



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

## Header

[List View](#)

### General Information [Contact](#) [Default Values](#) [Discount](#) [Document Information](#)

Procurement Folder: 170041

SO Doc Code: CRFQ

Procurement Type: Central Contract - Fixed Amt

SO Dept: 0210

Vendor ID: 000000219123 

SO Doc ID: ISC1600000005

Legal Name: POMEROY IT SOLUTIONS SALES CO


Published Date: 1/11/16

Alias/DBA:

Close Date: 1/19/16


Total Bid: \$662,416.00

Close Time: 13:30

Response Date: 01/19/2016 

Status: Closed

Response Time: 11:31

Solicitation Description: Addendum #2 - SAN Storage Systems (OT1699) 

Total of Header Attachments: 0

Total of All Attachments: 0



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

State of West Virginia  
Solicitation Response

Proc Folder : 170041

Solicitation Description : Addendum #2 - SAN Storage Systems (OT1699)

Proc Type : Central Contract - Fixed Amt

Date issued	Solicitation Closes	Solicitation No	Version
	2016-01-19 13:30:00	SR        0210   ESR01191600000003044	1

VENDOR
000000219123  POMEROY IT SOLUTIONS SALES CO

FOR INFORMATION CONTACT THE BUYER  Stephanie L Gale (304) 558-7023 stephanie.l.gale@wv.gov
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Signature X	FEIN #	DATE
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All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	SAN Storage Solutions	2.00000	EA	\$247,170.000000	\$494,340.00

Comm Code	Manufacturer	Specification	Model #
43210000			

Extended Description :	SAN Storage Solutions
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	Initial Year Maintenance and Support				\$42,019.00

Comm Code	Manufacturer	Specification	Model #
81112201			

Extended Description :	Initial Year Maintenance and Support
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	Optional Year 2 Maintenance and Support				\$42,019.00

Comm Code	Manufacturer	Specification	Model #
81112201			

Extended Description :	Optional Year 2 Maintenance and Support
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	Optional Year 3 Maintenance and Support				\$42,019.00

Comm Code	Manufacturer	Specification	Model #
81112201			

Extended Description :	Optional Year 3 Maintenance and Support
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Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	Optional Year 4 Maintenance and Support				\$42,019.00

Comm Code	Manufacturer	Specification	Model #
81112201			

Extended Description :	Optional Year 4 Maintenance and Support

500 Westmoreland Office Park  
Dunbar, WV 25064  
P: 304-746-4434  
F: 800-650-1703

RFQ: SAN Storage Systems (OT1699)

January 18, 2016

Ms. Gale,

Thank you for the opportunity to bid on your RFQ – SAN Storage Systems (OT1699). Below you will find a brief overview of our Organization as well as SolidFire.

"Infrastructure. Optimized." — it's not a destination, but a journey. At Pomeroy, we take a fully-integrated view of infrastructure management. From the desktop to the data center, Pomeroy employs proven ITIL best practices to guide your IT infrastructure along a course of continual improvement. It's a unique approach that allows you to accelerate and sustain the return on your technology investments, year after year.

Whether you seek Managed Services, Professional Services, Staffing Services or Procurement and Logistics Services, Pomeroy's 30 years of real-world experience, our highly experienced and certified professionals and our proven Optimized Infrastructure<sup>SM</sup> framework will guide you along the path to optimization. Our unique approach allows you to accelerate and sustain the return on your technology investments, year after year.

Headquartered in the Cincinnati, Ohio area and a local office in Dunbar, WV, Pomeroy serves our clients globally through our certified delivery centers, as well as through our partnerships with industry-recognized product manufacturing partners and service delivery alliances.

Pomeroy has partnered with SolidFire for this RFQ. SolidFire storage systems are built on the native ability to achieve significant scale, guarantee storage performance, and enable complete system automation. Combined with enterprise applications and deeply integrated with key management frameworks, SolidFire delivers validated solutions that make your next generation data center deployment more cohesive, automated, and dynamically scalable.

Pertaining specifically to the RFQ – SAN Storage Solutions, Pomeroy and SolidFire has put together a solution that meets the requirements of this RFQ. Attached you will see supporting documentation.

Thank you again for your consideration for Pomeroy and SolidFire. We look forward to working with you!

