



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

State of West Virginia
Request for Quotation

Proc Folder: 61039

Doc Description: TRANSCRIPTION SERVICES FOR THE WVDRS DDS SECTION

Proc Type: Central Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version
2015-02-04	2015-03-12 13:30:00	CRFQ 0932 DRS1500000005	1

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

Vendor Name, Address and Telephone Number:

Perry Johnson & Associates, Inc.
1489 W. Warm Springs Road, Suite 110
Henderson, Nevada 89012
(800) 803-6330

03/13/15 10:51:12
WV Purchasing Division

FOR INFORMATION CONTACT THE BUYER

Evelyn Melton
(304) 558-7023
evelyn.p.melton@wv.gov

Signature X

FEIN # 74-3143749

DATE 03/05/2015

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

CHARLESTON DISABILITY DETERMINATION DIVISION OF REHABILITATION SERVICES 500 QUARRIER ST STE 500		DIVISION OF REHABILITATION SERVICES DISABILITY DETERMINATION SECTION 500 QUARRIER ST, STE 500	
CHARLESTON	WV25301	CHARLESTON	WV 25301
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	TRANSCRIPTION SERVICES PER LINE PRICE	1.00000	LINE	\$.09	\$.09

Comm Code	Manufacturer	Specification	Model #
41105803			

Extended Description :

ALL-INCLUSIVE TRANSCRIPTION SERVICES PER LINE.

THE WEST VIRGINIA PURCHASING DIVISION IS SOLICITING BIDS ON BEHALF OF THE DIVISION OF REHABILITATION SERVICES, DISABILITY DETERMINATION SECTION (DDS) TO ESTABLISH A CONTRACT FOR THE TELE-TRANSCRIPTION SERVICES FOR THE CONSULTATIVE EXAMINATION SOURCES.

	Document Phase	Document Description	Page 3
DRS1500000005	Final	TRANSCRIPTION SERVICES FOR THE WVDRS DDS SECTION	of 3

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening.

A **NON-MANDATORY PRE-BID** meeting will be held at the following place and time:

A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding. Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: February 18, 2015 - end of business

Submit Questions to: Evelyn P. Melton
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)
Email: evelyn.p.melton@wv.gov

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
6. **BID SUBMISSION:** All bids must be submitted electronically through wvOASIS or signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include electronic submission via wvOASIS, hand delivery, delivery by courier, or facsimile. The bid delivery address is:

Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope. Bids not containing this information may be rejected by the Purchasing Division.:

- SEALED BID:
- BUYER:
- SOLICITATION NO.:
- BID OPENING DATE:
- BID OPENING TIME:
- FAX NUMBER:

In the event that Vendor is responding to this Solicitation in a manner other than by electronic submission through wvOASIS, the Vendor shall submit one original technical and one original cost proposal to the Purchasing Division at the address shown below. Additionally, if Vendor does not submit its bid through wvOASIS, the Vendor shall submit the bid type as either a technical or cost proposal on the face of each bid envelope in response to a request for proposal as follows:

BID TYPE: (This only applies to CR)

- Technical
- Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time shown below. Delivery of a bid after the bid opening date and time will result in bid rejection. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: March 13, 2015 Thursday @ 1:30 P.M.
 Bid Opening Location: Department of Administration, Purchasing Division
 2019 Washington Street East
 Charleston, WV 25305-0130

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

9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.
10. **ALTERNATES:** Any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendor may bid alternates to a listed model or brand provided that the alternate is at least equal in quality to the listed model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and include manufacturer's specifications, industry literature, and/or any other relevant information demonstrating the equality of the alternate items. Failure to provide information demonstrating the equality of the alternate items may be grounds for rejection of a Vendor's bid.
11. **EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications to the Solicitation. Exceptions to, clarifications of, or modifications of a requirement or term of the Solicitation may result in bid disqualification.
12. **COMMUNICATION LIMITATIONS:** Vendor shall comply with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval of communication is implied for all agency delegated and exempt purchases.
13. **REGISTRATION:** Prior to Contract Award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.
14. **UNIT PRICE:** Unit prices shall prevail in the event of a discrepancy in the Vendor's bid.
15. **PREFERENCE:** Vendor Preference may be granted upon written request and only in accordance with the West Virginia Code of State Rules §5A-3-37 and the West Virginia Code of State Rules. A Vendor Preference Certificate form has been attached hereto to allow Vendor to apply for the preference. Vendor's failure to submit the Vendor Preference Certificate form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.
16. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, a preference shall be provided to a vendor certified as a small, women-owned, or minority-owned business under West Virginia Code CSR § 148-22-9 shall be provided the

same preference made available to any
owned, or minority-owned business must
writing to the Purchasing Division with
CSR § 148-22-9 prior to contract award
vendors. Preference for a non-resident
shall be applied in accordance with W. V.

or. Any non-resident small, women-
as such in writing, must submit that
at be properly certified under W. Va.
preferences made available to resident
owned, or minority owned business
2-9.

