



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

State of West Virginia
Request for Quotation
21 - Info Technology

Proc Folder: 216305

Doc Description: GP "Or Equal" Reseller and Maintenance Services

Proc Type: Central Contract - Fixed Amt

Date Issued	Solicitation Closes	Solicitation No	Version
2016-07-01	2016-07-28 13:30:00	CRFQ 0225 PEI1600000009	1

BID RECEIVING LOCATION

BID CLERK

DEPARTMENT OF ADMINISTRATION

PURCHASING DIVISION

2019 WASHINGTON ST E

CHARLESTON

WV 25305

US

Vendor Name, Address and Telephone Number:

Rand Group Solutions, dba The Rand Group LLC
6575 West Loop South #700
Bellaire, Texas 77401
713-850-0747

07/28/16 09:38:12
WV Purchasing Division

FOR INFORMATION CONTACT THE BUYER

Linda Harper
(304) 558-0468
linda.b.harper@wv.gov

Signature X

FEIN #

05-0569984

DATE

7/27/16

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

ADDITIONAL INFORMATION

The West Virginia Purchasing Division for the Agency, Public Employees Insurance Agency (PEIA) is soliciting bids from qualified vendors to establish a "One-Time" contract for Microsoft Dynamics Great Plains "or equal" Software Reseller and Maintenance Services per the Specifications, Terms & Conditions and bid requirements as attached.

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Microsoft GP Version 13 "or equal" (Year One)	1.00000	MO		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Microsoft GP Version 13 "or equal" (Year One License Fee to include penalty cost for lapsed license)

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Microsoft GP Version 13 "or equal" Optional Year 2 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Microsoft GP Version 13 "or equal" Optional Year Two Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Microsoft GP Version 13 "or equal" Optional Year 3 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Microsoft GP Version 13 "or equal" Optional Year Three Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Microsoft GP Version 13 "or equal" Optional Year 4 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Microsoft GP Version 13 "or equal" Optional Year Four Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	eOne License (Year One renewal plus penalties)	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

eOne License (Year One renewal plus penalties)

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	eOne License "or equal" Optional Year 2 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

eOne License "or equal" Optional Year 2 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	eOne License "or equal" Optional Year 3 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

eOne License "or equal" Optional Year 3 Renewal

VOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	eOne License "or equal" Optional Year 4 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

eOne License "or equal" Optional Year 4 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	Professional Advantage "or equal" (Year One)	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Professional Advantage "or equal"(Year One)

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	Professional Advantage "or equal" Optional Year 2 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Professional Advantage "or equal" Optional Year 2 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	Professional Advantage "or equal" Optional Year 3 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Professional Advantage "or equal" Optional Year 3 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	Professional Advantage "or equal" Optional Year 4 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Professional Advantage "or equal" Optional Year 4 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
13	Merit Solutions "or equal" (Year One)	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Merit Solutions "or equal" (Year One)

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
14	Merit Solutions "or equal" Optional Year 2 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Merit Solutions "or equal" Optional Year 2 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
15	Merit Solutions "or equal" Optional Year 3 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Merit Solutions "or equal" Optional Year 3 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
16	Merit Solutions "or equal" Optional Year 4 Renewal	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Merit Solutions "or equal" Optional Year 4 Renewal

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
17	eOne "or equal" Prorated Fee (2017)	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

eOne "or equal" Prorated License Fee to bring date in line with GP "or equal" license date

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
18	Professional Advantage "or equal" Prorated Fee (2017)	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Professional Advantage "or equal" 2017 prorated license fee to bring days in line with GP "or equal" license date

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
19	Merit Solutions Prorated Fee (2017)	1.00000	EA		

Comm Code	Manufacturer	Specification	Model #
43231512			

Extended Description :

Merit Solutions "or equal" Prorated license fee to bring date in line with GP "or equal" license date

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
20	Software Maintenance and Support Services (Year One)				

Comm Code	Manufacturer	Specification	Model #
81110000			

Extended Description :

Software Maintenance and Support Services (Year One)

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
21	Software Maintenance and Support Services (Year Two)				

Comm Code	Manufacturer	Specification	Model #
81110000			

Extended Description :

Software Maintenance and Support Services Optional Renewal Year 2

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
22	Software Maintenance and Support Services (Year Three)				

Comm Code	Manufacturer	Specification	Model #
81110000			

Extended Description :

Software Maintenance and Support Services Optional Renewal Year 3

INVOICE TO		SHIP TO	
PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST SE CHARLESTON WV25304 US		PUBLIC EMPLOYEES INSURANCE STE 2 601 57TH ST, SE CHARLESTON WV 25304 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
23	Software Maintenance and Support Services (Year Four)				

Comm Code	Manufacturer	Specification	Model #
81110000			

Extended Description :

Software Maintenance and Support Services Optional Renewal Year 4

SCHEDULE OF EVENTS

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Question Deadline 3:00 PM	2016-07-08

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Erika Azure, Manager
(Name, Title)

(Printed Name and Title)

6575 West Loop South, Ste 200, Bellaire, TX, 77401
(Address)

713-850-0747 / 713-335-8777
(Phone Number) / (Fax Number)

erika.azure@randgroup.com
(email address)

CERTIFICATION AND SIGNATURE: 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.

Rand Group Solutions, LLC dba Rand Group
(Company)

 CFO
(Authorized Signature) (Representative Name, Title)

Tamara Tapp CFO
(Printed Name and Title of Authorized Representative)

7/27/16
(Date)

713-850-0747 / 713-335-8777
(Phone Number) (Fax Number)

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: July 14, 2016 3:00 p.m.

Submit Questions to: Linda Harper, Senior Buyer
2019 Washington Street, East
Charleston, WV 25305

Fax: (304) 558-4115 (Vendors should not use this fax number for bid submission)
Email: Linda.B.Harper@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: GP OR EQUAL RESELLER AND MAINTENANCE SERVICES
BUYER: LINDA HARPER
SOLICITATION NO.: CRFQ PEI1600000009
BID OPENING DATE: JULY 28, 2016
BID OPENING TIME: 1:30 P.M.
FAX NUMBER:

The Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. Submission of a response to an Expression of Interest or Request for Proposal is not permitted in wvOASIS.

For Request For Proposal ("RFP") Responses Only: 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 N/A convenience copies of each to the Purchasing Division at the address shown above. 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: JULY 28, 2016, 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. 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 Thirty (30) days.

Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional Three (3) successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed Thirty-six (36) 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. 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 of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid 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.

8. 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.

9. 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.

10. 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.

- 11. 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.
- 12. 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.
- 13. 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.
- 14. 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.
- 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. ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.
- 17. 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.
- 18. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

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

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

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

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 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.

32. 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.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR 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.

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.

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 heath, 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.

Exhibit A - Pricing Page

The cost shall include all project costs including travel, meals, etc. The bidder shall submit the cost proposal in the following format:

