



Element's Technical Proposal for State of West Virginia

CRFP 0216 FLT2600000002

For additional information, please contact:

Brian Hamby
(205) 962-2924
BHamby@elementcorp.com

Natalie Grmusa
(437) 223-9682
NGrmusa@elementcorp.co

RECEIVED

2025 MAR 12 AM 10:16

WEST VIRGINIA



March 17, 2026

State of West Virginia
Attn: Tara Lyle, Procurement Division

Re: Response to CRFP 0216 FLT260000002- Vehicle Maintenance, Fuel & Repair Management and Telematics

On behalf of Element Fleet Management, we are pleased to resubmit our response to the State of West Virginia's Request for Proposal for Vehicle Maintenance, Fuel & Repair Management, and Telematics (CRFP-0216-FLT260000002). We appreciate the opportunity to participate in this important procurement and value the State's continued consideration.

Our team had the privilege of visiting West Virginia in May, and we are grateful for the opportunity to demonstrate our capabilities in person. Those discussions provided meaningful insight into the State's expectations of a fleet management partner — particularly the need for tailored reporting, responsive customer support, transparent communication, and a trusted advisor to help navigate evolving fleet challenges. These conversations directly shape our approach and reinforce our alignment with the State's mission to provide safe, efficient, and reliable fleet services in the most cost-effective manner possible.

Element is North America's largest pure-play fleet management company, dedicated exclusively to data-driven, full lifecycle fleet solutions. With extensive public-sector experience, a strong U.S. presence, and a proven history of supporting state and local government fleets, Element is well-positioned to help West Virginia advance its operational, financial, and safety objectives. We remain focused on delivering high-quality services that enable state spending units to operate efficiently and in alignment with the Fleet Management Division's strategic goals.

Fleet Advisory, Analytics & Strategic Support

West Virginia emphasizes the need for accurate, up-to-date fleet information and a partner who works side-by-side with State leadership to interpret data and recommend actions that improve fleet performance. This is a core Element strength.

Our Strategic Advisory Services (SAS) team, comprised of 45+ consultants across five countries, brings deep analytics expertise and an average of 12+ years of advisory experience. In 2025 alone, SAS identified \$1.4 billion in client savings by helping public and private sector organizations uncover cost drivers, benchmark performance across more than 1.1 million vehicles, and implement data-driven optimization strategies. For government agencies, this translates into responsible stewardship of taxpayer dollars, improved budget predictability, and measurable reductions in total cost of ownership- all supported by transparent reporting and actionable insights.



West Virginia will have a dedicated advisor who conducts onsite assessments, leads monthly performance reviews, develops KPIs, and builds customized dashboards providing real-time visibility into maintenance, fuel, telematics, and safety performance. Automated and tailored reporting reduces administrative burden while ensuring accurate and timely information for decision-makers. Our shared objective is to help West Virginia operate a best-in-class fleet program that can scale to support continued statewide growth.

Maintenance & Repair Management

Element's nationwide maintenance and repair program supports the State's focus on safety, efficiency, and cost control. Our ASE-certified technicians use data-driven repair authorization processes to prevent unnecessary work, reduce downtime, and ensure vehicles return to service quickly. Robust vendor coverage and national pricing controls promote consistent, reliable service quality across the State. In addition, our 24/7 roadside assistance program ensures drivers receive timely support whenever and wherever needed.

Fuel Program & Cost Control

Our secure fuel program combines purchase controls, exception monitoring, and advanced analytics to detect misuse, reduce fraud, and identify efficiency opportunities. By integrating fuel data with telematics, maintenance records, and utilization insights, Element provides West Virginia with a comprehensive view of operational performance- enabling informed decision-making and improved cost management.

Telematics, Safety & Compliance

Element's telematics platform, delivered through our partnership with Samsara, provides GPS tracking, real-time diagnostics, safety alerts, and advanced camera technologies that strengthen driver protection and support rapid incident response. These tools advance the State's goals for compliance, accountability, and data-informed fleet governance.

Our Safety and MVR programs provide continuous monitoring, risk scoring, and proactive driver engagement strategies to reduce collisions, protect state assets, and improve overall fleet safety outcomes.

Element appreciates the opportunity to respond to this RFP and values the clarity the State has provided regarding its expectations. We are confident that our comprehensive fleet management program will enhance safety, improve operational efficiency, reduce total cost of ownership, and support the continued growth of West Virginia's fleet.



Element Fleet Corporation

10200 Grand Central Avenue, Suite 400

Owings Mills, MD 21117

www.elementfleet.com | 800-665-9744 toll-free

We look forward to the opportunity to serve as your trusted long-term partner. Thank you for your consideration. Please do not hesitate to contact me directly if additional information is needed.

Sincerely,

Brian Hamby
Sales Director, Government
(205) 962-2924
BHamby@elementcorp.com

Natalie Grmusa
BDR, Government
(437) 223-9682
NGrmusa@elementcorp.com

Saad Ahmad
Senior Strategic Client Advisor
(403) 298-2999
SAhmad@elementcorp.com

Table of Contents

CRFP 0216 FLT260000002 Cover Page	3
4.2 Project Goals and Mandatory Requirements	4
4.2.1 Approach & Methodology to Goals/Objectives	4
4.2.1.1 Providing Quality Products and Services	4
4.2.1.2 Managing Vehicle Inventory.....	4
4.2.1.3 Growing Your Fleet	5
4.2.2 Mandatory Project Requirements.....	6
4.2.2.1 General	6
4.2.2.2 Maintenance and Repair Services	6
4.2.2.3 Fuel-Card Program	6
4.2.2.4 Billing/Invoicing	6
4.2.2.5 Telematics	7
4.2.2.6 Defensive Driving	7
4.2.2.7 Mileage and Odometer	8
4.2.2.8 Support and Reporting	9
4.2.3 Solutions Based	11
4.2.3.1 General	11
4.2.3.2 Maintenance	12
4.2.3.3 Fuel Card Program	12
4.2.3.4 Billing/Invoicing	15
4.2.3.5 Telematics	15
4.2.3.6 Odometer and Commuting	21
4.2.3.7 Driver Safety Program.....	22
4.2.3.8 Training and Support	23
4.2.3.9 Reporting.....	23
Value Add Services	25
Safety and Risk Management.....	25
Safety Training	26
Fuel Cards	27
Maintenance	28
Technology	32

Xcelerate Online Client Portal..... 32

Customized Reporting..... 34

Element ONE Driver App 34

4.3 Qualifications and Experience..... 36

 4.3.1 Qualification and Experience Information 36

 4.3.2 Mandatory Qualification/Experience Requirements 37

 Strategic Advisory Services 38

 Implementation 41

 Account Management 43

SECTION 6: EVALUATION AND AWARD 45

Designated Contact, Certification, and Signature 48

Notice 49

Terms and Conditions Exceptions 51

Attachment B: Software as a Service Addendum Exceptions..... 68

Attachment C: Federal Funds Addendum Exceptions 81

Addendum Acknowledgement..... 97

	Department of Administration Purchasing Division 2019 Washington Street East Post Office Box 50130 Charleston, WV 25305-0130	State of West Virginia Centralized Request for Proposals Service - Misc

Proc Folder: 1904101 Doc Description: Vehicle Maintenance, Fuel & Repair Management and Telematics		Reason for Modification:	
Proc Type: Central Master Agreement			
Date Issued	Solicitation Closes	Solicitation No	Version
2026-02-13	2026-03-17 13:30	CRFP 0216 FLT260000002	1

BID RECEIVING LOCATION

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

VENDOR

Vendor Customer Code:

Vendor Name : Element Fleet Management Corporation

Address :

Street : 10200 Grand Central Avenue, Suite 400

City : Owings Mills

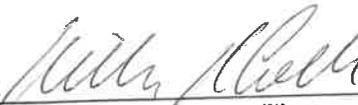
State : MD **Country :** USA **Zip :** 21117

Principal Contact : Brian Hamby

Vendor Contact Phone: (205) 962-2924 **Extension:**

FOR INFORMATION CONTACT THE BUYER

Tara Lyle
 (304) 558-2544
 tara.l.yle@wv.gov

Vendor Signature X  **FEIN#** 36-2774566 **DATE** 3/2/26

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

4.2 Project Goals and Mandatory Requirements

4.2.1 Approach & Methodology to Goals/Objectives

Every day, Element helps our clients manage fleets that deliver the goods and services that communities rely upon worldwide. We provide both end-to-end and a-la-carte fleet management services and solutions for government, public service, corporate, and commercial service vehicle fleets.

We drive value through collaboration and continuous improvement. Our depth of expertise and commitment to consistent, superior service is unparalleled. From the transition to electric vehicles to our leadership in predictive analytics and mobility, we make the complex simple for our clients.

4.2.1.1 Providing Quality Products and Services

Element is a global leader in fleet management, driven by a single Purpose: to Move the world through intelligent mobility. We provide a superior client experience and tailored mobility solutions, along with deep and broad expertise to help our clients achieve extraordinary results. As fleet experts, we make the complicated simple for our clients, allowing them to focus on their business. We will help you reduce your costs, navigate the ever-changing landscape of fleet management, and manage your fleet across the entire vehicle lifecycle.

Element aligns closely with the mission and goals of your Fleet Management Division by delivering safe, efficient, and reliable fleet services designed to maximize cost-effectiveness and operational excellence. Our comprehensive suite of fleet management services spans the total fleet lifecycle, including vehicle acquisition, customized financing, maintenance, safety and collision management, telematics, compliance, tolls and violations, and remarketing. We proactively work with clients to ensure fleet operations are fully aligned with strategic objectives, leveraging benchmarking, analytics, and periodic performance reviews to drive continuous improvement and goal achievement. Our dedicated account teams and Strategic Advisory Services provide expert guidance, data-driven insights, and personalized support, enabling state spending units to realize exceptional fleet service and operational value. Element's focus on teamwork, technology innovation, and client partnership ensures that our solutions empower your division to meet the State's strategic goals, optimize fleet productivity, and deliver quality products and services with measurable cost savings and enhanced safety.

4.2.1.2 Managing Vehicle Inventory

Element's Xcelerate platform enables the Fleet Management Division to maintain accurate, real-time information on vehicle inventory, drivers, and issued service cards, ensuring efficient delivery of services such as fuel, maintenance, telematics, and driver safety. Our technology allows users to update driver and vehicle information online and in real time, with changes processed within seconds or minutes. The system supports detailed tracking of transactions, assignment history, and asset status, and provides customizable dashboards for inventory management. These capabilities enable timely, data-driven decisions that improve operational efficiency, reduce costs, and enhance driver safety. Our processes include data quality audits, integration of inbound HR data feeds, and ongoing collaboration to ensure inventory data remains current and complete. We also offer advisory services and robust reporting tools to support cost management, policy compliance, and benchmarking, ultimately maximizing the value and performance of your fleet.

4.2.1.3 Growing Your Fleet

Element Fleet Management is dedicated to supporting the State of West Virginia in the growth of your fleet and providing a comprehensive suite of products and services that enable the State of West Virginia to operate effectively and efficiently. Our account management structure ensures you have access to a coordinated, proactive, and strategic partnership, with roles such as Relationship Manager, Strategic Advisor, and Client Success Partner working together to deliver expertise across the entire vehicle lifecycle. We offer tailored advice, innovative solutions, and best-in-class support to help you unlock your fleet's full potential, reduce operating costs, improve driver satisfaction, and maximize productivity. Our team manages all aspects of fleet maintenance, vehicle acquisition, compliance, and cost optimization, leveraging industry-leading data, analytics, and benchmarking. With dedicated customer care and subject matter experts, we ensure convenient, prompt, and efficient service, driving measurable outcomes and continuous improvement for your fleet operations.

4.2.2 Mandatory Project Requirements

4.2.2.1 General

- 4.2.2.1.1 The vendor must be able to segment the organization data, end user's access and limit the rights of the units within the organization**

Acknowledged.

- 4.2.2.1.2 The vendor must support importing historical data from Fleet Managements current vendor solution**

Acknowledged. Element can accept electronic data in various formats and methods, including email and FTP websites. During the implementation process, your Element team will work with you to establish appropriate data transfer processes to meet your needs based on the type of data, specific source and target system.

In establishing data transfer processes, we consider the nature of the data involved and offer recommendations to protect the privacy of your employees.

We ensure accuracy utilizing industry standard Quality Assurance practices and methodologies. This process includes unit, systems and user acceptance testing cycles.

4.2.2.2 Maintenance and Repair Services

- 4.2.2.2.1 The vendor must be able to facilitate, at no additional cost, the acquisition of tires and mounting, balance and disposal through the Purchasing Division's West Virginia Statewide Contract for tires.**

Pricing for Goodyear and Firestone can be entered directly at the POS. For other tire providers, we cannot ensure pricing compliance. We are able to honor the pricing supplied by Michelin provided that they are able to implement it on their end and invoice the correct pricing for their products in accordance with their agreement with the client.

4.2.2.3 Fuel-Card Program

- 4.2.2.3.1 The Fuel Card Program must be a closed-loop proprietary network that can capture Level III data with a minimum of 99.8% accuracy.**

Acknowledged. Element complies with 99.8% accuracy for our total portfolio.

4.2.2.4 Billing/Invoicing

- 4.2.2.4.1 Vendor must create master, central, separate account, subordinate division, or location-specific hierarchal organization (chart of accounts) for viewing, reporting, and administration as designated by FMD.**

Our billing system was designed to support various alphanumeric breakdowns, hierarchies, and billing structures. We can provide the State of West Virginia with 12 levels of coding and up to 42 total characters, including alpha, numeric and other special characters. We can support API, EDI, FTP, email and invoicing to separate divisions or cost centers. To have transparent billing, we currently have over 700 different charge codes, so the State of West Virginia can identify their billing charges easily. The EDI fee noted is not an Element fee but rather a fee from whomever the State of West Virginia would use as the VAN provider for EDI [as a passthrough charge]. Element recommends that the State of West Virginia use our standard billing process and existing breakdown structure to avoid an EDI setup that could have a setup fee involved.

4.2.2.4.2 Vendor must be able to bill agencies of different bill codes separately for services. The costs on the invoices must match the costs agreed upon in the contract pricing to ensure payments are made in a timely manner.

Element has the ability to bill agencies of different bill codes separately for services. The costs on the invoices will match the costs agreed upon in the contract pricing, except for pass-through charges (which Element cannot price out in advance).

4.2.2.5 Telematics

4.2.2.5.1 Must have a program utilizing cellular and/or satellite

Acknowledged. Please see Samsara information below.

4.2.2.6 Defensive Driving

4.2.2.6.1 Must have a program that can assess and assign safety modulars.

Element offers our clients the ability to build a safety training program that will maximize savings for their business and reduce the frequency of collisions. Our training modules are convenient and flexible for drivers, with automatic record-keeping for fleet managers. Web-based training programs engage drivers through high-impact visuals, crisp audio and interactive exercises, all of which are reinforced with tracked quizzes. In North America, modules are offered in English, Spanish and French-Canadian.

We offer the following options:

Assigning and Tracking Training

DriverCare Risk Manager automatically assigns modules to drivers remedially after specific events appear on the driver's Risk Assessment. Most clients supplement such remedial training by assigning quarterly training to the entire fleet. The DriverCare Risk Manager program includes full access to our library of defensive driver training modules, so there is no additional cost. Local managers can also assign training to their direct reports as they see fit.

Element's system makes it easy for drivers to complete mandatory training. The State of West Virginia, or their account manager, triggers an email from DriverCare Risk Manager to drivers indicating the required lessons to complete. Drivers are given a timeframe to complete the training assignment at their convenience, and reminder emails are sent before the training completion is due and once the training assignment is past due. Management will have online visibility of the status of lessons assigned to each driver.

Training Options

Our flexible purchase plan through DriverCare Risk Manager allows the State of West Virginia to group and select a specific quantity of lessons or choose from the entire inventory. We also offer the development of a State of West Virginia-customized Safety Policy Module with assessment questions, at no extra cost. As a best practice, many of our clients assign this module annually to refresh drivers about their specific fleet policy.

We offer a suite of over 50 light-to-medium duty modules in English and French Canadian.

Auto Lessons

With over 50 modules, drivers can learn techniques that create an extra margin of safety in a wide range of critical driving situations. Lessons are commonly ten to fifteen minutes in length, and they include review sessions and a final exam. Topics include:

- Avoiding Aggressive Driving
- Avoiding Distracted Driving
- Managing Your Time and Speed
- Protecting Yourself and Your Vehicle
- Electric Vehicle suite of modules
- Driver Well Being suite of modules

Clients who have implemented our full DriverCare Risk Manager program have seen reductions in costs per vehicle and collisions, as well as significant cost avoidance. For example, one client realized savings of \$14 million in repair avoidance. In addition, the client avoided 5,391 collisions over eight years based on projections of past collision history. With our program, this client reduced their collision rates by 25.2%.