17. WAIVER OF MINOR IRREGULARITIES
minor irregularities in bids or specifications
Rules § 148-1-4.6.

Director reserves the right to waive
in accordance with West Virginia Code of State

GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** The Award Document signed by the Purchasing Division Director, or his designee, approved as to form by the Attorney General's office constitutes acceptance of the contract made by and between the State of West Virginia and the Vendor. Vendor's bid 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, 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 any 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. "Contract" means the binding agreement entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.
 - 2.3. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.
 - 2.4. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.
 - 2.5. "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.
 - 2.6. "Solicitation" means the official announcement of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
 - 2.7. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
 - 2.8. "Vendor" or "Vendors" means the entity submitting a bid in response to the Solicitation, the entity that has been awarded the lowest responsible bidder, or the entity that has been awarded the contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

Term Contract

Initial Contract Term: This Contract becomes effective on UPON AWARD and extends for a period of ONE (1) year(s).

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 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. Renewal of this Contract is limited to three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 36 months in total. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

Fixed Period Contract: This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional _____ successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed _____ months in total. Automatic renewal of this Contract is prohibited.

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.

Other: See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.
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 are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.
- Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.
- Combined Service and Goods:** The scope of service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
- One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this contract without an appropriate change order approved by the Vendor, Agency Purchasing Division, and Attorney General's office.
6. **PRICING:** The pricing set forth herein shall remain in effect for the life of the Contract, unless specified elsewhere within this Solicitation/Contract. A Vendor's inclusion of price adjustment provisions in its bid, without the appropriate authorization from the State in the Solicitation to do so, may result in bid disqualification.
7. **EMERGENCY PURCHASES:** The Agency 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 goods or services. 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.
8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

BID BOND: All Vendors shall provide a bid bond in the amount of five percent (5%) of the total amount of the bid. The bid bond must be submitted with the bid to the State of West Virginia. The bid bond must be submitted with the bid.

PERFORMANCE BOND: The apparent successful Vendor shall provide a performance bond in the amount of _____ . The performance bond must be received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

LABOR/MATERIAL PAYMENT BOND: The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be received to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, or Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or letter of credit provided in lieu of a bond must be of the same amount as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects with a value of \$100,000. Personal or business checks are not acceptable.

MAINTENANCE BOND: The apparent successful Vendor shall provide a two (2) year maintenance bond covering the entire system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

INSURANCE: The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

Commercial General Liability Insurance: In the amount of _____ or more.

Builders Risk Insurance: In the amount equal to 100% of the amount of the Contract.

-
-
-
-
-

12. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Award Document, upon receipt.

13. 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.

14. PAYMENT: Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of the services. The Vendor shall submit invoices, in arrears.

15. TAXES: The Vendor shall pay any applicable use, personal property or any other taxes arising out of this Contract and those contemplated thereby. The State of West Virginia is exempt from federal and will not pay or reimburse such taxes.

16. CANCELLATION: The Purchasing Director reserves the right to cancel this Contract immediately upon written notice if the materials or workmanship supplied do not conform to the specifications set forth in the Contract. The Purchasing Division Director may also cancel any part of the Contract upon 30 days written notice to the Vendor in accordance with West Virginia State Rules § 148-1-7.16.2.

17. TIME: Time is of the essence with regard to matters of time and performance in this Contract.

18. 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, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

19. COMPLIANCE: Vendor shall comply with applicable federal, state, and local laws, regulations and ordinances. By submitting this bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations and ordinances.

20. PREVAILING WAGE: On any contract for the construction of a public improvement, Vendor and any subcontractors utilized shall pay a rate or rates of wages which shall not be less than the fair minimum rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor is responsible for ensuring compliance with

prevailing wage requirements and determinations when prevailing wage requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

21. 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.

22. 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). No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.

23. WAIVER: The failure of either party to insist upon 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.

24. 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.

25. 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. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.

26. 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.

27. 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.

28. BANKRUPTCY: In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

29. CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements set forth in <http://www.state.wv.us/admin/purchase/policy/default.html>.

30. DISCLOSURE: Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code §§ 29B-1-1 et seq. and the competitive bidding laws found West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. A legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Additionally, pricing or cost information will not be considered exempt from disclosure and requests to withhold publication of pricing or cost information WILL NOT BE HONORED.

Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

31. LICENSING: In accordance with West Virginia Code of State Rules §148-1-6.1.7, 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. 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.

32. **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.

33. **VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) 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; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall 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. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

34. **PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

35. **VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but

not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 36. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 37. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 39. 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.
- 40. 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.requisition@wv.gov.

41. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

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.

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

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

- d. 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.

43. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

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SPECIFICATIONS

1. PURPOSE AND SCOPE: The West Virginia Purchasing Division is soliciting bids on behalf of the Division of Rehabilitation Services, Disability Determination Section (DDS) to establish a contract for Tele-Transcription Services for Consultative Examination Sources. The DDS estimates the previous year's quantity to be 10 million lines.

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

2.1 "Contract Services" means the provision of Typed Consultative Examination (CE) reports and related services as more fully described in these specifications.

2.2 "Pricing Section" means the pages contained in the wvOASIS, upon which Vendor should list its proposed price for the Contract Services.

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

3. QUALIFICATIONS: Vendor, or Vendor's staff, whose requirements are inherently limited to individuals rather than corporate entities, shall have the following minimum qualifications:

3.1. Vendor must have a minimum 5 years' experience providing transcription services of the same or similar nature.

3.2. All transcriptionists must have a minimum 2 years' experience transcribing medical related reports.

4. MANDATORY REQUIREMENTS:

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

4.1.1 Typed Consultative Examination (CE) reports to be utilized in evaluating the severity of claims, to be provided at a per line rate, and meet the following requirements:

4.1.1.1 A line is defined as follows: The Microsoft Word total character count with spaces per document divided by 75

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will equal the billable lines for the document. Should the resulting billable line not be an even number, that number will be rounded up. For example, a document with 5,882 characters with spaces as determined by Microsoft Word software divided by 75 equals 78.42 lines which rounded up equals 79 billable lines for that document.

- 4.1.1.2** Vendor shall, at a minimum, provide invoices bi-monthly.
- 4.1.1.3** All transcription is to be performed in a safe secured site that ensures the confidentiality of all reports and can be monitored and/or audited by the vendor and/or the Disability Determination Section (DDS). All work pertaining to this contract must be performed in the vendor's facility under the direct supervision of the designated vendor at all times. Social Security Administration's regulations prohibit the subcontracting of the functions in this contract due to confidentiality of materials, information, and data, without prior written consent of the State Agency (DDS). The vendor must have a plan in place to safeguard confidentiality. No information obtained in connection with this contract will be transmitted electronically or by any other means, unless it is encrypted using the most secure systems (environment/software) available. All transcription is to be performed within the United States, District of Columbia, US Virgin Islands, Guam, Puerto Rico.
- 4.1.1.4** Vendor must provide accurate typed reports in a timely manner to both the appropriate DDS office and consultative exam source.
- 4.1.1.5** Vendor is required to contact, when necessary, the dictating source to inform them of lost dictation, and/or to clarify missing or incomplete information.
- 4.1.1.6** Vendor must have facsimile machine not to transcribe reports, but to send and receive communications from the DDS.
- 4.1.1.7** Vendor must electronically transmit or make available by a secured means, an original to the dictating physician for proofing. Mail backup should be available. The vendor will be responsible for postage costs and envelopes incurred in mailing the reports.
- 4.1.1.8** Reports must be submitted the day the report is transcribed. A copy of each transcribed report must be electronically transmitted to the DDS within twenty-four hours from the date the dictation was available to the vendor for typing.

**REQUEST FOR PROPOSAL ON
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- 4.1.1.9 Vendor must provide storage of the reports and any related documents for a minimum of 60 months from the date of completion.
 - 4.1.1.10 The vendor shall be responsible for all telephone charges connected to transcripts and consultative examinations to the DDS.
 - 4.1.1.11 The vendor shall be responsible for all charges for overnight mail in connection with the equipment malfunctions and a backup system. Vendor shall be responsible for all charges for equipment malfunctions and a backup system.
 - 4.1.1.12 Vendor must provide reports, upon request, to the DDS indicating the transcription received in the past 24 hours.
 - 4.1.1.13 Vendor shall ensure the confidentiality of transcribed reports as required by the Federal Privacy Act and the Freedom of Information Act.
 - 4.1.1.13.1 Vendor shall identify all employees who will perform this contract. All employees shall be required to sign a statement of confidentiality. (copy attached)
 - 4.1.1.13.2 The original copy of each signed statement must be submitted to the DDS two (2) weeks prior to the start of full implementation of service. During the life of the contract, whenever new or additional employees are hired, they shall sign a statement of confidentiality. The original copy sent to the DDS shall be retained until their beginning work on this contract.
 - 4.1.1.14 Neither the vendor nor any of the vendor's employees involved in processing reports shall disclose any information that identifies the claimant, physician, or facility without the written permission of the DDS. Such disclosures will subject the vendor to the penalties of the Federal Privacy Act. The vendor must also certify compliance with the Health Insurance Portability and Accountability Act (HIPAA) of 1996. Sensitive records shall be destroyed by burning, pulping, shredding, macerating, or other suitable similar means that ensures the information on the record is definitively destroyed. Definitively destroying the records means the material cannot be reassembled and used in an inappropriate manner in violation of law and regulation. Sensitive records are records that are national security classified or exempted from disclosure by statute, including the Privacy Act, or regulation. Electronic records must be