Specification Item Reference	Item	Qty	Unit Cost	Extended Cost
4.1.2.1	Microsoft GP Version 13 *or equal (Year One License Fee to include penalty cost for lapsed license)	1	\$25,324.12	\$25,324.12
4.1.2.1	Microsoft GP Version 13 *or equal – Optional Year Two Renewal	1	\$15,132.80	\$15,132.80
4.1.2.1	Microsoft GP Version 13 *or equal – Optional Year Three Renewal	1	\$15,132.80	\$15,132.80
4.1.2.1	Microsoft GP Version 13 *or equal – Optional Year Four Renewal	1	\$15,132.80	\$15,132.80
4.1.2.2	eOne *or equal (Year One License Fee to include penalty cost for lapsed license)	1	\$1,001.01	\$1,001.01
4.1.2.2	eOne *or equal – Optional Year Two Renewal Fee	1	\$770.00	\$770.00
4.1.2.2	eOne *or equal – Optional Year Three Renewal Fee	1	\$770.00	\$770.00
4.1.2.2	eOne*or equal – Optional Year Four Renewal Fee	1	\$770.00	\$770.00
4.1.2.2	eOne *or equal – 2017 prorated license fee to bring date in line with GP license date	1	\$435.51	\$435.51
4.1.2.3	Professional Advantage *or equal (one year license renewal)	1	\$2,095.00	\$2,095.00
4.1.2.3	Professional Advantage *or equal - Optional Year Two Renewal	1	\$1,280.00	\$1,280.00
4.1.2.3	Professional Advantage *or equal - Optional Year Three Renewal	1	\$1,280.00	\$1,280.00
4.1.2.3	Professional Advantage *or equal - Optional Year Four Renewal	1	\$1,280.00	\$1,280.00
4.1.2.3	Professional Advantage *or equal - 2017 prorated license fee to bring date in line with GP license date	1	\$376.05	\$376.05
4.1.2.4	Merit Solutions *or equal (one year license renewal)	1	\$1,224.43	\$1,224.43
4.1.2.4	Merit Solutions *or equal - Optional Year Two Renewal Fee	1	\$1,100.00	\$1,100.00
4.1.2.4	Merit Solutions *or equal - Optional Year Three Renewal Fee	1	\$1,100.00	\$1,100.00
4.1.2.4	Merit Solutions *or equal - Optional Year Four Renewal Fee	1	\$1,100.00	\$1,100.00
4.1.2.4	Merit Solutions *or equal - 2017 prorated license fee to bring date in line with GP license date	1	\$622.13	\$622.13
4.1.3-4.1.4	Software Maintenance and Support Services Year 1	1	\$30,000.00	\$30,000.00
4.1.3-4.1.4	Software Maintenance and Support Services Optional Renewal Year 2	1	\$30,000.00	\$30,000.00
4.1.3-4.1.4	Software Maintenance and Support Services Optional Renewal Year 3	1	\$30,000.00	\$30,000.00
4.1.3-4.1.4	Software Maintenance and Support Services Optional Renewal Year 4	1	\$30,000.00	\$30,000.00
TOTAL COST				\$205,926.65

Request for Quotation Response

State of West Virginia

CRFQ 0225 PEI600000009

Bid Clerk
Department of Administration
Purchasing Division
2019 Washington St E
Charleston, WV 25305-0130

Attn: Linda Harper
Bid Opening Date – July 28, 2016 11:30PM

Exceptions & Clarifications

- All enhancement plan pricing quoted is a pass through from the company licensing the software. Because all recent plans have expired, each software licensing companies, will require a penalty payment in order to reinstate the plans. Therefore, 1st year pricing includes these penalties. All first year pricing is valid if the proposal is accepted and paid before August 31, 2016. Any delay will require increased penalty payments to the software licensing companies.
- If proposal is accepted, we will require a Master Professional Services Agreement (MPSA) and a Support Agreement to be executed. Both are included in the bid package.
- If proposal is accepted, we will require year one of each enhancement plan and the Support Agreement (including penalties) to be paid upfront at the execution of the contract.

Item	Qty	Unit Cost
Microsoft GP Version 13 *or equal (Year One License Fee to include penalty cost for lapsed license)	1	\$25,324.12
eOne *or equal (Year One License Fee to include penalty cost for lapsed license)	1	\$1,001.01
eOne *or equal – 2017 prorated license fee to bring date in line with GP license date	1	\$435.51

Professional Advantage *or equal (one year license renewal)	1	\$2,095.00
Professional Advantage *or equal - 2017 prorated license fee to bring date in line with GP license date	1	\$376.05
Merit Solutions *or equal (one year license renewal)	1	\$1,224.43
Merit Solutions *or equal - 2017 prorated license fee to bring date in line with GP license date	1	\$622.13
Software Maintenance and Support Services Year 1	1	\$30,000.00
Total Year 1		\$61,078.25

- The following years to be paid prior to the annual renewal dates, or be subject to additional penalties.





MASTER PROFESSIONAL SERVICES AGREEMENT

This MASTER PROFESSIONAL SERVICES AGREEMENT (the "**Master Agreement**") is entered into by and between THE RAND GROUP, LLC ("**RAND GROUP**", "**WE**" OR "**OUR**") and State of West Virginia ("**CLIENT**" or "**YOU**") to be effective as of:

July 28, 2016
(Date)

The parties agree that this Master Agreement governs the provision of any goods and services by Rand Group and you during the Term (as defined below). Such goods and services may also be governed by one or more Engagement Letters of Understanding executed by the parties; in such event, the terms of this Master Agreement shall take precedence over any conflicting terms of any such Engagement Letters of Understanding. The parties agree that no other terms apply to such provision of goods and services by Rand Group to you.

APPROVED:

By signing below, each party acknowledges that it has read and understood the terms of this Master Agreement and agrees to be bound by these terms.

STATE OF WEST VIRGINIA

By: _____

Date: _____

Title: _____

THE RAND GROUP, LLC

By: [Signature]

Date: July 27, 2016

Title: CFO

1. Services and use. We agree to provide consulting and other services to CLIENT (referred to collectively and individually herein, as the context requires, as “services”) under the terms and conditions of this Master Agreement and any applicable Engagement Letters of Understanding. The precise scope of the services will be specified in the Engagement Letters of Understanding, which will become effective on the dates set forth therein. This Master Agreement does not obligate either party to enter into any Engagement Letters of Understanding.

2. Fees. In consideration of the services, you agree to pay us (or our designees) those fees described in each Engagement Letter of Understanding, plus any applicable taxes. The fees do not include fees for goods provided by us, which will be invoiced separately and for which you agree to pay as set forth herein, along with any applicable taxes. You agree to pay all invoices for services and/or goods without deduction or setoff.

Any services rendered or travel time incurred in the absence of an Engagement Letter of Understanding or outside the scope of an existing Engagement Letter of Understanding will be billed at the time services are rendered, and you agree to pay us for such services. You agree to reimburse any expenses reasonably incurred by Rand Group in connection with the provision of the services, such as travel and lodging, which we will invoice without markup. You agree to pay within 15 calendar days of the date of receipt of our invoice.

If any amount contained in an undisputed invoice is not paid within thirty (30) days after it becomes due, you agree to pay interest on the outstanding balance for the period from its due date until it is paid in full. That interest shall be calculated at a rate equal to 10% per annum (or the maximum rate permitted by applicable law, if lower), and shall be payable on demand. In addition, In the event you fail to pay any of our invoices in full when due, you agree to be liable for all resulting costs incurred by us in collecting such amounts, including reasonable attorneys’ fees.

3. Warranties. We warrant that all services will be performed in a good and workmanlike manner and that any goods delivered by us shall not infringe upon the intellectual property rights of any third parties. In the event of a breach of the foregoing services warranty, as our sole liability and your sole remedy, we agree to re-perform the defective services at our sole cost. In the event of a breach of the foregoing goods warranty, as our sole liability and your sole remedy, we agree to replace the infringing goods with reasonably equivalent non-infringing goods (if

available), or refund any amounts paid by you with respect to such goods, at your request. Notwithstanding the foregoing, however, (a) if you request us to create a bug fix for any third party software and we comply with your request, you agree that we are not liable for any losses or damages arising out of our performing such service, and that we do not warrant such service in any way; and (b) if you request that we escalate an issue with a third party software to the support team for such software, and we receive instructions from that support team to take certain actions that they believe will resolve such issue, you agree that (i) we are not liable for any losses or damages arising out of our taking such actions at your direction, and we do not warrant such resolution or such actions in any way; and (ii) if we take such actions at your direction, and the issue is not resolved, and then we later devise and implement (at your request) our own proposed resolution of the issue/bug fix, we are not liable for any losses or damages arising out of such implementation, we do not warrant such resolution or such implementation in any way, and you agree to pay us in full both for services performed relating to the actions taken at the instruction of the third party software support team and for services performed relating to the actions taken with respect to our own proposed resolution.

For the avoidance of doubt, the parties agree that we have no obligation to create bug fixes for any third-party software, and may decline any request to do so.

4. No other warranties. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 3, WE MAKE NO REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, OR ARISING IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OR CONDITION OF MERCHANTABLE QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, INFRINGEMENT OR OTHERWISE WITH RESPECT TO ANY SERVICES AND GOODS. CLIENT ACKNOWLEDGES THAT IT HAS OR WILL HAVE INDEPENDENTLY DETERMINED THAT ALL GOODS MEET ITS BUSINESS REQUIREMENTS AND THAT IT HAS NOT RELIED ON ANY REPRESENTATION BY US AS TO THE SUITABILITY OF ANY ITEM FOR ANY PARTICULAR PURPOSE. RAND GROUP DOES NOT REPRESENT OR WARRANT THAT THE GOODS WILL BE CAPABLE OF ACHIEVING ANY PARTICULAR RESULT OR RESULTS IN CLIENT'S BUSINESS OR OPERATIONS. EXCEPT AS EXPRESSLY STATED OTHERWISE IN THIS AGREEMENT, GOODS ARE PROVIDED AND/OR LICENSED ON AN "AS IS" BASIS WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND. NO

REPRESENTATION OR OTHER AFFIRMATION OF FACT INCLUDING BUT NOT LIMITED TO STATEMENTS REGARDING PERFORMANCE OF GOODS OR STORAGE MEDIA, WHICH IS NOT CONTAINED IN THIS AGREEMENT, SHALL BE DEEMED TO BE A WARRANTY BY US. RAND GROUP DOES NOT WARRANT THAT ANY SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS CAN OR WILL BE CORRECTED.