Sincerely,



Summer Bailey  
Technology Solutions Executive  
summer.bailey@pomeroy.com  
P: 304-746-4434 ext. 5754

REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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**SOLIDFIRE (SF) INFO PROVIDED FOR EACH SUBSECTION.**

**1. GENERAL REQUIREMENTS:**

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

**3.1.1 Vendor must provide, install and configure two separate Storage Area Network (SAN) systems (hardware and software) and related controllers, within 60 days of notice to proceed, each with the following specifications.**

**3.1.1.1 SAN systems must have a minimum of twenty-four (24) terabytes of usable storage before compression and deduplication. (SF) Exceed. Six 9605 nodes provide 24.1TB usable storage before compression and deduplication.**

**3.1.1.2 SAN system must be compatible and interoperable with the following systems and applications:**

**3.1.1.2.1 Cisco Unified Computing System (UCS), comprised of: Cisco B200 M3 Blade Center, Cisco C220 M3, C240 M3, and C240 M4 Servers, Cisco 6248UP Fiber Interconnect Switch. (SF) Meet.**

**3.1.1.2.2 Cisco Unified Communications Manager (CUCM) Version 10.x. (SF) Meet.**

**3.1.1.2.3 Cisco Unity Connection (CUC) Version 10.x. (SF) Meet.**

**3.1.1.2.4 Cisco Unified Contact Center Express (UCCX) – Enhanced and Premium Version 10.x. (SF) Meet.**

**3.1.1.2.5 Cisco Integrated Management Controller (CIMC). (SF) Meet.**

**3.1.1.2.6 Cisco Unified IM Presence (CUP) Version 10.x. (SF) Meet.**

**3.1.1.2.7 Cisco Prime Collaboration Deployment (PCD) Version 10.x. (SF) Meet.**

**3.1.1.2.8 Cisco Prime Collaboration Provisioning (PCP) Version 10.x. (SF) Meet.**



REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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- 3.1.1.2.9 Cisco Prime Collaboration Assurance (PCA) Version 10.x. **(SF) Meet.**
- 3.1.1.2.10 Cisco Expressway Version 8.x. **(SF) Meet.**
- 3.1.1.2.11 Cisco Jabber. **(SF) Meet.**
- 3.1.1.2.12 VMware ESXi 5 Enterprise (Version 5.5 U3). **(SF) Meet.**
- 3.1.1.2.13 VMware vCenter Version 5. **(SF) Meet.**
- 3.1.1.2.14 Singlewire Software InformaCast IP Paging Version 11.x. **(SF) Meet.**
- 3.1.1.2.15 Bridge Communication – Bridge Operator Console Version 3.x. **(SF) Meet.**
- 3.1.1.3 Must provide all software and licenses for system management, data backup (including VMs, managed by VMware vCenter) and replication between systems. **(SF) Meet. SolidFire solution comes with all features and capabilities included. There are no separate licenses, fees, or add-on hardware/software products. SolidFire solution includes capability to do snapshots, clones, async or sync replication, backups to other SolidFire clusters or to external (on-prem or cloud based) object stores via the S3 or SWIFT standard interfaces.**
- 3.1.1.4 Must support data compression, deduplication and thin provisioning. **(SF) Meet. SolidFire solution provides always-on inline data compression, deduplication, and thin provisioning.**
- 3.1.1.5 Systems must be capable of being expanded (scale out) non-disruptively, up to 100 Terabytes (TB) of total uncompressed storage. Performance and capacity shall scale together. **(SF) Meet. SolidFire solution allows the storage to scale capacity to 430TB of usable space (before deduplication and compression). The storage cluster can be scaled out with a mixture of node types of different capacity and performance, which provides a granular ability to grow capacity and performance without any data migrations. The cluster can also scale back non-disruptively. All firmware and software upgrades/downgrades are also done non-disruptively and without any data migrations.**
- 3.1.1.6 Must meet the following latency storage performance at all times: **(SF) Meet. SolidFire solution provides Quality of Service settings for each individual volume, which can be used to control latency. The QoS settings can be dynamically adjusted for any volume via the SolidFire GUI, REST based API,**



REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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**VMware Vcenter Plugin, Microsoft PowerShell, OpenStack, or CloudStack.**

