

RESPONSE TO CRFQ 0506 WEH 1700000014

05/17/17 12:52:34
WU Purchasing Division

Appalachian Mountains Medical, LLC

5/17/2017



Appalachian Mountains Medical, LLC

123 Hunters Ridge Road, Fayetteville, WV 25840

304-719-8658

May 17, 2017

April Battle, Buyer 22
Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

Re: CRFQ 0506 WEH1700000014

Dear Ms. Battle,

This letter is to certify that Appalachian Mountains Medical, LLC is a registered vendor with the State of WV. We received notification of the solicitation, and retrieved the CRFQ and all attachments, including addendums from WVOasis.com. Appalachian Mountains Medical, LLC has meet all mandatory requirements and is qualified to submit a bid on CRFQ 0506 WEH 1700000014.

This letter is to also confirm our understanding and agreement of the Instructions to Vendors Submitting Bids and the General Terms and Conditions. The prices arrived at in generating this proposal were computed independently, without collusion or agreement as to any matter relating to such prices with any other offer or competitor.

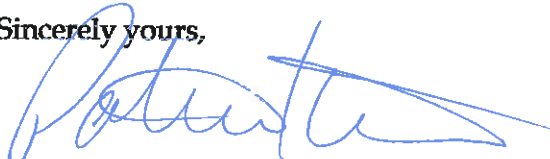
Appalachain Mountains Medical, LLC signs and agrees to the purchasing affidavit. We have no outstanding debt with the State of West Virginia.

Appalachian Mountains Medical, LLC agrees to all mandatory requirements of the CRFQ whether stated or implied in this proposal.

Appalachian Mountains Medical, LLC will need up to 90 days from notice of winning the proposal to be ready to completely staff the services.

This proposal meets or exceeds all mandatory specifications outlined in the CRFQ,

Sincerely yours,



Patricia Keith
Owner
Appalachian Mountains Medical, LLC

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CRFQ WEH1700000014
OB/GYN Physician Services

SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of West Virginia Department of Health and Human Resources, Bureau for Behavioral Health Facilities, Welch Community Hospital (Agency) to establish a physician services contract for specialty services in the areas of Obstetrics (OB)/Gynecology (GYN) physicians to provide OB/GYN physicians services providing coverage for clinic work, births, and on-call coverage for Welch Community Hospital.

NOTE: This request is covered in part or in whole by federal funds. All bidders will be required to acknowledge and adhere to Attachment 1-Provisions Required for Federally Funded Procurements.

[Appalachian Mountains Medical, LLC understands and agrees.](#)

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

2.1 “Contract Services” means physician services contract for specialty services in the areas of in the areas of Obstetrics (OB)/Gynecology (GYN) physicians to provide OB/GYN physicians services providing coverage for clinic work, births, and on-call coverage for hospital’s patients as more fully described in these specifications.

2.2 “Pricing Page” means the pages, contained wvOASIS or attached hereto as Exhibit A, upon which Vendor should list its proposed price for the Contract Services.

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

[Appalachian Mountains Medical, LLC understands definitions and agrees.](#)

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

3.1. Vendor at all times shall provide OB/GYN Physicians who are qualified, professional, competent, duly licensed, and physicians must have a current Drug Enforcement Agency (DEA) number. Vendor's physicians are required to have and maintain a valid and current Cardiopulmonary Resuscitation (CPR)/First Aid card. Vendor's physicians will have a Background Check done by vendor. The vendor will ensure that appropriate releases are signed by the physician to release the Background Checks to the hospital. The vendor will ensure that the hospital Vendor shall provide Medicare numbers, Medicaid numbers, Unique Physician Identification Number (UPIN) numbers, and any and all licenses required by vendor, its agents and employees.

Appalachian Mountains Medical, LLC agrees with the minimum qualifications.

4. MANDATORY REQUIREMENTS:

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

4.1.1 Vendor Responsibilities

4.1.1.1 General Service Requirements: Vendor shall recruit, supervise and compensate health care providers, pursuant to the terms of this contract, to meet the coverage and on-call needs of Welch Community Hospital for the services set forth more specifically below. It shall be the Vendor's continuous responsibility to monitor the service requirements and to adjust coverage accordingly. Vendor's medical staff must provide service to all patients who present themselves to all hospital departments or clinics regardless of their ability to pay for treatment and services. Vendor shall also require its physicians to actively participate in the hospital's medical staff organizations. At all times, the duty to manage the hospital and its clinics and departments shall remain with the hospital administrator and DHHR. References herein to hospital decision-making shall refer only to hospital Administrator, Bureau Commissioner and/or the Secretary of DHHR.

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4.1.1.2 The facility utilizes an electronic medical record (EMR) in all areas of patient care. The EMR is designed to provide a higher level of patient safety and is not designed to save providers time or effort. This system requires the vendor to utilize providers that can and are willing to type orders and use computer keyboards and mouse and other technology to input virtually all documentation into the EMR system. This must be done through keyboard typing and point and click mouse input. Oral dictation and/or hand-written notes of daily patient progress notes, clinic visits reports and routine patient encounters shall not be the normal method of documentation. It is expected that the vendor shall employ providers that are always capable, willing and prepared to function in this electronic, computerized environment.