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- definitively destroyed in a similar manner that prevents reconstruction as if the original had been destroyed.
- 4.1.1.15 Vendor shall provide an efficient 800 telephone code access for dictators and consultants from any location in the United States without busy signals.**
- 4.1.1.15.1 The 800 telephone code access shall be available for 24 hours a day, seven days a week for the exclusive use of physicians, psychologists and other consultants that perform services for the DDS.**
- 4.1.1.15.2 The 800 telephone service lines must permit multiple dictators to access and dictate at the same time.**
- 4.1.1.15.3 The 800 telephone service lines and usage shall be provided at no cost to the DDS.**
- 4.1.1.15.4 System shall be able to play a recorded voice message to answer a toll free number that will assure the dictators they have reached the vendor's system.**
- 4.1.1.15.5 Voice dictation system must request specific information from the dictator to accurately complete the report, which can be promptly mailed or electronically provided and delivered to the correct dictator after transmission to the DDS. Both the dictator and the DDS shall receive a copy of the transcribed report.**
- 4.1.1.15.6 Dictation system must have voice activated stop/start, back capability, audible end-of-tape and automatic "hunt" system.**
- 4.1.1.15.7 Dictation system must have control features such as mute, stop, pause, listen, and operation shall be available to dictator.**
- 4.1.1.16 Vendor must design and provide a minimum of 500 brochures that clearly explain the features and use of the dictation system. The contents and composition shall be approved by the DDS prior to printing.**
- 4.1.1.16.1 DDS shall provide a list of names and addresses to the vendor for mailing the brochures to the consultants at the commencement of services. The brochures are to be delivered to the DDS upon full implementation of services within two weeks of contract**

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CRFQ_DRS150000000 - Transcription Services**

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- commenced. The DDS will provide updates on new contracts that will be utilizing the transcription service during the life of the contract.
- 4.1.1.16.2** The Budget shall be provided at no cost to the DDS. Additional no cost brochures may be requested during the life of the contract.
- 4.1.1.16.3** All postage shall be paid by the vendor for all brochures.
- 4.1.1.17** Vendor must establish and maintain a 24 hour, seven day a week toll free service number, in addition to the 800 dictation service number, to handle questions from dictating sources, and provide a contact person's name. This number is to be included in the brochure.
- 4.1.1.18** The Social Security Administration has established an electronic disability folder. The vendor must have the resources to meet these requirements to access the eData Web Site.
- 4.1.1.18.1** Must have access to an internet browser that supports 128 bit encryption.
- 4.1.1.18.2** Must provide the name, address, phone number, and SSN for individuals within an organization that will have access to the PIN and password.
- 4.1.1.18.3** Must provide the name, address, telephone number, address and SSN if you will use the web site as an individual.
- 4.1.1.18.4** Must maintain an electronic record of a transcription in one of the following electronic file formats: .jpg, .bmp, .txt, .xls, .html, .htm, .tif, and .zip.
- 4.1.1.18.5** Vendor must provide additional registration information if requirements change during the life of the contract.
- 4.1.1.18.6** The DDS reserves the right to audit access for individuals on a single PIN or password provided to an organization.
- 4.1.1.19** Work deemed unsatisfactory by the DDS, and proven to the DDS, will be done at one-half price. This includes transcription work that is not accomplished in a timely manner according to the terms below.
- 4.1.1.19.1** Vendor must have in place a quality assurance program to ensure accuracy of daily transcribed reports.