Typical savings have included reductions in collision and rental costs, as our solution engages the fleet driver and their direct manager. Drivers and managers can view the driver's history, assigned remedial training, company policy, points assigned for collisions, Motor Vehicle Record (MVR) violations and other data.

4.2.2.7 Mileage and Odometer

- 4.2.2.7.1 Must capture during fueling and maintenance events along with State of West Virginia supplied data for both the odometer and commuting value if applicable.**

Mileage is entered into the system through automated transactional entries from our Fuel, Maintenance, Telematics, Collision and Personal Mileage programs. In addition, State of West Virginia can update individual asset odometers within Xcelerate, or use the bulk process in Xcelerate to upload a set of odometer readings.

4.2.2.8 Support and Reporting

4.2.2.8.1 **Must provide training and continued support. All reports must be accurate and current. State of West Virginia must have the capability for ad hoc reporting.**

Element provides training and continued support through our Client Technology Services (CTS) team, which offers telephone and email support Monday through Friday, 8:00 a.m. to 8:00 p.m. ET. In addition, on-demand videos, e-Learning (Learning Hub) capability, interactive Help, and step-by-step guidance are available 24/7 within our online client portal, Xcelerate.

Element's online Report Center includes over 270 fully customizable reports. Standard reports are available in all categories, ranging from Acquisition to Remarketing. All reports are downloadable in multiple formats, including Excel and CSV, and report output is fully sortable and analytics ready. Reports can be scheduled according to your time frame and emailed to designated personnel. In addition, Xcelerate Intelligence within Xcelerate provides on-demand visibility to data to simplify every aspect of fleet management by providing:

- An easy-to-use, user-centered design
- Relevant, actionable data accessible at your fingertips
- Key cost drivers to analyze operational trends

State of West Virginia can compare multiple data points to help make intelligent decisions for better business outcomes.

Additionally, more complex ad hoc reports can be completed at the State of West Virginia's request. These reporting systems allow users to alter predefined report templates by adding or deleting data fields, filtering and sorting. Turnaround time is evaluated and determined based on the complexity of the report requested.

4.2.2.8.2 **Vendor must provide standardized and customizable reports that will be available through a browser-client application to state agencies without an additional charge. Reports should be exportable in comma-separated-value or ".csv" format**

Element provides standardized and customizable reports through the Xcelerate Report Center, accessible via a browser-client application, at no additional charge. Clients can customize, export, and schedule reports.

Reports are exportable in multiple formats, including comma-separated-value (CSV) and Excel. The reporting tools include over 270 fully customizable templates, and users have complete control over reporting metrics and the ability

to subscribe to reports on a client-defined schedule. Reports can be downloaded in CSV formats and are analytics ready.

Additionally, user-generated report formats allow for auditing, exception activity, summary creation, and budget analysis. Training and support for ad hoc reporting needs are available to administrators. For more specialized information needs, custom reports can be created, and turnaround time is determined based on report complexity.

4.2.3 Solutions Based

4.2.3.1 General

4.2.3.1.1 **What are some similar customers (governmental and or size of fleet) that you currently contract to provide vehicle management services and what type of services do you provide**

Element maintains fleet management contracts with multiple major governmental and public sector entities, including the State of Maryland and the State of Washington. We are also in the process of implementing the State of Georgia. In addition, we provide fleet management services to a broad range of other clients, such as Municipalities, Counties, Transit agencies, Colleges and Universities, commercial organizations, and more. Element offers a full suite of fleet management products and services, including Maintenance, Collision Management, Personal Violations, Fuel Services, Fleet Electrification, MVR, Safety, Personal Usage, Telematics, Tolls, Violations and Compliance, Registration, Motor Pool, Leasing, Acquisition, and Strategic Advisory Services.

4.2.3.1.2 **Describe the capability to hierarchy the organization and limit user access**

Our system allows for up to 12 levels of organizational hierarchy, enabling the State of West Virginia to structure access based on management levels. Users can be set up at multiple hierarchy levels within your organization, with secure identification and passwords ensuring that data access is restricted according to the designated user level. This approach allows for tailored user access, so a fleet administrator may have full rights across the fleet, while a driver may only access their own vehicle's details. Full access or restricted views can be granted based on individual roles, and functions within the platform can be enabled or disabled in accordance with your hierarchy. Visibility to units and drivers is also adjustable, ensuring only authorized users can view or update information according to their role-based permissions.

4.2.3.1.3 **Describe the process of data migration including file formats for data import, the type of data that can be imported, limitations on the volume of data, data mapping, and user acceptance testing**

Element can accept electronic data in various formats and methods, including email and FTP websites. During the implementation process, your Element team will work with you to establish appropriate data transfer processes to meet your needs based on the type of data, specific source and target system.

In establishing data transfer processes, we consider the nature of the data involved and offer recommendations to protect the privacy of your employees and your company.

We ensure accuracy utilizing industry standard Quality Assurance practices and methodologies. This process includes unit, systems and user acceptance testing cycles.

4.2.3.2 Maintenance

4.2.3.2.1 **Please describe the method to facilitate maintenance events by a third-party, state-owned facility and manual entries**

Maintenance data capture allows the users to enter data manually. We can set up shops/users and they can log on to our maintenance platform and enter the data directly. The records will be visible in Xcelerate for reporting purposes. This service can be added to your solution, which is included in the Cost Proposal under 'Driver Portal Log'.

4.2.3.2.2 **Describe how you address recalls and industry post safety bulletins**

Element does not actively manage recalls for clients nor do we monitor industry post safety bulletins. Element partners with Carfax, a leading third-party supplier for active recall data, to receive information on all open recalls, reducing administrative burden for our clients. In addition, we receive paper recall/owner notices from OEMs for vehicles that are owned by Element which we will mail to State of West Virginia's associated vehicle owner (i.e., assigned driver). State of West Virginia can leverage Xcelerate to access a filterable listing of all Element-known recalls through the open recall report which is populated by Carfax data.

4.2.3.2.3 **How does the platform track and communicate preventative maintenance**

Element uses Preventative Maintenance (PM) reminders for vehicles and assets enrolled in our Maintenance program. PM reminders are electronic notifications sent directly to the assigned driver for a unit through our Element ONE for Drivers mobile app, email, or by opt-in text messaging to alert them when the vehicle is due for maintenance. We tailor these alerts to your specific mileage and/or day parameters. We base our PM schedule on the vehicle type or set it according to your unique parameters and fleet policy. If a driver does not complete the required maintenance, we issue follow-up reminders, with PM compliance reporting available via Element's online portal. Preventative maintenance is a critical component of increasing the longevity of a fleet's lifespan, and as such, Element dedicates many resources to ensuring our clients have full visibility into this process.

4.2.3.3 Fuel Card Program

4.2.3.3.1 **How do you facilitate credit card ordering, replacing, and identifying the end user**

The State of West Virginia can order fuel cards and replacement cards through our online portal, Xcelerate. If the vehicle is not currently enrolled in our fuel program, you can call our toll-free number, and a client support representative will ensure the vehicle is properly enrolled in our system. You can also request a new card or change the status via email to our Client Service team. Lost, stolen or damaged cards are subject to a standard fee.

Element ONE for Drivers enables drivers to cancel a lost or stolen card. A single action on the driver's mobile device cancels the current card and generates a request for a replacement card.

4.2.3.3.2 **How do you address credit cards and fraud alerts**

Element will help the State of West Virginia set authorization control limits, research fraudulent transactions, and submit claims to recover third-party fraud transactions. Exception reporting and alerts can be set up in our portal, Xcelerate, for monitoring many exception types, such as dollars per transaction and premium fuel purchases. In the event of unusual or suspicious activity, State of West Virginia will be notified for validation of the transaction. Element utilizes WEX Safer Payments technology to create alerts that are forwarded to State of West Virginia's designated fuel fraud contact. In the U.S., clients can terminate cards and add or terminate PINs in real time through Xcelerate.

- **Enhanced Security:** Our enhanced card security and fraud alerts have resulted in a 90% reduction in fuel fraud for clients. PIN functionality on a cross-border basis means only those allowed to use the card are using it. We can also limit when and how the card can be used. For example, the card can be limited by days of the week and/or time of day it is accepted, and the number of transactions and dollars spent per day can be controlled.
- **Exception Reporting:** We have established an automated report identifying behaviors and trends to reduce human error in identifying exceptions. Our technology platform searches client fuel data for non-fuel purchases, purchases of high-octane gas, and purchases over tank capacity. Users can also view the driver, the vehicle, and other data related to the exception and send a system-generated email to the driver that addresses the exception.

4.2.3.3.3 **What data do you capture at the point of sale. How much of the data is the responsibility of the end user and the merchant.**

Element captures comprehensive Level 3 point-of-sale data to support accurate reporting and transaction integrity. Data captured includes:

- Odometer
- Driver ID
- Line item detail (for non-fuel purchases)
- Fuel grade
- Cost per gallon
- Quantity
- Purchase date and time
- Merchant name and address
- Total purchase cost
- Account number
- Entry method

In the U.S., all accepting vendors within our partner WEX's proprietary, closed-loop network are required to transmit Level 3 data. Element also offers enhanced product codes to provide visibility into both fuel and non-fuel transactions, and WEX maintains a dedicated site team to monitor vendor performance and data integrity.

Level 1 data includes the core authorization elements—purchase date and time, merchant name, and total purchase cost. Level 2 data adds fields common in commercial transactions, including fuel grade, odometer entry, and tax breakdown by state. Level 3 data incorporates all Level 1 and Level 2 information and adds supplemental detail such as driver ID, line-item detail for non-fuel purchases, fuel quantity, and price per gallon.

The division of responsibility for data captured at the point of sale is based on these defined data elements. Merchant systems provide system-generated transaction details such as purchase date and time, merchant location, fuel grade, cost per gallon, quantity, and total purchase cost. End users are responsible for entering fields that require driver input, such as odometer and driver ID, which are included within the Level 3 data elements. This structure ensures consistent system-captured data while supporting accurate driver-entered information.

4.2.3.3.4

Describe the capability to hierarchy the organization with the ability for some drivers to access fueling across a percentage of the organization's hierarchy

Drivers in the U.S. have a PIN number that will work with any fuel card in the account. For example, if the driver needs to fuel Vehicle A and Vehicle T they would use the specific card for each vehicle and their unique PIN number. Different levels of security can be set on Element service cards.

- **Restrictions:** Clients can set up restricted accounts (fuel only) or unrestricted accounts for automotive fluids, standalone car wash, and/or general merchandise. They cannot customize security features at the card level for pay at pump only or daily swipe limits.
- **Limits:** Clients can set limits for transactions per day, dollars per day, dollars per transaction, days of the week, and time of day.
- **Controls:** Authorization control limits can be set to daily, daily/weekly, or daily/monthly options

4.2.3.3.5

Describe how the fueling cards are defined to accommodate general vehicles, undercover vehicles, and temporary cards.

Element would issue a Fuel Card to any Vehicle in our system that is on the Fuel Program. They would work the same whether the unit is undercover or a "dummy" unit set up as a spare care.

4.2.3.3.6

How do you restrict permissions for requesting cards and account attributes

Upon implementation of the program, Element will work with the State of West Virginia to determine service card parameters such as card types and authorization controls, as well as determine a launch date.

4.2.3.3.7 Describe the process and timeline for new and replacement cards.

New and replacement cards can be conveniently ordered through our website, via email, or by telephone. We will mail new fuel cards within two business days of your request. Clients may elect for the card to be shipped via 1st class mail or, to expedite turnaround time, overnight carrier for an additional fee.

4.2.3.3.8 Describe how you address drivers stranded at the pump

Should drivers become stranded at the pump, they can contact Element directly for assistance; driver support for fuel-related issues is available through our Contact Center. During normal operating hours, a technical support representative will validate the card and PIN and ensure the driver is at an accepting location; using a correct pump; and supply general troubleshooting assistance.

4.2.3.4 Billing/Invoicing

4.2.3.4.1 Describe how you invoice based on organization hierarchy and the number of invoices of what each includes

Our billing system was designed to support various alphanumeric breakdowns, hierarchies, and billing structures. We can provide State of West Virginia with 12 levels of coding and up to 42 total characters, including alpha, numeric and other special characters. We can support API, EDI, FTP, and invoicing to separate divisions or cost centers. To have transparent billing, we currently have over 700 different charge codes, so State of West Virginia can identify their billing charges easily. To have transparent billing, we currently have over 700 different charge codes, so the State of West Virginia can identify their billing charges easily. The EDI fee noted is not an Element fee but rather a fee from whomever the State of West Virginia would use as the VAN provider for EDI [as a passthrough charge]. Element recommends that the State of West Virginia use our standard billing process and existing breakdown structure to avoid an EDI setup that could have a setup fee involved.

4.2.3.4.2 Describe how vehicle manufacturers' reimbursements and fueling transactions discounts are facilitated

Within Element's fuel program, there are no discounts tied to specific supplier incentives. Any applicable discounts will be established between Element and the State of West Virginia. Element offers a monthly rebate of 1.5% percent of all fuel purchases using the Element fuel card. Rebates are issued monthly, quarterly, semi-annually or annually depending on the terms of the contract. Additionally, rebates are issued a month in arrears of the billing period as a credit, at the unit level, on the invoice.

4.2.3.5 Telematics

4.2.3.5.1 Describe your telematics solution and list of features. Describe how your system addresses pool and assigned vehicles

Samsara provides a comprehensive, real-time telematics platform designed to improve fleet safety, operational efficiency, compliance, and cost management across state agencies. Our solution includes industry-leading GPS tracking, vehicle diagnostics, utilization analysis, and driver safety tools within a single, cloud-based platform. These capabilities ensure that the State of West Virginia can maintain accurate, auditable, and real-time visibility into its fleet operations.

Telematics Solution Overview

Samsara's telematics platform provides end-to-end fleet visibility and operational intelligence through features including (and backed by a **guaranteed 99.99% uptime**, the highest uptime commitment of any telematics provider):

- Real-time GPS tracking with second-by-second location updates
- Engine diagnostics, fault-code alerts, battery monitoring, and health insights
- Preventive maintenance scheduling and automated service reminders
- Fuel efficiency tracking and idling analytics
- Comprehensive trip history and routing insights
- Geofencing and rule-based alerts for location-based compliance
- Detection of unsafe driving behaviors
- Optional AI-enabled dash cameras for enhanced safety and documentation
- Open APIs for integration with state systems, maintenance software, and data warehouses

These features empower West Virginia agencies to improve safety, reduce costs, and streamline operational oversight.

Support for Assigned Vehicles

Samsara supports reliable and flexible driver-to-vehicle assignment across a wide range of operational scenarios. To ensure accurate trip attribution, accountability, and reporting, agencies may use any combination of the following driver identification methods:

1. AI Dash Camera - Automatic Facial Recognition

- Uses onboard AI in the dash camera to recognize the driver within seconds of entering the vehicle.
- Maintains consistent attribution even during multi-driver shifts.
- Functions in varied lighting conditions using enhanced imaging models.
- Assigns the driver automatically without mobile apps, badges, or manual input.

This method ensures accurate, low-friction driver assignment for safety, compliance, and reporting.

2. AI Dash Camera - Employee Badge/Card Recognition

- Drivers may hold their employee ID card up to the AI dash camera.
- The camera uses computer vision to read the printed ID number.
- Samsara assigns the driver based on agency-recorded badge data.
- No additional hardware needed.

3. Mobile App (Samsara Driver App)

- Drivers sign in using secure login or SSO.
- The driver selects the appropriate vehicle from the app.
- Driver assignment begins automatically once the vehicle is operated.
- Supports DVIR, routes, messaging, and other workflows.

4. Bluetooth Driver ID Token

- Drivers carry a BLE token on a keychain or lanyard.
- The Samsara Vehicle Gateway detects the token when the driver enters the vehicle.
- Assignment occurs instantly with no required driver action.
- Ideal for large or distributed fleets.

5. ID Card + Physical Card Reader (RFID or Similar)

- Agencies may use a connected physical card reader.
- Drivers tap or present an agency-issued ID card.
- The gateway authenticates the card ID and assigns the driver accordingly.
- Supports existing badge systems used across state facilities.

