No | Version |
| 2022-11-22 | 2022-11-29 13:30 | CRFQ 0432 DCH2300000002 | 2 |

BID RECEIVING LOCATION

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

VENDOR

Vendor Customer Code: 000000223571
Vendor Name : Advantage Technology
Address : 950 Kanawha Blvd. E #100, Charleston, WV 25301
Street : Kanawha Blvd. E
City : Charleston
State : WV **Country :** United States **Zip :** 25301
Principal Contact : Gabriel McGinnis
Vendor Contact Phone: 304-421-3108 **Extension:** N/A

FOR INFORMATION CONTACT THE BUYER

Toby L Welch
 (304) 558-8802
 toby.l.welch@wv.gov

Vendor Signature X Gabriel McGinnis **FEIN#** 74-3077314 **DATE** 11/22/22

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

ADDITIONAL INFORMATION

Addendum No. 1 is published for the following reasons:

- 1) To publish the questions and answers
- 2) To modify the bid opening date from 11/22/22 to 11/29/22

--no other changes--

| INVOICE TO | | SHIP TO | |
|--|--|--|--|
| DIVISION OF CULTURE & HISTORY CULTURAL CENTER 1900 KANAWHA BLVD E CHARLESTON WV US | | DIVISION OF CULTURE & HISTORY CULTURAL CENTER 1900 KANAWHA BLVD E CHARLESTON WV US | |

| Line | Comm Ln Desc | Qty | Unit Issue | Unit Price | Total Price |
|------|------------------|-----|------------|------------|-------------|
| 1 | Network Switches | 1 | 1 | 81,570.94 | 81,570.94 |

| Comm Code | Manufacturer | Specification | Model # |
|-----------|------------------|--|------------------------------------|
| 43222612 | Extreme Networks | Networking Equipment: Switches, Access Points, and associated services | Various - included in pricing page |

Extended Description:

Vendor must enter a price on each line of Exhibit A pricing page and return the pricing page with their bid. Vendors should enter the grand total amount into the contract amount on the commodity line. the total cost must be a lump sum amount including all incidentals including freight charges.

SCHEDULE OF EVENTS

| <u>Line</u> | <u>Event</u> | <u>Event Date</u> |
|-------------|--------------------------------|-------------------|
| 1 | Questions are due by 4:00 p.m. | 2022-11-15 |

| | Document Phase | Document Description | Page |
|--------------|----------------|--|------|
| DCH230000002 | Final | Addendum No. 1 Culture Center: Networking Equipment | 3 |

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions



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
 Info Technology

| | | | |
|--|----------------------------|-------------------------|---------------------------------|
| Proc Folder: 1128214 | | | Reason for Modification: |
| Doc Description: Culture Center: Networking Equipment | | | |
| Proc Type: Central Purchase Order | | | |
| Date Issued | Solicitation Closes | Solicitation No | Version |
| 2022-10-31 | 2022-11-22 13:30 | CRFQ 0432 DCH2300000002 | 1 |

BID RECEIVING LOCATION

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

VENDOR

Vendor Customer Code: 000000223571

Vendor Name : Advantage Technology

Address : 950 Kanawha Blvd. E #100, Charleston, WV 25301

Street : Kanawha Blvd. E

City : Charleston

State : WV **Country :** United States **Zip :** 25301

Principal Contact : Gabriel McGinnis

Vendor Contact Phone: 304-421-3108 **Extension:** N/A

FOR INFORMATION CONTACT THE BUYER
 Toby L Welch
 (304) 558-8802
 toby.l.welch@wv.gov

Vendor Signature X Gabriel McGinnis **FEIN#** 74-3077314 **DATE** 11/22/22

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

ADDITIONAL INFORMATION

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Department of Arts, Culture and History to establish a Purchase Order for a one-time purchase of networking equipment and associated hardware and software, and support per the attached documents.

| INVOICE TO | | SHIP TO | |
|--|----|--|----|
| DIVISION OF CULTURE & HISTORY CULTURAL CENTER 1900 KANAWHA BLVD E CHARLESTON US | WV | DIVISION OF CULTURE & HISTORY CULTURAL CENTER 1900 KANAWHA BLVD E CHARLESTON US | WV |

| Line | Comm Ln Desc | Qty | Unit Issue | Unit Price | Total Price |
|------|------------------|-----|------------|------------|-------------|
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| Comm Code | Manufacturer | Specification | Model # |
|-----------|------------------|---|------------------------------------|
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Extended Description:

Vendor must enter a price on each line of Exhibit A pricing page and return the pricing page with their bid. Vendors should enter the grand total amount into the contract amount on the commodity line. the total cost must be a lump sum amount including all incidentals including freight charges.