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4.1.1.19.2 Vendor shall have procedures so dictation is not lost or misheard. Vendor shall manage problems such as those with incomplete dictations, name, address, or claimant name, and with incomprehensible words, phrases, and problems are resolved as much as possible before transmission of complete reports. Vendor shall have procedures for handling dictations so that reports dictations are more sessions are connected and transmitted to DDS as a single report. Vendor shall have procedures to handle the following: dictator's speech is too fast, too slow, garbled or muffled; dictator has trouble hearing; dictator plays tape into telephone; CE sources may prefer to dictate to a telephone and forward these to the vendor.

4.1.1.19.3 Vendor performance will be considered satisfactory if at least 95% of dictated reports are typed and transmitted to DDS within 3 working days of dictation. Assessment will be done as the DDS monitors the location of reports and inquiries. These reports and inquiries will concern, but not be limited to, dictation, date typed, and transcription. Vendor shall maintain a high level of accuracy. There shall be no more than three typographical errors or misspelled words per report. Correction by erasure is not acceptable. DDS reserves the right to require, at no charge, the retyping or correction of reports with more than three typographical errors or misspelled words per report or complaints about the format from the dictator. Quality performance will be assessed by the DDS based on any and all and staff review of typed reports. Quality performance is satisfactory when at least 98% of the reports have no complaints from dictators or DDS staff that there were more than three (3) typing errors or misspelled words or that incorrect format is used. In the event that the performance

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standards for accuracy and quality are not met for a consecutive month, that month's performance shall be considered unsatisfactory. The DDS will consider a vendor of unsatisfactory performance shall be followed up by a written report summarizing the unsatisfactory performance. If performance is still unsatisfactory thirty (30) days following written notification to the vendor, a contract line item rate reduction of 1% will be implemented.

4.1.1.20 Reports must be typed using portrait letter size format. The top and side margins shall be no more than 1 inch. Reports must be double-spaced and contain the following:

4.1.1.20.1 Include dictator's name and address and exact page on the initial page of each report.

4.1.1.20.2 Include informant's name, Social Security number and appropriate page number at the top of each page.

4.1.1.20.3 Include signature on the final page of each report a signature line. The signature line will contain the dictator's name and title as provided by the dictator.

4.1.1.21 The vendor is responsible for safeguarding personally identifiable information (PII) and immediately reporting any loss to the appropriate State Agency (DDS) official. The vendor shall ensure that all employees report lost or possibly lost information immediately. The vendor shall gather the following information to report the loss of PII: Contact information of the person of loss (including time and location), what safeguards were used, which components (divisions or areas) were involved, whether external organizations were contacted, and whether other reports have been filed (e.g., law enforcement).

4.1.1.22 The DDS reserves the right to conduct periodic onsite visits/reviews to ensure compliance with contract specifications and standards. Furthermore, the DDS recommends that vendors have appropriate forms of suitability and security monitoring safeguards in place. Vendor positions must be designated at the proper risk/sensitivity level commensurate with the public trust or national security responsibilities and attributes of the position as they relate to the efficiency of the service. They

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should be ranked with the degree of potential adverse impact efficiency of service that an unsuitable person Suitability refers to whether the conduct of an may reasonably be expected to interfere with or tive performance in his/her position or prevent performance of the duties and responsibilities of the ing agency. Vendor must ensure that emp individuals in a sensitive or public trust posit ate. Documentation of the rationale underli nation decisions should be retained for pote poses.

5. CONTRACT AWARD:

5.1 Contract Award: The Contract to provide Agency with a purchase price for the Contract Ser contract shall be awarded to the Vendor that provides the Co es meeting the required specifications for the lowest overall bown on the Pricing Section.

5.2 Pricing Section: Vendor should co Pricing Section by providing the all-inclusive per line price. Ven complete the Pricing Section in full as failure to complete the Prici s entirety may result in Vendor's bid being disqualified.

Vendor should type or electronic information into the Pricing Section through wvOASIS, if avail electronic document.

6. PERFORMANCE: Vendor and Agency upon a schedule for performance of Contract Services and Contract Services unless such a schedule is already included herein by Agency. In the event contract is designated as an open-end contract, Vendor shall perform in accord e release orders that may be issued against this Contract.

7. PAYMENT: Agency shall pay the per bown on the Pricing Section, for all Contract Services performed and accepted ntract. Vendor shall accept payment in accordance with the payment procedure f West Virginia.

8. TRAVEL: Vendor shall be responsible ge and travel costs, including travel time, associated with performance of this y anticipated mileage or travel costs may be included in the flat fee or hourly Vendor's bid, but such costs will not be paid by the Agency separately.