**3.1.1.6.1** Host-level kernel disk command latency <4 ms (no spikes above). **(SF) Meet.**

and

**3.1.1.6.2** Physical device command latency <20 ms (no spikes above). **(SF) Meet.**

**3.1.1.7** Must have the ability to enable or disable compression on a per-LUN basis. **(SF) Meet. SolidFire solution does line-rate in-line compression for all data coming to the storage system. There is NO negative performance impact for compression. In fact, compression accelerates the write/read performance to/from the SolidFire cluster.**

**3.1.1.8** Systems must support asynchronous replication across WAN links. **(SF) Meet. SolidFire solution supports asynchronous or synchronous replication on a per volume basis. The direction of replication is also on a per volume basis. SolidFire also supports one-to-many replication.**

**3.1.1.9** Must have the ability to replace individual drives & power supplies while the system is in production without impacting operation. **(SF) Meet. SolidFire solution also supports replacing individual storage nodes without impacting operation.**

**3.1.1.10** The storage array shall have no single point of failure. **(SF) Meet.**

**3.1.1.11** The storage solution must be an all flash array. **(SF) Meet.**

**3.1.1.12** Each system must provide a minimum of 4-ports of 8 Gigabit Fibre Channel (FC) connectivity and be upgradeable to 16 Gigabit FC. **(SF) Meet. Currently SolidFire provides 8 FC ports (that can operate at 8Gb or 16Gb ). The FC ports are part of two FC dedicated nodes, with each FC node having 4 FC ports.**

**3.1.1.13** Must provide 1 and 10 Gigabit Ethernet connectivity. **(SF) Meet. Each SolidFire storage node comes with two 1GbE ports, and two 10GbE ports for high availability, resilience, and network traffic load sharing.**

**3.1.1.14** The hardware must be listed on the VMware Hardware Compatibility List for SAN Storage (reference list at <http://www.vmware.com/go/hcl>). **(SF) Meet.**

REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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~~3.1.1.14~~3.1.1.15 Under the supervision of Agency personnel, vendor must install, configure and test functionality and compatibility with applications listed in 3.1.1.2.1 to 3.1.1.2.15. **(SF) Meet.**

**3.1.2 Hardware Maintenance and Support**

**3.1.2.1** Vendor must provide initial year maintenance service for two systems, 8x5xNBD support with the following features: **(SF) Meet.**

**3.1.2.1.1** 24-hours a day, 7 days a week access for telephone support for troubleshooting technical and configuration issues. **(SF) Meet.**

**3.1.2.1.2** Next-business-day (NBD) advance hardware replacement. Vendor must ship a replacement within the Next Business Day after failure to resolve technical issues using telephone support. Replacement part must be received between the hours of 8:00AM through 5:00PM Eastern Standard Time, Monday through Friday excluding State and Federal holidays and weekends. **(SF) Meet.**

**3.1.3** Vendor must include in their bid the cost of optional Annual renewals for hardware maintenance and support for years 2, 3, and 4. These optional Annual renewals, if desired by the agency, will be initiated by the Agency, agreed to by the Vendor and processed as a Change Order authorized by the West Virginia Purchasing Division. **(SF) Provided with the pricing document.**





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

State of West Virginia  
Request for Quotation

Proc Folder: 170041

Doc Description: Addendum #2 - SAN Storage Systems (OT1699)

Proc Type: Central Contract - Fixed Amt

Date Issued	Solicitation Closes	Solicitation No	Version
2016-01-11	2016-01-19 13:30:00	CRFQ 0210 ISC1600000005	3

**BID RECEIVING LOCATION**

BID CLERK

DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

2019 WASHINGTON ST E

CHARLESTON

WV 25305

US

**VENDOR**

Vendor Name, Address and Telephone Number:

Pomeroy

500 Westmoreland Office Park

Dunbar, WV 25064

**FOR INFORMATION CONTACT THE BUYER**

Stephanie L Gale

(304) 558-7023

stephanie.l.gale@wv.gov

Signature X

*Summer Bailey*

FEIN # 61-1352158

DATE January 18, 2016

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

**ADDITIONAL INFORMATION:**

Addendum #2 issued to:

1. Provide attachment for Addendum #1.

End of Addendum #2

INVOICE TO		SHIP TO	
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 US		WV OFFICE OF TECHNOLOGY BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	SAN Storage Solutions	2.00000	EA	\$247,170.00	\$494,340.00

Comm Code	Manufacturer	Specification	Model #
43210000	SolidFire	Meets all required specifications.	SF-9605