SCHEDULE OF EVENTS

| Line | Event | Event Date |
|------|--------------------------------|------------|
| 1 | Questions are due by 4:00 p.m. | 2022-11-15 |

| | Document Phase | Document Description | Page |
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| DCH230000002 | Final | Culture Center: Networking Equipment | 3 |

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| 2022-11-22 | 2022-11-29 13:30 | CRFQ 0432 DCH2300000002 | 2 |

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 DEPARTMENT OF ADMINISTRATION
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 2019 WASHINGTON ST E
 CHARLESTON WV 25305
 US

VENDOR

Vendor Customer Code: 000000223571

Vendor Name : Advantage Technology

Address : 950 Kanawha Blvd. E #100, Charleston, WV 25301

Street : Kanawha Blvd. E

City : Charleston

State : WV **Country :** United States **Zip :** 25301

Principal Contact : Gabriel McGinnis

Vendor Contact Phone: 304-421-3108 **Extension:** N/A

FOR INFORMATION CONTACT THE BUYER

Toby L Welch
 (304) 558-8802
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Vendor Signature X Gabriel McGinnis **FEIN#** 74-3077314 **DATE** 11/22/22

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--no other changes--

| INVOICE TO | | SHIP TO | |
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| DIVISION OF CULTURE & HISTORY CULTURAL CENTER 1900 KANAWHA BLVD E CHARLESTON WV US | | DIVISION OF CULTURE & HISTORY CULTURAL CENTER 1900 KANAWHA BLVD E CHARLESTON WV US | |

| Line | Comm Ln Desc | Qty | Unit Issue | Unit Price | Total Price |
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| Comm Code | Manufacturer | Specification | Model # |
|-----------|------------------|--|----------------------------------|
| 43222612 | Extreme Networks | Networking Equipment: Switches, Access Points, and Associated Services | Various - listed on pricing page |

Extended Description:
 Vendor must enter a price on each line of Exhibit A pricing page and return the pricing page with their bid. Vendors should enter the grand total amount into the contract amount on the commodity line. the total cost must be a lump sum amount including all incidentals including freight charges.

| SCHEDULE OF EVENTS | | |
|---------------------------|--------------------------------|-------------------|
| <u>Line</u> | <u>Event</u> | <u>Event Date</u> |
| 1 | Questions are due by 4:00 p.m. | 2022-11-15 |

SOLICITATION NUMBER: CRFQ DCH2200000002

Addendum Number: 1

The purpose of this addendum is to modify the solicitation identified as ("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:

Addendum No. 1 is published for the following reasons:

- 1) To publish the questions and answers
- 2) To modify the bid opening date from 11/22/22 to 11/29/22

--no other changes--

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.

ATTACHMENT A

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ DCH22*002

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

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

Addendum Numbers Received:

(Check the box next to each addendum received)

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

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

Advantage Technology

Company

Gabriel McGinnis

Authorized Signature

11/22/22

Date

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

Revised 6/8/2012

CRFQ DCH2300000002

Culture Center Networking Equipment

Q1: Will the State of West Virginia accept a response with Extreme switching and wireless and an alternate manufacturer for wireless on the same response?

A:1 Yes. Vendors submitting an alternate brand must include documentation confirming interoperability with Aerohive hardware with their bid. Vendor must include alternate brand information with alternative part numbers on the Pricing Sheet.

Q:2 From the excel document that you have provided, sheet 2 shows some hardware equipment that is not listed in the required specifications. Could you please let me know if I should include them or not? * SEE ATTACHED

A:2 No. Sheet 2 was attached in error. The other components will be bid out in separate solicitations.

Q:3 Is this solicitation just for the Cultural Center in downtown Charleston, or are there additional network needs at the other museum sites?

A:3 This solicitation is just for the Culture Center in Charleston. There may be a need in the future for networking equipment at the other museum sites and public libraries.

Q:4 Does the Cultural Center seek just wired network hardware, or do they also need a wireless network to go with their new wired network?