6. QR Code Scanning

- Vehicles may display a unique QR code.
- Drivers show the QR code to the AI dash camera, which scans it using computer vision.
- The camera reads the code and assigns the vehicle to the correct driver.
- This supports fast, touch-free authentication and is ideal for shared-use environments.

7. Static Assignment (Permanent Mapping)

- A driver may be permanently assigned to a specific vehicle.
- All trips automatically attribute to that driver.
- Appropriate for take-home vehicles or permanently assigned units.

4.2.3.5.2 Describe reporting capabilities for telematics including exemptions, vehicle log and vehicle/driver scorecard

Samsara provides robust, configurable reporting tools that support operational oversight, compliance requirements, and audit readiness across state agencies.

These reporting capabilities ensure that West Virginia can access accurate and actionable telematics insights at both fleet-wide and agency-specific levels.

Exemptions Reporting

Samsara enables agencies to create, manage, and audit trip exemptions, including but not limited to:

- Business vs. personal vs. commuting classifications
- Operational exceptions such as undercover work, emergency response, or maintenance testing
- Automated exemption rules based on geofences, vehicle type, or time of day

All changes are logged to maintain transparency and auditability.

Vehicle Logs

The platform automatically generates detailed and fully customizable vehicle logs that can be tailored to each agency's operational, compliance, and audit requirements. Logs may include any combination of the following data elements:

- Ignition on/off events
- Start and end locations for every trip
- Start/stop movement and dwell times
- Full breadcrumb trail with time-stamped location and speed
- Idling events and fuel consumption insights
- Engine hours, fault codes, and diagnostic alerts
- **Fuel purchase records**, including location and timestamp (via integrations or imported data)
- **Maintenance activity logs**, including service dates, vendor information, and cost entries (via integrations or uploaded data)

All vehicle logs can be exported, filtered, or scheduled as automated reports, and may be integrated via API into state systems such as financial management platforms, maintenance systems, or compliance databases.

Driver & Vehicle Scorecards

Samsara provides highly configurable scorecards designed to support data-driven safety coaching, operational accountability, and performance improvement. Scorecards can be customized by agency, vehicle class, or job function, and may be weighted differently based on policy or operational priorities.

Safety Scores

Safety Scores summarize a driver's risk profile over a configurable timeframe and incorporate both telematics and camera-based insights. Common metrics include:

- Speeding severity and duration relative to posted limits
- Harsh braking, harsh acceleration, and harsh cornering events
- Following distance (tailgating) detection
- Seatbelt compliance
- Mobile phone usage or distracted driving (if cameras are deployed)
- Critical safety events such as near-misses or collisions

Safety Scores help agencies:

- Identify high-risk drivers or trends early
- Prioritize coaching sessions efficiently
- Track improvement over time following interventions
- Benchmark performance at the driver, department, or statewide level

Efficiency Scores

Efficiency Scores focus on driving behaviors and vehicle usage patterns that affect fuel consumption, idling, wear-and-tear, and total cost of ownership.

Metrics may include:

- Idling percentage and total idle time
- Fuel efficiency relative to vehicle class norms
- Acceleration and braking patterns that impact fuel economy
- Adherence to optimized routing or reduction in unnecessary mileage
- Engine load behavior and utilization insights

Efficiency Scores enable agencies to:

- Quantify fuel-saving opportunities
- Reduce avoidable operational costs
- Identify vehicles or departments with elevated idling or inefficient driving patterns
- Support sustainability initiatives and emissions reduction goals

Route Scores

Route Scores provide insights into how efficiently and safely drivers follow assigned or optimal routes. These scores help agencies understand whether vehicle operators are adhering to routing guidance and where improvements can be made. Metrics may include:

- Adherence to assigned or optimal route paths
- Frequency and duration of off-route deviations
- Impact of routing choices on fuel consumption and trip duration
- Missed stops, unplanned stops, or deviations from expected service patterns

- Average route completion times compared to benchmarks

Route Scores help agencies:

- Improve operational reliability and on-time performance
- Reduce fuel use and unnecessary mileage
- Ensure service-level compliance for transportation workflows
- Identify route planning or assignment issues contributing to inefficiencies

Together, Safety, Efficiency, and Route Scores provide West Virginia with a comprehensive, actionable view of driver behavior, operational adherence, cost efficiency, and opportunities for targeted improvement.

4.2.3.5.3

Describe any additional level of service for first responders

Samsara provides enhanced support capabilities tailored to the unique operational demands of first responders, including law enforcement, fire, EMS, and emergency management fleets. Our offering is purpose-built for mission-critical environments and begins with the most essential components for public safety communications.

FirstNet Certification & Mission-Critical Connectivity

- FirstNet Certified hardware, ensuring prioritized, reliable communication for first responder fleets
- Priority and preemption network access to maintain connectivity even during large-scale emergencies
- Satellite connectivity options for extended coverage in rural or mountain regions where cellular networks may be limited
- Multi-carrier redundancy to ensure uninterrupted telematics and video transmission across the state

Real-Time Operational Visibility & Situational Awareness

- Live GPS tracking for dispatch and response coordination
- Status insights such as en-route, on-scene, or returning-to-station
- Vehicle health monitoring to reduce downtime and ensure fleet readiness
- Ability to livestream dash camera feeds for real-time situational awareness and improved command decision-making

Safety, Evidence Capture & Incident Documentation

- Optional AI dash cameras for incident documentation and training
- Automatic tagging of emergency response events
- Real-time uploads of critical events for rapid supervisor review
- Streamlined workflows for incident documentation and compliance reporting

These capabilities help first responder agencies improve response coordination, strengthen operational transparency, and ensure mission-critical reliability statewide.

4.2.3.6 Odometer and Commuting

4.2.3.6.1 Describe how you capture odometers and the ability to receive and track monthly readings provided by the state of West Virginia

Samsara automatically captures odometer readings through:

- Direct engine bus connections (OBD-II, J1708, J1939, J1939-VM, RP1226)
- Supplemental GPS-based odometer algorithms to ensure accuracy
- Readings are updated continuously and stored historically for audits.
- If the State of West Virginia provides monthly odometer submissions, Samsara supports:
 - Bulk upload workflows
 - API ingestion of monthly files
 - Exception alerts to highlight discrepancies between manual and telematics readings

This hybrid method ensures consistency with existing state processes while modernizing data accuracy.

4.2.3.6.2 Describe how you capture and track commuting miles

Samsara supports several methods for tracking commuting mileage:

Automated Trip Classification

Samsara supports automated trip classification primarily through geofence based logic, allowing agencies to designate specific zones—such as home locations, workplaces, depots, or agency facilities—and automatically categorize trips that begin or end within those areas. This enables consistent and policy-aligned classification of home-to-work or work-to-home travel when geofenced locations are known.

Automated classification can also incorporate:

- Trip start and end points, identifying whether travel originated or concluded at designated geofenced zones
- Vehicle assignment context, such as take-home vehicles or motor pool vehicles with predefined usage expectations
- Operational geofences, such as maintenance yards, field offices, or restricted areas that help determine business vs. non-business travel

These automated rules help agencies reduce manual intervention while maintaining accurate and auditable commuting records.

Driver Self-Classification

Drivers may classify trips in the Driver App, with all changes logged.

Administrative Oversight

Supervisors may review, correct, and approve commuting miles for compliance or tax reporting.

4.2.3.7 Driver Safety Program

4.2.3.7.1 Describe your Driver Safety Program

Element differentiates ourselves through our ability to capture traditional fleet data and integrate it with behavioral and vehicle data to provide analysis and recommendations that prevent collisions. We offer one of the most comprehensive solutions to maintain driver eligibility, compliance, motor vehicle records (MVR), and risk assessment information.

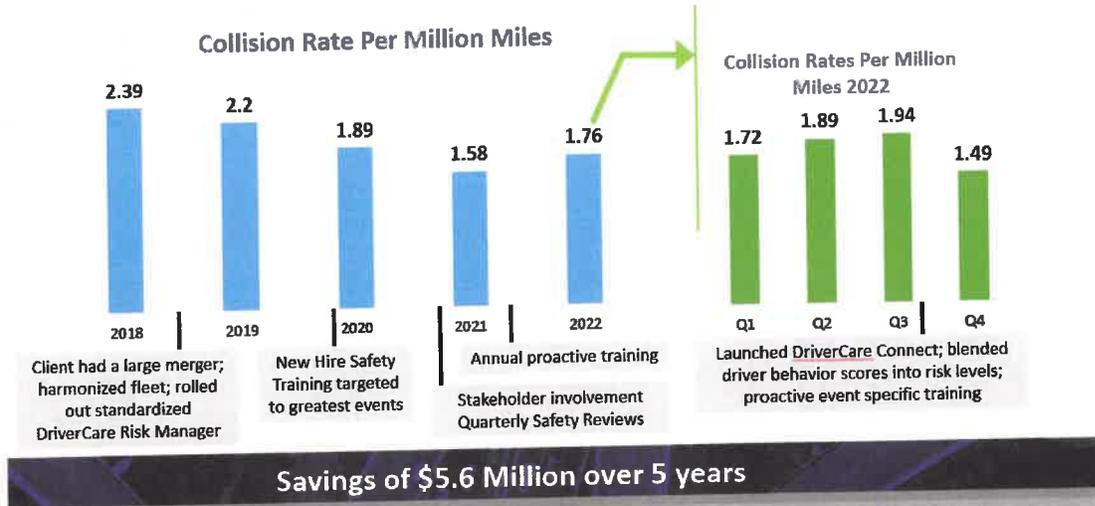
Based on your safety policies, we will work with the State of West Virginia to develop customized grading and Risk Levels for collisions, MVR events, Element Telematics events, and more. We assign online training to drivers through DriverCare™ to correct known issues, break plateaus, and promote your safety culture. All training assigned to drivers is tracked, and fleet administrators can view these assignments in DriverCare™. Managers and other stakeholders are engaged, aware of driver performance, and provided with tools to promote safe driving.

Case studies show significant client savings and reduction of preventable collisions and violations when data and information are integrated. Our services and reporting capabilities provide the State of West Virginia with immediate notifications regarding drivers' performance and/or actions that may put the State of West Virginia and the driver at risk.

Please see below a sample success story.

Case Study: Reducing Risk with A Dynamic Safety Program

DRIVERcare[®]



4.2.3.8 Training and Support

4.2.3.8.1 Describe your training and continued support that will be provided

Element offers a wide variety of learning options. In-context guidance is available throughout our online web portal, which includes an e-Learning capability designed to provide training 24/7. Our interactive Help section also provides the State of West Virginia comprehensive content organized by topics with interactive, step-by-step support within the functional areas of the site. Additionally, we offer Teams training sessions, training videos through our web portal, and instructor-led sessions. Our Client Technology Services team is also available to provide ongoing support. Your Element team will develop and implement a technology plan for the State of West Virginia during your implementation with training for our web portal being provided at no additional cost.

4.2.3.9 Reporting

4.2.3.9.1 What is your solution for integrating inventory, maintenance, fueling, telematics and other vehicle management services into a single platform

Element integrates key fleet data—including inventory, maintenance, fueling, telematics, and other vehicle management services—through Xcelerate, our online client portal. Xcelerate provides a single, unified platform that brings together detailed and summary fleet information, allowing clients to access real-time data insights across their entire program. The platform is designed to make

fleet assets and drivers more productive by consolidating information from multiple services into one intuitive interface.

Through Xcelerate Intelligence, clients benefit from customizable data visualization tools that highlight the metrics most critical to strategic fleet planning. These tools provide on-demand visibility into key cost drivers and operational trends, including maintenance history and fuel purchases, with the ability to limit access to specific fleet units as needed.

Element's Report Center further enhances the integrated experience by offering over 270 customizable reports across all major fleet categories. Reports can be downloaded in multiple formats, sorted, filtered, and scheduled for automated delivery. This capability enables clients to review data from vehicle acquisition, maintenance, fuel management, telematics, risk and safety programs, and remarketing in a consistent, centralized environment.

Together, Xcelerate, Xcelerate Intelligence, and the Report Center provide a cohesive solution for viewing and managing all vehicle services in a single platform, enabling clients to evaluate fleet performance, identify trends, and make informed decisions with confidence.

4.2.3.9.2 What platform(s) are used for reporting

Element's online client portal, Xcelerate, is fully customizable, consolidating inventory and transactional details, resources, and reporting tools.

Value Add Services

Safety and Risk Management

Element designed our Risk and Safety program to identify high-risk drivers and provide targeted training to mitigate risk and reduce your collision rates. We aim to get your drivers home safely every day while reducing your fleet expenses.

We offer three levels of service packages for the greatest arrangement of service effectiveness and cost advantage to our clients. Individual services within each package are available upon request. Clients who implemented our DriverCare Risk Manager package of services have realized an average of 15% reduction in their collision rates over three years. Clients who implemented our advanced Risk and Safety solutions have had even greater collision reductions, ranging from 21% to 29% in a single year.

Our Risk and Safety program begins with an advisory session with our in-house experts. Element's highly experienced advisors will work with the State of West Virginia to identify an optimal structure of services for your specific needs based on your specific requirements, including the configuration of all systems to match your policy. Our advisors will explore the following Risk and Safety programs:

- **DriverCare MVR Monitor/Management:** Motor Vehicle Record (MVR) monitoring or management, inclusive of driver authorization handling and universal event grading for all drivers
- **DriverCare Risk Manager (Standard):** All basic services with risk data integration, driver risk assessments, and unlimited standard defensive driver safety training.

DriverCare Risk Manager

Includes DriverCare MVR Monitor, in which Element monitors driver license status and evaluates past and current records. We enroll drivers in each state's MVR monitoring programs, which provide ongoing captures of negative activity on a driver record. Any negative activity will prompt an automated workflow in our DriverCare system to request a current MVR on the driver and respond in accordance with the State of West Virginia's policy. DriverCare provides a customized grading of the driver's MVR that matches your fleet policy. Fleet administrators use our DriverCare web-based portal to access a full reporting suite and view driver events. A driver portal site is also provided to the State of West Virginia drivers for easy MVR authorization.

In addition, DriverCare Risk Manager includes client-specific risk management and collision data to provide the State of West Virginia a complete risk analysis of your drivers. The combination of collision and MVR data serves as the engine of DriverCare risk levels, which provide more accurate risk profiles. DriverCare Risk Manager also includes unlimited web-based (automatic or on-demand) remedial driver safety training to address poor driving behavior, as well as proactive training. DriverCare Risk Manager provides the following tools to manage fleet risk:

- **Fleet Policy Review:** Our Element's DriverCare MVR Monitor solution is designed to provide you with basic risk management and mitigation upon the data collected through MVRs, DriverCare Risk Manager also integrates collision data, client-specific risk management data, optional in-cab camera data, red-light camera violation data and

more. These data points are incorporated into a profile of driver events to provide a comprehensive risk assessment. This includes:

- Collision claims information for each driver with grades for all preventable collisions
- Citation information for each driver with customized grading based on citation severity
- Policy violations for each driver with client-defined grading
- **Driver Risk Assessment:** With DriverCare Risk Manager, drivers are classified into customizable risk levels. Each negative event adds points to the driver's profile according to your specific parameters. As points accumulate, the driver crosses into a higher risk level with increasing steps toward risk mitigation, including driver training assignments, management notifications and escalations, and possible loss of assigned vehicle, all according to your fleet policy requirements. Using these risk classifications will allow the State of West Virginia to manage driver risk by exception and more efficiently address overall fleet risk mitigation.
- **Unlimited Standard Driver Training:** With added monitoring of risk events, the number of recommended driver training modules will likely increase. With DriverCare Risk Manager, we include a cost-effective package of unlimited standard training modules that address the most common road events encountered by fleet drivers. We also recommend clients take advantage of unlimited training to assign proactive training to promote safety culture and lower collision rates.
- **Efficient Risk Management Tools for Administrators:** The DriverCare Risk Manager platform enables your fleet and risk managers to more efficiently manage and mitigate fleet risk by:
 - Managing all administrative duties by eliminating the burden of accumulating, sorting and collating the legal and driver history paperwork required for meaningful risk analysis
 - Providing a communication hierarchy so appropriate supervisors and managers are notified when involvement is required
 - Providing management by exception (e.g., ability to view only at-risk drivers)

Proactive monitoring and reporting will allow the State of West Virginia to take action and reinforce driver safety to reduce your collision rate.

Safety Training

Element can create and manage a safety training program that is flexible and convenient for the State of West Virginia's drivers. Our online driver safety training is easy for drivers to complete, significantly reduces collision costs, and automatically keeps records for your fleet managers. Training modules engage drivers by integrating high-impact graphics, crisp audio, interactive exercises, and simulations. These easy-to-view modules can save lives and money.