**Extended Description :**

SAN Storage Solutions

INVOICE TO		SHIP TO	
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 US		WV OFFICE OF TECHNOLOGY BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Initial Year Maintenance and Support	2	2	\$42,019.00	\$84,038.00

Comm Code	Manufacturer	Specification	Model #
81112201	SolidFire	Initial Year Maintenance & Support	

**Extended Description :**

Initial Year Maintenance and Support



INVOICE TO	SHIP TO
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 US	WV OFFICE OF TECHNOLOGY BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25304 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Optional Year 2 Maintenance and Support	2	2	\$42,019.00	\$84,038.00

Comm Code	Manufacturer	Specification	Model #
81112201	SolidFire	Optional Year 2 Maintenance & Suoport	

**Extended Description :**

Optional Year 2 Maintenance and Support

INVOICE TO	SHIP TO
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 US	WV OFFICE OF TECHNOLOGY BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25304 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Optional Year 3 Maintenance and Support	2	2	\$42,019.00	\$84,038.00

Comm Code	Manufacturer	Specification	Model #
81112201	SolidFire	Optional Year 3 Maintenance & Support	

**Extended Description :**

Optional Year 3 Maintenance and Support

INVOICE TO	SHIP TO
DEPARTMENT OF ADMINISTRATION OFFICE OF TECHNOLOGY 1900 KANAWHA BLVD E, BLDG 5 10TH FLOOR CHARLESTON WV25305 US	WV OFFICE OF TECHNOLOGY BLDG 5, 10TH FLOOR 1900 KANAWHA BLVD E CHARLESTON WV 25304 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Optional Year 4 Maintenance and Support	2	2	\$42,019.00	\$84,038.00

Comm Code	Manufacturer	Specification	Model #
81112201	SolidFire	Optional Year 4 Maintenance & Support	

**Extended Description :**

Optional Year 4 Maintenance and Support

**SCHEDULE OF EVENTS**

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Technical Questions Due	2015-12-30

<b>ISC1600000005</b>	<b>Document Phase</b> <b>Final</b>	<b>Document Description</b> Addendum #2 - SAN Storage Systems (OT1699)	<b>Page 5</b> <b>of 5</b>
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### **ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions



### ATTACHMENT A – Pricing Page

Commodity Line Number	Part Number	Description	Unit of Measure	Quantity	Unit Cost	Extended Cost
Commodity Line 1, Specification 3.1.1		SAN Storage Solutions- Charleston and Clarksburg	Each	2	247170.00	494,340.00
Commodity Line 2, Specification 3.1.2		Initial Year Maintenance & Support	Each	2	42019.00	84,038.00
Commodity Line 3, Specification 3.1.3		Year 2 Maintenance & Support	Each	2	42019.00	84,038.00
Commodity Line 4, Specification 3.1.3		Year 3 Maintenance & Support	Each	2	42019.00	84,038.00
Commodity Line 5, Specification 3.1.3		Year 4 Maintenance & Support	Each	2	42019.00	84,038.00
<b>Total Cost</b>						830,492.00

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: ISC1600000005**

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

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

**Addendum Numbers Received:**

(Check the box next to each addendum received)

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

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

Pomeroy  
Company  
Summer Bailey  
Authorized Signature  
1/18/2016  
Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.  
Revised 6/8/2012



**SOLICITATION NUMBER:** CRFQ ISC1600000005

**Addendum Number:** 1

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The purpose of this addendum is to modify the solicitation identified as ("Solicitation") to reflect the change(s) identified and described below.

**Applicable Addendum Category:**

- ☒ | Modify bid opening date and time
- ☐ | Modify specifications of product or service being sought
- ☒ | Attachment of vendor questions and responses
- ☐ | Attachment of pre-bid sign-in sheet
- ☐ | Correction of error
- ☐ | Other

**Description of Modification to Solicitation:**

Addendum #1 issued to:

1. Provide responses to technical questions.
2. To move the bid opening date to 1/19/2016 @ 1:30pm

End of Addendum #1

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

**Terms and Conditions:**

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

**Question 1**

**3.1.1.7 – Must have the ability to enable or disable compression on a per-LUN basis.**

Is this a requirement for systems that don't perform garbage collection at the storage processor level?