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9. FACILITIES ACCESS: Performance services may require access cards and/or keys to gain entrance to Agency facilities. In the event that access cards and/or keys are required:

- 9.1. Vendor must identify principal service personnel to which will be issued access cards and/or keys to perform services.
- 9.2. Vendor will be responsible for the cards and keys and will pay replacement fee, if the cards or keys are lost or stolen.
- 9.3. Vendor shall notify Agency immediately if a card, key, or missing card or key.
- 9.4. Anyone performing under this Contract shall be subject to Agency's security protocol and procedures.
- 9.5. Vendor shall inform all staff of Agency of the security protocol and procedures.

10. VENDOR DEFAULT:

- 10.1. The following shall be considered a default under this Contract.
 - 10.1.1. Failure to perform Contract services in accordance with the requirements contained herein.
 - 10.1.2. Failure to comply with the conditions and requirements contained herein.
 - 10.1.3. Failure to comply with the laws, rules, and ordinances applicable to the Contract Services provided under this contract.
 - 10.1.4. Failure to remedy deficiencies upon request.
- 10.2. The following remedies shall be available to the Agency upon default.
 - 10.2.1. Immediate cancellation of the Contract.
 - 10.2.2. Immediate cancellation of the Contract and release orders issued under this Contract.
 - 10.2.3. Any other remedies available at law or equity.

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11. MISCELLANEOUS:

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

Contract Manager:	Subbard
Vendor's Address:	_____

Telephone Number:	_____
Fax Number:	_____
Email Address:	_____


CERTIFICATION OF AUTHORITY AND PRELIMINARY REVIEW PAGE

By signing below, or submitting documentation in support of this Solicitation in its entirety; understand the information contained herein; that I am submitting this proposal for consideration; that I am authorized by the company to submit this proposal, or any documents related thereto on behalf of the vendor in a contractual relationship; and that the vendor is properly registered with any State agency that requires such registration.

ASIS, I certify that I have reviewed the solicitation, terms and conditions, and other information contained herein; that I am submitting this offer or proposal for review and consideration; that I am authorized by the company to submit this bid, offer, or proposal on behalf of the vendor; that I am authorized to bind the vendor; and that, to the best of my knowledge, the vendor has completed all required registration.

Perry Johnson & Associates, Inc.

(Company)

 Jeffrey R. Hubbard, President
(Authorized Signature) (Representative Name)

(800) 803-8330 (248) 247-3485 03/05/2015
(Phone Number) (Fax Number) (Date)

ADDENDUM ACKNOWLEDGMENT FORM
SOLICITATION CRFQ_DRS1500000005

Instructions: Please acknowledge receipt of all addendums issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge receipt of any addendum 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 specifications, etc.

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

- Addendum No. 1
- Addendum No. 2
- Addendum No. 3
- Addendum No. 4
- Addendum No. 5
- Addendum No. 6
- Addendum No. 7
- Addendum No. 8
- Addendum No. 9
- Addendum No. 10

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

Perry Johnson & Associates, Inc.

Company


Authorized Signature

03/05/2015

Date

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

**WEST VIRGINIA DISABILITY DETERMINATION SERVICES
CONFIDENTIALITY AGREEMENT**

OVERVIEW

The purpose of the Confidentiality Agreement is to protect the Disability Determination Services (DDS) most protected asset - information. DDS and transmits a great deal of sensitive information. Accordingly, we have concerns about protecting the confidentiality and integrity of this information, in both its paper and electronic format.

The attached Confidentiality Agreement is intended to ensure that all persons with access to protected NPPI, PII, SPII, and PHI information and other information deemed confidential, fully understand their obligations to protect such information and to protect such information from disclosure. Specific provisions, as well as definitions, are highlighted below. If you have any questions about the agreement or fail to understand the contents, please contact personnel for further information.

Special attention items:

- Use of protected NPPI, PII, SPII, and PHI information and confidential information is permitted only when necessary to perform a job or need to know such information;
- Disclosure of protected NPPI, PII, SPII, and PHI information or confidential information is only permitted by written authorization and procedures, as may be amended from time to time; and
- Protected NPPI, PII, SPII, and PHI information and confidential information is protected in all forms, electronic and paper.

DEFINITIONS

Disclosure - The release, transfer, provision of, or divulging in any other manner of information outside the entity holding the information.

Need-to-know - The necessity for access to, or possession of, specific information required to carry out official duties.