For an additional fee, Element can also produce 100% client-specific videos from our in-house studio, which can include the State of West Virginia associates and/or an introduction from a key leader in your organization. The content and messaging, even the look and feel of the video, can be tailored according to the State of West Virginia's preferences. We have several examples of custom productions that we have created for other clients available on request.

Element or the State of West Virginia can trigger an email from our safety website to your drivers showing which lessons to complete. Drivers access training from our website at their convenience. The State of West Virginia will have online visibility of the status of each lesson assigned, with web reporting to show each lesson start and completion status for each driver.

Fuel Cards

Element's fuel card solutions provide access to a vast network of fuel locations with point-of-sale convenience, purchase controls, and reporting to help capture your fuel spend. We offer a variety of service cards for our clients' fuel and maintenance needs, including a fuel-only card, a maintenance-only card, or a combined fuel and maintenance card. In addition, EV drivers on our maintenance program will receive both a charging card and a maintenance card.

U.S. Credit Cards



In the U.S., our standard card is the **Element Millennium**, powered by WEX Millennium technology. This card provides the ultimate convenience to drivers while giving fleet managers enhanced built-in controls, security, and cost savings. For fleets with heavy trucks, we have partnered with Shell Fleet Solutions and WEX to create the **Element Navigator** card, which provides the ultimate

convenience to drivers while giving fleet managers enhanced built-in controls, security, and cost savings.

The widely accepted Element service cards give drivers access to over 98% of fueling stations across the U.S. Detailed (Level 3) data with enhanced product codes are captured on each purchase giving you the ability to get in-depth visibility of fleet expenses for all transactions processed using our card. Xcelerate fuel reports can help you identify out-of-policy exceptions quickly and pump controls can proactively assist you with policy adoption with your drivers. In addition, our reporting and analytical tools will help you quickly identify trends and opportunities to reduce costs.



For Electric Vehicles (EVs), Element has partnered with industry leaders ChargePoint and WEX to provide access to ChargePoint's growing nationwide charging network. Our charging solution allows clients with electric vehicles (EVs) to use the **ChargePoint RFID** (Radio Frequency Identification) card to pay for EV charges, giving our clients access to over 125,000 accepting charging spots across the

U.S. Drivers can download the ChargePoint app to view locations that accept the card. The ChargePoint RFID card offers integration of charging data into Element's billing and reporting systems, giving our clients access to consolidated billing, reporting, visibility, and financial controls.

Benefits for the State of West Virginia

Our program provides a secure, flexible, and convenient solution for the State of West Virginia. Our enhanced card security and fraud alerts help protect the State of West Virginia from fuel fraud.

Each vehicle is assigned a unique card that adds an extra layer of security. To prevent any fraudulent activity or misuse, 4-digit or 6-digit Personal Identification Numbers (PIN) are also assigned to each driver. We can also limit when and how the card can be used. Authorization

control limits can be set to daily, daily/weekly, or daily/monthly options. Alerts can monitor many exception types, such as transactions per day and dollars per transaction. In addition, we also connect fuel data with our maintenance and telematics program to improve compliance with maintenance schedules and to identify potential fuel fraud.

- **Controls:** Authorization control limits can be set to daily, daily/weekly, or daily/monthly options
- **Fraud Prevention:** Element utilizes WEX Safer Payments technology to create alerts that are forwarded to the client's fuel fraud contact. In the U.S., clients can terminate cards and add or terminate PINs in real time through Xcelerate.
- **Fuel EKG:** Clients can sign up for Fuel EKG, our AI-powered fuel monitoring solution to manage exceptions. Additional exception reporting capabilities include location mismatch, excess volume, card mismatch, and incorrect fuel type. Fuel EKG also delivers insights via email or Xcelerate.
- **Limits:** In the U.S., clients can set limits for transactions per day, dollars per day, dollars per transaction, days of the week, and time of day.
- **Restrictions:** In the U.S., clients can set up restricted accounts (fuel only) or unrestricted accounts for automotive fluids, standalone car wash, and/or general merchandise.
- **Xcelerate:** Clients can monitor fuel and non-fuel transactions through our online portal, Xcelerate. Clients can create exception reports that enable them to take prompt corrective action on individual transactions. Exception reports include premium fuel, unused fuel cards, over-tank capacity, and non-fuel transactions.

We offer a variety of service cards for our clients' fuel and maintenance needs: a fuel-only card, a maintenance-only card, or a combined fuel and maintenance card. In addition, EV drivers on our maintenance program will receive both a charging card and a maintenance card.

Our online Report Center and Dashboard in Xcelerate enables the State of West Virginia fast access to comprehensive fuel information, helping to identify policy exceptions, monitor trends in your fleet, and take steps to manage your fuel costs. Clients can monitor fuel and non-fuel transactions through our online portal, Xcelerate, and create exception reports including premium fuel, unused fuel cards, over-tank capacity, and non-fuel transactions.

Maintenance

Element's Maintenance program puts your drivers back on the road with minimum downtime and optimal cost savings. Our program incorporates your specific repair and service policies with access to experts and technology solutions 24/7. To best meet your maintenance service goals, we collaborate with you to determine your level of expense control and management needs. These factors then define the dollar limits for drivers and Element's contact center agents, as well as for your Fleet Management team. Our maintenance policy instructions are robust and flexible to accommodate many expense-monitoring situations. The following features distinguish Element's maintenance program from that of our competitors:

- **Our Center:** Our 24/7 Maintenance Center has been awarded the ASE Blue Seal of Excellence.

- **Our People:** Our team consists of client specialists in the U.S. and Canada. We employ certified technicians, including 44 truck-certified technicians, to service your fleet around the clock. Element's Maintenance technicians hold a broad range of certifications. Two of our technicians with 22 ASE specialties have achieved the most prestigious World-Class Technician level from the Automotive Aftermarket Industry Association (AAIA). We align our Technical Specialists' goals with identifying cost savings for you, and we monitor their performance through an in-house quality team.
 - Your **Maintenance Client Partner** is a dedicated fleet resource working to enhance the benefits of a managed network maintenance program. Your partner and their team will work closely with branch locations to ensure Preventative Maintenance is completed on time and will work with repair vendors to ensure optimal service, identify costs savings opportunities, and overall maintenance support.
- **Technology and Analytics:** Our Service Technicians have visibility to your maintenance policies with access to previous vehicle repairs. The system alerts our technicians of repetitive repairs, identifies warranty and post-warranty opportunities, and ensures maintenance compliance. Technicians have real-time access to industry-standard pricing for maintenance repairs, which includes both parts and labor for every repair transaction type. This technology tool assists us in reducing clients' maintenance costs. Our Supervisory team has direct access to call recordings, screen captures, and speech and data analytics to ensure compliance.
- **Emergency Roadside Assistance:** To ensure that drivers with disabled vehicles return to the road quickly, Emergency Roadside Assistance can be added on to your solution package. Available 24/7, it includes towing, tire change, jump starts, key lockout, fuel-out, and tire service. In addition, Element has partnered with one of the nation's leading roadside repair vendors to provide our clients with easy job escalation, nationwide monitoring and coverage, live truck tracking, and enhanced technology and digital service offerings.
- **Reporting:** Our online reporting tools make available in real-time all repair and maintenance transaction details at the ATA code level, as well as a repair narrative. Maintenance data is updated within minutes of entry into our system. the State of West Virginia can view each vehicle's complete maintenance history and billing detail by unit level detail or in summary format.
- **Cost Control:** We ensure only necessary maintenance is approved and provide data for savings and reporting. During each supplier request, our agents verify vehicle details to confirm the correct unit. They then review the estimate with the vendor to ensure accurate labor times, service needs, and part pricing. Repairs are checked against the Manufacturer's Warranty and any applicable parts warranties. We also consult with the OEM for potential goodwill assistance based on Element-specific criteria. Additionally, we ensure all repairs align with client-specific policies. Our team also monitors trends to help identify common maintenance issues. Due to Element Fleet Management's extensive network of National Account Service providers, we recommend that our clients leverage the significant discounts available through these partners and minimize the use of non-network providers which incur additional costs.
- **Online Web Portal:** Xcelerate Intelligence within Xcelerate provides on-demand visibility to key maintenance trends and exceptions and provides access to:
 - Relevant, actionable data accessible from your fingertips

- Key cost drivers to analyze operational trends
- Multiple data points to turn information into action and make intelligent decisions for better business outcomes

<p>Maintenance History</p>	<p>Maintenance Policy</p>	<p>PM schedules</p>	<p>PM Notifications</p>	<p>Driver Support</p>
<p>Best in Class Onboarding Experience</p>		<p>Comprehensive & configurable Preventative Maintenance program</p>		
<ul style="list-style-type: none"> Easily upload the historical maintenance data in the Element system We use historical data to predict failure points and reduce downtime 	<ul style="list-style-type: none"> Dedicated Maintenance team for tactical maintenance support and strategic consulting on policy, trends, and opportunities Policy helps in defining the baseline (Cost Vs. Uptime) 	<ul style="list-style-type: none"> Enhanced prediction algorithm to produce more accurate results Flexibility in tools to notify and track driver status Suppliers alerted of PM schedules when the vehicle is in for service maximizing uptime. 	<ul style="list-style-type: none"> Enhanced notification to improve driver response rates Local network supplier recommendations in notifications to increase network utilization rates and convenience Tire & Brake recommendations 	<ul style="list-style-type: none"> Driver app with supplier locator available to identify the best shop out of 10,000 Managed Network Locations 24/7/365 Contact center with ASE Certified agents guiding drivers on maintenance-related questions

Element uses **Preventative Maintenance (PM) reminders** for vehicles and assets enrolled in our Maintenance program. PM reminders are electronic notifications sent directly to the assigned driver for a unit through our Element ONE mobile app, email, or by opt-in text messaging to alert them when the vehicle is due for maintenance. We tailor these alerts to your specific mileage and/or day parameters. We base our PM schedule on the vehicle type or set it according to your unique parameters and fleet policy. If a driver does not complete the required maintenance, we issue follow-up reminders, with PM compliance reporting available via Element's online portal. Preventative maintenance is a critical component of increasing the longevity of a fleet's lifespan, and as such, Element dedicates many resources to ensuring our clients have full visibility into this process.

<p>PM schedules</p>	<p>PM Notifications</p>	<p>Driver Support</p>
<p>Comprehensive & configurable Preventative Maintenance program</p>		
<ul style="list-style-type: none"> Enhanced prediction algorithm to produce more accurate results Flexibility in tools to notify and track driver status Suppliers alerted of PM schedules when the vehicle is in for service maximizing uptime. 	<ul style="list-style-type: none"> Enhanced notification to improve driver response rates Local network supplier recommendations in notifications to increase network utilization rates and convenience Tire & Brake recommendations 	<ul style="list-style-type: none"> Driver app with supplier locator available to identify the best shop out of 10,000 Managed Network Locations 24/7/365 Contact center with ASE Certified agents guiding drivers on maintenance-related questions

Additional Services Available

For an additional fee, Element offers the following optional program to supplement the core Maintenance program:

- **Emergency Roadside Assistance:** Offers 24/7 coverage for your drivers with the capability of assisting any vehicle class anywhere in North America. Our primary service providers are trained in transportation fleet emergency response and will ensure your drivers are safe and expedite the process of returning them to the road.

the State of West Virginia can also elect to incorporate the following alternate Maintenance program:

- **Client Repair Data Capture:** Integrates the State of West Virginia's maintenance data into our systems via our Client Repair Data Capture program. the State of West Virginia will have the option to select API or manual data integration options to allow for trend analysis, reporting and transaction detail.

Maintenance Process and Cost Controls

We ensure that our clients have full control measures and visibility into the maintenance process to ensure the quality of any fleet's maintenance program. With Preventative Maintenance, such as an oil change or repairs under your limit, the State of West Virginia drivers can take their vehicle to a supplier network vendor by using www.elementfleet.com/SupplierLocator/. Once the vehicle is at the shop, the driver will simply present the shop with their Element Fleet Card. If the repair is under the limit printed on their service card, no further action is needed from the driver. If the repair exceeds the limit printed on the card, the shop will notify Element and request approval before beginning the repair work. No action or payment is needed from the Driver. If the shop contacts Element, we have several control measures in place:

- **Estimate Review:** Element will review the estimate using technical expertise, industry knowledge, specific vehicle repair history and resources such as the Mitchell Prodemand manual and OEM websites to verify accurate labor times, part/service requirements and part pricing. We validate all repairs against the Manufacturer's Warranty, determine any applicable parts warranties and review with the OEM if there is potential for goodwill assistance based on Element-specific criteria.
- **Client Policy Enforcement:** Our team reviews repairs against client-specific policies (e.g., "no all-terrain tires allowed") to ensure we follow the fleet's directive.
- **Maintenance History Check:** Our system automatically compares the supplier request to the recommended maintenance schedule and flags any deviations, sending a request for further review by a Service Technician.
- **Conditional Authorization:** Element checks if a vehicle is on order before authorizing maintenance. If so, only critical repairs are approved to keep the vehicle safe on the road until the new vehicle arrives. We may also choose not to repair the vehicle and instead supply the driver with a rental if it is more cost-effective.
- **Online Web Portal:** We provide records of all maintenance activities through our online web portal, Xcelerate. Your online Dashboard offers detailed information on driver behavior, overall vehicle maintenance spend, cost savings and fleet spend by component for the current and previous year. The pre-formatted maintenance reports in the Report Center provide additional performance measures.

We assist in solving a variety of concerns, such as minimizing unscheduled downtime, controlling and reducing costs, and maintaining sourcing technician compliance for your operations. Solutions can range from management oversight of current maintenance operations to full outsourcing options.

Networks and Suppliers

Our maintenance services network provides you with conveniently located full-service support to ensure your drivers experience the highest degree of timeliness and quality of service. Our fleet-

minded maintenance providers provide everything from preventative maintenance to unscheduled and complex repairs, including warranty and post-warranty service.

Element manages a supply chain that drives value and efficiencies to our clients and strategic vendors. Our ability to provide end-to-end transaction management depends on a network of suppliers focused on driving down repair transaction costs, improving asset cycle time, and enhancing driver productivity.

Our comprehensive North American maintenance network of over 50,000 national accounts, dealers, independents, and mobile providers. In the U.S., our maintenance network includes over 32,000 national account vendors, such as Goodyear, Firestone, Michelin (and its subsidiaries), Pep Boys, Midas, Monro, Jiffy Lube, Valvoline Instant Oil Change, and over 19,000 dealerships and independent repair garages.

In the State of West Virginia, Element's maintenance network includes 255 In-Network vendors, and 527 Out-Of-Network vendors.

We choose suppliers that are committed to our clients and to minimizing repair transaction costs, improving asset cycle time and enhancing driver productivity. Our supply chain drives value and efficiencies to our clients and supplier partners, providing end-to-end transaction management through our reliable network of suppliers. Key components of our network management strategy include:

- Partnering with suppliers committed to our standards of excellence and client satisfaction
- Driving business to high-performing supplier partners
- Conducting marketplace evaluation to benchmark supplier performance
- Leveraging a strategic, hands-on approach to network management
- Monitoring key metrics from a comprehensive supplier scorecard to ensure exceptional performance and driver satisfaction scores

Guided by this strategy, the providers invited to join our network use quality systems and metrics that focus on client service. Service providers must have appropriate repair equipment for the services they provide and must also adhere to Element's service requirements and processes. Element conducts periodic supplier audits to ensure compliance with our standards of excellence. We use defined metrics to measure performance against industry benchmarks for every service and incorporate driver and client feedback in our supplier performance management program.

Technology

Xcelerate Online Client Portal

Element's online client portal, Xcelerate, is fully customizable, consolidating inventory and transactional details, resources, and reporting tools. Xcelerate transforms data into knowledge to support more effective cost management and better decision-making through real-time, multi-level access to accurate, actionable information. The single portal view will assist the State of West Virginia in gaining visibility to critical fleet activities and expenses and will allow the State of West Virginia to make informed decisions. It is available in English and Spanish. Xcelerate offers the following benefits:

- **One Solution:** Connectivity with service providers automates policy parameters. Access a full suite of reports in a single source.
- **Flexibility for the State of West Virginia Control:** Personalize profile setup and management controls for easier use of action tools, dashboards and reports.
- **Powerful Data Visualization for Performance Measures:** the State of West Virginia will have access to Xcelerate Intelligence, a customizable data visualization tool that makes analyzing information seamless and intuitive. With **Xcelerate Intelligence**, the State of West Virginia can focus on specific metrics and key insights that are most critical to strategic planning for your fleet. The real-time, configurable exception data provides the ability to uncover key cost drivers and trends for your fleet.
- **Data Trends Available on Demand:** Easy access to actionable insights based on the State of West Virginia's specific parameters. Your fleet managers will have access to see details such as maintenance history and fuel purchases. (Access can be limited to specific fleet units.)
- **Exception Identification:** Exception reporting and dashboards provide quick access to actionable data, allowing you to address outliers.
- **Cost-saving Analysis:** The greatest benefit of our information system is simple, electronic access to your data to identify areas to save money.
- **Consistent Client/Driver Experience:** Responsive web and mobile tools provide a seamless experience across all device types (desktop, tablet and phone).
- **Enhanced Reporting Capabilities:** Our Report Center is flexible enough to support report creation, exporting, scheduling and sharing. It also allows for personalization with custom filtering before exporting to Excel.