***WVOT Response 1: Yes, this is a requirement for all storage systems.***

**Question 2**

**3.1.1.12 – Each system must provide a minimum of 4-ports of 8 Gigabit Fibre Channel (FC) connectivity and be upgradeable to 16 Gigabit FC.**

Can the proposed solution have 16Gb FC in a future release if it isn't available today?

***WVOT Response: No.***

**Question 3**

**3.1.1.13 – Must provide 1 and 10 Gigabit Ethernet connectivity.**

Does Ethernet imply that the solution should support both file and block access?

***WVOT Response: Yes.***

**SOLICITATION NUMBER:** CRFQ ISC1600000005

**Addendum Number: 2**

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The purpose of this addendum is to modify the solicitation identified as ("Solicitation") to reflect the change(s) identified and described below.

**Applicable Addendum Category:**

- ☐ | Modify bid opening date and time
- ☐ | Modify specifications of product or service being sought
- ☐ | Attachment of vendor questions and responses
- ☐ | Attachment of pre-bid sign-in sheet
- ☐ | Correction of error
- ☒ | Other

**Description of Modification to Solicitation:**

Addendum #2 issued to:

1. Provide attachment for Addendum #1.

End of Addendum #2

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

**Terms and Conditions:**

1. All provisions of the Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Solicitation by completing an Addendum Acknowledgment, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.



REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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**SPECIFICATIONS**

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Office of Technology to establish a contract for the one time purchase of hardware, software, licensing, and support for a Storage Area Network (SAN) solution.

The WVOT is pursuing a contract to purchase a quantity of two (2) Storage Area Networks (SAN) systems that will fully integrate with an existing installed Cisco Unified Computing System (UCS) serving as a platform for Unified Communications applications. One system is located in Charleston, West Virginia, and the second system is located in Clarksburg, West Virginia. The two sites are interconnected by carrier provided Switched Ethernet. The vendor solution will provide all software and licensing to provide system management, replication between the two systems, and data backup and recovery. Vendor must provide engineering and installation support to guarantee operational functionality.

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

**2.1 "Contract Item"** means storage area network equipment as more fully described by these specifications.

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

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

**2.4 "SAN"** means Storage Area Network

**2.5 "TB"** means terabyte

**2.6 "GB"** means gigabyte

**2.7 "NBD"** means Next Business Day

**2.8 "VMS"** means Virtual Machines

REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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2.9 "LUN" means Logical Unit Number

2.10 "WAN" means Wide Area Network

2.11 "MS" means milliseconds

**3. GENERAL REQUIREMENTS:** *behind cover letter you will find responses to each general requirement.*

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

**3.1.1 Vendor must provide, install and configure two separate Storage Area Network (SAN) systems (hardware and software) and related controllers, within 60 days of notice to proceed, each with the following specifications.**

**3.1.1.1** SAN systems must have a minimum of twenty-four (24) terabytes of usable storage before compression and deduplication.

**3.1.1.2** SAN system must be compatible and interoperable with the following systems and applications:

**3.1.1.2.1** Cisco Unified Computing System (UCS), comprised of: Cisco B200 M3 Blade Center, Cisco C220 M3, C240 M3, and C240 M4 Servers, Cisco 6248UP Fiber Interconnect Switch