4.1.1.3 The Vendor and all health care providers shall cooperate with the Utilization Review staff to assure appropriate documentation and actions are taken related to admissions and discharges. Vendor shall adhere and follow the Utilization Plan (Exhibit B) and the Utilization Review Code of Participation for this facility.

https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf

§482.30 Condition of Participation: Utilization Review

4.1.1.4 The Vendor shall require all physicians and staff to wear Welch Community Hospital Photo Identification (ID) Badge. The photo ID badges will be provided to each physician and staff member by the facility.

4.1.1.5 The vendor shall not allow medical providers to sleep while working at the hospital, in any capacity. Exceptions shall be made only during emergency situations and must include the approval of the hospital.

4.1.1.6 The vendor shall only employ providers that, at all times comply with: The Value Based Purchasing requirements set forth by the Centers for Medicare and Medicaid Services (CMS). Compliance includes

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meeting and/or exceeding the national benchmarks issued by CMS for all process of care measures (Core Measures); and CMS's Meaningful Use requirements as they relate to provider use of the Electronic Health Record (EHR). This includes, but is not limited to, meeting the thresholds issued by CMS for Computerized Provider Order Entry (CPOE) and the requirements issued by CMS for the Readmission Reduction Program; as well as the detailed documentation requirements necessary for the coding and billing of ICD-10 codes. Physicians identified as not meeting these requirements shall not be assigned at the hospital without an active, hospital approved, Plan of Correction (POC) in place. All POCs shall include target dates of completion.

4.1.1.7 Continuity of Services: This contract is intended to provide continuity of physician services and the management thereof on a continuous basis. In the event of termination of the contract by vendor, vendor must assume the continuity of health care services at a level consistent with the terms of the contract for a period not to exceed twelve (12) months from the notice of termination or until such time as DHHR can provide an alternative Vendor.

Appalachian Mountains Medical, LLC agrees to all of Sec 4.1.1 Vendors Responsibilities.

4.1.2 Specialty Services: OB/GYN Clinic: Vendor shall provide OB/GYN Physician(s) coverage for clinic work, births and on-call coverage.

4.1.2.1 Physician will provide coverage for the OB/GYN clinic where operating hours are Monday through Friday 8:00 am till 4:00 pm, 52 weeks per year.

4.1.2.2 Physician will provide on-call services during all hours of non-clinic times. This includes: Monday through Thursday 4:00 pm till 8:00 am and on weekends from 4:00 pm on Friday evening until 8:00 am Monday morning. Coverage for the major holidays will begin at the

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end of business day on the eve of the holiday 4:00 pm and will end on the following regular business day at 8:00 am.

4.1.2.3 Physician must arrive and be ready to work at the designated/scheduled time. The vendor shall not charge the agency for hours scheduled but not worked by the physician. Time sheets shall be provided to the hospital and shall reflect the actual hours worked by the physician.

4.1.2.4 Physician must be within thirty minutes of the facility at all times in order to be able to respond to any emergencies that may arise. The physician(s) shall not be housed at the facility during their stay unless foul weather conditions exist.

4.1.2.5 The physician must apply and become credentialed by the hospital's Medical Staff and Governing Body and as such, agree to follow and obey the By-laws and rules and regulations of the Medical Staff. This must be done prior to starting work at the facility.

By-laws and rules and regulations of the Medical Staff states, "The on-call physician will be available at all times while on call and capable of responding by telephone within fifteen minutes and in person within thirty minutes. When the Emergency Department (ED) physician requests that the on-call physician examine the patient, the on-call physician must physically come to the hospital within 30 minutes of that request."

4.1.2.6 Physician must make rounds among OB/GYN in patients and provide services as needed, 24 hours per day, 7 days per week including all holidays.

4.1.2.7 Physician shall be responsible for the supervision of OB clinic Registered Nurses (RN) and Licensed Practical Nurses (LPN) only.

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- 4.1.2.8** Vendor shall monitor, assure and document the competency of the staff assigned to provide the aforementioned services to Welch Community Hospital and will provide documentation of such when requested. Certifications such as Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS), Neonatal Advanced Life Support (NALS), Board Certification as obtained by the physicians will be accepted as their competency assessment.
- 4.1.2.9** Welch Community Hospital uses an Electronic Medical Record (EMR) provided by Medsphere. All physicians supplied by the vendor must be capable and willing to function within this environment. The vendor shall assure the physician is available for a four (4) hour training period prior to their beginning work or coverage at the facility. Physician(s) that have had this training (given by this facility) are not required to repeat it.
- 4.1.2.10** Physician(s) will be required to submit patient dictations to include but not necessarily limited to: history, physical, delivery, inpatient and surgeries.
- 4.1.2.11** Physician will be responsible for patient admitting.
- 4.1.2.12** The vendor must provide a copy of the physician's medical malpractice insurance for the minimum amount of \$1,000,000.00. Certificate Holder will be Welch Community Hospital, 454 McDowell Street, Welch, WV 24801.
- 4.1.2.13** Vendor must adhere to all HIPAA regulations (see Attachment HIPAA Business Associate Addendum).
- 4.1.2.14** The vendor shall not allow medical providers to sleep while working at the hospital, in any capacity. Exceptions shall be made only during emergency situations and must include the approval of the hospital.

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4.1.2.15 Department Staffing: The successful vendor will provide a detailed staffing plan for department and clinic coverage, including on-call coverage, for physician. Staffing recommendations are based upon a review of the service area and major medical needs, including the needs of medical staffing in specific medical specialties. The staffing plan must indicate the number of positions and level of health care physicians proposed to meet the OB/GYN department's/clinic's service requirements.