A:4 The Culture Center is just seeking wired network hardware. The wireless network operates off the Aerohive cloud established by the WV State Office of Technology.

Q:5 How many wiring closets does the Cultural Center have?

A:5 Eleven.

CRFQ DCH2300000002

Culture Center Networking Equipment

Q:6 How many wired network connections does the Cultural Center need?

A:6 The Culture Center has acquired 922 jacks.

Q:7 Do they have a data center?

A:7 The WV Office of Technology.

Q:8 Is there a need for network security with this network equipment?

A:8 No.

Q:9 Does the Cultural Center plan to do their own network equipment installation and configuration, or do they need an installed-and-configured new network?

A:9 The Culture Center Technical Services Unit will be installing the cabling and the Office of Technology will be installing the network equipment.

Q:10 What type of network equipment are they replacing?

A:10 The entire network infrastructure of the building needs replaced in order to install and use VoIP phones (i.e., cabling, patch panels, racks, wireless access points, switches, etc.).

EXHIBIT A - PRICING PAGE

| Specification Reference | Contract Item Number | Description | Part Number or Equal | Alternate Part # and Description of or equal Products | Quantity | Unit of Measure | Unit Price | Extended Price Total |
|-------------------------|----------------------|--|----------------------|---|----------|-----------------|------------|----------------------|
| 3.1.1 | #1 | Extreme Networks® ExtremeSwitching 5320 Universal Switch (5320-48P-8XE), or Equal | 5320-48P-8XE | 5320 Universal Switch with 48 x 10/100/1000BASE-T Full/Half Duplex 802.3at 30W PoE Ports 8 x 10Gb SFP+ Uplink Ports | 10 | ea | \$3,402.40 | \$34,024.00 |
| 3.1.2 | #2 | Extreme Networks® ExtremeSwitching 5320 Universal Switch (5320-16P-4XE), or Equal | 5320-16P-4XE | 5320 Universal Switch with 16 x 10/100/1000BASE-T Full/Half Duplex 802.3at 30W PoE Ports 4 x 10Gb SFP+ Uplink Ports | 3 | ea | \$1,842.56 | \$5,527.68 |
| 3.1.3 | #3 | Extreme Networks® ExtremeSwitching 5320 Universal Switch (5320-24P-8XE), or Equal | 5320-24P-8XE | 5320 Universal Switch with 24 x 10/100/1000BASE-T Full/Half Duplex 802.3at 30W PoE Ports 8 x 10Gb SFP+ Uplink Ports | 5 | ea | \$2,029.17 | \$10,145.85 |
| 3.1.4 | #4 | Extreme Networks® ExtremeCloud IQ (AP 305C-FCC), or Equal | AP305C-FCC | Aerohive - ExtremeCloud IQ: Indoor WiFi6 AP 2x2 Radios with Dual 5GHz and 1x1GbE Port Integrated Light/Power Sensors & BLE/Zigbee AI/ML Green Mode Internal Antennas Built-In Ceiling Mounts Included | 29 | ea | \$304.16 | \$8,820.64 |
| 3.1.5 | #5 | Extreme Networks® Advanced Hardware Support (97000-AP305C-FCC), or Equal | 97000-AP305C-FCC | EW Software & TAC - AP305C - FCC | 29 | ea | \$61.19 | \$1,774.51 |
| 3.1.6 | #6 | Extreme Networks® ExtremeCloud IQ Support and Management Subscription for Access Points (XIQ-PIL-S-C-EW), or Equal | XIQ-PIL-S-C-EW | XIQ Pilot SaaS EW SaaS Support - ExtremeCloud IQ Pilot SaaS Subscription and EW SaaS Support for One (1) Device | 29 | ea | \$235.13 | \$6,818.77 |
| 3.1.7 | #7 | Extreme Networks® Advanced Hardware Support (97004-5320-48P-8XE), or Equal | 97004-5320-48P-8XE | EW NBD AHR - 5320-48P-8XE | 10 | ea | \$994.87 | \$9,948.70 |
| 3.1.8 | #8 | Extreme Networks® Advanced Hardware Support (97004-5320-16P-4XE), or Equal | 97004-5320-16P-4XE | EW NBD AHR - 5320-16P-4XE | 3 | ea | \$516.43 | \$1,549.29 |
| 3.1.9 | #9 | Extreme Networks® Advanced Hardware Support (97004-5320-24P-8XE), or Equal | 97004-5320-24P-8XE | EW NBD AHR - 5320-24P-8XE | 5 | ea | \$592.30 | \$2,961.50 |