**3.1.1.2.2** Cisco Unified Communications Manager (CUCM) Version 10.x

**3.1.1.2.3** Cisco Unity Connection (CUC) Version 10.x

**3.1.1.2.4** Cisco Unified Contact Center Express (UCCX) – Enhanced and Premium Version 10.x

**3.1.1.2.5** Cisco Integrated Management Controller (CIMC)

**3.1.1.2.6** Cisco Unified IM Presence (CUP) Version 10.x

**3.1.1.2.7** Cisco Prime Collaboration Deployment (PCD) Version 10.x



REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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- 3.1.1.2.8 Cisco Prime Collaboration Provisioning (PCP) Version 10.x
- 3.1.1.2.9 Cisco Prime Collaboration Assurance (PCA) Version 10.x
- 3.1.1.2.10 Cisco Expressway Version 8.x
- 3.1.1.2.11 Cisco Jabber
- 3.1.1.2.12 VMware ESXi 5 Enterprise (Version 5.5 U3)
- 3.1.1.2.13 VMware vCenter Version 5
- 3.1.1.2.14 Singlewire Software InformaCast IP Paging Version 11.x
- 3.1.1.2.15 Bridge Communication – Bridge Operator Console Version 3.x
- 3.1.1.3 Must provide all software and licenses for system management, data backup (including VMs, managed by VMware vCenter) and replication between systems.
- 3.1.1.4 Must support data compression, deduplication and thin provisioning.
- 3.1.1.5 Systems must be capable of being expanded (scale out) non-disruptively, up to 100 Terabytes (TB) of total uncompressed storage. Performance and capacity shall scale together.
- 3.1.1.6 Must meet the following latency storage performance at all times:
  - 3.1.1.6.1 Host-level kernel disk command latency <4 ms (no spikes above) and
  - 3.1.1.6.2 Physical device command latency <20 ms (no spikes above)
- 3.1.1.7 Must have the ability to enable or disable compression on a per-LUN basis.
- 3.1.1.8 Systems must support asynchronous replication across WAN links.
- 3.1.1.9 Must have the ability to replace individual drives & power supplies while the system is in production without impacting operation.
- 3.1.1.10 The storage array shall have no single point of failure.
- 3.1.1.11 The storage solution must be an all flash array.
- 3.1.1.12 Each system must provide a minimum of 4-ports of 8 Gigabit Fibre Channel (FC) connectivity and be upgradeable to 16 Gigabit FC.
- 3.1.1.123.1.1.13 Must provide 1 and 10 Gigabit Ethernet connectivity.
- 3.1.1.133.1.1.14 The hardware must be listed on the VMware Hardware Compatibility List for SAN Storage (reference list at <http://www.vmware.com/go/hcl>).

REQUEST FOR QUOTATION  
CRFQ ISC1600000005 Storage Area Network Solution Hardware, Software, Maintenance

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~~3.1.1.14~~3.1.1.15 Under the supervision of Agency personnel, vendor must install, configure and test functionality and compatibility with applications listed in 3.1.1.2.1 to 3.1.1.2.15.

**3.1.2 Hardware Maintenance and Support**

**3.1.2.1** Vendor must provide initial year maintenance service for two systems, 8x5xNBD support with the following features:

**3.1.2.1.1** 24-hours a day, 7 days a week access for telephone support for troubleshooting technical and configuration issues.

**3.1.2.1.2** Next-business-day (NBD) advance hardware replacement. Vendor must ship a replacement within the Next Business Day after failure to resolve technical issues using telephone support. Replacement part must be received between the hours of 8:00AM through 5:00PM Eastern Standard Time, Monday through Friday excluding State and Federal holidays and weekends.

**3.1.3** Vendor must include in their bid the cost of optional Annual renewals for hardware maintenance and support for years 2, 3, and 4. These optional Annual renewals, if desired by the agency, will be initiated by the Agency, agreed to by the Vendor and processed as a Change Order authorized by the West Virginia Purchasing Division.

**3.1.4 Specification for System Acceptance**

**3.1.4.1** The agency will formally accept the systems after the hardware and software have been installed and confirmed to be working properly for 30 days without any issues. The Agency will issue a request for Change Order to the West Virginia Purchasing Division stating acceptance of the system, thereby beginning the Hardware Maintenance and Support warranty as specified in Section 3.1.2

**4. CONTRACT AWARD:**



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

**Contract will be evaluated on all lines but only awarded on initial year.**

Renewal options for years 2, 3, and 4, if desired by the agency, will be initiated by the Agency, agreed to by the Vendor and processed by the West Virginia Purchasing Division as Change Orders for subsequent years.

**4.2 Pricing Page:** Vendor should complete the Pricing Page by including the part number, quantity, unit cost, and extended cost in the areas provided. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Vendor will include the renewal cost of software and maintenance should the agency opt to renew for years 2, 3, and 4. Vendor should complete the Pricing Page in its' entirety as failure to do so may result in Vendor's bid being disqualified.

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

**4.3** Vendor should include a copy of Maintenance Terms and Conditions or Licenses that the State of West Virginia or the Agency will be required to agree or accept as a part of this solicitation. This information will be required before Purchase Order is issued.

**5. PAYMENT:**

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

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**6. DELIVERY AND RETURN:**

**6.1 Shipment and Delivery:** Vendor shall ship the Contract Items immediately after being awarded this Contract and receiving a purchase order. Vendor shall deliver the Contract Items within ten (10) working days after receiving a purchase order. Contract Items must be delivered to Agency at 1900 Kanawha Blvd E., Building 7 Loading Dock, Charleston, WV, 25305.