4.1.2.16 Performance Improvement: The successful vendor will develop a program with productivity measures and quality assurance indicators whereby DHHR can judge vendor's provision of medical services to the community. Vendor's final program will be approved by DHHR. A draft plan that outlines the vendor's program must be provided upon request after the award of the contract.

4.1.2.17 Tug River Clinic: Vendor must agree to work with the Tug River Clinic and DHHR toward developing a patient care arrangement for Tug River Clinic patients.

4.1.2.18 OB/GYN Clinic Operation: Except as otherwise specifically provided herein, the hospital clinics shall be closed on the following days:

Memorial Day
Thanksgiving Day
Friday Following Thanksgiving
July 4th
Labor Day
Christmas Day
New Year's Day

If any of these holidays do not fall on a day of normal operation for the clinic, the clinic's hours of operation will not be affected. The clinics may be closed on other dates by prior agreement between the hospital and the vendor.

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- 4.1.2.19 Sick and Annual Leave:** DHHR will not be responsible for vendor's health care physician's sick and annual leave. When the vendor's health care providers take sick, annual or other paid or unpaid leave, vendor shall be responsible for providing appropriate coverage.
- 4.1.2.20 Scheduling:** Each health care provider shall be assigned to his/her area or clinic without overlap of time or responsibilities. This includes on-call scheduling and daily inpatient rounds, except where otherwise noted. The vendor shall supply the hospital with completed clinic, on call and department schedules by the 15th of the prior month.
- 4.1.2.21 Medical Staff Participants:** Vendor's health care providers will actively participate in hospital leadership roles such as the medical directorship, peer review and community work. Vendor's physicians will participate in the medical staff organization as described in the hospital's Medical Staff By-Laws and as developed by DHHR. Vendor's physicians will provide consultation as requested by the other members of the medical staff.
- 4.1.2.22 Professional Practice:** At all times vendor shall provide health care providers who are qualified, professional, competent and duly licensed. Physicians must have a current DEA number. Vendor shall provide Medicare numbers, Medicaid numbers, UPIN numbers, and any and all licenses normally required by vendor, its agents and employees. The vendor will ensure physicians apply and receive appointment to the medical staff and obtain clinical privileges. Physicians must participate in regular medical staff activities and responsibilities including teaching. Physicians and other health care providers must complete medical records in a timely manner in compliance with regulations as established by third party reimbursement organizations and the hospital's Medical Staff By-Laws. Vendor is responsible for notifying hospital of any physician or other health care provider whose credentials at any time are not in compliance with this section. Vendor must provide hospital with a current list of all health care providers and the services they are providing as well as timely notice to hospital of any change in physician or other health care providers. The hospital

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reserves the right to approve or reject, at any time, any health care provider proposed by vendor.

4.1.2.23 Accreditation and Licensure: Vendor and its health care providers will assist the hospital in its efforts to obtain and maintain all proper licenses, certification and accreditation by the Joint Commission on Accreditation of Health Care Organizations (JCAHO) and the Health Care Financing Authority/Office of Health Facilities Licensure and Certification (HCFA/OHFLAC). Vendor will have available upon request a model of health care provider protocols that assures compliance with standards by JCAHO and HCFA/OHFLAC.

4.1.2.24 Patient Referrals: In order to assure continuation of this hospital's ability to provide sub-specialty services, vendor's health care providers will, when medically and legally appropriate, refer patients to other physicians practicing at Welch Community hospital. Vendor's health care providers will make every effort to make appropriate referrals of patients for in-patient care at the hospital. Vendor will assure its health care providers do not violate Section 1877 of the Social Security Act and any accompanying current and future regulations to Section 1877 of this Act (more commonly known as the "Stark Law"). Vendor agrees to indemnify and hold harmless State and DHHR for its health care provider's violations of the Stark Law(s).

4.1.2.25 Medical Records: Vendor agrees to abide by Federal, State, DHHR and hospital laws and guidelines for records privacy, retention and security. Vendor will maintain records for a period of five (5) years from date of service and make those records available, upon written request, to the Secretary of the United States Department of Health and Human Services or the Comptroller General of the United States, their agents or assigns. Vendor must maintain, and agrees to make available upon request, its policy with step-by-step guidelines for assuring appropriate management of medical records in compliance with all Federal, State, DHHR and hospital mandates, including but not limited to Medicare and Medicaid guidelines.

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4.1.2.26 Patient Grievances: Vendor must maintain and agree to provide a policy with step-by-step description of handling patient complaints regarding services provided by and conduct of its health care providers. A copy of this policy should accompany the bid and must be provided upon request.

4.1.2.27 Anti-dumping Legislation: Vendor's health care physicians/health care providers must comply with anti-dumping laws involving the proper receipt, discharge and transfer of patients. Vendor's health care providers shall be trained on the necessary receipt, discharge and discharge information to be completed and maintained. This training will be provided annually by the vendor to his health care providers and documentation of such will be provided to the hospital.

4.1.2.28 Non-competition clause: An underlying DHHR objective in providing quality health care services is to promote the ability of patients to develop on-going, long-term relationships with their health care provider; any contract between vendor and its health care providers shall not include a non-competition clause enforceable against the health care provider. This provision is adopted to ensure that a health care provider is not forced to leave his/her patients should they decide to leave the vendor's employ or because vendor's contract with the State and DHHR is terminated or not renewed.