Some key differentiators in the industry include:

- **Personalized Setup in Xcelerate:** Change Home Page widgets to promote the most important measures in Xcelerate as well as the priority of panels in the vehicle and driver view.
- **Geospatial Data Analysis:** Visualize and interact with inventory, maintenance, and fuel data and locate vehicles and functioning fuel stations in an emergency.
- **Proactive Notifications:** Proactive mobile notifications encourage driver action while providing the State of West Virginia visibility to exceptions not resolved.
- **Driver and Vehicle Management:** Events are tagged to a driver's history even if they are assigned to a new vehicle allowing for access and visibility into long-term driver behavior independent of the vehicle.

We continue to invest in and develop new tools that enhance your ability to strategize and handle fleet tasks anywhere at any time.

Element offers a wide variety of learning options. In-context guidance is available throughout our online web portal, which includes an e-Learning capability designed to provide training 24/7. Our interactive Help section also provides the State of West Virginia with comprehensive content organized by topics with interactive, step-by-step support within the functional areas of the site. Additionally, we offer Teams training sessions, training videos through our web portal, and instructor-led sessions. Our Client Technology Services team is also available to provide ongoing support. Your Element team will develop and implement a technology plan for the State

of West Virginia during your implementation with training for our web portal, provided at no additional cost.

Customized Reporting

Element's online Report Center includes over 270 fully customizable reports. Standard reports are available in all categories, ranging from Acquisition to Remarketing. All reports are downloadable in multiple formats, including Excel and CSV, and report output is fully sortable and analytics ready. Reports can be scheduled according to your time frame and emailed to designated personnel. In addition, Xcelerate Intelligence within Xcelerate provides on-demand visibility to data to simplify every aspect of fleet management by providing:

- An easy-to-use, user-centered design
- Relevant, actionable data accessible at your fingertips
- Key cost drivers to analyze operational trends

The State of West Virginia can compare multiple data points to help make intelligent decisions for better business outcomes.

Your Account team will work with the State of West Virginia to create a Client Partnership Plan (CPP) that identifies specific reports you need. For more specialized information needs, your Account team can work with you to create the State of West Virginia-specific custom reports. Turnaround time is evaluated and determined based on the complexity of the report requested. Element also makes extensive use of PowerBI as an analytics and visualization tool. We can create and share relevant dashboards to meet the State of West Virginia's needs.

Element ONE Driver App

Element ONE mobile app features capabilities to provide our clients' drivers access to vital fleet data, status, or requests. It is available in English, French, and Spanish. Drivers can handle tasks to maintain productivity and compliance via digital technology. The State of West Virginia's drivers will have access to fleet information from their mobile device, enabling drivers in the field to access Element services and resources and complete vehicle and driver tasks normally performed on a desktop computer.

Element ONE allows drivers to access a proactive to-do list for common vehicle-related tasks and to benefit from location-aware maintenance shops and fuel locators. The following are some common tasks that drivers can easily complete:

- Report business and personal mileage
- Find a nearby gas station for the best-priced fuel to refill your tank
- Receive notifications when preventative maintenance is due, and find a local, preferred service provider
- View vehicle and service card information, including vehicle maintenance history and a preventative maintenance schedule
- Access your vehicle's service card for fuel and maintenance
- Retrieve service card fuel PIN information
- Submit First Notice of Loss (FNOL) for incidents without third-party or injury involvement (as applicable)



- Access vehicle registration information
- Access to live chat support

To see Element ONE screenshots and video demos, please go to <https://my.elementfleet.com/gomobile>.

4.3 Qualifications and Experience

4.3.1 Qualification and Experience Information

4.3.1.1 **The vendor should describe in detail how they plan to help the Fleet Management Division to help meet all project goals and objectives listed above.**

We address critical success factors by developing a comprehensive project plan that details the following:

- Understanding your expectations, goals, and needs
- Clear responsibilities and task ownership
- Key decision-driven action items
- Regularly scheduled meetings between Element and West Virginia's stakeholders
- Detailed timelines
- Accurate, current asset and driver data

In addition, we have identified four primary components vital to success:

Communication: Clear and consistent communication with all stakeholders in your organization is critical. Our team members outline communication strategies in the implementation plan to ensure that West Virginia and your drivers fully understand new policies and procedures, including messaging to mitigate potential concerns or resistance.

Tailored-Fit Plan: It is crucial to create an implementation plan that is appropriate to your particular fleet and its overarching needs. We are experts in onboarding fleets of many sizes and a variety of industries and leverage our 20-year average tenure team experience to establish program parameters based on West Virginia's unique needs.

Accountability: Many parties play an integral role in implementation. The implementation manager will ensure that Element and West Virginia's stakeholders fulfill their tasks as defined in the implementation plan.

Strategic Advisory Services: Element's team of 45+ Strategic Advisors leverages deep fleet expertise, institutional knowledge, and robust data capabilities to deliver tailored insights and reporting. Supported by benchmarking across 1.1 million units, your dedicated senior advisor for West Virginia will design a customized strategy—ranging from on-site assessments and trend-focused monthly reporting to KPI development and performance dashboards. All reporting and dashboards can be fully customized, automated, and easily updated, giving you the flexibility to access and refine information as needed. The ultimate goal is to reduce the time spent collecting and analyzing data, accelerate informed decision-making, and position West Virginia as a best-in-class fleet that others look to for benchmarking.

4.3.1.2 **Vendor should describe how they can meet the project requirements.**

Element Fleet Management is well-positioned to meet the State of West Virginia's project requirements by delivering a fully integrated, technology-enabled fleet management solution that aligns with the mandatory and solutions-based objective outlined in the RFP. As detailed in this technical proposal, Element provides comprehensive lifecycle fleet services—including maintenance and repair management, a secure and accurate closed-loop fuel card program, advanced telematics through Samsara, robust billing and hierarchical reporting structures, and extensive driver safety and training programs—ensuring the state receives a streamlined, transparent, and cost-effective fleet operation. Element's Xcelerate platform unifies maintenance, fuel, telematics, inventory, and analytics into a single accessible system, supported by over 270 customizable reports and strong data governance controls. Our Strategic Advisory Services team further enhances value by offering ongoing optimization, benchmarking, and consultative support at no additional cost. With proven experience managing large state fleets and the ability to meet the requirements in data segmentation, fraud prevention, preventive maintenance tracking, and driver risk mitigation, Element confidently demonstrates the capability to support West Virginia's operational, safety, and financial goals with measurable, long-term results.

4.3.1.3 **Vendor should describe their experience with working with large and small state fleets.**

Element works with companies in a variety of industries and supports fleets of various sizes. We provide comprehensive fleet services spanning the total fleet lifecycle, empowering clients to optimize strategies from acquisition to remarketing. Our service philosophy is based on providing a tiered support structure made up of highly trained service personnel to meet both large and small fleet needs, including federal, state, county, and city fleets. Our client service representatives, technical teams, and program experts are prepared to support the needs of clients across the public sector, ensuring exemplary service levels and tailored solutions for fleets of any size.

4.3.2 **Mandatory Qualification/Experience Requirements**

The following mandatory qualification/experience requirements must be met by the Vendor as a part of its submitted proposal. Vendor should describe how it meets the mandatory requirements and include any areas where it exceeds the mandatory requirements. Failure to comply with mandatory requirements will lead to disqualification, but areas where the mandatory requirements are exceeded will be included in the technical scores where appropriate. The mandatory qualifications/experience requirements are listed below.

4.3.1.1 **The Vendor should provide a detail significant lessons learned from experience at previous projects of similar size and scope, and how the Vendor plans to apply those lessons to help with the Fleet Management Divisions need to provide efficient services for our state agencies.**

Element recently onboarded a government agency operating approximately 1,500 vehicles that is now utilizing our Collision Management and Fleet

Maintenance services. This agency had been with a competing fleet management provider for more than twenty years, and transitioning to a new partner required thoughtful, proactive change management. To support a smooth implementation, Element established weekly calls with the client involving our Risk Solutions Specialist and our Client Success Partner for Maintenance.

These sessions allowed us to address training needs, resolve challenges in real time, and establish a strong foundation of trust and partnership. During a recent discussion, the client shared that weekly meetings were no longer necessary- a testament of Element's strong implementation platform, understanding of operational issues, and prompt resolution of challenges.

4.3.1.2 Vendor should have at least 5 years' experience working with large fleets.

Acknowledged.

4.3.1.3 Vendor should provide 3 references of large fleets including state fleets that you have worked with or are currently working with. Please provide a contact name, along with their phone numbers and addresses.

Name of entity: City of Gainesville, Florida

Address: 200 E University Ave, Gainesville, FL 32601

Contact person and phone number: Barbara Beck (352) 393-8264

Name of entity: State of Maryland

Address: 45 Calvert St. Annapolis, MD 21401

Contact person and phone number: Joseph Consoli (410) 260-7195

Name of entity: State of Washington

Address: 1500 Jefferson St SE, Olympia, WA 98501

Contact person and phone number: Michael Petty (360) 451-5994

Strategic Advisory Services

Your fleet is unique, and so is our approach. Element's team of best-in-class Strategic Advisors can provide you with personalized solutions based on industry best practices to maximize value by reducing costs, increasing productivity, and mitigating risk.

Equipped with a suite of industry-leading analytical tools and an intimate knowledge of the fleet industry, our Advisors evaluate all aspects of your fleet's performance including cost, vehicle efficiency, driver safety, and liability. Your specific fleet information is then compared against industry trends and metrics as well as peer company benchmarking data. We will pinpoint inefficiencies, identify opportunities, provide recommendations, and help you implement

strategies to drive continuous improvement across your entire fleet. Some examples of our advisory initiatives include:

- **Vehicle Acquisition, management, and replacement planning.** Element identifies the optimal time for the purchase and resale of vehicles based on key factors, such as depreciation impact, resale market trends, and manufacturer pricing. We can also support the model year planning process, contemplating variables like depreciation, fuel economy, maintenance spend, and projected resale value across different vehicle selectors. One of our clients experienced budget constraints and approached us to analyze the utilization of their fleet. After a comprehensive study, we concluded that 8% of the fleet was significantly underutilized and made recommendations resulting in a 74% reduction in underutilized assets. Another client faced difficulties securing approval for vehicle replacements and requested a comprehensive year-by-year strategy encompassing the entire fleet, rather than limiting the scope to 15%, which had been their past practice. Using the Element Replacement Tool, we evaluated lifecycle based on resale value, operating expenses and total cost of ownership, we developed a yearly forecast to justify replacements and learned that cycling one year earlier brought a net savings of over \$1 Million across the fleet.
- **Financial scenario planning.** Besides identifying the vehicles most appropriate for your fleet, our Advisors can help evaluate the most cost-effective option for financing. Financing recommendations are based on factors such as program administration costs, discounted cash flow analysis, tax considerations, and opportunity costs.
- **EV transition tool and analysis:** Provides clients with potential electric vehicle recommendations based on their vehicle assets/inventory. The tool will analyze daily driving mileage, proximity to public charging stations by unit, and select matches based on cost/vehicle type. The analyses also rank potential EV candidates based on each vehicle's payback period and ease of implementation.
- **Mitigating risk:** Element creates safety policies to ensure compliance and reduce collisions. Our Strategic Advisory Services team monitors driver records and other behind-the-wheel behaviors such as speeding, harsh braking, and cornering. For at-risk drivers, we can assign additional training videos. By creating a culture of safety and good practice, we optimize the performance of both drivers and vehicles.

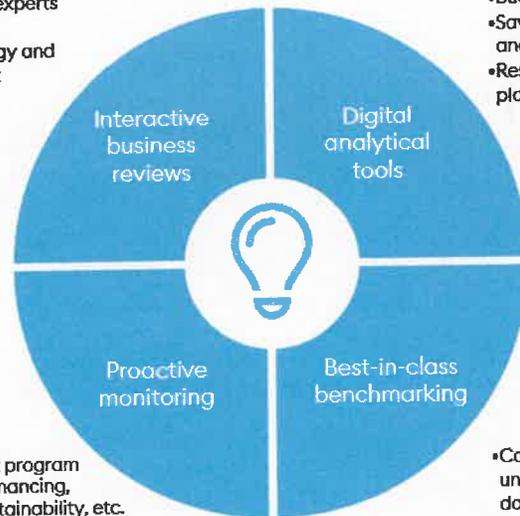
- **Monitoring financial markets.** We monitor current market and industry trends to identify potential areas of impact for fleet spend. Our team creates proactive recommendations to mitigate or take advantage of market trends.

- **Alternative fuel.** Element's SAS team has created resources around educating our client base on the alternative fuel environment. Areas of focus include alternative

fuel trends, such as the continued decrease in battery costs, the current market landscape, vehicle options and Total Cost of Ownership (TCO) comparisons with ICE options, and a road map for evaluating if an alternative fuel strategy fits their fleet.

- **Enhanced data visualization.** Element's SAS team leverages the Power BI data visualization tool for client business reviews, industry benchmarking, and other ad hoc analyses. Besides providing superior data visualization to facilitate meaningful strategic discussions, Power BI data visualization allows for on-the-fly filtering, segmenting, and drilling down into the underlying data. Our business reviews make use of Power BI's ability to perform sensitivity analysis to allow for multiple scenario evaluations in real-time. Power BI helps elevate the conversation from data to insights and actionable recommendations. To complement this, the State of West Virginia will have access to Xcelerate Intelligence, a customizable data visualization tool to provide powerful insights outside of Element's standard business reviews.

- Dedicated experts by industry
- OEM strategy and RFP support



- Budgeting
- Savings opportunity analysis
- Resales channel planning

- Robust fleet program analysis – financing, savings, sustainability, etc.
- Continuous improvement

- Comprehensive TM+ unit customizable database
- Refreshed monthly

Benchmarking and Analysis

We identify opportunities for our clients to understand the impact of policy and process, and we drive continuous improvement. Our team presently benchmarks over 100 KPIs with millions of data points spanning over ten industry segments. Our robust database equips our clients with the knowledge to make informed decisions related to fleet policy and practices while ensuring competitiveness relative to peers in their specific industry. We offer:

- Our online portal dashboard, Xcelerate, summarizes information on key areas of your fleet operations and tracks key performance indicators
- Element's business intelligence suite, Xcelerate Intelligence, which offers a comprehensive view of real-time fleet data and vehicle-specific cost impacts
- Our online portal's news section, which offers advisory resources and tools for implementing effective policies, selector planning, budgeting, and more
- Element's proprietary fleet review tool, which includes historical performance, benchmark data, and savings opportunities

Reporting

Element has developed a big data platform capable of handling the increasing demands of the fleet management market. In particular, it tackles the increasing need to store and analyze huge volumes of data generated from fleet vehicles through telematics and connected solutions, and to integrate new datasets essential to the industry (mobile, weather, and infrastructure). With over 1.2 million vehicles in our data platform, Element manages the largest datasets in the industry and enables real-time reporting and data visualization to help our clients optimize fleet efficiency.

Besides investing in technology, Element invests in people who can work with data on this scale. Element offers an expansive library of tools to help clients reduce costs through collision reduction, optimized maintenance and replacement models, and reduced fuel expenses.

Implementation

Element has extensive experience with successfully implementing unique programs for a diverse range of clients. We realize that there will be intricacies to every implementation; therefore, we allocate an implementation project manager to work with the State of West Virginia throughout the implementation process. Our approach applies project management methodology and customized consulting to address all aspects of fleet management. We simplify this process by managing project details, managing resource time for the State of West Virginia, and streamlining the transition for your fleet team and drivers. This service is offered at no additional cost.

