



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

Request for Quotation

| |
|------------|
| RFQ NUMBER |
| 667C0014 |

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| PAGE |
| 1 |

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|---|
| ADDRESS CORRESPONDENCE TO ATTENTION OF: |
| JOHN JOHNSTON 304-558-2402 |

VENDOR

*424153422 303-431-7333
 APPLEWOOD SEED COMPANY
 5380 VIVIAN STREET
 ARVADA CO 80002

SHIP TO

DIVISION OF HIGHWAYS
 VARIOUS LOCALES AS INDICATED
 BY ORDER

| | | | | |
|--------------|---------------|----------|--------|---------------|
| DATE PRINTED | TERMS OF SALE | SHIP VIA | F.O.B. | FREIGHT TERMS |
| 12/03/2006 | | | | |

BID OPENING DATE: 12/27/2006 BID OPENING TIME 01:30PM

| LINE | QUANTITY | UOP | CAT. NO. | ITEM NUMBER | UNIT PRICE | AMOUNT |
|---|----------|-----|----------|-------------|------------|--------|
| 0001 | 1 | LB | | 790-20 | | |
| WILDFLOWER SEEDS | | | | | | |
| OPEN END CONTRACT | | | | | | |
| TO PROVIDE WILDFLOWER SEEDS PACKAGED AS INDIVIDUAL SPECIES IN 10 LB BAGS AND WILDFLOWER CUSTOM SEED MIX PACKAGED IN PURE LIVE SEED RATE, IN 30 LB BAGS. | | | | | | |
| SEE ATTACHED | | | | | | |
| EXHIBIT 3 | | | | | | |
| LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON AND EXTENDS FOR A PERIOD OF SIX(6) MNS. OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE. | | | | | | |
| UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT. | | | | | | |
| RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL | | | | | | |

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

| | | |
|----------------------------------|----------------------------|-----------------------------------|
| SIGNATURE <i>Diane Wilson</i> | TELEPHONE (303)431-7333 | DATE Dec. 19, 2006 |
| TITLE Bid Manager | FEIN 84-0671900 | ADDRESS CHANGES TO BE NOTED ABOVE |

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| <p>BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. 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.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATI-</p> | | | | | | |

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| <p>CALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 04/11/2001</p> <p>PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A LOCAL BANK. THE SUCCESSFUL VENDOR MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE AGENCY FOR ORDERS THAT ARE LESS THAN \$2,500 AS A CONDITION OF AWARD.</p> <p style="text-align: center;">VENDOR PREFERENCE CERTIFICATE</p> <p>CERTIFICATION AND APPLICATION* IS HEREBY MADE FOR PREFERENCE IN ACCORDANCE WITH WEST VIRGINIA CODE, 5A-3-37 (DOES NOT APPLY TO CONSTRUCTION CONTRACTS).</p> <p>A. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>() BIDDER IS AN INDIVIDUAL RESIDENT VENDOR AND HAS RESIDED CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR</p> <p>() BIDDER IS A PARTNERSHIP, ASSOCIATION OR CORPORA-</p> | | | | | | |

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| <p>TION RESIDENT VENDOR AND HAS MAINTAINED ITS HEAD- QUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR 80% OF THE OWNERSHIP INTEREST OF BIDDER IS HELD BY ANOTHER INDIVIDUAL, PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDO WHO HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR</p> <p>() BIDDER IS A CORPORATION NONRESIDENT VENDOR WHICH HAS AN AFFILIATE OR SUBSIDIARY WHICH EMPLOYS A MINIMUM OF ONE HUNDRED STATE RESIDENTS AND WHICH HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA CONTINUOUSLY FOR THE FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION.</p> <p>B. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>() BIDDER IS A RESIDENT VENDOR WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES WORKING ON THE PROJECT BEING BID ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID; OR</p> <p>() BIDDER IS A NONRESIDENT VENDOR EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS OR IS A NONRESIDENT VENDOR WITH AN AFFILIATE OR SUBSIDIARY WHICH MAINTAINS ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST</p> | | | | | | |