4.1.2.29 Suspension or Termination of Health Care Provider: Vendor's health care providers' participation may be suspended or terminated by DHHR for any of the following reasons: (1) suspension or revocation of the license authorizing the provision of services; (2) a conviction of a criminal charge; (3) failure to obtain and maintain active privileges at the hospital; or (4) suspension or revocation of the health care provider's DEA number and/or DEA privileges; or (5) as otherwise provided for herein below.

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- 4.1.2.29.1** DHHR shall report in writing to vendor situations and actions involving vendor's health care providers with DHHR regards as evidencing substandard care or poor business practice(s) which are otherwise not in the best interest of patients or DHHR. This report shall contain DHHR's recommendations and/or opinions regarding appropriate vendor action. DHHR may also recommend the suspension or termination of a health care provider from participation under the contract although final determination shall remain with vendor. If vendor and DHHR cannot reach a mutually agreeable decision with respect to action to be taken against the health care provider, DHHR may elect to utilize the termination provisions contained herein.
- 4.1.2.29.2** Notwithstanding the foregoing, DHHR may immediately suspend a health care provider's privileges when, in DHHR's opinion, there is a clear endangerment of employee or patient health, welfare or safety. Such suspension shall continue until vendor's recommendations are made to DHHR. If DHHR does not agree with the recommendations and actions taken by vendor, DHHR may elect to utilize the termination provisions contained herein.
- 4.1.2.29.3** DHHR may report in writing to vendor services provided which, in DHHR's opinion, is inappropriate or excessive. Vendor may, within fifteen (15) days from the date of such notification implement appropriate methods and measures to address the issues. DHHR shall also recommend the suspension or termination of a health care provider who DHHR believes is engaging in inappropriate or excessive utilization of services or resources, from participation under any contract although the final determination of suspension or termination shall rest with vendor. Should vendor elect not to act on DHHR's recommendations or opinions or take action inconsistent with DHHR's recommendations within

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fifteen (15) days, DHHR may elect to utilize the termination provisions contained herein.

Appalachian Mountains Medical, LLC agrees to all of sec 4.1.2 Specialty Services: OB/GYN Clinic, including clarification in Addendum 2.

4.1.3 Agency Responsibilities

4.1.3.1 Agency will NOT provide the vendor or the physician with phones or beepers.

4.1.3.2 Agency will provide an adequate orientation for each physician. Orientation will include but not be limited to, providing basic information regarding universal precautions.

4.1.3.2.1 Hospital will comply with Occupational Safety and Health Administration (OSHA) Blood-Borne Exposure Control Regulations and provide site and task specific training regarding safety regulations required by OSHA.

4.1.3.2.2 Hospital certifies that it has developed and follows an exposure plan in conformance with those regulations.

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4.1.3.2.3 Hospital will provide post-exposure evaluation and make a confidential medical evaluation of the exposure incident.

4.1.3.2.4 Hospital agrees to provide copies of all records of post-exposure care to vendor.

4.1.3.3 Agency will provide new physicians with limited (approximately four hours) instructions on the EMR prior to their first shift.

Appalachian Mountains Medical, LLC agrees to all of section 4.1.3 Agency Responsibilities.

4.1.4 GENERAL TERMS AND CODITIONS:

4.1.4.1 Prohibition Against Gratuities: Vendor warrants that it has not employed any company or person other than a bona fide employee working solely for vendor or a company regularly employed as its marketing agent to solicit or secure the contract and that it has not paid or agreed to pay any company any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon the contact. For breach or violation of this warranty, the State shall have the right to annul any subsequent contract without liability at its discretion, and/or to pursue any other remedies available under this contract or by law.

4.1.4.2 Certifications Related to Lobbying: Vendor certifies that no federal appropriated funds have been paid or will be paid, by or on behalf of the company or an employee thereof, to any person for purposes of influencing or attempting to influence an officer or employee of any federal entity, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan, or cooperative agreement. If any funds other than federally appropriated funds have

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been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, vendor shall complete and submit a disclosure form to report the lobbying. Vendor agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

4.1.4.3 Contract Provisions: A purchase order will be executed between the DHHR and vendor. The order of precedence is the contract, specifications, terms and conditions, bid requirements, any addenda, and the vendor's bid.

4.1.4.4 Governing Law: This contract shall be governed by the laws of the State of West Virginia. Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable Federal, State and Local Government rules, regulations and policies.

4.1.4.5 Compliance with Laws and Regulations: Vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or Municipal Laws, regulations, policies and ordinances to include but not limited to the following:

4.1.4.5.1 Vendor shall procure all necessary permits and licenses and abide by all applicable laws, regulations, rules, policies and ordinances relating to licensure and regulation of physicians, other health care providers and hospitals. All standards of medical practice and professional duties of vendor and its employees shall be determined in accordance with the hospital's Medical Staff By-laws.

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4.1.4.5.2 Vendor shall agree to provide an annual attestation that it bills in accordance with Medicare and Medicaid laws. Vendor shall produce a copy of its corporate compliance program relating thereto upon request.

4.1.4.6 Subcontracts/Joint Ventures: The State and DHHR will consider vendor to be the sole point of contact with regard to all contractual matters. Vendor may, with the prior written consent of the State and DHHR, enter into written subcontracts for performance of work.

4.1.4.6.1 Vendor's health care providers shall agree to accept all patients regardless of their ability to pay and to bill indigent patients in accordance with the hospital's Patient Account Management Policy 3501 http://intranet.wvdhhr.org/Policies/accounts_receivable.htm. Should any changes occur to this policy during the life of the contract and any subsequent renewals, vendor shall agree to abide by the changes.