Protected Health Information (PHI) - With respect to covered entities, individually identifiable health information, including demographic information, whether oral or recorded in any form or medium, that relates to the individual's past, present, or future care services and supplies, or

**WEST VIRGINIA DISABILITY AND REHABILITATION SERVICES
CONFIDENTIAL AGREEMENT**

payment for services or supplies, and which identifies an individual or could reasonably be used to identify the individual. This includes information relating to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual including but not limited to preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care as well as counseling, assessment, or procedure with respect to the physical or mental condition, or function of an individual or that affects the structure or function of the body; or the past, present, or future payment for the provision of health care to an individual; and includes identifying information such as social security number or driver's license number, even if the name is not included, that the health information is linked to the individual. Protected health information includes the following:

1. Records covered by the Family Educational Rights and Privacy Act.
2. Employment records held by the entity in which use and dissemination of these records may be subject to federal and state laws such as the Family and Medical Leave Act and those of West Virginia Workers' Compensation).

Personally Identifiable Information (PII) - All information that identifies, or can be used to identify, locate, or contact (or impersonate) a particular individual. Personally identifiable information is contained in public and non-public records. Examples may include but are not limited to a specific individual's: first name (or initials); last name (current or former); geographical address, electronic address (including e-mail address); telephone number or fax number dedicated to contacting the individual at a specific place of residence; social security number; credit and debit card account numbers; financial records, including loan accounts and payment history; consumer report information; maiden name; biometric identifiers, including but not limited to, fingerprints; facial recognition and iris scans; driver identification number; full face image; birth date; birth adoption certificate number; physical description; genetic information; medical, disability or employment records, including salary information; computer information, including information collected through an internet cookie; criminal history, etc. When connected with one or more of the items of information specified above, personally identifiable information includes any other information concerning an individual that, if disclosed, identifies or can be used to identify a specific individual physically or electronically.

Sensitive Personally Identifiable Information (SPII) - Elements of PII that must receive heightened protection due to legal or policy requirements.

Sensitive PII includes:

- i) Most data elements in State personnel files
- ii) Occupational licensing data

**WEST VIRGINIA DISABILITY DETERMINATION SERVICES
CONFIDENTIAL AGREEMENT**

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- iii) Driver history records
- iv) State/Federal contacts data
- v) Employment and training programs
- vi) Permits data
- vii) Historical records repository data
- viii) Personnel data

Very Sensitive includes:

- i) Social Security numbers
- ii) Credit card numbers
- iii) Food assistance programs data
- iv) Criminal history data
- v) Comprehensive law enforcement
- vi) Foster care data
- vii) Health and Medical data
- viii) Welfare records/data
- ix) Domestic abuse data
- x) Driver license numbers
- xi) Individual financial account numbers

Extremely sensitive includes:

- i) State law enforcement investigative records
- ii) Communications systems
- iii) Child and Adult protective services client

Non-Public Personal Information (NPPI) - Any personally identifiable information collected about an individual, including but not limited to, social security numbers, credit card or bank account numbers, medical or educational records, information collected by a financial institution used in connection with providing a financial product or service, or other sensitive, confidential or protected data, unless that information is otherwise publicly available.



Initial

This agreement, including the attached over the course of the agreement entered into between the Disability Determination Services (DDS) and Perry Johnson & Associates, Inc. Director's Employee (hereinafter the User).

All of the Parties agree as follows:

**WEST VIRGINIA DISABILITY DETERMINATION SERVICES
CONFIDENTIALITY AGREEMENT**

It is understood between the Parties that during the term of the User's Employment, that the User will only collect such protected Non-Public Personal Information (NPPI), Personally Identifiable Information (PII), Sensitive Personally Identifiable Information (SPII), and Protected Health Information (PHI) or other confidential information in conformance with DDS policy, procedures and rules.

It is also understood between the Parties that during the term of the User's Employment, to the extent that the User has a need to know such information, the User may have access to protected NPPI, PII, SPII, and PHI or other information deemed confidential, in either paper, electronic or verbal form.

The User agrees not to disclose to anyone, directly or indirectly, any such NPPI, PII, SPII, and PHI or other confidential information, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to SSA policies, procedures, rules, or state or federal law. If information-specific releases, provisions, and restrictions do not exist, then User agrees to disclose confidential information only upon approval of the DDS Privacy Officer or counsel. All the above applies to the release of information in total or fragmented form. Further, the User agrees not to misuse any media, documents, forms or certificates in any manner which might compromise the confidentiality or security, or otherwise be illegal or against Authority's policies, procedures or rules, such as altering a record, using a certificate improperly, etc.

Any document, report, or other written information in whatever format, prepared by the User or information in whatever format that might be given to the User in the course of their Employment is the exclusive property of DDS and shall remain in the possession of DDS except as otherwise specifically permitted by DDS policies and procedures. The User understands that all access to information is subject to monitoring and audit.