To ensure results, we leverage a dedicated implementation team that owns the setup process from start to finish. This team will meet client service expectations by delivering a smooth transition for both the State of West Virginia and its fleet drivers. We work to understand each of your processes so we can develop the most effective ways to manage the transition and provide ongoing support for your fleet. The transition process is continually updated based on the knowledge gained from each new client.

Our implementation project manager, in tandem with a team of product experts, will lead the integration of the State of West Virginia into Element and facilitate tasks, data collection and transition activities. The implementation manager leverages strong project management discipline to help us meet your expectations and acts as a liaison between you, Fleet Partnership Solutions, Operations teams, and third-party vendors.

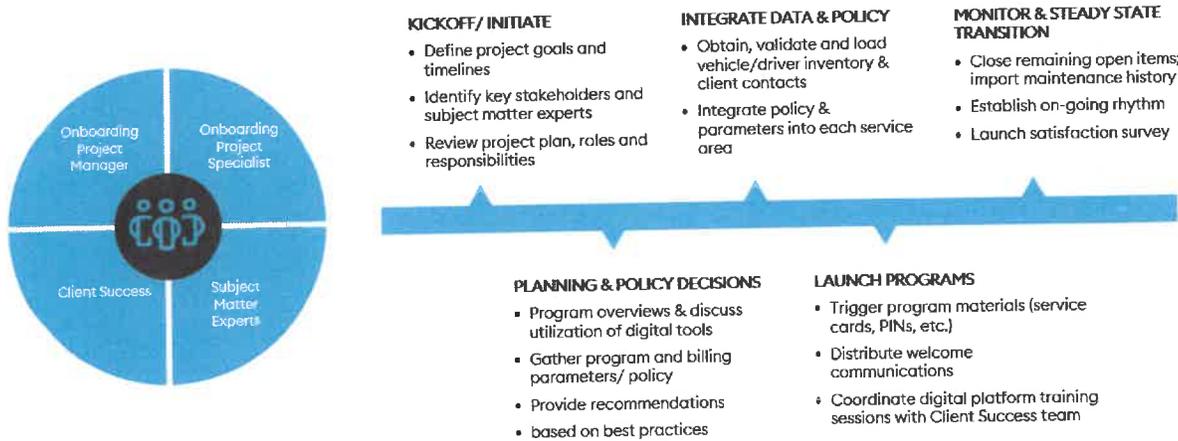
The Implementation team uses a repeatable and reliable Implementation Process toolkit that may include:

- Detailed project plan
- Communications plan (internal and external)
- Mutually determined transition date
- Task/Action Item lists
- Status updates

- Success measures and satisfaction surveys

The team approach to implementation also involves daily/weekly status calls, which enable us

TRANSITION AND ONBOARDING PROCESS



Timelines are tailored based on scope of programs and goals.

to monitor progress and immediately address any concerns. We believe that teamwork, defined tasks and tools, established timelines, and accountability drive success in each of our implementations.

We believe the implementation process is the start of a long-term relationship. To ensure success in that relationship, your implementation project manager will work with the State of West Virginia to obtain the following:

- Current and valid asset and driver data
- Understanding of key stakeholders in your organization
- A liaison who is both decisive and accessible

The implementation project manager will also develop a comprehensive project plan that details:

- Clearly defined roles and responsibilities
- Regularly scheduled meetings between Element and the State of West Virginia's stakeholders and decision-makers
- Clearly defined goals and objectives
- Detailed timelines

As the largest fleet management company in North America, Element has transitioned more fleets from other vendors than any other fleet company. Our implementation project management team has approximately 14 expert project managers with an average of over 20 years in fleet management. In 2024, Element completed 188 projects. Our average client satisfaction rating over the past three years is 97%.

Account Management

Our clients see us as a true value-added business partner and not just a vendor. By supplying our internal teams with the best tools, resources, and support they need, Element provides you with the highest level of service. Client experience is embedded throughout Element's operations, and our extraordinary customer service is reflected in every action and interaction with which we engage. Your fleet resources will leverage the most updated industry information, will identify valuable ways to integrate our solutions and services into your daily operations, and will remain strategic in securing cost savings and data-driven recommendations for you.

Element uses a team approach to account management that allows us to provide the State of West Virginia with expertise in every aspect of the vehicle lifecycle while reducing operating costs, minimizing fleet administration, and improving driver satisfaction. Your core Account team includes the Client Success Partner, your primary point of contact. During implementation, we expand your team to include an Implementation Project Manager. Below are the roles and responsibilities of each team member:

- **Account Manager:** Understands all aspects of the fleet industry and is well-versed in finance, accounting, and other business disciplines
- **Strategic Advisor:** Explores new ways to achieve operating expense savings, improve fleet efficiency, and address business challenges.
- **Client Success Partner:** Responsible for simplifying operations, streamlining policies, and reducing overall time and fleet expenses. They manage your day-to-day fleet management tasks so you can focus on the strategic aspects of your business. Available Monday through Friday, 8:00 a.m. to 5:00 p.m. (ET).
- **Customer Care Center:** Made up of three teams to address all your driver needs: Maintenance, Collision Management and Customer Contact. Each call center can provide service in either English, French or Spanish. We can also assist with all other languages using our AT&T Language Line service.

- **Customer Care Contact:** Our toll-free number enables callers to request information and receive answers about their fleet vehicles Monday - Friday, 8:00 a.m. to 8:00 p.m. (ET).
- **Maintenance:** Client specialists are available to support the State of West Virginia drivers 24/7. We provide emergency roadside assistance as an additional service, assess maintenance problems, direct your drivers to Element network shops, and follow up with repair facilities.
- **Collision Management:** Element maintains a 24/7 call center for collision reporting. Representatives will arrange for a rental vehicle and towing if needed and will direct the driver to the nearest in-network repair facility.

CLIENT SUCCESS

Formerly known as Fleet Partnership Solutions

Fleet management that will feel like an extension of your organization

- Hassle-free fleet management tailored to the level of support you need
- Individualized service throughout the vehicle lifecycle
- Enhanced efficiency of your fleet with advanced technology and tools
- Reduced costs and improved driver safety

1.3M

In annual savings through improved personal use mile reporting compliance

U.S., large-sized fleet

Other positions, such as an **Implementation Project Manager**, will be assigned as needed to provide the State of West Virginia superior service for your specific needs. Depending upon your needs, additional resources may be recommended for your account:

- **Maintenance Client Partner (MCP).** According to specific fleet needs, a Maintenance Client Partner may be made available to monitor and enforce your maintenance policies. The ASE-certified/licensed technicians – available 24/7- diagnose problems, negotiate repair work within our extensive network of quality-rated service and repair facilities, and authorize transactions according to your company's policy.
- **New Vehicle Acquisition Consultant (NVAC).** NVACs bring industry-aligned expertise to our clients' fleet. This consultant combines their experience with a strategic understanding of unique fleet goals to select vehicles that meet specific needs, maximize Return on Investment (ROI) and increase driver satisfaction. Consultants use the acquisition process as an opportunity to lower Total Cost of Ownership (TCO). They recommend vehicle selection, replacement schedules, and they negotiate with motor companies. Consultants also monitor the order process to ensure up-to-date information that may impact delivery.
- **Stock Specialist.** Stock Specialists facilitate emergency acquisition needs. They are engaged from the point of request through the acquisition of client-approved assets. The Specialist leverages the Element dealer network as well as out-of-network dealer inventory and relationships to provide the best possible asset(s) available to meet client requirements. They are the subject matter experts responsible for engaging throughout the stock acquisition process.

Vendor Relations. Our Vendor Relations team works closely with a client's fleet management team to ensure that drivers have the necessary coverage in all operating regions. We recognize that our clients need to have access to all vendor resources, convenient locations, and quality service.

SECTION 6: EVALUATION AND AWARD

6.1 Evaluation Process: Proposals will be evaluated in two parts by a committee of three (3) or more individuals. The first evaluation will be of the technical proposal and the second is an evaluation of the cost proposal. The Vendor who demonstrates that it meets all the mandatory specifications required, attains the minimum acceptable score and attains the highest overall point score of all Vendors shall be awarded the contract.

6.2 Evaluation Criteria: Proposals will be evaluated based on criteria set forth in the solicitation and information contained in the proposals submitted in response to the solicitation. The technical evaluation will be based upon the point allocations designated below for a total of 70 of the 100 points. Cost represents 30 of the 100 total points.

Evaluation Point Allocation:

Project Goals and Proposed Approach (§ 4.2)	
- Approach & Methodology to Goals/Objectives (§ 4.2.1)	(20) Points Possible
- Approach & Methodology to Compliance with Mandatory Project Requirements (§ 4.2.2)	(20) Points Possible
Qualifications and experience (§ 4.3)	
- Qualifications and Experience Generally (§ 4.3.1)	(5) Points Possible
- Exceeding Mandatory Qualification/Experience Requirements (§ 4.3.2)	(5) Points Possible
<u>(Oral interview, if applicable) (§ 4.4)</u>	<u>(20) Points Possible</u>
<u>Total Technical Score:</u>	<u>70 Points Possible</u>
<u>Total Cost Score:</u>	<u>30 Points Possible</u>

Total Proposal Score: 100 Points Possible

6.3 Technical Bid Opening: At the technical bid opening, the Purchasing Division will open and announce the technical proposals received prior to the bid opening deadline. Once opened, the technical proposals will be provided to the Agency evaluation committee for technical evaluation.

6.4 Technical Evaluation: The Agency evaluation committee will review the technical proposals, assign points where appropriate, and make a final written recommendation to the Purchasing Division.

6.5 Proposal Disqualification:

6.5.1 Minimum Acceptable Score ("MAS"): Vendors must score a minimum of 70% (49 points) of the total technical points possible in order to move past the technical evaluation and have their cost proposal evaluated. All vendor proposals not attaining the MAS will be disqualified.

6.5.2 Failure to Meet Mandatory Requirement: Vendors must meet or exceed all mandatory requirements in order to move past the technical evaluation and have their cost proposals evaluated. Proposals failing to meet one or more mandatory requirements of the RFP will be disqualified.

6.6 Cost Bid Opening: The Purchasing Division will schedule a date and time to publicly open and announce cost proposals after technical evaluation has been completed and the Purchasing Division has approved the technical recommendation of the evaluation committee. All cost bids received will be opened. Cost bids for disqualified proposals will be opened for record keeping purposes only and will not be evaluated or considered. Once opened, the cost proposals will be provided to the Agency evaluation committee for cost evaluation.

The Purchasing Division reserves the right to disqualify a proposal based upon deficiencies in the technical proposal even after the cost evaluation.

6.7 Cost Evaluation: The Agency evaluation committee will review the cost proposals, assign points in accordance with the cost evaluation formula contained herein and make a final recommendation to the Purchasing Division.

Cost Evaluation Formula: Each cost proposal will have points assigned using the following formula for all Vendors not disqualified during the technical evaluation. The lowest cost of all proposals is divided by the cost of the proposal being evaluated to generate a cost score percentage. That percentage is then multiplied by the points attributable to the cost proposal to determine the number of points allocated to the cost proposal being evaluated.

Step 1: Lowest Cost of All Proposals / Cost of Proposal Being Evaluated = Cost Score Percentage

Step 2: Cost Score Percentage X Points Allocated to Cost Proposal= **Total Cost Score**

Example:

Proposal 1 Cost is \$1,000,000
Proposal 2 Cost is \$1,100,000
Points Allocated to Cost Proposal is 30

Proposal 1: Step 1 - $\$1,000,000 / \$1,000,000 =$ Cost Score Percentage of 1 (100%)
Step 2 - $1 \times 30 =$ Total Cost Score of 30

Proposal 2: Step 1 - $\$1,000,000 / \$1,100,000 =$ Cost Score Percentage of 0.909091 (90.9091%)
Step 2 - $0.909091 \times 30 =$ Total Cost Score of 27.27273

6.8 **Availability of Information:** Proposal submissions become public and are available for review immediately after opening pursuant to West Virginia Code §5A-3-1 l(h). All other information associated with the RFP, including but not limited to technical scores and reasons for disqualification, will not be available until after the contract has been awarded pursuant to West Virginia Code of State Rules §148-1-6.3.
d.

By signing below, I certify that I have reviewed this Request for Proposal in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that, to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

Element Fleet Corporation

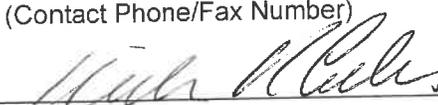
(Company)

Bill Collins, Managing Director - Government

(Representative Name, Title)

(443) 391-5770

(Contact Phone/Fax Number)



(Signature) 3/2/26

(Date)

Designated Contact, Certification, and Signature

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.

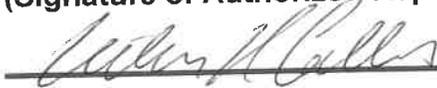
(Printed Name and Title) Brian Hamby, Sales Director, Government
(Address) 10200 Grand Central Avenue, Suite 400 Owings Mills MD 21117
(Phone Number)/ (Fax Number) (205) 962-2924
(email address) BHamby@elementcorp.com

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.

(Company) Element Fleet Corporation

(Signature of Authorized Representative)



(Printed Name and Title of Authorized Representative, Date) Bill Collins, Managing Director, Government

(Phone Number, Fax Number) (443) 391-5770

(Email Address) WCollins@elementcorp.com

Notice

Our Lease and Master Services Agreements are specifically designed to address the fleet management services that Element Fleet Management provides to clients. We will provide samples of these agreements upon request. Element incorporated these agreements and their terms by reference into our response to this RFP and we will work with the State of West Virginia to incorporate relevant sections from your proposed Terms and Conditions into a final agreement that is acceptable to both parties.

Element notes that if any required terms and conditions are outside of Element's standard agreements or policies, such terms may require additional internal review and executive approval prior to proceeding.

Element Fleet Management

This proposal (including any contemporaneous or subsequent additions and/or online submissions) represents a good faith response by Element Fleet Management* ("Element") to your request for proposal, and Element agrees that this proposal will serve as a basis for negotiations between the parties and appropriate terms incorporated into final agreements. Nothing contained in this proposal should be considered accounting, engineering, legal or tax advice. Element specifically disclaims any express or implied representations or warranties directly or indirectly related to accounting, engineering, legal or tax matters. This proposal is delivered with the understanding that you will seek guidance from your own accounting, engineering, financial and legal advisors and make your own determinations.

This proposal and its terms are contingent upon appropriate credit approval and negotiation of a final agreement dealing with the subject matter of this proposal, which is mutually satisfactory to the parties. As part of our credit review and onboarding process, Element will confirm your legal name, address, and other identifying information. Element may also ask to see identifying documents.

It is understood that neither your request for proposal nor our response creates any legal obligation, and no rights, liabilities or obligations arise from this proposal or the discussions we have had or may have in the future prior to execution of a final agreement. No oral commitments are valid or binding. Neither your request for proposal nor this proposal will be incorporated by reference in the final agreement.

All pricing and rates are based upon payment within 30 days from the date of invoice, subject to credit approval.

Notwithstanding the foregoing, Element reserves the right to modify pricing and interest terms at any time in the event financial markets experience substantive deterioration subsequent to this submission.

As a general matter, the pricing terms established in this proposal are valid for 120 days, including the interest component.

**Element Fleet Management is the marketing name for Element Fleet Corporation in the United States and Element Fleet Management Inc. in Canada.*

Pricing Disclaimer

All pricing contained herein is based on representations made by the Client regarding anticipated service types, levels and volumes. As such, Element reserves the right to modify the pricing to reflect the actual services provided. Element reserves the right to modify pricing and

interest terms at any time in the event financial markets experience a change. Additional fees may apply and are subject to change.

Terms and Conditions Exceptions

Terms and Conditions Exceptions

1. **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.

Commented [HM1]: Element requests that all final terms and conditions be memorialized in the final agreement and the RFP and the RFP response shall not be incorporated by reference

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

Commented [HM2]: Element Fleet Corporation ("Element") respectfully submits that due to the unique nature of fleet-related services, a procurement format of agreement does not properly address the roles and responsibilities of both parties. Element is not a direct service provider nor a supplier, but provides financing for fleet-related services in addition to facilitating the relationships between our clients and the independent third-party service providers. Element submits that the terms and conditions of its Master Services Agreement and its attached services addenda (the "Element Contracts") should be utilized as a starting point of negotiations. Utilizing Element Contracts will provide an accurate representation of both parties' roles in a fleet management relationship. If granted the award for the services requested, Element reserves the right to additional review and the provision of additional terms and conditions to any proposed "Contract" (as stated the General Terms and Conditions), acknowledging that Element is open to engaging in negotiations to develop final agreements that are acceptable to both parties. If the use of the Contract is a requirement for the State, such use of this document will require additional Element review and executive approval.