4.1.4.6.2 The costs provided by vendor represent costs associated with physician compensation, malpractice insurance, billing costs and administrative costs to manage the contract. The costs quoted by vendor will not be subject to any increase and will be firm for each year of the contract, should it be renewed for the three subsequent years. Vendor shall keep its revenue and costs financial records and supporting documentation segregated from those of other clients and from any other DHHR contract.

4.1.4.7 VENDOR Invoice to Hospital:

4.1.4.7.1 Vendor will complete one (1) full month of service before invoicing DHHR.

4.1.4.7.2 DHHR may audit vendor to determine its actual costs.

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- 4.1.4.7.3** Each quarter (three months), vendor shall submit a cost reconciliation statement with comments/justifications for reconciliation changes.
- 4.1.4.7.4** If an audit or cost reconciliation reveals vendor's actual physician costs are less than those it submitted in the contract, vendor will be notified in writing. DHHR will arrange to meet with vendor to discuss the findings. Upon conclusive, mutually agreed upon evidence that actual costs were less than those submitted, vendor shall reimburse overpayments, in full, to DHHR. DHHR shall withhold the amount of reimbursement from the invoice to be paid in the month immediately following the month in which an overpayment is discovered. If the overpayment is discovered after the term of the contract is completed, the reimbursement shall be paid in the form of a check.
- 4.1.4.7.5** If, in any month, vendor fails to provide DHHR with the services and coverage required, vendor shall reduce the monthly billing appropriately. If vendor fails to reduce any monthly billing for services and coverage it failed to provide, vendor shall agree to pay DHHR, an amount equal to three (3) times the amount of the overcharge. DHHR shall notify vendor of its failure to provide services and coverage, reduce its invoice appropriately and provide vendor with an opportunity to contest the overcharge determination. At all times, the burden remains with vendor to maintain objective documentation to prove it provided all services it is required to provide under the contract and for all services for which it billed DHHR.
- 4.1.4.7.6** Vendor's contract costs shall not include expenses unrelated to the cost of providing the services set forth herein.

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Examples include, but are not limited to, penalties, donations, contributions, and income tax expenses.

4.1.4.8 Invoices and Progress Payments:

4.1.4.8.1 Vendor must submit invoices, in arrears, to DHHR at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract. The invoices must be in a form approved by the Department and shall enclose a monthly activity log. Vendor will be responsible for payment of all subcontracts, staff, and any other support staff contracted to provide services. State law forbids payment of invoices prior to receipt of services. The Department reserves the right to reject any or all invoices for which proper documentation has not been provided. Vendor will be notified of deficiencies within fifteen (15) days of receipt of the invoice.

4.1.4.8.2 Vendor will invoice monthly and will provide detailed documentation supporting the invoiced amount. This documentation will include, by department/clinic, each health care provider's signed time record which shall indicate actual work time and on-call hours and a detailed account of vendor's health care providers shall maintain accurate time records in addition to using the hospital's time clock to record time-in and time-out of the hospital. Vendor's invoice shall also document any service or partial service that was not provided pursuant to the terms of the contract and vendor shall reduce the invoice appropriately. If there is service or partial service which vendor did not provide, the invoice must contain a detailed explanation of the reason such service was not provided.

4.1.4.8.3 DHHR and vendor shall determine the format of the invoice form. DHHR reserves the right to modify the invoice format at any time if additional information is required.

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4.1.4.9 Record Retention (Access & Confidentiality): Vendor shall comply with all applicable federal and State of West Virginia laws, rules, regulations and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered by vendor. Vendor shall maintain such records a minimum of five (5) years from the end of the contract period and make available all records to DHHR personnel at vendor's location during normal business hours upon written request by DHHR within ten (10) days after receipt of the request. Vendor, its employees and agents shall have access to private and confidential data maintained by hospital to the extent required for vendor to carry out the duties and responsibilities defined in the contract. Vendor agrees to maintain confidentiality and security of the data made available. Vendor shall indemnify and hold harmless the State and DHHR against any and all claims, brought by any party, attributed to actions of breach of confidentiality by vendor, subcontractors, or individuals permitted access by vendor, including legal fees and disbursement paid or incurred to enforce the provision of the contract. Vendor shall accept responsibility for providing adequate supervision and training to its agents and employees to ensure that confidentiality is maintained. No private or confidential data, maintained or used during the course of the contract period shall be disseminated except as authorized by statute either during the contract period or thereafter.

4.1.4.10 News Release: News releases or other publicity pertaining to the services to be provided under this contract shall not be made without prior approval by DHHR.

4.1.4.11 Contract Monitoring, Accounting and Auditing:

4.1.4.11.1 Vendor shall maintain accounting records and supporting documentation relating to the performance of the services to be provided under this contract (see 4.1.5.10 above). These accounting records shall be maintained in accordance with

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generally accepted accounting principles. Authorized representatives or agents of the State and DHHR shall have access to the accounting records and documentation, of vendor and any subcontractor, upon reasonable notice and at reasonable times during the performance and/or retention period of the contract for purposes of review, analysis, inspection and audit. DHHR and other State and/or federal agencies and their authorized representatives or agents shall have access to all accounting and financial records of any individual, partnership, firm or corporation insofar as they relate to transactions connected with this contract.

4.1.4.11.2 Vendor shall provide the State or Agent or authorized governmental official with full access to records regarding performance related to the contract for the purpose of monitoring, review and testing of vendor's operation relating to performance within the time frame set forth above. For each day vendor fails to allow DHHR access to its records or copies of any specific record, DHHR will impose a \$250.00 per day fee.