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

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

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

**6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

**6.5 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

**7 VENDOR DEFAULT:**

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



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

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

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

## **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 nonbinding.

Submitted e-mails should have solicitation number in the subject line.

Question Submission Deadline: 2:00pm December 30,2015

Submit Questions to: **Stephanie Gale**

2019 Washington Street, East

Charleston, WV 25305

Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)

Email: [stephanie.l.gale@wv.gov](mailto:stephanie.l.gale@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 or the bid 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 a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus \_\_\_\_\_ convenience copies of each to the Purchasing Division at the address shown above. Submission of a response to a request for proposal is not permitted in wvOASIS. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: (This only applies to CRFP)  
☐ 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 listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: 1:30pm January 14, 2016

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. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

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

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

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

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

**15. PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 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, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

**17. WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

**18. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in wvOASIS can be accessed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately opened and/or viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening if those documents are required with the bid.

**19. NON-RESPONSIBLE:** The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform, or lacks the integrity and reliability to assure good-faith performance.”

**20. ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b.”

**21. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor’s entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

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

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled “confidential,” “proprietary,” “trade secret,” “private,” or labeled with any other claim against public disclosure of the documents, to

include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.



## **GENERAL TERMS AND CONDITIONS:**

**1. CONTRACTUAL AGREEMENT:** Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its 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/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

**2.1. "Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

**2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.

**2.3. "Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

**2.4. "Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.

**2.5. "Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.

**2.6. "Award Document"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

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

**2.8. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

**2.9. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

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

☐ **Term Contract**

**Initial Contract Term:** This Contract becomes effective on \_\_\_\_\_ and extends for a period of \_\_\_\_\_ 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 \_\_\_\_\_ successive one (1) year 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. 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 \_\_\_\_\_ 60 (sixty) \_\_\_\_\_ 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 the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

**6. PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.

**7. EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

**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 furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting 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 delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and 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 irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule 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 under \$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 roofing 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 and shall list the state as a certificate holder:

☐ **Commercial General Liability Insurance:** In the amount of \_\_\_\_\_ or more.

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

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The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

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The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

**9. WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

**10. LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

**11. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount of

for \_\_\_\_\_.

This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.



**12. ACCEPTANCE:** Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

**13. 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 goods or services. The Vendor shall submit invoices, in arrears.

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

**16. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules §§ 148-1-6.1.e.

**17. TIME:** Time is of the essence with regard to all 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, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

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

**20. PREVAILING WAGE:** Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage requirements are applicable.

**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). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

**23. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

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

**30. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

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

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

**31. LICENSING:** In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. 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 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"). Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. 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.requisitions@wv.gov](mailto:purchasing.requisitions@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.

## CERTIFICATION AND SIGNATURE PAGE

By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Pomeroy  
(Company)

Summer Bailey / TSE  
(Authorized Signature) (Representative Name, Title)

304-746-4434 / 1-866-301-1761 / 01-17-2016  
(Phone Number) (Fax Number) (Date)



**AGREEMENT ADDENDUM**

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any provision requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** - Any provision for interest or charges on late payments is deleted. The Agency has no statutory authority to pay interest or late fees.
7. **NO WAIVER** - Any language in the agreement requiring the Agency to waive any rights, claims or defenses is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **FEES OR COSTS** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to purchase insurance for Vendor's property is deleted. The State of West Virginia is insured through the Board of Risk and Insurance Management, and will provide a certificate of property insurance upon request.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** - Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

ACCEPTED BY:

**STATE OF WEST VIRGINIA**

Spending Unit: \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**VENDOR**

Company Name: Pomeroy IT Solutions Sales Co.

Signed: Bill Pomeroy

Title: VP Title

Date: 1-19-2016



STATE OF WEST VIRGINIA  
Purchasing Division

## PURCHASING AFFIDAVIT

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount 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 a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

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

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor 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: Pomeroy IT Solutions Sales Co.

Authorized Signature: *Bill Pomeroy* Date: 1-19-2016

State of West Virginia

County of Kenawha, to-wit:

Taken, subscribed, and sworn to before me this 19th day of January, 2016.

My Commission expires Aug 22, 2016

**AFFIX SEAL HERE**

**NOTARY PUBLIC**

*Judith A. Snodgrass*  
Purchasing Affidavit (Revised 07/01/2012)

