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2024 JUN 12 AM 9: 57

WW PURCHASING
DIVISION

VENDOR NAME: Officemotive, Inc. dba Capital Typing

BUYER: Brandon Barr

SOLICITATION NO.: CRFQ 0323 WWV2400000010

BID OPENING DATE: June 12th, 2024

BID OPENING TIME: 1:30 PM ET

FAX NUMBER: 304-558-3970

RECEIVED

2024 JUN 12 AM 9: 57

WW PURCHASING
DIVISION



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 - Prof

Proc Folder: 1432458			Reason for Modification:
Doc Description: Transcription Services, Legal and Medical			
Proc Type: Central Master Agreement			
Date Issued	Solicitation Closes	Solicitation No	Version
2024-05-21	2024-06-12 13:30	CRFQ 0323 WWV2400000010	1

BID RECEIVING LOCATION

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

VENDOR

Vendor Customer Code: N/A
Vendor Name : Officemotive, Inc. dba Capital Typing
Address :
Street : 1627 Spur Branch Road
City : Williston
State : South Carolina **Country :** USA **Zip :** 29853
Principal Contact : David Jonas
Vendor Contact Phone: 800-784-9402 **Extension:** 701

FOR INFORMATION CONTACT THE BUYER

Brandon L Barr
304-558-2652
brandon.l.barr@wv.gov

Vendor
Signature X

FEIN# 27-0671978

DATE 6/12/2024

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

ADDITIONAL INFORMATION

The West Virginia Purchasing Division for the Agency, The WorkForce West Virginia is soliciting bids from qualified vendors to establish an open-end contract for Transcription Services per the Specifications, Terms & Conditions and bid requirements as attached herein.

INVOICE TO		SHIP TO	
WORKFORCE WEST VIRGINIA 1900 KANAWHA BLVD, EAST BLDG 3, 3RD FLOOR, SUITE 300 CHARLESTON WV US		WORKFORCE WEST VIRGINIA 1900 KANAWHA BLVD E BLDG 3, 8TH FLOOR CHARLESTON WV US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Transcription Services, Legal and Medical	2000.00000	PAGE	\$1.25	\$2,500.00

Comm Code	Manufacturer	Specification	Model #
82111603			

Extended Description:

Estimated quantity of 2,000 is per month based on usage. Please enter price per page based on estimated quantity

SCHEDULE OF EVENTS

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Questions due by June 5th, 2024 at 10:00am ET	2024-06-05

	Document Phase	Document Description	Page 3
WWV2400000010	Final	Transcription Services, Legal and Medical	

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions



CAPITAL TYPING

PROPOSAL FOR CRFQ 0323 WWV2400000010 TRANSCRIPTION SERVICES, LEGAL AND MEDICAL

Prepared by:

David Jonas
Capital Typing
1627 Spur Branch Road
Williston, South Carolina 29853
EMAIL: david@capitaltyping.com
PHONE: 800-784-9402
Federal Tax Identification Number: 27-0671978

Submitted on

06/12/2024

Prepared for:

State of West Virginia
ATTN: Brandon L Barr
304-558-2652
brandon.l.barr@wv.gov

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I. BUSINESS INFORMATION

LEGAL NAME OF COMPANY: Officemotive, Inc. DBA Capital Typing

ADDRESS: 1627 Spur Branch Road, Williston, South Carolina 29853

WEBSITE: www.capitaltyping.com

PHONE: 800-784-9402

FAX: 800-768-1959

BUSINESS TYPE/SIZE: Small Corporation

DUNS: 962402405

CAGE: 602G0

EIN: 27-0671978

1.1 Contact Information of Designated Representative

NAME: David Jonas

TITLE: CEO

ADDRESS: 1627 Spur Branch Road, Williston, South Carolina 29853

PHONE: 800-784-9402 ext. 701

E-MAIL: david@capitaltyping.com

1.2 Company Overview

Capital Typing is a leader in the Business Process Outsourcing (BPO) industry because an in-depth understanding of how businesses are organized has motivated our entire departmental structure and our method. Our concept is simple, yet profound, and highly effective. For this reason, Capital Typing has become the go-to team for large corporations, small and medium-sized businesses, and government agencies of every kind. Our system is dynamic enough to work for just about every company that exists, and our consultants take personal pride in proving that Capital Typing can integrate back-end office support and IT services with any existing operation.