The User understands that even when the User no longer has access to records of DDS, the User is still bound by this document and must continue to maintain the confidentiality of information to which access was previously given.

By signing below, the User understands and acknowledges reading and understanding the contents of this document and understands that any improper collection, use or disclosure of NPPI, PII, SPII, and PHI or other information deemed confidential may result in disciplinary action from the Contractor. In addition, DDS reserves the right to seek any remedy available by law or in equity for any violation of this agreement.

Contractor's Employee: _____

Date: 03/05/2015

WV STATE GOVERNMENT**HIPAA BUSINESS ASSOCIATE ADDENDUM**

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

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

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

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

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

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/purchasing/vrc/agencyvii.html>.
 - b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
 - c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
 - d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
 - e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 11th Congress (2009).

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

2. Permitted Uses and Disclosures.

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

3. Obligations of Associate.

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

f. Support of Individual Rights.

- i. Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:
 - the date of disclosure;
 - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
 - a brief description of the PHI disclosed; and
 - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

- g. Retention of PHI.** Notwithstanding Section 4.1 of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. Agent's, Subcontractor's Compliance.** The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- j. Federal and Agency Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- k. Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. The review may take up to ten (10) days.
- l. Notification of Breach.** During the term of this Addendum, the Associate shall notify the Agency and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by e-mail or web form upon the discovery of any Breach of unsecured PHI or within 24 hours by e-mail or web form of any suspected Security Incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency Procurement Officer at www.state.wv.us/admin/purchase/proc/agencyfil.htm and,

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

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

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

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

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

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

4. Addendum Administration.

- a. **Term.** This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate in behalf of the Agency that the Associate still maintains in any form and retaining copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents

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

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

5. General Provisions/Ownership of PHI.

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

AGREED:

Name of Agency: _____

Name of Associate: Perry Johnson & Associates, Inc.

Signature: _____

Signature: 


Title: _____

Title: President

Date: _____

Date: 03/05/2015

Form - WVBA-012004
Amended 06.26.2013

APPROVED AS TO FORM TMS 2/11/15
DATE 3/20/15 BY AD 11

Patrick Moroney
Attorney General

Appendix

(To be completed by the Agency's Procurement Office prior to the execution of the Addendum, and shall be made a part of the Addendum. Addendum may only be added by amending the Addendum, via Change Order.)

Name of Associate: _____

Name of Agency: _____

Describe the PHI (do not include any actual PHI. If none, please indicate the same.)

RFQ No. DRS1500000005

STATE OF VA
Purchasing

PURCHASING AFFIDAVIT

MANDATE: Under W. Va. Code §5A-3-10a, no contract of any kind may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor who is a debtor or whose contract with the vendor or prospective vendor is a debtor and: (1) the amount of the debt is greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor or a related party who is a debtor or whose contract with the vendor or prospective vendor is a debtor and: (1) the amount of the debt is greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where the debt is contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation, occupational safety and health fee or environmental fee or assessment and 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.

where the debt is contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation, occupational safety and health fee or environmental fee or assessment and 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.

DEFINITIONS:

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

any assessment, premium, penalty, fine, or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, penalty, license assessment, defaulted workers' compensation premium, penalty or other assessment or any of its political subdivisions, including any interest or due and required to be paid to the state or any of its political subdivisions accrued thereon.

"Employer default" means having an outstanding balance due to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code §38-2-1, or failure to fully meet its obligations under a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a payment plan or agreement with the Insurance Commissioner and remains in compliance with the obligations under the payment plan or agreement.

having an outstanding balance due to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code §38-2-1, or failure to fully meet its obligations under a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a payment plan or agreement with the Insurance Commissioner and remains in compliance with the obligations under the payment plan or agreement.

"Related party" means a party, whether an individual, partnership, association, limited liability company or any other form or business association or other entity, which is related to any vendor by blood, marriage, ownership or contract through which the party has a relationship 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 the performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

party, whether an individual, partnership, association, limited liability company or any other form or business association or other entity, which is related to any vendor by blood, marriage, ownership or contract through which the party has a relationship 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 the performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

AFFIRMATION: By signing this form, the vendor's authorized representative affirms and acknowledges under penalty of perjury that the vendor and any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

By signing this form, the vendor's authorized representative affirms and acknowledges under penalty of perjury that the vendor and any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: Perry Johnson & Associates, Inc.

Authorized Signature: 

Date: 03/05/2015

State of _____

County of _____, to-wit:

Taken, subscribed, and sworn to before me this _____ day of _____, 20____.

My Commission expires _____

AFFIX SEAL HERE

NO