Element Confidential and Proprietary Information

has been awarded the Contract as context requires.

Element Confidential and Proprietary Information

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.

Element Confidential and Proprietary Information

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 180 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 4 (four) successive 1 (one) 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.

Element Confidential and Proprietary Information

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.

Element Confidential and Proprietary Information

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 a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked 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.

Element Confidential and Proprietary Information

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.

Commented [HM3]: The State or the Agency's insurance is primary for vehicles enrolled in the services.

Commented [ER4]: Element would only notify if there was a material change to the contracted policies stated.

Vendor must maintain:

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

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

Professional/Malpractice/Errors and Omission Insurance in at least an amount of:

\$10,000,000 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: \$10,000,000 per occurrence.

Cyber Liability Insurance in an amount of: \$1,000,000 per occurrence.

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

Commented [ER5]: Not applicable

Pollution Insurance in an amount of: _____ per occurrence.

Commented [ER6]: Not applicable.

Aircraft Liability in an amount of: ___ per occurrence.

Commented [ER7]: Not applicable

Element Confidential and Proprietary Information



Element Confidential and Proprietary Information

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:

Commented [HM8]: Element cannot agree to a liquidate damages clause without further understand as to the applicability.

\$2,500.00 for each day post the 180 day implementation period.

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.

Commented [HM9]: Element cannot agree to a "best price offered" provision. Element's services are priced based upon multiple factors that are unique to each client.

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.

Element Confidential and Proprietary Information

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.

Element Confidential and Proprietary Information

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.

Commented [HM10]: Element may require assignment rights in which it must assign monies due or claims for monies due pursuant to its funding/financing requirements.

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.

Commented [HM11]: Element cannot provide a warrant for the goods and services manufactured or provided by any third-party or direct service provider (a) who provides direct fleet services (including but not limited to providers of maintenance services, repair services, auto parts, tow and transport services, fuel and fueling services) for the State or the Agency vehicles and (b) that are not under the control or supervision of Element ("Providers")

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 www.state.wv.us/admin/purchase/privacy.

Commented [HM12]: Element may disclose information in furtherance of its obligations to perform the services as agreed upon by the parties under the final agreement.

Element Confidential and Proprietary Information

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 §§ SA-3-1 et seq., 5-22-1 et seq., and 50-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6. i.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.

Commented [HM13]: Generally, Element does not engage subcontractors for the performance of its services. However, if subcontractors are engaged, Element cannot agree to flow down any ONE client's internal policies, procedures or contract terms and conditions.

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.

Element Confidential and Proprietary Information

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.

Commented [HM14]: If "subcontractors" includes subprocessors servicing Element systems, Element cannot agree to provide indemnity for the actions of those subprocessors. Element cannot provide an indemnity for performing the services in accordance with the agreement, however, Element can provide an indemnity for its grossly negligent performance of the services and for its fraud or willful misconduct. Element cannot provide an indemnity for goods or services manufactured or provided by Providers.

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.

Element Confidential and Proprietary Information

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:

Commented [HM15]: Element is not manufacturing or providing goods (or any steel products). Element cannot reject or warrant any of these provisions as it relates to those goods or services provided by Providers.

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made by the open hearth, 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.

Element Confidential and Proprietary Information

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.

Commented [HM16]: Element is not manufacturing or providing goods (or any aluminum, glass or steel products). Element cannot rep or warrant any of these provisions as it relates to those goods or services provided by Providers

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.

Element Confidential and Proprietary Information

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.

Commented [HM17]: Element is not manufacturing or providing goods or materials and cannot rep or warrant any of these provisions as it relates to those goods or services provided by Providers.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § SA-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 § SA-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

Element Confidential and Proprietary Information

Attachment B: Software as a Service Addendum Exceptions

Software as a Service Addendum

1. Definitions:

Acceptable alternative data center location means a country that is identified as providing equivalent or stronger data protection than the United States, in terms of both regulation and enforcement. DLA Piper's Privacy Heatmap shall be utilized for this analysis and may be found at <https://www.dlapiperdataprotection.com/index.html?t=world-map&c=US&c2=IN>.

Authorized Persons means the service provider's employees, contractors, subcontractors or other agents who have responsibility in protecting or have access to the public jurisdiction's personal data and non-public data to enable the service provider to perform the services required.

Data Breach means the unauthorized access and acquisition of unencrypted and unredacted personal data that compromises the security or confidentiality of a public jurisdiction's personal information and that causes the service provider or public jurisdiction to reasonably believe that the data breach has caused or will cause identity theft or other fraud.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Commented [MU1]: This section is not applicable. Element is not collecting Health Information.

Non-Public Data means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the public jurisdiction because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

Personal Data means data that includes information relating to a person that identifies the person by first name or first initial, and last name, and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, state identification card); financial account information, including account number, credit or debit card numbers; or protected health information (PHI).

Protected Health Information (PHI) means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.

Commented [MU2]: This section is not applicable. Element is not collecting Health Information.

Public Jurisdiction means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

Public Jurisdiction Data means all data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

Public Jurisdiction Identified Contact means the person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

Restricted data means personal data and non-public data.

Security Incident means the actual unauthorized access to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

Service Provider means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

Software-as-a-Service (SaaS) means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. [The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection and Privacy: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

- a) The service provider shall implement and maintain appropriate administrative, technical and physical security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. In Appendix A,

Commented [HM3]: Element cannot agree to flow down any ONE client's terms, conditions, policies or procedure requirements to unrelated third-parties, such as subcontractors, if any.

Commented [MU4]: Element's core applications and infrastructure are hosted at a Tier-3 colocation data center. Clients access the system via a standard web application interface (URL) using their dedicated accounts or mobile application.

Commented [HM5]: All services provided under the Contract consist solely of, incorporate, or are derived from Element's or a third-party's pre-existing intellectual property, third-party materials licensed to Element, or other proprietary tools, methods, know-how, software, templates, or content (including versions, advancements and updates thereto) that existed prior to or independently of this engagement or were developed independently of contract performance (collectively constituting "Pre-Existing Materials"). Element shall retain all right, title, and interest in and to all Pre-Existing Materials, and no ownership of any intellectual property is transferred to the State under the Contract. No work product created by Element or third-party telematics vendors during the Term of the Contract, Statement of Work or any Purchase Order shall constitute "Newly Created Intellectual Property" owned by the State. To the extent any services include modifications, enhancements, configurations, or other outputs generated by Vendor during the engagement (including new software versions, advancements, and/or updates thereto), such outputs shall be deemed part of Element's Pre-Existing Materials and shall remain the sole property of Element or a third party. Except for the license expressly granted in the Contract, Element retains all rights in its Pre-Existing Materials and in all intellectual property embodied in or related to the services. No other rights are granted, whether by implication, estoppel, or otherwise

the public jurisdiction shall indicate whether restricted information will be processed by the service provider. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind. The service provider shall ensure that all such measures, including the manner in which personal data and non-public data are collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Addendum and shall survive termination of the underlying contract.

- b) The service provider represents and warrants that its collection, access, use, storage, disposal and disclosure of personal data and non-public data do and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations, policies and directives.
- c) The service provider shall support third-party multi-factor authentication integration with the public jurisdiction third-party identity provider to safeguard personal data and non-public data.
- d) If, in the course of its engagement by the public jurisdiction, the service provider has access to or will collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, the service provider shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at the service provider's sole cost and expense. All data obtained by the service provider in the performance of this contract shall become and remain the property of the public jurisdiction.
- e) All personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data.
- f) Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit, in accordance with recognized industry practice. The public jurisdiction shall identify data it deems as non-public data to the service provider.
- g) At no time shall any data or process - that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees - be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.
- h) The service provider shall not use or disclose any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- i) Data Location. For non-public data and personal data, the service provider shall provide its data center services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its

Commented [MU6]: Xcelerate fully supports Single Sign-On (SSO) through the SAML 2.0 protocol, enabling seamless integration with identity providers such as Azure Active Directory, Okta, ADFS, SiteMinder, and Microsoft Azure.

Element is in the final stages of migrating to the new identity management platform Auth0, and multi-factor authentication (MFA) is expected to be enabled within the next one to two months.

Commented [SA7]: Element does not currently acquire, process or manage PCI data to perform its business services. If this requirement changes in the future, Element will adhere to all regulations ensuring that client data and client confidentiality is maintained.

Commented [HM8]: Element and any third-party provider will only retain, use or disclose personal information received from the State or drivers to the extent necessary to perform the services for which the information was collected or provided. Element may collect, use, copy, and distribute all such information and any data created in connection with this Agreement to: (i) provide Services under this Agreement and/or any other agreement between Element and State or its affiliates; (ii) enhance or improve the services Element or an affiliate provides to the State; and (iii) assist third party service providers in providing services to the State. **Use of Anonymized Data.** Element may compile, store, use, exploit, modify, and/or disclose data and vehicle information for any purpose, provided (i) the data and information will not be identifiable to the State or drivers, or (ii) the data and information will be aggregated with that of other fleet the State. State hereby grants to Element a worldwide license to use anonymized data as specified in this section, irrevocably and in perpetuity. Element will not attempt to disaggregate the data or re-associate it with a device without State's consent, or unless legally compelled to

U.S. data centers. With agreement from the public jurisdiction, this term may be met by the service provider providing its services from an acceptable alternative data center location, which agreement shall be stated in Appendix A. The Service Provider may also request permission to utilize an acceptable alternative data center location during a procurement's question and answer period by submitting a question to that effect. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support.

4. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any confirmed security incident or data breach.

- a) **Incident Response:** The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as defined by law or contained in the contract. Discussing security incidents with the public jurisdiction shall be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes defined by law or contained in the contract.
- b) **Security Incident Reporting Requirements:** The service provider shall report a confirmed Security Incident as soon as practicable, but no later than twenty-four (24) hours after the service provider becomes aware of it, to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>, and (3) the public jurisdiction point of contact for general contract oversight/administration. The following information shall be shared with the public jurisdiction: (1) incident phase (detection and analysis; containment, eradication and recovery; or post-incident activity), (2) projected business impact, and, (3) attack source information.
- c) **Breach Reporting Requirements:** Upon the discovery of a data breach or unauthorized access to non-public data, the service provider shall immediately report to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>, and the public jurisdiction point of contact for general contract oversight/administration.

5. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

- a) Immediately after being awarded a contract, the service provider shall provide the public jurisdiction with the name and contact information for an employee of service provider who shall serve as the public jurisdiction's primary security contact and shall be available to assist the public jurisdiction twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a data breach. The service provider may provide this information in Appendix A.

Commented [MB9]: Element requires seventy-two (72) hours for notification after incident discovery, unless a shorter time frame is mandated by the applicable law. Notification will be provided in the event a confirmed security incident or breach materially impacts the State's data. Notification will be directed to the State as the contracting party, with any additional required communications coordinated in accordance with agreed escalation procedures.

Commented [MB10]: Element will provide appropriate security contact channels. Element does not designate a single named individual for this purpose. In the event of a confirmed incident impacting the State's data, incident response contact information will be provided as applicable.

- b) Immediately following the service provider's notification to the public jurisdiction of a data breach, the parties shall coordinate cooperate with each other to investigate the data breach. The service provider agrees to fully cooperate with the public jurisdiction in the public jurisdiction's handling of the matter, including, without limitation, at the public jurisdiction's request, making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law and regulation.
- c) Within 72 hours of the discovery, the service provider shall notify the parties listed in 4(c) above, to the extent known: (1) date of discovery; (2) list of data elements and the number of individual records; (3) description of the unauthorized persons known or reasonably believed to have improperly used or disclosed the personal data; (4) description of where the personal data is believed to have been improperly transmitted, sent, or utilized; and, (5) description of the probable causes of the improper use or disclosure.
- d) The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and prevent any further data breach at the service provider's expense in accordance with applicable privacy rights, laws and regulations and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- e) If a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state or federal law; (3) a credit monitoring service (4) a website or a toll-free number and call center for affected individuals required by state law - all not to exceed the average per record per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach (or other similar publication if the named publication has not issued an updated average per record per cost in the last 5 years at the time of the data breach); and (5) complete all corrective actions as reasonably determined by service provider based on root cause. The service provider agrees that it shall not inform any third party of any data breach without first obtaining the public jurisdiction's prior written consent, other than to inform a complainant that the matter has been forwarded to the public jurisdiction's legal counsel and/or engage a third party with appropriate expertise and confidentiality protections for any reason connected to the data breach. Except with respect to where the service provider has an independent legal obligation to report a data breach, the service provider agrees that the public jurisdiction shall have the sole right to determine: (1) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others, as required by law or regulation, or otherwise in the public jurisdiction's discretion; and (2) the contents of such notice, whether any

type of remediation may be offered to affected persons, and the nature and extent of any such remediation. The service provider retains the right to report activity to law enforcement.

Commented [MB11]: Element will comply with applicable law regarding breach notification. Notification obligations will apply to confirmed incidents impacting the State's data and will be provided as required by law or as appropriate based on the nature and severity of the breach

6. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which in any way might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

7. Termination and Suspension of Service:

- a) In the event of a termination of the contract, the service provider shall implement an orderly return of public jurisdiction data within the time period and format specified in the contract (or in the absence of a specified time and format, a mutually agreeable time and format) and after the data has been successfully returned, securely and permanently dispose of public jurisdiction data.
- b) During any period of service suspension, the service provider shall not take any action to intentionally erase any public jurisdiction data.
- c) In the event the contract does not specify a time or format for return of the public jurisdiction's data and an agreement has not been reached, in the event of termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any public jurisdiction data for a period of:
 - 10 days after the effective date of termination, if the termination is in accordance with the contract period
 - 30 days after the effective date of termination, if the termination is for convenience
 - 60 days after the effective date of termination, if the termination is for cause

Commented [HM12]: Element should be permitted to retain one copy of data and information on its backup servers provided kept in accordance with data protection and security procedures.

After such period, the service provider shall have no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

- d) The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the Contract.
- e) The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the public jurisdiction.

Commented [MB13]: Element's standard data retention period is 7 years, during which data will be retained. Upon request, Element will purge such data as soon as practicable after the retention period expires, unless the data is subject to a legal hold.

8. Background Checks: The service provider shall conduct criminal background checks in compliance with W.Va. Code §15-2D-3 and not utilize any staff to fulfill the obligations

Commented [MB14]: Element's standard data retention period is 7 years, during which data will be retained. Upon request, Element will purge such data as soon as practicable after the retention period expires, unless the data is subject to a legal hold.

of the contract, including subcontractors, who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the public jurisdiction's information among the service provider's employees and agents.

9. Oversight of Authorized Persons: During the term of each authorized person's employment or engagement by service provider, service provider shall at all times cause such persons to abide strictly by service provider's obligations under this Agreement and service provider's standard policies and procedures. The service provider further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of personal data by any of service provider's officers, partners, principals, employees, agents or contractors.

10. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction in CSV format agreed to by both the service provider and the public jurisdiction. Reports shall include user access (successful and failed attempts), user access IP address, user access history and security logs for all public jurisdiction files and accounts related to this contract.

11. Data Protection Self-Assessment: The service provider shall perform a Cloud Security Alliance STAR Self-Assessment by completing and submitting the "Consensus Assessments Initiative Questionnaire" to the Public Jurisdiction Identified Contact. The service provider shall submit its self-assessment to the public jurisdiction prior to contract award and, upon request, annually thereafter, on the anniversary of the date of contract execution. Any deficiencies identified in the assessment will entitle the public jurisdiction to disqualify the bid or terminate the contract for cause.

12. Data Center Audit: The service provider shall perform an audit of its data center(s) at least annually at its expense and provide a redacted version of the audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit. Any deficiencies identified in the report or approved equivalent will entitle the public jurisdiction to disqualify the bid or terminate the contract for cause.

13. Change Control and Advance Notice: The service provider shall give 30 days, advance notice (to the public jurisdiction of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics.

14. Security:

- a) At a minimum, the service provider's safeguards for the protection of data shall include: (1) securing business facilities, data centers, paper files, servers, back-up

Commented [MB15]: Vendor conducts criminal background checks in a commercially reasonable manner consistent with applicable law and standard industry practice. The requirement referencing "any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty" may be difficult to administer, as sentencing exposure varies by jurisdiction and may not always be identifiable through standard background screening processes. Accordingly, compliance will be based on information reasonably available through customary, commercially reasonable background screening.

Commented [MB16]: Element does not agree to this requirement as drafted due to the shared nature of its processing environment. If this requirement is mandatory, Element requests further discussion and review to determine feasibility and potential modifications.