TOTAL:

\$81,570.94

| | |
|--|--|
| Vendors should complete the contract coordinator Information below: | |
| VENDOR NAME: | Advantage Technology |
| CONTRACT MANAGER: | Gabriel McGinnis |
| PHONE: | 304-421-3108 |
| FAX: | 304-720-1423 |
| EMAIL: | gmcginnis@advantage.tech |

AUTHORIZED REPRESENTATIVE:

 Gabriel McGinnis - 11/22/22
 (Signature)/(Date)



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
 Info Technology

| | | | |
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| Proc Folder: 1128214 | | | Reason for Modification: |
| Doc Description: Culture Center: Networking Equipment | | | |
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| Date Issued | Solicitation Closes | Solicitation No | Version |
| 2022-10-31 | 2022-11-22 13:30 | CRFQ 0432 DCH2300000002 | 1 |

BID RECEIVING LOCATION

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

VENDOR

Vendor Customer Code: 000000223571
Vendor Name : Advantage Technology
Address : 950 Kanawha Blvd. E #100, Charleston, WV 25301
Street : Kanawha Blvd. E
City : Charleston
State : WV **Country :** United States **Zip :** 25301
Principal Contact : Gabriel McGinnis
Vendor Contact Phone: 304-421-3108 **Extension:** N/A

FOR INFORMATION CONTACT THE BUYER

Toby L Welch
 (304) 558-8802
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Vendor Signature X Gabriel McGinnis **FEIN#** 74-3077314 **DATE** 11/22/22

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|-------------------------------|--|-------------------------------|--|
| DIVISION OF CULTURE & HISTORY | | DIVISION OF CULTURE & HISTORY | |
| CULTURAL CENTER | | CULTURAL CENTER | |
| 1900 KANAWHA BLVD E | | 1900 KANAWHA BLVD E | |
| CHARLESTON WV | | CHARLESTON WV | |
| US | | US | |

| Line | Comm Ln Desc | Qty | Unit Issue | Unit Price | Total Price |
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| Comm Code | Manufacturer | Specification | Model # |
|-----------|------------------|--|------------------------------------|
| 43222612 | Extreme Networks | Networking Equipment: Switches, Access Points, and associated services | Various - included in pricing page |

Extended Description:

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SCHEDULE OF EVENTS

| <u>Line</u> | <u>Event</u> | <u>Event Date</u> |
|-------------|--------------------------------|-------------------|
| 1 | Questions are due by 4:00 p.m. | 2022-11-15 |

| | Document Phase | Document Description | Page 3 |
|---------------|----------------|---|-----------|
| DCH2300000002 | Draft | Culture Center: Networking Equipment | |

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: Tuesday November 15, 2022 @ 4:00 p.m.

Submit Questions to: Toby L. Welch
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-3970
Email: Toby.L.Welch@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: Toby L Welch

SOLICITATION NO.: CRFQ DCH2300000002

BID OPENING DATE: Tuesday November 22, 2022

BID OPENING TIME: 1:30 p.m.

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 *WV*OASIS (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: Tuesday November 22, 2022 @ 1:30 p.m.

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

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

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

10. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

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

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at: 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 _____ . 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 _____ 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: One Million Dollars (\$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: _____ 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: Ten Million Dollars (\$10,000,000) 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) Gabriel McGinnis - Sales
(Address) 950 Kanawha Blvd. E #100, Charleston, WV 25301
(Phone Number) / (Fax Number) 304-421-3108 / 304-720-1423
(email address) gmcginnis@advantage.tech

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.

Advantage Technology
(Company) Gabriel McGinnis
(Signature of Authorized Representative) Gabriel McGinnis - Sales 11/22/22
(Printed Name and Title of Authorized Representative) (Date)
P: 304-421-3108 F: 304-720-1423
(Phone Number) (Fax Number) gmcginnis@advantage.tech
(Email Address)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFQ DCH2300000002

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

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

Addendum Numbers Received:
(Check the box next to each addendum received)

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

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

Advantage Technology

Company

Gabriel McGinnis

Authorized Signature

11/22/22

Date

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

REQUEST FOR QUOTATION
Culture Center: Networking Equipment

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Department of Arts, Culture, and History to establish a contract for the one-time purchase of networking equipment and its associated software and hardware.