We work with our clients not only as service providers and consultants but more importantly in the spirit of business partners. We do well when you do well, and that's why we are careful to develop the very best strategies to make sure that your projects are done right, done on time, and at the lowest possible cost to you. We believe that you will benefit from outsourcing processes to Capital Typing and that a reputation of reliability and excellent care is the key to our success as a company.

Please always bear this in mind, and feel free to contact us at any time with questions, concerns, or any ideas you may have. We're on the same team.

Thank you for considering Capital Typing for your transcription requirements.

1.3 Understanding of Needs

We fully understand the Board of Review's requirement for a qualified vendor to transcribe unemployment compensation hearings. We recognize the critical nature of these hearings and the need for accurate, secure, and timely transcripts. We are committed to meeting your specific needs, including:

- **Accurate Transcription:** Our experienced transcriptionists are adept at capturing the nuances of spoken language, ensuring precise and error-free transcripts.
- **Fast Turnaround Times:** We understand the importance of timely transcripts for the Board of Review decision-making process. We guarantee delivery of electronic transcripts in Microsoft Word 2016 format (or equivalent) within four business days of receiving the audio recordings.
- **Secure Data Transfer:** We will prioritize the security of all confidential hearing information. Transcripts will be delivered using a secure Virtual Private Network (VPN) or encrypted email, adhering to industry best practices for data protection.
- **Strict Formatting Requirements:** We will strictly follow the detailed formatting specifications outlined in Exhibit A of the RFP. This includes single-spaced question-and-answer format, Arial 12-point font, indexed exhibits, and proper page layout with headers and margins.

II. QUALIFICATIONS AND EXPERIENCE

Capital Typing surpasses the minimum qualifications outlined in the RFP and possesses the experience and expertise to effectively manage and deliver high-quality transcription services for the West Virginia Unemployment Compensation Board of Review.

2.1 Project Management

Capital Typing assigns a dedicated project manager to each project, ensuring consistent communication, smooth workflow, and adherence to deadlines. For this project, David Jonas will serve as your dedicated project manager. David possesses over 15 years of experience managing transcription projects, including those with tight deadlines and high volume. His responsibilities will include:

- **Personnel Management and Productivity:** David will oversee the transcription team, ensuring sufficient staffing with the necessary skills and availability to meet the Board of Review's requirements. He will actively monitor productivity and make adjustments as needed.
- **Quality Assurance:** David will continuously monitor and review quality assurance protocols to maintain and improve the accuracy and consistency of transcripts.
- **Efficiency Evaluation:** He will regularly evaluate the efficiency of the transcription process, identifying opportunities for optimization and cost-effectiveness.
- **Client Communication:** David will maintain regular communication with the Board of Review's designated representative. This includes monthly meetings to discuss project progress, address any issues, and obtain feedback to ensure your satisfaction.

2.2 Staff Qualifications

Capital Typing employs a highly skilled and qualified transcription team dedicated to delivering accurate and error-free transcripts. For this project, we will exclusively utilize US-based transcriptionists who meet one of the following criteria:

- **Graduation from a Transcription Program:** We recruit and hire transcriptionists who have completed a formal transcription training program, ensuring they possess a strong foundation in grammar, punctuation, and legal terminology.
- **Extensive Experience:** We also employ experienced transcriptionists with a minimum of three years of experience working on legal and law enforcement transcription projects. This experience ensures a deep understanding of legal proceedings and the importance of accuracy in sensitive matters.

2.3 Rigorous Screening Process

Beyond qualifications, Capital Typing prioritizes data security and employs a comprehensive screening process for all staff:

- **Reference Checks:** We conduct thorough reference checks to verify past performance and qualifications.