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| <p>75% OF THE EMPLOYEES OR BIDDERS' AFFILIATE'S OR SUBSIDIARY'S EMPLOYEES ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID.</p> <p>BIDDER UNDERSTANDS IF THE SECRETARY OF TAX & REVENUE DETERMINES THAT A BIDDER RECEIVING PREFERENCE HAS FAILED TO CONTINUE TO MEET THE REQUIREMENTS FOR SUCH PREFERENCE, THE SECRETARY MAY ORDER THE DIRECTOR OF PURCHASING TO: (A) RESCIND THE CONTRACT OR PURCHASE ORDER ISSUED; OR (B) ASSESS A PENALTY AGAINST SUCH BIDDER IN AN AMOUNT NOT TO EXCEED 5% OF THE BID AMOUNT AND THAT SUCH PENALTY WILL BE PAID TO THE CONTRACTING AGENCY OR DEDUCTED FROM ANY UNPAID BALANCE ON THE CONTRACT OR PURCHASE ORDER.</p> <p>BY SUBMISSION OF THIS CERTIFICATE, BIDDER AGREES TO DISCLOSE ANY REASONABLY REQUESTED INFORMATION TO THE PURCHASING DIVISION AND AUTHORIZES THE DEPARTMENT OF TAX AND REVENUE TO DISCLOSE TO THE DIRECTOR OF PURCHASING APPROPRIATE INFORMATION VERIFYING THAT BIDDER HAS PAID THE REQUIRED BUSINESS TAXES, PROVIDED THAT SUCH INFORMATION DOES NOT CONTAIN THE AMOUNTS OF TAXES PAID NOR ANY OTHER INFORMATION DEEMED BY THE TAX COMMISSIONER TO BE CONFIDENTIAL.</p> <p>UNDER PENALTY OF LAW FOR FALSE SWEARING (WEST VIRGINIA CODE 61-5-3), BIDDER HEREBY CERTIFIES THAT THIS CERTIFICATE IS TRUE AND ACCURATE IN ALL RESPECTS; AND THAT IF A CONTRACT IS ISSUED TO BIDDER AND IF ANYTHING CONTAINED WITHIN THIS CERTIFICATE CHANGES DURING THE TERM OF THE CONTRACT, BIDDER WILL NOTIFY THE PURCHASING DIVISION IN WRITING IMMEDIATELY.</p> <p style="text-align: right;">BIDDER: ----- APPLEWOOD SEED COMPANY -----</p> | | | | | | |

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| <p>DATE: <u>December 19, 2006</u></p> <p>SIGNED: <u><i>Diane Wilson</i></u></p> <p>TITLE: <u>Bid Manager</u></p> | | | | | | |
| <p>* CHECK ANY COMBINATION OF PREFERENCE CONSIDERATION(S) IN EITHER "A" OR "B", OR BOTH "A" AND "B" WHICH YOU ARE ENTITLED TO RECEIVE. YOU MAY REQUEST UP TO THE MAXIMUM 5% PREFERENCE FOR BOTH "A" AND "B". (REV. 12/00)</p> | | | | | | |
| <p>NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> | | | | | | |
| <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> | | | | | | |
| BUYER: | | | | 33 | | |

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| PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: | | | | | | |
| | | | | FAX (303)467-7886 | | |
| ----- | | | | | | |
| CONTACT PERSON (PLEASE PRINT CLEARLY): | | | | | | |
| | | | | Diane Wilson | | |
| ----- | | | | | | |
| ***** THIS IS THE END OF RFQ 667C0014 ***** TOTAL: | | | | | | <u>70,462.50</u> |

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SPECIFICATIONS

Quantities listed are for pounds of pure live seed.

No Substitutions of species will be accepted.

All seed shipped must meet West Virginia Chapter 19, Article 16, Section 2, seed law labeling requirements. All seed shall be tested by a certified seed laboratory with certified results submitted to the purchaser in writing at the time of delivery.

The vendors awarded contracts will be required to be a registered vendor with the State of West Virginia.

The state of West Virginia will randomly test seed for purity and germination.

Shipping Must Be FOB destination. Deliveries shall be made to all locations in all Districts as shown on the blanket releases sent by each organization.

Vendor shall indicate any minimum order requirements.

Note: PLS-Pure Live Seed

CONTRACT AWARD

Qualified Vendors who submit a valid low bid may be awarded a contract for those items for which their bid is low.

Low bid will be determined for each individual bid.

The State of West Virginia reserves the right to make awards on this contract that are in the best interest of the State.

ACCEPTANCE PLAN

With each delivery of wildflowers to the Division, the vendor will certify that the products so delivered do conform to the materials specifications.

Material failing to comply with the quality requirement will not be accepted.

BID QUANTITIES

Vendor should base quotation on estimated pure live seed (PLS) quantities as follows:

| | |
|---------|-------------------|
| Item-2 | 400 pounds (PLS) |
| Item-3 | 400 pounds (PLS) |
| Item-4 | 200 pounds (PLS) |
| Item-6 | 100 pounds (PLS) |
| Item-7 | 50 pounds (PLS) |
| Item-8 | 300 pounds (PLS) |
| Item-9 | 4000 pounds (PLS) |
| Item-10 | 200 pounds (PLS) |
| Item-11 | 200 pounds (PLS) |
| Item-12 | 100 pounds (PLS) |
| Item-14 | 100 pounds (PLS) |

Vendors are cautioned that the above quantities are estimates only. Actual orders will be for the required needs of the Division of Highways.