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

2.1 **“Contract Item”** means the list of items identified in Section 3.1 below and on the Pricing Pages.as more fully described by these specifications.

2.2 **“Pricing Page”** means the pages, contained in wvOASIS or attached as Exhibit A, upon which Vendor should list its proposed price for the Contract Items.

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

2.4 **“Gbps”** means billions of bits per second and is a measure of bandwidth.

2.5 **“Gb”** means gigabites.

2.6 **“Omnidirectional”** means receiving signals from or transmitting in all directions.

2.7 **“PoE”** means Power over Ethernet

2.8 **“SFP”** means Small Form-Factor Pluggable.

2.9 **“AC”** means Alternating Current.

3. **GENERAL REQUIREMENTS:**

3.1 **Mandatory Contract Item Requirements:** Contract Item must meet or exceed the mandatory requirements listed below.

3.1.1 **Contract Item #1: Extreme Networks® ExtremeSwitching 5320 Universal Switch (5320-48P-8XE), or Equal**

3.1.1.1 Vendor must provide a quantity of ten (10).

3.1.1.2 Must have a base software license that includes a one (1)-year ExtremeCloud® IQ Pilot Subscription, or equal.

3.1.1.3 Ports: 48 x 10/100/1000BASE-T full/half duplex 802.3a.

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Culture Center: Networking Equipment

3.1.1.4 PoE: 30W

3.1.1.5 Flexible Port Configuration: 8 x 1Gb SFP ports upgradeable to 10Gb SFP+

3.1.1.5.1 Must include two (2) x stacking ports @10Gb.

3.1.1.6 Must have one (1) internal fixed AC Power supply. 1 internal fixed AC PSU, fixed fan module (on-off mode up to 35°C).

3.1.2 Contract Item #2: Extreme Networks® ExtremeSwitching 5320 Universal Switch (5320-16P-4XE), or Equal

3.1.2.1 Vendor must provide a quantity of three (3).

3.1.2.2 Must have a base software license that includes a one (1)-year ExtremeCloud IQ Pilot Subscription, or equal.

3.1.2.3 PoE: 30W

3.1.2.4 Ports: 24 x 10/100/1000 + 4 x 1 Gigabit / 10 Gigabit SFP+ + 2 x SFP-DD

3.1.2.4.1 Must be stackable.

3.1.2.5 Must have one (1) internal fixed AC Power supply. 1 internal fixed AC PSU, fixed fan module (on-off mode up to 35°C).

3.1.3 Contract Item #3: Extreme Networks® ExtremeSwitching 5320 Universal Switch (5320-24P-8XE), or Equal

3.1.3.1 Vendor must provide a quantity of five (5).

3.1.3.2 PoE: 30W

3.1.3.3 Ports: 24 x 10/100/1000 + 4 x 1 Gigabit / 10 Gigabit SFP+ + 2 x SFP-DD (must be stackable)

3.1.3.4 Must have one (1) internal fixed AC Power supply. 1 internal fixed AC PSU, fixed fan module (on-off mode up to 35°C).

3.1.4 Contract Item #4: Extreme Networks® ExtremeCloud IQ (AP 305C-FCC), or Equal

3.1.4.1 Vendor must provide a quantity of twenty-nine (29).

3.1.4.2 Must have 802.11ac technology.

3.1.4.3 Must have 2x2:2 stream multiple-in, multiple-out radio data rates up to 2.4 Gbps.

3.1.4.4 Antennas: Must have three (3) integrated dual band 2.4/5GHz omnidirectional antennas and one (1) integrated single band

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5GHz omnidirectional antenna.