5. Limitations of liability.

a. Limitation. YOU AGREE THAT IN NO EVENT SHALL RAND GROUP OR ANY OF ITS AFFILIATES (INCLUDING ITS AND THEIR OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES) BE LIABLE TO YOU OR ANY OF YOUR AFFILIATES OR INSURERS FOR LOSS OR DAMAGE ARISING FROM SERVICES OR GOODS PROVIDED (OR WHICH WE FAILED TO PROVIDE) UNDER THIS MASTER AGREEMENT AND/OR ANY ENGAGEMENT LETTERS OF UNDERSTANDING IN AMOUNTS EXCEEDING THE AGGREGATE AMOUNT ACTUALLY PAID TO US BY YOU FOR THE APPLICABLE SERVICES OR GOODS. This paragraph shall survive termination or expiration of this Master Agreement.

b. Exclusion of liability for damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS MASTER AGREEMENT OR ANY ENGAGEMENT LETTERS OF UNDERSTANDING (EXCLUDING THIRD-PARTY CLAIMS FOR INFRINGEMENT), NEITHER PARTY NOR THEIR CONTRACTORS WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION, DAMAGES FOR BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION), SPECIAL OR INCIDENTAL DAMAGES OR DAMAGES FOR LOSS OF PROFITS OR REVENUES ARISING IN CONNECTION WITH THIS MASTER AGREEMENT, ANY ENGAGEMENT LETTER OF UNDERSTANDING, SERVICES, SERVICE DELIVERABLES, GOODS, OR ANY OTHER MATERIALS OR INFORMATION, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES WERE REASONABLY FORESEEABLE. This paragraph shall survive termination or expiration of this Master Agreement.

6. Term and termination. This Master Agreement will remain in effect until terminated by either party on not less than thirty (30) days prior written notice to the other party. Notwithstanding the foregoing, if upon termination, one or more Engagement Letters of Understanding are in effect, then this Agreement shall

survive solely as to such Engagement Letters of Understanding until they expire or are terminated in accordance with their respective terms. The entire time that this Master Agreement is in effect (including any such survival period) shall be the "TERM". Neither party shall by the termination or expiration of this Master Agreement be relieved of its obligations and liabilities in any way arising out of or related to goods sold or services rendered prior to the effective date of such termination or expiration.

7. Notices. All notices, requests, demands and other communications required to be given in writing by this Master Agreement or any Engagement Letters of Understanding will be deemed to have been duly given and received by such other party if reduced to writing and (a) mailed to the other party by certified mail, postage paid, (b) sent to the other party by overnight delivery service or other recognized courier service, or (c) delivered by hand to such other party, in each case to the address of such party set forth below:

If to CLIENT:

Attn: _____

If to Rand Group:

The Rand Group, LLC
Attn: Contracts
6575 West Loop South
Suite 700
Bellaire, TX 77401

Either party may change the address to which notices are to be sent by written notice given to the other party in accordance herewith.

8. Ownership of Software and Materials. CLIENT agrees to be bound by and to use all software provided or licensed/sublicensed by Rand Group in accordance with the applicable license/sublicense terms, including without limitation any "shrink

wrap" or "tear open" license. CLIENT acknowledges that all Rand Group software and materials are the property of Rand Group and that all third party software and materials are the property of the third party licensor. Nothing herein shall be construed to be or effect a transfer to CLIENT of any ownership or other interest in Rand Group software and materials, and CLIENT will acquire no rights in any Rand Group software and materials (other than the specific rights granted in the applicable license or sublicense agreement), and such Rand Group software and materials shall not be "works for hire". CLIENT will acquire no rights in any software licensed or sublicensed by Rand Group, other than the specific rights granted in the applicable license or sublicense agreement.

9. Non-software code ownership. Upon payment in full, ownership of any written materials specified as "deliverables" in an Engagement Letter of Understanding, developed by Rand Group (alone or in collaboration with you) and provided to you will vest in you, provided: (i) we retain the right to use, reproduce and modify subsets of the materials which by themselves provide generic information not unique to your business; and (ii) your use of such materials is limited to internal business operations and is not for resale or distribution to any third party.

10. Confidentiality. The following provisions apply only to the extent that a separate written non-disclosure agreement or similar document is not in effect between the parties during the Term.

In the event that, in connection with the performance of their respective obligations hereunder, a party hereto (the "RECEIVING PARTY") comes into possession of any Confidential Information of the other Party (the "DISCLOSING PARTY"), the Receiving Party will not disclose such information to any third party without the Disclosing Party's prior written consent, nor use such Confidential Information for the benefit of any party other than the Disclosing Party or for any purpose other than in furtherance of Receiving Party's obligations hereunder. Notwithstanding the foregoing, the Disclosing Party hereby consents to the Receiving Party disclosing such Confidential Information (a) to Receiving Party's employees or agents on a "need to know" basis; (b) as may be required by law, regulation, judicial or administrative process, or in accordance with applicable professional standards or rules, or in connection with litigation or arbitration pertaining hereto; or (c) to the extent such information (i) shall have otherwise become publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as the result of a disclosure in breach hereof,

(ii) becomes available to the Receiving Party on a nonconfidential basis from a source other than the Disclosing Party that the Receiving Party believes in good faith is not prohibited from disclosing such information to the Receiving Party by obligation to the Disclosing Party, (iii) is known by the Receiving Party prior to its receipt from the Disclosing Party without any obligation of confidentiality with respect thereto, or (iv) is developed by the Receiving Party independently of any disclosures made by the Disclosing Party to the Receiving Party of such information, as evidenced by contemporaneous documentation. In satisfying its obligations under this Section, each Party shall maintain the other Party's Confidential Information in confidence using at least the same degree of care as it employs use in maintaining in confidence its own Confidential Information, but in no event less than a reasonable degree of care.

For purposes of this Agreement, "**CONFIDENTIAL INFORMATION**" means trade secrets or other proprietary information, including customer and vendor lists, business plans, methods, processes, marketing plans and materials, strategic initiatives, projections, costs, financial information, reimbursements, litigation, contracts, information technology, and all other information or data which a reasonable person would consider to be proprietary and confidential based on the nature of such information and/or the manner of disclosure, or is designated as confidential in writing at the time it is disclosed by the Disclosing Party.

It is agreed by the parties that a party (the "**NON-BREACHING PARTY**") would be irreparably damaged by reason of any violation by the other party (the "**BREACHING PARTY**") of the provisions of this Section, and that any remedy at law for a breach of such provisions would be inadequate. Therefore, the Non-breaching Party shall be entitled to seek and obtain injunctive or other equitable relief (including, but not limited to, a temporary restraining order, a temporary injunction or a permanent injunction) against the Breaching Party, its agents, assigns or successors for a breach or threatened breach of such provisions and without the necessity of proving actual monetary loss and without the necessity of posting bond (or if bond is otherwise required, the Parties agree that \$1,000 shall be a reasonable amount of such bond). It is expressly understood between the parties that this injunctive or other equitable relief shall not be the Non-breaching Party's exclusive remedy for any breach of this Section and the Non-breaching Party shall be entitled to seek any other relief or remedy which it may have by contract, statute, law or otherwise for any breach hereof.

The restrictions of this Section with respect to Confidential Information received by the Receiving Party during the Term, and the last paragraph of this Section, shall survive termination or expiration of this Master Agreement.