**WILDFLOWER CONTRACT
INDIVIDUAL SPECIES**

Item-2 **Dwarf Cornflower/Straight Blue Bachelor's Button**
Centaurea cyanus (Asteraceae)

Purity 98 % Germination 85 %

Bid Price \$ 4.50 per pound (PLS)

Item-3 **Plains Coreopsis/Calliopsis**
Coreopsis tinctoria (Asteraceae)

Purity 92 % Germination 70 %

Bid Price \$ 7.74 per pound (PLS)

Item-4 **Crest Red Cosmos**
Cosmos Sulphureus

Purity 98 % Germination 85 %

Bid Price \$ 22.00 per pound (PLS)

Item-6 **Yellow Cosmos**
Cosmos sulphureus (Asteraceae)

Purity 99 % Germination 85 %

Bid Price \$ 8.44 per pound (PLS)

Item-7 **Scarlet Flax**
Linum rubrum (Linaceae)

Purity 99 % Germination 90 %

Bid Price \$ 10.85 per pound (PLS)

Item-8 **Blanket Flower**
Gaillardia Aristata (Asteraceae)

Purity 98 % Germination 80 %

Bid Price \$ 12.80 per pound (PLS)

**WILDFLOWER CONTRACT
CUSTOM MIX**

Item-9 **4 lbs PLS Straight Red Poppy/Flanders Poppy**
Papaver Rhoëas (Papaveraceae)

Purity 99 % Germination 85 %

6 lbs PLS Cornflower/Straight Blue Bachelor's Button
Centaurea cyanus (Asteraceae)

Purity 98 % Germination 85 %

5 lbs PLS Plains Coreopsis/Calliopsis
Coreopsis tinctoria (Asteraceae)

Purity 92 % Germination 70 %

15 lbs PLS Wild Cosmos
Cosmos bipinnatus (Asteraceae)

Purity 98 % Germination 85 %

30 lbs PLS Mix

\$7.96/lb.

Bid Price \$ 238.80 Per 30 lb. BAG

**WILDFLOWER CONTRACT
NATIVE SPECIES**

Item-10 **Tickseed/Lance-leaved Coreopsis**
Coreopsis lanceolata (Asteraceae)

Purity 99 % Germination 80 %

Bid Price 8.80 lb PLS

**WILDFLOWER CONTRACT
NATIVE SPECIES (CONT'D)**

Item-11

Ox-Eyed Daisy

Chrysanthemum Leucanthemum (Asteraceae)

Purity 98 % Germination 80 %Bid Price 14.20 lb PLS

DW

Item-12

Butterfly Weed

Asclepias Tuberosa (Asclepiadaceae)

Purity 98 % Germination 70 %Bid Price 101.00 lb PLS

Item-14

Beard - Tongue

Penstemon digitalis

Purity 98 % Germination 65 %Bid Price 94.00 lb PLS

DISTRICT DELIVERY ADDRESSES

District One Office
1334 Smith Street
Charleston, West Virginia 25301-1492

District Six Office
1 DOT Drive
Moundsville, West Virginia 26041-1605

District Two Office
801 Madison Avenue
Huntington, West Virginia 25712-0880

District Seven Office
255 Depot Street
Weston, West Virginia 26452-1228

District Three Office
624 Depot Street
Parkersburg, West Virginia 26102-0308

District Eight Office
US 219 North
Elkins, West Virginia 26241-1516

District Four Office
179 & Meadowbrook Road
Clarksburg, West Virginia 26302-2570

District Nine Office
103 1/2 Church Street
Lewisburg, West Virginia 24901

District Five Office
Route 50
Burlington, West Virginia 26710-0099

District Ten Office
270 Hardwood Lane
Princeton, West Virginia 24740-2737

A F F I D A V I T

West Virginia Code §5A-3-10a states:

No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owned is an amount greater than one thousand dollars in the aggregate

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

EXCEPTION:

The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

LICENSING:

Vendors 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 agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she 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. Vendors should visit www.state.wv.us/admin/purchase/privacy for the Notice of Agency Confidentiality Policies.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), it is hereby certified that the vendor acknowledges the information in this said affidavit and are in compliance with the requirements as stated.

Vendor's Name: APPLEWOOD SEED COMPANY

Authorized Signature: *Quane Wilson* Date: December 19, 2006