4.1.4.11.3 Vendor shall maintain books, records, documents and other evidence pertaining to the administrative costs and expenses of the contract to the extent and in such detail as shall properly reflect all revenues and costs of whatever nature for which reimbursement is claimed under the provision of the contract. Vendor shall agree that authorized federal, State and DHHR representatives shall have access to and the right to examine the items listed above during the contract period and during the five-year post-contract period or until final resolution of all pending audit questions and litigation. During the contract period, access to these items will be provided to DHHR at all reasonable times. During the five-year post-contract period, delivery of and access to the listed items will be at no cost to the State or DHHR.

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4.1.4.11.4 DHHR may, at its option, conduct audits of vendor's operations as they pertain to the provision of services and billings and reimbursements pursuant to the contracted services. DHHR agrees to provide no less than thirty (30) days advance written notice to vendor of any audit to be performed.

4.1.4.11.5 If vendor carries out any of the duties of this contract through a subcontract with a value of cost of \$10,000 or more over a 12-month period, the subcontract shall contain a clause to the effect that until the expiration of five years after the furnishing of services pursuant to the subcontract, the subcontractor shall make available, upon request of the State, DHHR or Secretary of the United States Department of Health and Human Services, or any of their duly authorized representatives, the subcontract, and any and all of its books, documents, and records that are necessary to certify the nature and extent of such costs.

4.1.4.11.6 Vendor shall provide to the facility a quarterly collections report including charges and adjusted amounts and supporting documentation of patient payments and payments from 3rd party payers (i.e. remittance reports). Vendor may annually collect and retain \$220,000.00 prior to returning excess to facility. The quarterly report will be due forty-five days after the beginning of the contract period and again every ninety days following, thereafter. The vendor shall provide an annual collections report within thirty days after each twelve months of service has been completed with a remittance of any amount due to the hospital for over collections, at that time. The liquidated damages for failure to provide the annual collections report and/or any amount due to the hospital, in a timely manner, will be 3.5 times the amount owed or \$10,000 whichever is the greater. The liquidated damages will be imposed on the first business day after the due date and payment shall be expected within 30 days. Additional liquidated damages of \$100 per day shall be imposed after day 30.

**REQUEST FOR QUOTATION
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4.1.4.12 Debarment and Suspension: Vendor certifies that no entity, agency, subcontractor or person associated with the vendor is currently debarred or suspended by any state or the Federal government.

Appalachian Mountains Medical, LLC agrees to all of Section 4.1.4 General Terms and Collections, including clarifications in Addendum 2.

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 Pages.

5.2 Pricing Page: Vendor should complete the Pricing Page by entering pricing for requested item. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document.

Appalachian Mountains Medical, LLC agrees to Section 5 Contract Award.

6. PERFORMANCE: Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. 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.

Appalachian Mountains Medical, LLC agrees to Section 6 Performance.

7. PAYMENT: Agency shall pay pricing as indicated within bid proposal 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.

**REQUEST FOR QUOTATION
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Appalachian Mountains Medical, LLC agrees to Section 7 Payment.

- 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.

Appalachian Mountains Medical, LLC agrees to Section 8 Travel.

- 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.

Appalachian Mountains Medical, LLC agrees to all of Section 9 Facility Access.

**REQUEST FOR QUOTATION
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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.

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.

[Appalachian Mountains Medical, LLC agrees to all of Section 10 Vendor Default.](#)

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: Patricia Keith

Telephone Number: 304-719-8658 or 681-207-7351 ext 104

Fax Number: 681-207-7351

Email Address:

Patty.Keith@appalachianmountainsmedicalllc.com

Exhibit A - WEH170000014 OB/GYN Physician Services Pricing Page

Physician/Service Specialty	Number of Full Time Employees	Monthly Annual Cost	Total Annual cost
1. OB/GYN Physician Services 4.1.2.1	1.5	\$46,000.00	\$552,000.00
2. OB/GYN Physician On Call 4.1.2.1		\$46,000.00	\$552,000.00
3. Administrative Cost 4.1.4.11.6 less vendor billing collections for the amount of \$220,000.00		\$7,000.00	\$84,000.00
*Total Price for Health Care Provider Services		\$99,000.00	\$1,188,000.00

Award will be made for the lowest total bid meeting specifications

*Total maximum amount facility will pay vendor annually. This is to be a "not to exceed amount" paid to the vendor.

Appalachian Mountains Medical, LLC

Vendor Name (Printed)

Patricia Keith

Owner

Name of Authorized Representative

Title

5/17/2017

Vendor Signature

Date

123 Hunters Ridge Rd, Fayetteville WV 25840

Vendor Address

C: 304-719-8658 O: 681-207-7351

F: 681-207-7353

Telephone

Fax

Patty.Keith@AppalachianMountainsMedicalLLC.com

Email



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

State of West Virginia
 Request for Quotation
 26 - Medical

Proc Folder: 325736

Doc Description: Addendum #2 - OB/GYN Physician Services

Proc Type: Central Contract - Fixed Amt

Date Issued	Solicitation Closes	Solicitation No	Version
2017-05-11	2017-05-17 13:30:00	CRFQ 0506 WEH1700000014	3

BID RECEIVING LOCATION

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

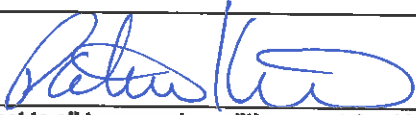
VENDOR

Vendor Name, Address and Telephone Number:

Appalachian Mountains Medical, LLC
 123 Hunters Ridge Rd, Fayetteville WV 25840
 C: 304-719-8658 O: 681-207-7351 F: 681-207-7353

FOR INFORMATION CONTACT THE BUYER

April Battle
 (304) 558-0067
 april.e.battle@wv.gov

Signature X  FEIN # 46-2403092 DATE 05/17/2017

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

ADDITIONAL INFORMATION:

Addendum #2 is issued to provide the vendor questions and answers.