- **Interviews:** All potential hires undergo in-depth interviews to assess their skills, knowledge, and suitability for the project.
- **Background Checks:** For staff handling sensitive information, we conduct thorough background checks to ensure trustworthiness and data security.

2.4 Commitment to Data Security

Capital Typing understands the confidentiality of unemployment compensation hearings and is committed to safeguarding all information entrusted to us. Our staff is thoroughly briefed on data security protocols and the importance of handling sensitive information with the utmost care.

2.5 Proven Experience

Capital Typing has a proven track record of providing exceptional transcription services to various clients across diverse industries, including:

- **Government Agencies:** We have extensive experience working with government offices, including the Maryland MVA and South Carolina Department of Correction, transcribing administrative hearings.
- **Law Enforcement Agencies:** We understand the specific requirements of legal and law enforcement transcription and have partnered with agencies to transcribe court hearings, legal documentation, and law enforcement audio.
- **Legal Professionals:** We have collaborated with language specialists and legal professionals, providing transcription and translation services for court proceedings and legal documents.
- **Non-Profit Organizations:** Our clients include non-profit organizations like Beacon Academy of Nevada, where we transcribed and prepared summaries of materials.

III. PROPOSED SERVICES

3.1 Project Scope

Capital Typing is fully prepared to meet and exceed all mandatory requirements outlined in the RFP for Hearing Transcriptions and Hearing Transcriptions Format Requirements. Our comprehensive transcription services encompass the following:

- **Secure File Transfer:** We offer secure options for uploading digital recordings of unemployment compensation hearings, including:
 - **Secure Online Portal:** Clients can upload files through a secure web portal featuring two-factor authentication and encrypted data transfer.
 - **Dedicated FTP Server:** We maintain a dedicated FTP server with restricted access for secure file uploads.
 - **Cloud Storage Services:** Upon request, we can accommodate uploads through secure cloud storage services with robust encryption protocols.
- **Transcription Process:** Our highly skilled and experienced transcriptionists will utilize advanced transcription software equipped with features that enhance accuracy and efficiency:
 - **Foot Pedal Control:** Allows for precise playback control during transcription.
 - **Timestamps:** Automatically inserts timestamps into the transcript, facilitating easy reference during review.
 - **Glossary and Terminology Lists:** Integrates with user-defined glossaries and terminology lists to ensure consistent spelling of legal terms relevant to unemployment compensation hearings.
- **Secure Delivery:** Completed transcripts will be electronically delivered to the Board of Review within four business days of receiving the recordings, strictly following the specified turnaround time. We will utilize either a secure Virtual Private Network (VPN) or encrypted email for delivery, as you prefer. In the rare case of any unforeseen delays, we will promptly notify the Board of Review in writing.
- **Formatting Compliance:** Capital Typing is committed to ensuring that all unemployment compensation hearing transcripts adhere to the specific formatting requirements outlined in Exhibit A of the RFP:
 - **Page Margins:**
 - First Page: 1-inch margins
 - Subsequent Pages: Header starting on line 5 with 5/8-inch top margin, 1-inch right margin
 - **Content and Formatting:**
 - Single-spaced Questions and Answers format
 - Arial 12-point font
 - Case Style and Appearances on Page One
 - Index of Direct, Cross, Redirect, Recross, etc., and Exhibits on the Second Page
 - Certification on the Last Page (not included in page billing) with the transcriber's name, signature, and certification date

- Header with Claimant Name and Case Number in bold, capital Arial 12-point font
- The first typing line starts on line 8 on all pages after the first, ending on line 59 for a total of 51 typing lines per page
- Index of Key Words at the end of the transcript
- **Printing Specifications:** While Section 4.1.2.11 of the RFP specifies printing requirements, Capital Typing primarily delivers transcripts electronically for security and efficiency purposes.