Commented [MB17]: Current State: Element's core applications and infrastructure are hosted at a Tier-3 colocation data center. Element is responsible for the development and maintenance of these applications. Element's Information Security Program is designed in alignment with the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF). The program incorporates industry-leading security practices and is supported by a comprehensive set of technical, administrative, and physical controls.

To ensure the ongoing effectiveness of these controls, Element engages independent external auditors to perform regular assessments, including SOC 1, SOC 2, and annual penetration testing.

Currently, Element can provide 2025, SOC 2 Type I audit report. Looking ahead, Element plans to obtain SOC 2 Type II certification in 2026 to further enhance assurance over the design and operating effectiveness of its control ... [1]

Commented [MB18]: In the event that any deficiencies are identified in the report, Element will complete the necessary remediation activities within a mutually agreed and commercially reasonable timeframe.

Element's core applications and infrastructure are hosted in a Tier III colocation data center. Upon request, Element can obtain and provide the data center service provider's SOC 2 report.

The current colocation data center is also included in ... [2]

Commented [MU19]: Element maintains a documented Change Management Policy that provides clear and consistent guidance to employees and contractors for processing IT changes within the Element environment. All changes including software, hardware, and network-related modifications are logged, reviewed, and approved through the ServiceNow workflow prior to implementation.

Changes are typically implemented during designated maintenance windows, generally between 11:00 p.m. ET and 6:00 a.m. ET, to minimize operational impact. Excepti... [3]

systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (2) implementing network, device application, database and platform security; 3) securing information transmission, storage and disposal; (4) implementing authentication and access controls within media, applications, operating systems and equipment; (5) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (6) providing appropriate privacy and information security training to service provider's employees.

- b) The service provider shall execute well-defined recurring action steps that identify and monitor vulnerabilities and provide remediation or corrective measures. Where the service provider's technology or the public jurisdiction's required dependence on a third-party application to interface with the technology creates a critical or high risk, the service provider shall remediate the vulnerability as soon as possible. The service provider must ensure that applications used to interface with the service provider's technology remain operationally compatible with software updates.
- c) Upon the public jurisdiction's written request, the service provider shall provide a high-level network diagram with respect to connectivity to the public jurisdiction's network that illustrates the service provider's information technology network infrastructure.

15. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

16. Import and Export of Data: The public jurisdiction shall have the ability to securely import, export or dispose of data in standard format in piecemeal or in entirety at its discretion without interference from the service provider. This includes the ability for the public jurisdiction to import or export data to/from other service providers identified in the contract (or in the absence of an identified format, a mutually agreeable format).

17. Responsibilities: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the cloud services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the service provider.

18. Subcontractor Compliance: The service provider shall ensure that any of its subcontractors to whom it provides any of the personal data or non-public data it receives hereunder, or to whom it provides any personal data or non-public data which the service provider creates or receives on behalf of the public jurisdiction, agree to the restrictions, terms and conditions which apply to the service provider hereunder.

19. Right to Remove Individuals: The public jurisdiction shall have the right at any time to require that the service provider remove from interaction with public jurisdiction any

Commented [MB20]: Due to the shared nature of the environment and in order to protect the privacy of client data, Element does not provide data import or export capabilities beyond the standard reports available to clients.

However, Element maintains an internal process to support data import or export requests, and the Technology team can assist clients on a case-by-case basis, subject to review and approval.

Commented [HM21]: Element cannot agree to flow down any ONE client's terms and conditions to subcontractors

Commented [MB22]: The State may request removal, but Element maintains sole discretion on the removal or replacement of its employees.

service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract without the public jurisdiction's consent.

20. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan executive summary upon request. Lack of a plan will entitle the public jurisdiction to terminate this contract for cause.

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall use web services exclusively to interface with the public jurisdiction's data in near real time when possible.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all personal data.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- a. Access and use the service for its business purposes;
- b. For SaaS, use underlying software as embodied or used in the service; and
- c. View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Addendum to the contrary.

AGREED:

Name of Agency: _____

Name of Vendor: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____

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. Required information not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Service Provider/Vendor: _____

Name of Agency: _____

Agency/public jurisdiction's required information:

1. Will restricted information be processed by the service provider?
Yes
No
2. If yes to #1, does the restricted information include personal data?
Yes
No
3. If yes to #1, does the restricted information include non-public data?
Yes
No
4. If yes to #1, may the service provider store public jurisdiction data in a data center in an acceptable alternative data center location, which is a country that is not the U.S.?
Yes
No
5. Provide name and email address for the Department privacy officer:

Name: _____

Email address: _____

Vendor/Service Provider's required information:

6. Provide name and contact information for vendor's employee who shall serve as the public jurisdiction's primary security contact:

Name: _____

Email address: _____

Phone Number: _____

Current State:

Element's core applications and infrastructure are hosted at a Tier-3 colocation data center. Element is responsible for the development and maintenance of these applications. Element's Information Security Program is designed in alignment with the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF). The program incorporates industry-leading security practices and is supported by a comprehensive set of technical, administrative, and physical controls.

To ensure the ongoing effectiveness of these controls, Element engages independent external auditors to perform regular assessments, including SOC 1, SOC 2, and annual penetration testing.

Currently, Element can provide 2025, SOC 2 Type I audit report. Looking ahead, Element plans to obtain SOC 2 Type II certification in 2026 to further enhance assurance over the design and operating effectiveness of its control environment. Element can also provide a SOC 1 Type II report, which includes detailed testing of General IT Controls (GITCs). Additionally, Penetration Tests are performed annually by a reputable third-party vendor to gauge unexplored vulnerabilities, and findings are communicated to teams responsible for remediation.

Unfortunately, Element is not performing Cloud Security Alliance STAR Self-Assessment.

In the event that any deficiencies are identified in the report, Element will complete the necessary remediation activities within a mutually agreed and commercially reasonable timeframe.

Element's core applications and infrastructure are hosted in a Tier III colocation data center. Upon request, Element can obtain and provide the data center service provider's SOC 2 report.

The current colocation data center is also included in Element's SOC 2 report as a subservice organization.

At present, Element can provide the 2025 SOC 2 Type I audit report. Looking ahead, Element plans to obtain a SOC 2 Type II report in 2026 to provide enhanced assurance over the design and operating effectiveness of its control environment.

Element maintains a documented Change Management Policy that provides clear and consistent guidance to employees and contractors for processing IT changes within the Element environment. All changes including software, hardware, and network-related modifications are logged, reviewed, and approved through the ServiceNow workflow prior to implementation.

Changes are typically implemented during designated maintenance windows, generally between 11:00 p.m. ET and 6:00 a.m. ET, to minimize operational impact. Exceptions are permitted for business-critical fixes or urgent updates that require immediate deployment.

Clients access the system through a standard web application interface (URL) using their assigned credentials or via a mobile application. Element does not install applications within client environments. Element retains full responsibility for the development, hosting, and maintenance and availability of its applications according to the contract requirement.

Attachment C: Federal Funds Addendum Exceptions

FEDERAL FUNDS ADDENDUM

2 C.F.R. §§ 200.317 - 200.327

Purpose: This addendum is intended to modify the solicitation in an attempt to make the contract compliant with the requirements of 2 C.F.R. §§ 200.317 through 200.327 relating to the expenditure of certain federal funds. This solicitation will allow the State to obtain one or more contracts that satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

Instructions: Vendors who are willing to extend their contract to procurements with federal funds and the requirements that go along with doing so, should sign the attached document identified as: "REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)"

Should the awarded vendor be unwilling to extend the contract to federal funds procurement, the State reserves the right to award additional contracts to vendors that can and are willing to meet federal funds procurement requirements.

Changes to Specifications: Vendors should consider this solicitation as containing two separate solicitations, one for state level procurement and one for county/local procurement.

State Level: In the first solicitation, bid responses will be evaluated with applicable preferences identified in sections 15, 15A, and 16 of the "Instructions to Vendors Submitting Bids" to establish a contract for both standard state procurements and state federal funds procurements.

County Level: In the second solicitation, bid responses will be evaluated with applicable preferences identified in Sections 15, 15A, and 16 of the "Instructions to Vendors Submitting Bids" omitted to establish a contract for County/Local federal funds procurement.

Award: If the two evaluations result in the same vendor being identified as the winning bidder, the two solicitations will be combined into a single contract award. If the evaluations result in a different bidder being identified as the winning bidder, multiple contracts may be awarded. The State reserves the right to award to multiple different entities should it be required to satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

State Government Use Caution: State agencies planning to utilize this contract for procurements subject to the above identified federal regulations should first consult with the federal agency providing the applicable funding to ensure the contract is compliant.

County/Local Government Use Caution: County and Local government entities planning to utilize this contract for procurements subject to the above identified federal regulation should first consult with the federal agency providing the applicable funding to ensure the contract is compliant. For purposes of County/Local government use, the solicitation resulting in this contract was conducted in accordance with the procurement laws, rules, and procedures governing the West Virginia Department of Administration, Purchasing Division, except that vendor preference has been omitted for County/Local use purposes and the contract terms contained in the document entitled "REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)" have been added.

Commented [HM1]: Element will require notification as to if and when federal funds will be used to procure Element services in order for Element to perform its due diligence to determine compliance with these regulations, as Element is not currently a federal contractor or sub-contractor.

Rev. 4/5/2022

FEDERAL FUNDS ADDENDUM

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):**

The State of West Virginia Department of Administration, Purchasing Division, and the Vendor awarded this Contract intend that this Contract be compliant with the requirements of the Procurement Standards contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements found in 2 C.F.R. § 200.317, et seq. for procurements conducted by a Non-Federal Entity. Accordingly, the Parties agree that the following provisions are included in the Contract.

1. MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS:

(2 C.F.R. § 200.321)

- a. The State confirms that it has taken all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Those affirmative steps include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.

Commented [MB2]: Pending additional internal review.

- b. Vendor confirms that if it utilizes subcontractors, it will take the same affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

2. DOMESTIC PREFERENCES:

(2 C.F.R. § 200.322)

- a. The State confirms that as appropriate and to the extent consistent with law, it has, to the greatest extent practicable under a Federal award, provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United

States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b. Vendor confirms that will include the requirements of this Section 2. Domestic Preference in all subawards including all contracts and purchase orders for work or products under this award.

Commented [HM3]: Any reference to subcontractors should exclude ALL third-party or direct service providers who provide direct fleet services (including but not limited to providers of maintenance services, repair services, auto parts, tow and transport services, fuel and fueling services) for the State's vehicles

c. Definitions: For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

3. BREACH OF CONTRACT REMEDIES AND PENALTIES:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 provide for breach of contract remedies, and penalties. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

4. TERMINATION FOR CAUSE AND CONVENIENCE:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 govern Contract termination. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

5. EQUAL EMPLOYMENT OPPORTUNITY:

(2 C.F.R. § 200.327 and Appendix II)

Except as otherwise provided under 41 CFR Part 60, and if this contract meets the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3, this contract includes the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

6. DAVIS-BACON WAGE RATES:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this Contract includes construction, all construction work in excess of \$2,000 will be completed and paid for in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 314-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must:

- (a) pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (b) pay wages not less than once a week.

A copy of the current prevailing wage determination issued by the Department of Labor is attached hereto as Exhibit B. The decision to award a contract or subcontract is conditioned upon the acceptance of the wage determination. The State will report all suspected or reported violations to the Federal awarding agency.

7. ANTI-KICKBACK ACT:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that it will comply with the Copeland Anti-KickBack Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). Accordingly, Vendor, Subcontractors, and anyone performing under this contract are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The State must report all suspected or reported violations to the Federal awarding agency.

8. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
(2 C.F.R. § 200.327 and Appendix II)

Where applicable, and only for contracts awarded by the State in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Rev. 4/5/2022

9. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.
(2 C.F.R. § 200.327 and Appendix II)

If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

10. CLEAN AIR ACT
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this contract exceeds \$150,000, Vendor is to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

11. DEBARMENT AND SUSPENSION
(2 C.F.R. § 200.327 and Appendix II)

The State will not award to any vendor that is listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

12. BYRD ANTI-LOBBYING AMENDMENT
(2 C.F.R. § 200.327 and Appendix II)

Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Rev. 4/5/2022

13. PROCUREMENT OF RECOVERED MATERIALS

(2 C.F.R. § 200.327 and Appendix II; 2 C.F.R. § 200.323)

Vendor agrees that it and the State must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

(2 C.F.R. § 200.327 and Appendix II; 2 CFR § 200.216)

Vendor and State agree that both are prohibited from obligating or expending funds under this Contract to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

State of West Virginia
Purchasing Division

Vendor Name:

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Rev. 4/5/2022

EXHIBIT A To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

W. Va. CSR§ 148-1-5

Rev. 4/5/2022

West Virginia Code of State Rules
Title 148. Department of Administration
Legislative Rule (Ser. 1)
Series 1. Purchasing

W. Va. Code St. R. § 148-1-5
 § 148-1-5. Remedies.
 Currentness

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

Commented [HM4]: Element has certain terms and conditions for its ability to terminate the agreement for cause.

5.2. Contract Cancellation.

5.2.1. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.1.a. The vendor agrees to the cancellation;

5.2.1.b. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.1.c. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.1.d. The existence of an organizational conflict of interest is identified;

5.2.1.e. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition;

5.2.1.f. Violation of any federal, state, or local law, regulation, or ordinance, and

5.2.1.g. The contract was awarded in error.

5.2.2. The Director may cancel a purchase or contract for any reason or no reason, upon providing

Rev. 4/5/2022

the vendor with 30 days' notice of the cancellation.

5.2.3. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

5.2.4. Re-Award. The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

5.2.4.a. The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

5.2.4.b. The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

5.3. Non-Responsible. If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

5.4. Suspension.

5.4.1. The Director may suspend, for a period not to exceed 1 year, the right of a vendor to bid on

Rev. 4/5/2022

procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.1.a. The vendor has submitted a bid and then requested that its bid be withdrawn after bids have been publicly opened.

5.4.1.b. The vendor has exhibited poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; or failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.1.c. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.1.d. The vendor's actions have given rise to one or more of the grounds for debarment listed in W. Va. Code § 5A-3-33d.

5.4.2. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.2.a. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.2.b. A notice of suspension must inform the vendor:

5.4.2.b.1. Of the grounds for the suspension;

5.4.2.b.2. Of the duration of the suspension;

5.4.2.b.3. Of the right to request a hearing contesting the suspension;

5.4.2.b.4. That a request for a hearing must be served on the Director no later than 5 working days of the vendor's receipt of the notice of suspension;

5.4.2.b.5. That the vendor's failure to request a hearing no later than 5 working days of

Rev. 4/5/2022

the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.2.b.6. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.2.c. A vendor's failure to serve a request for hearing on the Director no later than 5 working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.

5.4.2.d. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.2.e. Within 5 working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.2.f. The hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.3. A vendor may appeal a decision of the Director to the Secretary of the Department of Administration. The appeal must be in writing and served on the Secretary no later than 5 working days of receipt of the Director's decision.

5.4.4. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.5. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

Rev. 4/5/2022

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in W. Va. Code§ 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.1. Debarment proceedings shall be conducted in accordance with W. Va. Code§ 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.2. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.3. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor, including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated.

5.5.4. Pursuant to W. Va. Code§ 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.5. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

5.5.6. Related Party Debarment. The Director may pursue debarment of a related party at the same time that debarment of the original vendor is proceeding or at any time thereafter that the Director determines a related party debarment is warranted. Any entity that fails to provide the Director with full, complete, and accurate information requested by the Director to determine related party

Rev. 4/5/2022

status will be presumed to be a related party subject to debarment.

5.6. Damages.

5.6.1. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.2. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.3. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

Credits

History: Filed 4-1-19, eff. 4-1-19; Filed 4-16-21, eff. 5-1-21.

Current through register dated May 7, 2021. Some sections may be more current. See credits for details.

W. Va. C.S.R. § 148-1-5. WV ADC § 148-1-5

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.

EXHIBIT B To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

Prevailing Wage Determination

-Not Applicable Because Contract Not for Construction

-Federal Prevailing Wage Determination on Next Page

Rev. 4/5/2022

Addendum Acknowledgement

ADDENDUM ACKNOWLEDGEMENT FORM **SOLICITATION NO.: CRFP FLT2600000002**

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

Failure to acknowledge addenda may result in bid disqualification.

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

Addendum Numbers Received:

(Check the box next to each addendum received)

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

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

Element Fleet Corporation

Company

Authorized Signature

Date

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