11. Miscellaneous.

a. Right to subcontract and assignment. Neither party may assign this Master Agreement or any Engagement Letter of Understanding without the prior written consent of the other. We may use contractors to perform services, in which case we will be responsible for the performance of our contractors and shall be responsible for their compliance with the terms hereof. “**Contractor(s)**” means any third party supplier or other provider of computer technology or related services.

b. Entire agreement. This Master Agreement and the applicable Engagement Letters of Understanding constitute the parties’ entire agreement concerning the subject matter hereof, and supersede any other prior and contemporaneous communications between you and us relating to such subject matter.

c. Survival. All provisions in this Master Agreement containing representations, warranties, payment obligations, releases, defense obligations and indemnities, and all provisions relating to Confidential Information, construction and interpretation of this Master Agreement, employee solicitation, employment matters, intellectual property, disclaimer of certain remedies and damages, limitations of liability, and governing law, shall survive by their respective terms, until they are no longer operative or are otherwise limited by an applicable statute of limitations.

d. Severability. If a court holds any provision of this Master Agreement or an Engagement Letter of Understanding to be illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect and the parties will amend the Master Agreement or Engagement Letter of Understanding to give effect to the stricken clause to the maximum extent possible.

e. Waiver. No waiver of any breach of this Master Agreement or Engagement Letter of Understanding will be a waiver of any other breach, and no waiver will be effective unless made in writing and signed by an authorized representative of the waiving party. The failure of any party to enforce any of the provisions of this Master Agreement shall not be construed to be a waiver of the right of such party

thereafter to enforce such provisions and the waiver of any right will not be deemed to waive such right in the future.

f. References. The parties acknowledge that Rand Group will have the opportunity to demonstrate its expertise during the course of performing this Master Agreement and the applicable Engagement Letters of Understanding, and that Rand Group may wish to publicize an engagement for marketing purposes. Accordingly, CLIENT agrees that Rand Group may publicize the engagement using CLIENT's name and other non-confidential information. Rand Group agrees that CLIENT may participate in the Microsoft customer reference program and give specific, validated information about the quality of the work we provide.

g. Non-Solicitation of Employees. During the Term of this Master Agreement and for a period of one (1) year thereafter, CLIENT agrees that neither it nor its affiliates will directly or indirectly hire as an employee, engage as an independent contractor, or solicit for employment or engagement, any employee or independent contractor of Rand Group who has been directly involved with the planning, negotiation and/or delivery of goods or services under this Master Agreement or an Engagement Letter of Understanding, or attempt to do any of the foregoing, unless the other party gives its prior written consent thereto. "Solicitation for employment or engagement" will not include general solicitations by the parties through the use of advertisements in newspapers, trade publications, or other solicitations not directed at particular individuals. The parties agree that the damages that would be sustained in the event of a breach of this provision would be substantial but difficult to quantify in light of the experience level, amount of integration into the party's culture and familiarity with the party's processes and personnel; therefore, the parties agree that in the event of a breach of the provisions of this paragraph, CLIENT shall pay to Rand Group, within five (5) business days following receipt of written request, as liquidated damages and not a penalty, an amount equal to the annual compensation or fees paid by Rand Group to such employee or independent contractor for the year immediately prior to such solicitation, hiring or engagement (as the case may be), which amount is the parties' good faith estimate of fair, reasonable and actual damages.

h. Independent Contractor. Rand Group is an independent contractor of CLIENT and nothing in this Master Agreement or any Engagement Letter of Understanding is intended to create an employer/employee relationship. The parties acknowledge that CLIENT shall not exercise control or direction over the manner or method by

which the Rand Group performs the services or provides the goods that are the subject matter of this Master Agreement or an applicable Engagement Letter of Understanding, provided that the services to be provided hereunder by Rand Group shall be provided in a manner consistent with the standards generally set by CLIENT for such services and applicable safety and other laws.

i. Force Majeure. Rand Group shall not be liable for default in the performance or discharge of any duty or obligation under this Master Agreement or any Engagement Letter of Understanding, when caused by the acts of God, civil or military authorities, public enemy, fire, floods, wind, storm, labor disorders, strikes, work stoppages or other labor trouble, accidents, riots, civil commotion, terrorist acts or threats, closing of the public highways, and other contingencies, similar to the foregoing, beyond the reasonable control of Rand Group.

j. Counterparts. This Master Agreement and any Engagement Letter of Understanding may be signed in multiple counterparts, each of which will be considered an original and all of which together will constitute a whole. Signatures transmitted by facsimile or other electronic means shall have the same effect as original signatures.

k. Indemnity. Each party shall defend, indemnify and hold the other party, its officers, directors, agents and employees harmless from and against any and all claims arising out of the rights and obligations set forth in this Master Agreement or any Engagement Letter of Understanding (subject to the limitations of liability set forth in this Master Agreement and/or in such Engagement Letter of Understanding), including claims for bodily injury and death, property, losses, expenses (including reasonable attorney's fees), demands, settlements, or judgments, only to the extent that the same results from or arises out of the indemnifying party's own negligence or willful acts of misconduct, or the negligence or willful acts of misconduct of its employees or agents. The provisions of this section shall survive termination of this Agreement.

12. Governing Law & Venue. This Master Agreement, each Engagement Letter of Understanding and any disputes arising in connection with any of the foregoing shall be governed, construed, and enforced in accordance with the laws of the State of Texas, excluding its conflicts of laws provisions, and shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods or Services, the application of which is expressly excluded. In the event of a dispute

arising under or in connection with this Master Agreement or an Engagement Letter of Understanding, the parties hereby submit to exclusive jurisdiction in the federal or state courts located in Harris County, Texas, and agree that venue is proper and convenient in such forum.

ENGAGEMENT LETTER OF UNDERSTANDING SUPPORT AGREEMENT (Advantage 175)

This Engagement Letter of Understanding - Support Agreement ("Agreement") is made this July 28, 2016 (the "Effective Date") by and between Rand Group, LLC ("Rand Group") and State of West Virginia ("Client"). The terms of this Agreement govern Support Services provided by Rand Group to Client. This Agreement is governed by the Master Professional Services Agreement executed by the parties dated July 28, 2016 (the "Master Agreement"), the terms of which shall also apply, provided that the terms of the Master Agreement shall take precedence over any conflicting terms herein.

1. Commencement Date & Contract Term.

The term of this Agreement will commence on September 1, 2016 and continue until the first anniversary thereof. Thereafter, the term will automatically renew for successive one-year periods at the then-current annual fee unless either party provides written notice of non-renewal to the other party not less than 60 days prior to the end of the then-current term (the entire time that this Agreement is in effect being, the "Term").

2. Contract Amount.

During the Term, Rand Group will provide up to 175 hours of annual Support Services (as defined in Section 7) for a fee of \$30,000, prepaid in advance. Unused hours at the end of the then-current term will be forfeited.

3. Guaranteed Response Time.

"Response Time" is defined as the time period from the receipt of a call for Support Services until the time Rand Group assigns a resource and begins to take steps toward resolving the reported issue. Rand Group guarantees that it will respond to Client's request for Support Services within eight normal work hours (the "Guaranteed Response Time"). If Rand Group fails to meet the Guaranteed Response Time for a particular Support Services call, then as Client's sole remedy and Rand Group's sole remedy therefor, Client will receive one additional hour on its support plan as compensation. Notwithstanding the foregoing, Client may upgrade to a faster Guaranteed Response Time under this plan by paying an additional fee of \$3,000, in which event the Guaranteed Response Time shall be six normal work hours.

4. Additional Support Blocks.

During the Term, Client may purchase additional blocks of support in 5 hour increments at \$800 per block for the 8 hour Guaranteed Response Time.

5. Normal Operating Hours & After Hours Support

Operating hours for Rand Group's provision of Support Services are from Monday through Friday, 7:00 am to 7:00 pm in the Central Time Zone of the United States of America, with Daylight Savings Time observed, excluding local holidays.

After hours is defined as Support Services approved by Client and performed between the hours of 7:00 pm and 12:00 am and is charged to Client at time and one-half, (i.e., each hour of work will consume 1.5 Support Agreement hours). Work approved by Client and performed between the hours of 12:00 am and 7:00 am is charged at a triple rate, (i.e., each hour of work will consume three Support Agreement hours). Support Services approved by Client and performed on a holiday between the hours of 7:00 am and 7:00 pm is charged at double time. Work approved by Client and performed on a holiday between the hours of 7:00 pm and 7:00 am is charged at four times the normal rate (i.e., each hour of support work performed will consume four support hours).