3.2 Quality Assurance

Capital Typing prioritizes accuracy and delivers error-free transcripts through a comprehensive, multi-step quality assurance process, which we refer to as our "Triple-Pass Accuracy Assurance Model":

- **First Pass: Review by Experienced Supervisor:** A highly skilled and experienced supervisor thoroughly reviews the initial draft. This supervisor listens through the entire recording while reading along with the transcript, making any necessary corrections for accuracy and clarity. This initial review focuses on capturing the content accurately and ensuring it aligns with the audio recording.
- **Second Pass: Independent Review and Spot-Checking:** A second experienced transcriptionist then conducts a dedicated review and spot-checking process. This reviewer focuses on:
 - **Error Elimination:** Identifying and correcting any remaining errors in grammar, punctuation, spelling, or factual accuracy.
 - **Formatting Compliance:** Verifying that the transcript strictly adheres to all formatting requirements outlined in Exhibit A (e.g., margins, fonts, headers, question-and-answer format, indexing).
 - **Consistency Review:** Ensuring consistency in capitalization, acronyms, and vocabulary usage throughout the document.

Triple-Pass Approach for Challenging Audio

In cases of poor audio quality or where a speaker mumbles or words are difficult to understand, Capital Typing's Triple-Pass Accuracy Assurance Model provides an additional layer of quality control:

- **Three Independent Attempts at Comprehension:** Three separate transcription specialists, working independently, review the challenging sections of the audio recording. By combining the comprehension skills of these experienced specialists, we can significantly increase the accuracy of the transcript, even in difficult situations.

Final Proofreading

To guarantee a polished and error-free final product, a dedicated proofreader conducts a final review of the transcript. This final review focuses on:

- **Completeness:** Ensuring all sections of the recording are transcribed.
- **Accuracy:** Verifying the transcript accurately reflects the content of the audio recording.
- **Consistency and Parallelism:** Confirming consistent use of capitalization, acronyms, and vocabulary throughout the document.
- **Error Elimination:** Identifying and correcting any remaining typographical errors in grammar, syntax, spelling, or punctuation.

3.3 Commitment to Accuracy

Capital Typing takes pride in delivering exceptional accuracy. Our rigorous quality assurance procedures ensure a 99.99% accuracy rate for our transcripts. In the rare instance that a transcript does not meet our high standards or your expectations, we are committed to swift and efficient correction:

- **Immediate Action:** We will promptly address any identified errors or concerns.
- **Accuracy Guarantee:** We stand behind our quality and will absorb the cost of any necessary corrections. There will be no additional charges to you.

By combining a multi-step review process with independent verification and dedicated proofreading, Capital Typing ensures the delivery of accurate, error-free transcripts that meet your exacting standards.

3.4 Technology and Security

Capital Typing prioritizes data security and employs advanced technology to safeguard confidential information:

- **Secure File Transfer:** We offer multiple secure options for uploading audio recordings, including:
 - **Secure Online Portal:** Clients can upload files through a secure web portal featuring two-factor authentication and encrypted data transfer.
 - **Dedicated FTP Server:** We maintain a dedicated FTP server with restricted access for secure file uploads.
 - **Cloud Storage Services:** Upon request, we can accommodate uploads through secure cloud storage services with robust encryption protocols.
- **Data Encryption:** All data, including audio recordings and transcripts, is stored on secure servers with industry-standard encryption (AES-256) to ensure data privacy at rest.
- **Access Controls:** We implement strict access controls, granting access to authorized personnel only. User accounts require strong passwords and multi-factor authentication for additional security.
- **Disaster Recovery Plan:** We maintain a comprehensive disaster recovery plan to ensure business continuity and safeguard data in case of unforeseen events.
- **Regular Security Audits:** We conduct regular security audits to identify and address any potential vulnerabilities in our systems and processes.

By partnering with Capital Typing, you can be confident that your unemployment compensation hearing transcripts will be delivered accurately, securely, and in strict accordance with the Board of Review's requirements.