Any other changes.

INVOICE TO		SHIP TO	
PROCUREMENT OFFICER - 304-436-8708 HEALTH AND HUMAN RESOURCES WELCH COMMUNITY HOSPITAL 454 MCDOWELL ST WELCH WV24801 US		PROCUREMENT OFFICER - 304-436-8708 HEALTH AND HUMAN RESOURCES WELCH COMMUNITY HOSPITAL 454 MCDOWELL ST WELCH WV 24801 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	OB/GYN Physician	12.00000	MO	\$46,000-	\$552,000-

Comm Code	Manufacturer	Specification	Model #
85121503			

Extended Description :

4.1.2.1 OB/GYN Physician Services

INVOICE TO		SHIP TO	
PROCUREMENT OFFICER - 304-436-8708 HEALTH AND HUMAN RESOURCES WELCH COMMUNITY HOSPITAL 4 MCDOWELL ST WELCH WV24801 US		PROCUREMENT OFFICER - 304-436-8708 HEALTH AND HUMAN RESOURCES WELCH COMMUNITY HOSPITAL 454 MCDOWELL ST WELCH WV 24801 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	OB/GYN Physician On Call	12.00000	MO	\$46,000-	\$552,000-

Comm Code	Manufacturer	Specification	Model #
85121503			

Extended Description :

4.1.2.1 OB/GYN Physician On Call

INVOICE TO		SHIP TO	
PROCUREMENT OFFICER - 304-436-8708 HEALTH AND HUMAN RESOURCES WELCH COMMUNITY HOSPITAL 454 MCDOWELL ST WELCH WV24801 US		PROCUREMENT OFFICER - 304-436-8708 HEALTH AND HUMAN RESOURCES WELCH COMMUNITY HOSPITAL 454 MCDOWELL ST WELCH WV 24801 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	OB/GYN Administrative Cost <i>less \$220,000</i> <i>annual collections</i>	12.00000	MO	<i>\$7,000-</i>	<i>\$84,000-</i>

Comm Code	Manufacturer	Specification	Model #
121503			

Extended Description :
4.1.4.11.6 Administrative Cost

SCHEDULE OF EVENTS

Line	Event	Event Date
1	Questions Due	2017-05-02

WEH170000014	Document Phase Final	Document Description Addendum #2 - OB/GYN Physician Services	Page 4 of 4
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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.: CRFO 0506 WEH170000014

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

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

Addendum Numbers Received:

(Check the box next to each addendum received)

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

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

Appalachian Mountains Medical LLC
Company


Authorized Signature

05/17/2017
Date

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

SOLICITATION NUMBER: CRFQ 0506 WEH1700000014
Addendum Number: 1

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

Applicable Addendum Category:

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

Description of Modification to Solicitation: To extend the bid opening date from May 10, 2017, at 1:30 PM EST to May 17, 2017, at 1:30 PM EST.

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

Terms and Conditions:

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

SOLICITATION NUMBER: CRFQ 0506 WEH1700000014
Addendum Number: 2

The purpose of this addendum is to modify the solicitation identified as CRFQ 0506 WEH1700000014 to reflect the change(s) identified and described below.

Applicable Addendum Category:

- Modify bid opening date and time
- Modify specifications of product or service being sought
- Attachment of vendor questions and responses
- Attachment of pre-bid sign-in sheet
- Correction of error
- Modified Bid Price Sheet

Description of Modification to Solicitation:

1. Response to vendor questions.

No other changes.

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

Terms and Conditions:

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

CRFQ WEH1700000014 Addendum 2 Questions and Answers

Q.1 What is the projected start date?

A.1 Earliest possible date would be 6/1/17

Q.2 What availability are they looking for from the physician? How many shifts per month?

A.2 The physician would be available to operate the clinic week days and on call for deliveries and emergencies after hours and weekends.

Q.3 What is the call back volume?

A.3 The vendor will provide a physician to meet the department needs for the term of the contract.

Q.4 What is the typical patient volume?

A.4 The clinic currently sees 6 to 8 patients per day and had 41 births last year.

Q.5 What is the anticipated start date of this contract. The vendor will need time after notification to finalize staffing contracts, malpractice coverage, credentialing and billing requirements.

A.5 Earliest possible date would be 6/1/17

Q.6 Is there an option to utilize advanced healthcare providers (FNPs and PAs) to cover some of the clinical hours and also help provide care for hospitalized patients. If so how would we account for this on the pricing page.

A.6 NO

Q.7 Sec 4.1.2 The contract request 40 hours per week clinic coverage and 24/7 call coverage. We are aware that the hospital is currently on diversion a lot of the time related to nursing staffing. We are concerned about the risk of having a provider available if there is not sufficient support staff for the service. What is the Hospital's plan to provide the needed nursing coverage to support the contracted physician coverage? Emergencies happen and if we are called in to deliver a baby, we would

need appropriate OB , Pediatric and Surgical staff available to support the delivery and care of the mother and child.