6. Travel Time & Expenses.

Time spent traveling to and from Client's site and related travel expenses will be billed outside this Agreement semi-monthly. Client agrees to reimburse any expenses reasonably incurred by Rand Group in connection with the provision of the services, such as travel and lodging, which we will invoice without markup. And Client agrees to pay travel time to Rand Group at its standard rates.

7. Support Services include.

Application, services and technical support for:

- Enterprise Resource Planning (ERP) applications including:
 - Microsoft NAV
 - Microsoft Dynamics GP
 - Microsoft Dynamics AX
- Customer Relationship Management (CRM)
- SharePoint
- SQL Server
- Customization of application(s)
- Application and Data Integration
- Developing and Modification of Reports
- Database Maintenance and Service Pack/Hot Fixes
- Network or server performance assessments and related assistance

Accounting Support and Business Acumen support including:

- Audit support through "Provided by Client" Schedules and related Assistance
- Sub-ledger Account Schedule Creation and Support
- Account Reconciliation Support
- Business Analysis Support through Report Creation
- Business Process Automation Support
- Training Materials Preparation
- Sarbanes Oxley Act System Documentation or Related Service

8. Support Services do not include:

- Preparation of Financial Statements, Footnotes or Accounting Advice on Generally Accepted Accounting Procedures, (GAAP)
- Any Single Engagement over 80 Hours Requiring Project Management
- Any Customization that Would Negatively Impact the Integrity of the Application or System
- Server Migration or Operating System Upgrades
- Provision of Tax advice
- Provision of Legal advice

9. Opening a Support Incident and Contacting Rand Group Support.

Client authorized representatives may request Support Services through the Rand Group Client Support Portal. Client authorized representatives will be initially defined on the Rand Group Provisioning Form, and then will be maintained by Client directly through the Rand Group Client Support Portal.

10. Closing a Support Incident.

Rand Group Support will consider a support incident as closed and fulfilled when one or more of the following conclusions have been reached:

- A question has been answered with a solution based on the designed features and functionality of the Software.
- A question, relating to a function that is beyond the scope of the Software's design, is resolved with a workaround.
- A question is resolved by a published update to the Software or its documentation.
- An open question has been responded to with the best-possible answer and no further research or assessment is considered possible or reasonable by Rand Group.
- The person who reported the incident has not responded to a request for additional information within 10 business days.

11. Client Responsibilities.

In order to facilitate the provision of Support Services, Client will: (a) respond to requests from Rand Group on a timely basis; (b) have a contact present during regular business hours to provide information and assistance to Rand Group for each unique support issue; (c) maintain a proper operating environment for the Software; (d) provide a safe area for Rand Group to perform any services required to be performed on Client's site; (e) provide for all power, environmental requirements, supplies, cabling, communications facilities, and all other equipment and facilities required; (f) regularly back up all files and data; and (g) provide access to Client's systems as reasonably requested by Rand Group.

Client agrees to assign a qualified person to oversee all services that we perform hereunder. Client is solely responsible for all management decisions relating to the use of the services, the Engagement of the services or any deliverables, and determining whether the services or any deliverables are appropriate for their purposes. Client agrees to promptly provide (or cause others to provide) all information, resources and assistance (including access to people, records premises and systems) that Rand Group reasonably requires to perform the services. All information provided by Client to Rand Group will be complete and accurate, and will not

infringe on the rights of any third parties, and Client agrees that Rand Group is entitled to rely on such information without making further inquiry. Client agrees to be responsible for its employees' and agents' compliance with its obligations hereunder. Client agrees that any failure to meet their responsibilities will lead to completion delays, increased services hours consumed, or both.

12. Entire Agreement.

This is the complete and exclusive statement of the Agreement between the parties with respect to the subject matter contained herein and supersedes and merges all prior representations, proposals, understandings and all other agreements, oral or written, express or implied, between the parties relating to the matters contained herein. This Agreement may not be modified or altered except by a written instrument duly executed by an authorized representative of Client and a Shareholder of Rand Group designated to sign for the firm.

APPROVED:

By signing below, the parties acknowledge they are authorized to execute and agree to be bound to the terms of this agreement.

STATE OF WEST VIRGINIA

By: _____

Date: _____

Title: _____

RAND GROUP, LLC

By:  _____

Date: July 27, 2016

Title: CFO

REQUEST FOR QUOTATION
[Microsoft Dynamics Great Plains (GP) Software Reseller and Maintenance Services]

APPENDIX B *Vendor Reference Table*

Vendor GP Reseller and Maintenance Experience Reference Information	
Reference #1 Name	
Contact Person	Samantha Suire or Rodney Adams, The Mundy Companies
Position	Financial Systems Manager
Address Line 1	11150 South Wilcrest
Address Line 2	
City, State, Zip	Houston, TX 77099
Telephone Number	281.530.8711 / 281-983-6036
Email Address	samanthasuire@mundycos.com; RodneyAdams@mundycos.com
Project Description	<p>Rand Group worked with The Mundy Companies to implement Dynamics GP in June of 2011. The project included all core Financials plus Payroll, Projects, and 3rd party applications MEM (Binary Stream) and Mekorma for AP.</p> <p>The Rand Group team worked closely with the client to design and implement customizations to Dynamics GP.</p> <p>The Mundy Companies continues to work with Rand Group today through our support program.</p>
Project Dates	June 2011 through December 2011 for initial project, current Support client
Personnel Assigned	Diane Jones
Reference #2 Name	
Contact Person	Brandi Wakefield, Largo International
Position	
Address Line 1	9540 Clay Road
Address Line 2	
City, State, Zip	Houston, TX 77080
Telephone Number	713-460-9035
Email Address	BWakefield@LargoFurniture.com
Project Description	<p>Largo has been a client of the Rand Group since early 2009. They purchased Dynamics GP from another Microsoft partner but then reached out to Rand Group for a reimplementations of Dynamics GP in 2010.</p> <p>Rand Group assists Largo with general support questions, month end and year close activities.</p> <p>Largo International is a current support client with the Rand Group.</p>
Project Dates	2010

REQUEST FOR QUOTATION
[Microsoft Dynamics Great Plains (GP) Software Reseller and Maintenance Services]

Personnel Assigned	Diane Jones
	Heather Harris
Reference #3 Name	
Contact Person	Louise Flores or Vanessa Benavides, Hunting Energy Services
Position	Director of Accounting, US Operations / Accounting Manager
Address Line 1	2 Northpoint Dr., Suite 400
Address Line 2	
City, State, Zip	Houston, TX
Telephone Number	281-442-7382 / 281-442-7382 (ext 2909)
Email Address	Louise.Flores@Hunting-Intl.com; vanessa.benavides@hunting-intl.com
Project Description	<p>The Rand Group worked with Hunting Energy Services to implement Dynamics GP in early 2004.</p> <p>Working closely with the Hunting team, Rand Group developed and maintains custom applications to meet the unique need of Hunting Energy.</p> <p>Hunting Energy relies on the Rand Group for ongoing support services for day-to-day and year end close activities and reporting.</p>
Project Dates	Client since 2005
Personnel Assigned	Diane Jones
	Deb Bergman

Vendor Personnel Resume	
Name	Deb Bergman
Title	Senior Associate
Relevant GP/Experience	<p>Ms. Bergman worked as an accountant in various businesses for 18 years prior to learning Great Plains in 1998. Since that time, she has worked with numerous clients across differing industries implementing, upgrading and supporting the day to day use of Dynamics GP.</p> <p>Technical skills overview:</p> <ul style="list-style-type: none"> • Microsoft Dynamics GP (2015, 2013, 2010, 10, 9, 8, 7.5, 6 and earlier) • Management Reporter/FRx • Manages implementation, upgrades, ongoing support for clients across various multiple industries • Extensive experience across all modules

REQUEST FOR QUOTATION
[Microsoft Dynamics Great Plains (GP) Software Reseller and Maintenance Services]

Relevant Certifications	Microsoft Dynamics GP 2013 Microsoft Dynamics GP 2010 Microsoft Dynamics GP 10.0 Microsoft Dynamics GP 9.0 Microsoft Dynamics GP 7.5
Education	AAS Accounting from Finger Lakes Community College