IV. PRICE PROPOSAL

Pricing under this contract will be under the terms of Firm-Fixed-Price (FFP):

Transcription Service	Quantity	Unit Issue	Unit Price	Total Price
Transcription Services, Legal and Medical	2,000	Per Page	\$1.25 per page	\$2,500.00

Invoicing will be processed according to the requirements of the State of West Virginia. Payment can be made by any method convenient to the State of West Virginia, including check, e-check, credit card, or debit card.

Additional Services (Optional):

Expedited Delivery: We offer expedited delivery options at an additional cost for urgent transcripts requiring a faster turnaround time.

- 1-2 Business Days: \$1.55 per page

V. REFERENCES

County of Sacramento

Public Defenders Office

Address: 700 H Street Suite 0270, Sacramento, California 95814

Contact: Magdalena Castilleja

Title: Administrative Services Officer II

Email: CastillejaM@saccounty.net

Phone Number: 916-876-6192

Contract Dates: 2019 - Current

Services Provided: Sacramento County Public Defender's Office relies on Capital Typing for high-quality transcription and translation services, guaranteeing meticulous handling of a vast array of legal documents. From court files to other legal materials, our expertise ensures every detail is captured precisely. We transcribe verbatim, preserving the exact wording and subtleties of the source.

City of Winter Haven

Address: 500 Third Street, NW, Winter Haven, FL 33881

Contact: Heather Schoonmaker

Title: Procurement Specialist

Email: procurement@mywinterhaven.com

Phone Number: 863-298-5556

Contract Dates: 2017 - Current

Services Provided: We provide the City of Winter Haven with transcriptions of police interviews and reports, along with translations into English of interviews conducted in foreign languages.

Broward Sheriff's Office

Purchasing Department

Address: 2601 W. Broward Blvd. Suite 3562, Fort Lauderdale, Florida 33312

Contact: Samentha Morales

Title: Purchasing Agent II

Email: Samentha_morales@sheriff.org

Phone Number: 954-321-455

Contract Dates: 2019 - Current

Services Provided: We provide transcription and translation services to the Broward Sheriff's Office, handling a wide range of files with precision and care. Our expertise includes, but is not limited to, court files, ensuring every detail is captured accurately. All our transcriptions are performed verbatim, maintaining the exact wording and nuances of the original audio or document.

Alton Mental Health Center

Medical Director's Office

Address: 4500 College Avenue, Alton, IL 62002

Contact: Melissa Bock

Title: Business Manager

Email: Melissa.Bock@illinois.gov

Phone Number: 618-474-3246

Contract Period: 2023 - Current

Services: We provide dictation and medical transcription services to the Illinois Department of Human Services (DHS), specifically the Alton Mental Health Center. We deliver completed transcripts electronically through a secure online portal, ensuring patient confidentiality and efficient access for authorized personnel.

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) David Jonas (CEO)

(Address) 1627 Spur Branch Road, South Carolina 29853

(Phone Number) / (Fax Number) 800-784-9402/800-768-1959

(email address) david@capitaltyping.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.

Officemotive, Inc. dba Capital Typing
(Company)


(Signature of Authorized Representative)
David Jonas (CEO) 06/12/2024

(Printed Name and Title of Authorized Representative) (Date)
800-784-9402 800-768-1959

(Phone Number) (Fax Number)
david@capitaltyping.com

(Email Address)

REQUEST FOR QUOTATION Transcription Services

10 MISCELLANEOUS:

10.1 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: David Jonas
Telephone Number: 800-784-9402
Fax Number: 800-768-1959
Email Address: david@capitaltyping.com

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: Work Force WV

Name of Associate: David Jonas

Signature: Scott Ad

Signature: [Signature]

Title: Acting Commissioner

Title: CEO

Date: 05-10-24

Date: 06/12/2024

Form - WVBA-012004
Amended 06.26.2013

APPROVED ASTO FORM THIS 26th
DAY OF Jun 20 24
BY [Signature]
Patrick Morrisey
Attorney General

Appendix A

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

Name of Associate: David Jonas

Name of Agency: Workforce West Virginia

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