3.1.5 Contract Item #5: Extreme Networks® Advanced Hardware Support (97000-AP305C-FCC), or Equal

3.1.5.1 Vendor must provide a quantity of twenty-nine (29).

3.1.5.2 Vendor must include Extreme Networks® EW TAC OS AP305C-FCC, or equal, for each wireless access point,

3.1.6 Contract Item #6: Extreme Networks® ExtremeCloud IQ Support and Management Subscription for Access Points (XIQ-PIL-S-C-EW), or Equal

3.1.6.1 Vendor must provide a quantity of twenty-nine (29).

3.1.6.2 License term must be a minimum of three (3) years.

3.1.6.3 Licenses must be compatible with the State's existing Aerohive System and Manager.

3.1.7 Contract Item #7: Extreme Networks® Advanced Hardware Support (97004-5320-48P-8XE), or Equal

3.1.7.1 Vendor must provide a quantity of ten (10).

3.1.7.2 License term must be a minimum of three (3) years.

3.1.7.3 Vendor must include Extreme Networks® EW NBD AHR 5320-48P-8XE, or equal, for each wireless access point,

3.1.7.4 Licenses must be compatible with the State's existing Aerohive System and Manager.

3.1.8 Contract Item #8: Extreme Networks® Advanced Hardware Support (97004-5320-16P-4XE), or Equal

3.1.8.1 Vendor must provide a quantity of three (3).

3.1.8.2 License term must be a minimum of three (3) years.

3.1.8.3 Vendor must include Extreme Networks® EW NBD AHR 5320-16P-4XE, or equal, for each wireless access point, or equal.

3.1.8.4 Licenses must be compatible with the State's existing Aerohive System and Manager.

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3.1.9 Contract Item #9: Extreme Networks® Advanced Hardware Support (97004-5320-24P-8XE), or Equal

3.1.9.1 Vendor must provide a quantity of five (5).

3.1.9.2 License term must be a minimum of three (3) years.

3.1.9.3 Vendor must include Extreme Networks® EW NBD AHR 5320-24P-8XE, or equal, for each wireless access point, or equal.

3.1.9.4 Licenses must be compatible with the State's existing Aerohive System and Manager.

3.1.10 Alternate 'or Equal' Submission

Vendor submitting an alternate brand must include documentation such as spec sheets confirming interoperability with **Aerohive** hardware with their bid. Vendor must include alternate brand information with alternative part numbers on the Pricing Sheet. Any equivalent items must meet or exceed the specifications herein and must be compatible with the current operating environment. Failure to submit such information may result disqualification of your bid.

Vendor will assume any costs related to any required installation of new software, and/or training of the alternate submission provided as part of this agreement.

4. CONTRACT AWARD:

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

4.2 Pricing Page: Vendor should complete the Pricing Page by filling out the attached Excel Exhibit A Pricing Page and enter the total bid amount into the commodity line of wvOasis as a lump sum price. Vendor must complete the Pricing Page in full and return with their bid as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

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

4.3 Software Terms and Conditions: Vendor should provide with their bid a copy of any and all software Terms and Conditions or licenses that the State of West Virginia or the Agency will have to agree to or accept as part of this agreement/solicitation. *This information will be required prior to award and before any Purchase order is issued.*

4.4 Maintenance Terms and Conditions: Vendor should provide with their bid a copy of any and all maintenance Terms and Conditions or licenses that the State of West Virginia or the Agency will have to agree to or accept as part of this agreement/solicitation. *This information will be required prior to award and before any Purchase order is issued.*

5. PAYMENT:

5.1 Payment: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

6. DELIVERY AND RETURN:

6.1 Shipment and Delivery: Vendor shall ship the Contract Items immediately after being awarded this Contract and receiving a purchase order or notice to proceed. Vendor shall deliver the Contract Items within ninety (90) working days after receiving a purchase order or notice to proceed. Contract Items must be delivered to Agency at ***Building 9, 1900 Kanawha Blvd. E., The Culture Center, Charleston, WV 25305 ATTN: Doug Litton.***

6.2 Late Delivery: The Agency placing the order under this Contract must be notified in writing if the shipment of the Contract Items will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the Contract, and/or obtaining the Contract Items from a third party.

Any Agency seeking to obtain the Contract Items from a third party under this provision must first obtain approval of the Purchasing Division.

6.3 Delivery Payment/Risk of Loss: Vendor shall deliver the Contract Items F.O.B. destination to the Agency's location.

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- 6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.
- 6.5 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

7 VENDOR DEFAULT:

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

- 7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2** Failure to comply with other specifications and requirements contained herein.
- 7.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4** Failure to remedy deficient performance upon request.

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

- 7.2.1** Immediate cancellation of the Contract.
- 7.2.2** Immediate cancellation of one or more release orders issued under this Contract.
- 7.2.3** Any other remedies available in law or equity.