Vendor Personnel Resume	
Name	Tim Hickey
Title	Manager, Support
Relevant GP/Experience	<p>Mr. Hickey Tim Hickey is an experienced, capable, personable business professional with substantial ERP software development experience. His exposure to many different software development environments and technologies gives him an unusual breadth of knowledge to tackle the toughest ERP challenges. He has a demonstrated history of producing reliable, maintainable quality custom software solutions for a variety of clients.</p> <p>Technical skills overview:</p> <ul style="list-style-type: none"> • Microsoft Dynamics GP (2015, 2013 R2/R1, 2010, 10) • Microsoft SQL Server (2014, 2012, 2008, 2005, 2000, 7) – experienced in Transact SQL, Stored Procedures, Views, Optimization • SQL Reporting Services • Management Reporter • Excel reporting through Dynamics GP • EOneSolutions (SmartConnect and Extender)
Relevant Certifications	Dynamics GP2013 Dynamics GP Installation since 2012
Education	BS in Computer Science, University of Texas-Pan American
Vendor Personnel Resume	
Name	Kayla Worley
Title	Manager
Relevant GP/Experience	<p>Ms. Worley has over 22 years of complex ERP consulting experience. Her skillset includes project management, support, report writing and workflow design. She has significant and impactful expertise in needs analysis and evaluation of information systems, business process design, and systems analysis.</p> <p>Technical skills overview:</p>

REQUEST FOR QUOTATION
[Microsoft Dynamics Great Plains (GP) Software Reseller and Maintenance Services]

	<ul style="list-style-type: none"> • Microsoft Dynamics GP • SSRS • Management Reporter • EConnect • SQL
Relevant Certifications	Microsoft Dynamics GP Installation & Configuration Microsoft Dynamics GP Financials Microsoft Dynamics Implementations
Education	

Vendor Personnel Resume	
Name	Diane Jones
Title	Senior Manager
Relevant GP/Experience	<p>Ms. Jones is a CPA with over 15 years of extensive Dynamics GP experience working with clients across a multitude of industries. Her past engagements have utilized various skills to develop overall solution visions, implement core systems, custom reports, workflow automation, and deployment mechanisms that reduce clients' cost, improve service levels and mitigate business risk.</p> <p>Technical skills overview:</p> <ul style="list-style-type: none"> • Microsoft Dynamics GP (2015, 2013, 2010, 10, 9, 8, 7.5, 6) • Manages implementation, upgrades, ongoing support for clients across various multiple industries • Extensive experience across all modules
Relevant Certifications	Dynamics GP Dynamics GP Installation SQL Services
Education	BS in Home Economics Textile Science - University of Texas BA in Accountancy - University of Houston CPA – State of Texas

Vendor Certifications	
Microsoft Certified Partner / GP	Microsoft Gold Partner Rand Group has been a Dynamics GP partner since its inception in 2003.
Certified	Yes
Other Relevant Certifications	Microsoft Gold Enterprise Resource Planning (ERP) Microsoft Silver Customer Relationship Management Microsoft Silver Collaboration and Content

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	Microsoft Silver Cloud Platform
	Microsoft Silver Data Platform Competency
	Microsoft Presidents Club Member
	Microsoft Inner Circle 2015
	Tier-1 Microsoft Cloud Solution Provider (CSP)
	Accounting Today 2015 VAR 100 List – Ranked #20
	BI360 Partner of the Year Award in 2014
	Microsoft PinPoint - 4.5/5 stars with 9 reviews - https://pinpoint.microsoft.com/en-us/Companies/4295476104

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SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Public Employees Insurance Agency (PEIA) to establish a contract for Microsoft Dynamics Great Plains (GP) "or equal" Software Reseller and Maintenance Services.

1.1.System Overview

PEIA maintains GP version 2013. PEIA's GP environment is complex as it is integrated via Biz Talk and E Connect to a COBOL CICS database and Cold Fusion web billing system. GP resides on the West Virginia Office of Technology (OT) server system. There is a production and quality assurance and testing environment. The production environment database contains 1.2 terabytes of data. PEIA accesses it through the OT network. PEIA currently has 16 licenses for GP and also utilizes Management Reporter and a Supplemental Reporting System (SRS).

PEIA administers insurance benefits for over 1,900 employers and 220,000 members. GP receives billing data from the DB2 eligibility data which is then placed on the billing via the Cold Fusion web billing system. GP maintains all the accounts receivables and ledgers in two separate companies. The two companies represent PEIA and the Retiree Health Benefit Trust Fund (RHBT). All retiree transactions are accounted for in RHBT.

In addition to the two production companies, there are also two companies which contain archived data for the respective production companies.

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below.

- 2.1. **"Business Associate"** means an entity that provides an administrative function and/or service on behalf of a covered entity as defined in 45 CFR §§ 164.502(e), 164.504(e), 164.532(d) and (e) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- 2.2. **"Checklinks"**- A GP database reconciliation tool.
- 2.3. **"CICS"** – Customer Information Control System is a transaction server that runs primarily on IBM mainframe systems.
- 2.4. **"COBOL"** – Common Business Oriented Language, is a computer programming language designed for business applications.
- 2.5. **"Contract Services"** means the reseller and maintenance of GP.

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- 2.6. "DB2" means the family of IBM database server products developed by IBM.
- 2.7. "GP" means Microsoft Dynamics Great Plains
- 2.8. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996.
- 2.9. "OT" means the West Virginia Office of Technology
- 2.10. "PEIA" means the Public Employees Insurance Agency.
- 2.11. "Pricing Page" means the pages upon which Vendor should list its proposed price for the Contract Services. The Pricing Page is attached hereto as Exhibit A.
- 2.12. "RFQ" means the official request for quotation published by the Purchasing Division.
- 2.13. "RHBT" means the Retiree Health Benefit Trust Fund.
- 2.14. "SRS" means Supplemental Reporting System

3. QUALIFICATIONS: Vendor shall have the following minimum qualifications:

- 3.1. Vendor personnel assigned to project must have experience performing integrated Microsoft Dynamics GP "or equal" maintenance. Vendor must describe the project for which experience was gained as evidenced by submitting at least three (3) verifiable references from previous and/or current customers that identify the type(s) of work performed. Potential vendors must verify that they meet the Qualification Requirements by completing the Vendor Reference Table included in Exhibit B of this RFQ. Vendor will complete all sections of Exhibit B and submit it with the bid.
- 3.2. Vendor personnel must have proficiency and knowledge of GP "or equal" product and have the ability to ascertain the implications of maintenance on the many integrating programs with GP "or equal". Vendors responding to this CRFQ must provide a resume for all project employees as well as documentation of degrees and applicable certifications and must include the following information:

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- 3.2.1. Description of education,
 - 3.2.2. Microsoft Dynamics GP/training certification “or equal”,
 - 3.2.3. Sequel Server training certification,
 - 3.2.4. Resumes indicating work experience.
 - 3.2.5. References for substantiation of personnel work experience provided in 3.2.4.
- 3.3. Vendor must provide documentation that they are a Microsoft Certified Business Partner specializing in GP.

4. MANDATORY REQUIREMENTS

4.1.Contract Services Requirements and Deliverables:

- 4.1.1. Contract Services must meet or exceed the mandatory requirements listed below:
- 4.1.2. Reseller services includes the provision of the following licenses:
 - 4.1.2.1. Microsoft GP 2013 (including first year penalties for lapsed license) “or equal” product that must integrate into the current operational system without the need to purchase and integrate new software.
 - 4.1.2.2. eOne License (including first year penalties for lapsed license as well as a prorated license in 2017 to bring license dates in line with Microsoft 2013) “or equal” product that must integrate into the current operational system without the need to purchase and integrate new software.
 - 4.1.2.3. Professional Advantage (including prorated license in 2017 to bring license dates in line with Microsoft 2013) “or equal” product that must integrate into the current operational system without the need to purchase and integrate new software.
 - 4.1.2.4. Merit Solutions (including prorated license in 2017 to bring license dates in line with Microsoft 2013) “or equal” product that must integrate into the current operational system without the need to purchase and integrate new software.

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- 4.1.3. Vendor will be required to perform software maintenance and support services for the software licenses procured under this contract. The maintenance will include the following minimum services:
 - 4.1.3.1. Annual Archiving using Company Data Archive (CDA) Software,
 - 4.1.3.2. GP "or equal" User Security Administration,
 - 4.1.3.3. End User Application Support,
 - 4.1.3.4. Paid Transaction Removal,
 - 4.1.3.5. Run 'Checklinks' Services on Databases,
 - 4.1.3.6. Assist with Year End Closing,
 - 4.1.3.7. Annual Service Pack or Version Upgrade.
- 4.1.4. Maintenance must occur assuring all existing integrations remain in effect.
- 4.1.5. It will be the vendor's responsibility to gain a proper understanding of the current system design and architecture in order to fully assess the implications of the maintenance in all respects.
- 4.1.6. Maintenance of GP "or equal" shall be done in coordination with and at the direction of the PEIA and its information technology staff of the WV Office of Technology (OT).
- 4.1.7. Should have experience providing services as a Business Associate of a Covered Entity as defined in 45 CFR §§164.502(e), 164.504(e), 164.532(d) and (e) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as detailed in the attached Exhibit C.
- 4.1.8. Must sign the State of West Virginia Executive Branch Business Associate Agreement (BAA) and the corresponding Appendix A attached to this RFQ prior to award.
- 4.1.9. Vendor should provide with their bid a copy of any software terms and Conditions or licenses that the State of West Virginia or the Agency will have to agree or accept as a part of this solicitation. This information will be required before purchase Order is issued.
- 4.1.10. 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

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as part of this solicitation. This information will be required before the Purchase order is issued.

5. CONTRACT AWARD:

5.1. Contract Award: The contract is intended to provide Agency with a purchase price for the Contract Services. The Contract shall be awarded to the Vendor that provides the Contract Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Page. **Renewal options 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.**

5.2. Pricing Page: Vendor should complete the Pricing Page by inputting the respective pricing information. 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.

Notwithstanding the foregoing, the Purchasing Division may correct errors as it deems appropriate. Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation (See Exhibit A).

6. PERFORMANCE: Vendor and Agency shall agree upon a schedule for performance of Contract Services. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.

6.1. Vendor must perform the Microsoft GP "or equal" reseller and maintenance as presented and agreed upon in a project schedule that will allow for all aspects of PEIA's system to be functioning properly. The vendor must be able to provide work according to a project plan and statement of work, as formally agreed upon by the contractor and PEIA. Failure, by the contractor, to meet benchmarks or other performance metrics may result in immediate dismissal.

6.2. Vendor must confirm it accepts all responsibility that the PEIA GP "or equal" system will be and maintained properly and all aspects of PEIA's system will function properly after any maintenance. Vendor must confirm it is properly insured, in good financial standing and properly licensed in all respects to perform this project. Vendor must confirm it understands all aspects of the contract awarded from this procurement will be governed by the laws of the State of West Virginia.

As appropriate, the Vendor will perform the work remotely or at the PEIA office in Charleston, WV. Vendor must have adequate telephone, computer, and internet services to communicate easily and rapidly with PEIA.

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7. **PAYMENT:** Agency shall pay on an annual basis, as shown on the Pricing Pages, for all Contract Services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
9. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:
 - 9.1. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.
 - 9.2. Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
 - 9.3. Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.
 - 9.4. Anyone performing under this Contract will be subject to Agency's security protocol and procedures.
 - 9.5. Vendor shall inform all staff of Agency's security protocol and procedures.
10. **VENDOR DEFAULT:**
 - 10.1. The following shall be considered a vendor 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 other specifications and requirements contained herein.
 - 10.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

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10.1.4. Failure to remedy deficient performance upon request.

10.2. The following remedies shall be available to Agency upon default.

10.2.1. Immediate cancellation of the Contract.

10.2.2. Immediate cancellation of one or more release orders issued under this Contract.

10.2.3. Any other remedies available in law or equity.

11. MISCELLANEOUS:

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

Contract Manager: Erika Azure
Telephone Number: 713-335-1403 / 713-~~335~~-0747
Fax Number: 713-335-8777
Email Address: eazure@randgroup.com

Exhibit C – Security and Privacy, Federal Regulation Excerpts

45 CFR §§164.502

(e)(1) *Standard: Disclosures to business associates.* (i) A covered entity may disclose protected health information to a business associate and may allow a business associate to create, receive, maintain, or transmit protected health information on its behalf, if the covered entity obtains satisfactory assurance that the business associate will appropriately safeguard the information. A covered entity is not required to obtain such satisfactory assurances from a business associate that is a subcontractor.

(ii) A business associate may disclose protected health information to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit protected health information on its behalf, if the business associate obtains satisfactory assurances, in accordance with §164.504(e)(1)(i), that the subcontractor will appropriately safeguard the information.

(2) *Implementation specification: Documentation.* The satisfactory assurances required by paragraph (e)(1) of this section must be documented through a written contract or other written agreement or arrangement with the business associate that meets the applicable requirements of §164.504(e).

45 CFR §§164.504

(e)(1) *Standard: Business associate contracts.* (i) The contract or other arrangement required by §164.502(e)(2) must meet the requirements of paragraph (e)(2), (e)(3), or (e)(5) of this section, as applicable.

(ii) A covered entity is not in compliance with the standards in §164.502(e) and this paragraph, if the covered entity knew of a pattern of activity or practice of the business associate that constituted a material breach or violation of the business associate's obligation under the contract or other arrangement, unless the covered entity took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful, terminated the contract or arrangement, if feasible.

(iii) A business associate is not in compliance with the standards in §164.502(e) and this paragraph, if the business associate knew of a pattern of activity or practice of a subcontractor that constituted a material breach or violation of the subcontractor's obligation under the contract or other arrangement, unless the business associate took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful, terminated the contract or arrangement, if feasible.

(2) *Implementation specifications: Business associate contracts.* A contract between the covered entity and a business associate must:

(i) Establish the permitted and required uses and disclosures of protected health information by the business associate. The contract may not authorize the business associate to use or further disclose the information in a manner that would violate the requirements of this subpart, if done by the covered entity, except that:

(A) The contract may permit the business associate to use and disclose protected health information for the proper management and administration of the business associate, as provided in paragraph (e)(4) of this section; and

(B) The contract may permit the business associate to provide data aggregation services relating to the health care operations of the covered entity.

(ii) Provide that the business associate will:

(A) Not use or further disclose the information other than as permitted or required by the contract or as required by law;

(B) Use appropriate safeguards and comply, where applicable, with subpart C of this part with respect to electronic protected health information, to prevent use or disclosure of the information other than as provided for by its contract;

(C) Report to the covered entity any use or disclosure of the information not provided for by its contract of which it becomes aware, including breaches of unsecured protected health information as required by §164.410;

(D) In accordance with §164.502(e)(1)(ii), ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions and conditions that apply to the business associate with respect to such information;

(E) Make available protected health information in accordance with §164.524;

(F) Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with §164.526;

(G) Make available the information required to provide an accounting of disclosures in accordance with §164.528;

(H) To the extent the business associate is to carry out a covered entity's obligation under this subpart, comply with the requirements of this subpart that apply to the covered entity in the performance of such obligation.

(I) Make its internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by the business associate on behalf of, the covered entity available to the Secretary for purposes of determining the covered entity's compliance with this subpart; and

(J) At termination of the contract, if feasible, return or destroy all protected health information received from, or created or received by the business associate on behalf of, the covered entity that the business associate still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

(iii) Authorize termination of the contract by the covered entity, if the covered entity determines that the business associate has violated a material term of the contract.

(3) *Implementation specifications: Other arrangements.* (i) If a covered entity and its business associate are both governmental entities:

(A) The covered entity may comply with this paragraph and §164.314(a)(1), if applicable, by entering into a memorandum of understanding with the business associate that contains terms that accomplish the objectives of paragraph (e)(2) of this section and §164.314(a)(2), if applicable.

(B) The covered entity may comply with this paragraph and §164.314(a)(1), if applicable, if other law (including regulations adopted by the covered entity or its business associate) contains requirements applicable to the business associate that accomplish the objectives of paragraph (e)(2) of this section and §164.314(a)(2), if applicable.

(ii) If a business associate is required by law to perform a function or activity on behalf of a covered entity or to provide a service described in the definition of business associate in §160.103 of this subchapter to a covered entity, such covered entity may disclose protected health information to the business associate to the extent

necessary to comply with the legal mandate without meeting the requirements of this paragraph and §164.314(a)(1), if applicable, provided that the covered entity attempts in good faith to obtain satisfactory assurances as required by paragraph (e)(2) of this section and §164.314(a)(1), if applicable, and, if such attempt fails, documents the attempt and the reasons that such assurances cannot be obtained.

(iii) The covered entity may omit from its other arrangements the termination authorization required by paragraph (e)(2)(iii) of this section, if such authorization is inconsistent with the statutory obligations of the covered entity or its business associate.

(iv) A covered entity may comply with this paragraph and §164.314(a)(1) if the covered entity discloses only a limited data set to a business associate for the business associate to carry out a health care operations function and the covered entity has a data use agreement with the business associate that complies with §§164.514(e)(4) and 164.314(a)(1), if applicable.

(4) *Implementation specifications: Other requirements for contracts and other arrangements.* (i) The contract or other arrangement between the covered entity and the business associate may permit the business associate to use the protected health information received by the business associate in its capacity as a business associate to the covered entity, if necessary:

(A) For the proper management and administration of the business associate; or

(B) To carry out the legal responsibilities of the business associate.

(ii) The contract or other arrangement between the covered entity and the business associate may permit the business associate to disclose the protected health information received by the business associate in its capacity as a business associate for the purposes described in paragraph (e)(4)(i) of this section, if:

(A) The disclosure is required by law; or

(B)(1) The business associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person; and

(2) The person notifies the business associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(5) *Implementation specifications: Business associate contracts with subcontractors.* The requirements of §164.504(e)(2) through (e)(4) apply to the contract or other arrangement required by §164.502(e)(1)(ii) between a business associate and a business associate that is a subcontractor in the same manner as such requirements apply to contracts or other arrangements between a covered entity and business associate.

45 CFR §§164.532

(d) *Standard: Effect of prior contracts or other arrangements with business associates.* Notwithstanding any other provisions of this part, a covered entity, or business associate with respect to a subcontractor, may disclose protected health information to a business associate and may allow a business associate to create, receive, maintain, or transmit protected health information on its behalf pursuant to a written contract or other written arrangement with such business associate that does not comply with §§164.308(b), 164.314(a), 164.502(e), and 164.504(e), only in accordance with paragraph (e) of this section.

(e) *Implementation specification: Deemed compliance.* (1) *Qualification.* Notwithstanding other sections of this part, a covered entity, or business associate with respect to a subcontractor, is deemed to be in compliance with the documentation and contract requirements of §§164.308(b), 164.314(a), 164.502(e), and 164.504(e), with respect to a particular business associate relationship, for the time period set forth in paragraph (e)(2) of this section, if:

(i) Prior to January 25, 2013, such covered entity, or business associate with respect to a subcontractor, has entered into and is operating pursuant to a written contract or other written arrangement with the business associate that complies with the applicable provisions of §164.314(a) or §164.504(e) that were in effect on such date; and

(ii) The contract or other arrangement is not renewed or modified from March 26, 2013, until September 23, 2013.

(2) *Limited deemed compliance period.* A prior contract or other arrangement that meets the qualification requirements in paragraph (e) of this section shall be deemed compliant until the earlier of:

(i) The date such contract or other arrangement is renewed or modified on or after September 23, 2013; or

(ii) September 22, 2014.

(3) *Covered entity responsibilities.* Nothing in this section shall alter the requirements of a covered entity to comply with part 160, subpart C of this subchapter and §§164.524, 164.526, 164.528, and 164.530(f) with respect to protected health information held by a business associate.

WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE ADDENDUM

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

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

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

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

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

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

- a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>.
- b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
- c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
- d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
- e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111th Congress (2009).

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

2. Permitted Uses and Disclosures.

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

3. Obligations of Associate,

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

f. **Support of Individual Rights.**

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

- g. **Retention of PHI.** Notwithstanding section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. **Agent's, Subcontractor's Compliance.** The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- j. **Federal and Agency Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- k. **Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. This review may take up to ten (10) days.
- l. **Notification of Breach.** During the term of this Addendum, the Associate shall notify the Agency and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by e-mail or web form upon the discovery of any Breach of unsecured PHI; or within 24 hours by e-mail or web form of any suspected Security Incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency Procurement Officer at www.state.wv.us/admin/purchase/vrc/agencyli.htm and,

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

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

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

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

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

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

4. Addendum Administration.

- a. **Term.** This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents

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

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

5. General Provisions/Ownership of PHI.

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

AGREED:

Name of Agency: _____

Signature: _____

Title: _____

Date: _____

Name of Associate: Rund Group Solutions, LLC

Signature: Tamara Tapp

Title: CFO

Date: 7/27/16

Form - WVBA-012004
Amended 06.26.2013

APPROVED AS TO FORM THIS 26th
DAY OF Jan 20 13
BY Patrick Moricey
Attorney General

Appendix A.

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

Name of Associate: Rand Group Solutions, LLC

Name of Agency: _____

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

Not Applicable

Appendix A

Name of Associate: Rand Group Solutions, dba The Rand Group LLC, hereafter referred to as the GP Maintenance Vendor

Name of Agency(ies): The West Virginia Public Employees Insurance Agency (PEIA)

Describe the PHI. If not applicable please indicate the same.

Per 45 CFR, Part 160.103

Health information means any information, whether oral or recorded in any form or medium, that:

- (1) Is created or received by a health care provider, health plan, public health authority, employer, life insurer, school or university, or health care clearinghouse; and
- (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual.

Individually identifiable health information is information that is a subset of health information, including demographic information collected from an individual, and:

- (1) Is created or received by a health care provider, health plan, employer, or health care clearinghouse; and
- (2) Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and
 - (i) That identifies the individual; or
 - (ii) With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Protected health information means individually identifiable health information:

- (1) Except as provided in paragraph (2) of this definition, that is:
 - (i) Transmitted by electronic media;
 - (ii) Maintained in electronic media; or
 - (iii) Transmitted or maintained in any other form or medium.

The information provided to, transmitted by, and/or created by the Associate and/or stored and/or maintained by the Associate in electronic form(s) on platform(s) owned, managed and/or

administered by the Associate, pursuant to the Agreement will include the minimum necessary to perform the services thereunder and will specifically include, but may not be limited to:

- a) The Associate, as the defined "Business Partner" will provide administrative, technical, and/or procedural support to the Covered Entity for the Covered Entity's "Great Plains" application(s) and/or in related applications used to support the "Great Plains" application(s).
- b) PEIA member individually identifiable health information or protected health information, including but not necessarily limited to, name(s), names of dependent(s), specific identifying information, e.g. address(es), date(s) of birth, social security number(s), policy number(s), etc. that may be viewable in the "Great Plains" application(s) and/or in related applications used to support the "Great Plains" application(s).
- c) PEIA member individually identifiable health information or protected health information necessary to allow the Covered Entity to perform their statutory business function(s) in accordance with State and/or Federal law(s) that may be viewable in the "Great Plains" application(s) and/or in related applications used to support the "Great Plains" application(s).
- d) PEIA member individually identifiable health information protected health information used in relation to interfaces with public websites and/or portals or internal websites and/or portals that may be viewable in the "Great Plains" application(s) and/or in related applications used to support the "Great Plains" application(s).
- e) PEIA member protected health information needed by and/or for other identified Business Associates in the provision of their services to the Covered Entity that involves access to protected health information.
- f) PEIA member protected health information posted to file transfer protocol (FTP) site(s) for delivery, transmission, or receipt by other Business Associate(s) of the Covered Entity(ies) that may be viewable in the "Great Plains" application(s) and/or in related applications used to support the "Great Plains" application(s).

Not Applicable for Rand Group Solutions LLC

WV-10
Approved / Revised
08/01/15

State of West Virginia
VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code, §5A-3-37**. (Does not apply to construction contracts). **West Virginia Code, §5A-3-37**, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. ☐ **Application is made for 2.5% vendor preference for the reason checked:**
☐ Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
☐ Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
☐ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
2. ☐ **Application is made for 2.5% vendor preference for the reason checked:**
☐ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
3. ☐ **Application is made for 2.5% vendor preference for the reason checked:**
☐ Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
4. ☐ **Application is made for 5% vendor preference for the reason checked:**
☐ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
5. ☐ **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
☐ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
6. ☐ **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
☐ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
7. ☐ **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.**
☐ Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (**West Virginia Code, §61-5-3**), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: _____

Signed: _____

Date: _____

Title: _____

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: Rand Group Solutions, LLC dba Rand Group

Authorized Signature: Tamara Tapp Date: 7/27/16

State of TEXAS

County of Harris, to-wit:

Taken, subscribed, and sworn to before me this 27 day of July, 2016.

My Commission expires September 15, 2018.

AFFIX SEAL HERE



NOTARY PUBLIC

Jennifer Veliz

Purchasing Affidavit (Revised 08/01/2015)