A.7 Staffing issues are being addressed at this time.

Q.8 What nursing coverage will be provided in the clinic and on the floor to support our service?

A.8 2 LPNs in clinic; 1 RN & 1 LPN on floor

Q.9 Sec 4.1.4.7.5 If the hospital goes on OB diversion due to no fault of our staffing availability, we would expect to be paid for any clinic or call that had to be canceled due to issues outside of our control. We will have contracts with our providers based upon the coverage we are being asked to contract, and cannot reduce their pay when the hospital cannot provide necessary staff coverage. Our staffing and cost are based upon the contract requirements and we need clarification from the State regarding how this situation would be handled.

A. 9 On call coverage will be paid as Emergency delivery could take place in the ER

Q.10 Sec 4.1.2.7 Can you please elaborate on what would be required from the physician relating to the supervision of OB clinic nurses. Our understanding is that the nursing staff will be employed and managed by the hospital. We are willing to give feedback on the nursing services, but would need a better understanding of what all is required under the term supervision.

A.10 Physician would direct staff. Staff would be disciplined as needed in similar manner as any other department where supervisor orders are not followed.

Q.11 Sec 4.1.2.2 and 4.1.2.20 both relate to scheduling. Sec 4.2.3.3 states on call coverage is when the clinic is not open, which we interpret that the clinic doc is on call while covering the clinic and we are agreeable to that. Section 4.1.2.20 talks about no overlap. We can do normal rounds on hospital patients before or after the clinic is open, but if there is an emergency on the floor or a patient in active labor we would modify the clinic to respond to these situations. Please let us know if that is the correct interpretation.

A. 11 This is correct.

- Q.12 Sec 4.1.2.25 With the utilization of the electronic medical record and with us either only getting copies or viewing the chart on line, what are the requirements for us to keep copies of the records for 5 years?
- A.12 Vendor will maintain copies of billing records for 5 years.
- Q.13 Sec 4.2.4.11.6 refers to us collecting a minimum of \$220,000 before we have to return any collections to the State. What is the States experience in physician service collections for OB/GYN for each year the last 5 years. Is there a guarantee that we will at least collect this much? Are we able to bill the State if our collections do not reach this amount?
- A.13 Collections for last 5 years total \$1,107,883.92 breakdown as follows \$253,844.99 FY2013, \$255,542.23 FY2014, \$251,422.84 FY2015, \$241,759.79 FY2016, \$132,314.08 FY2017 to date. Vendor is not guaranteed a minimum collections amount. Vendor may not bill state if collection projections are not met.
- Q.14 To help us understand collections and staffing can we have monthly/annual volumes for the OB clinic, # of births, # of births that were c-sections, # of births that received epidurals, # of births on weekends or after clinic hours, # and types of surgical cases requiring anesthesia, # and types of procedures not requiring anesthesia.
- A.14 OB clinic visits 1244 FY 2016, OB Clinic visits 2087 FY2017 to date. Births 41 FY2016, Births 40 FY2017 to date, births after hours 26 FY2016 Births after hours 23 FY2017 to date, C section 18 for FY2016, C section 16 FY2017 to date. Surgical cases requiring anesthesia & cases not requiring anesthesia is not a tracking number readily available.
- Q.15 Will selected vendors have an opportunity to negotiate terms prior to signing?
- A. 15 No
- Q.16 Should we identify terms we wish to negotiate in our proposal?
- A.16 No.
- Q.17 How many patients per day would the physician see typically when providing coverage?
- A.17 6 to 8 currently however this number should increase.
-

Q.18 How many other physicians and personnel would the locums provider work with?

A.18 There may be 1 or 2 physicians that may provide assistance in an emergency but as a norm no locums would not be available.

Q.19 What will the call rotation be during coverage?

A.19 Vendor is to supply physicians to meet the on-call coverage.

Q.20 What is the approximate length of time you anticipate needing coverage /approximate length of assignment?

A.20 There is no anticipated end date.

Q.21 Do we need to identify our candidates with the bid, i.e. provide candidate CV, license etc... with the bid?

A.21 Candidates are not to be provided with the bid.

Q.22 Do you intend to make a single award or multiple awards?

A.22 Single award

Q.23 Are there penalties if we don't fill dates of coverage?

A.23 The vendor will be required to meet the specifications of the contract.

Q.24 Item 11: Exceptions and Clarifications: The following are terms that we take exception and would include in our proposal as items to negotiate and change: if possible can you address these now? Are these items negotiable?

A.24 No, these items are not negotiable.

Q.25 Section 36 : Vendor would not be contracting to provide medical services, rather we contract to source/screen/present physicians who would provide medical services. Vendor is neither selecting nor supervising these providers.

A. 25 This cannot be removed, vendor will be contracting to provide medical services providing physicians and supervising the physicians provided.

Q.26 Request to change Indemnification: Section 37(1) which requires vendor to indemnify for "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."

A.26 This cannot be changed.

Q.27 Request to remove the language from Section 4.1.2.8 about monitoring/ assuring/ documenting the competency of the providers. We verify credentials but are not in the position to document competency of their work at your facility.

A.27 This cannot be removed.

Q.28 Also, they require vendor to abide by HIPAA/ execute a BAA, but contractor is not a business associate. Can we eliminate the business associate agreement?

A. 28 No this cannot be eliminated. Vendor to provide physician and is responsible to see physician adheres to rules.

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 exceed 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: Appalachian Mountains Medical, LLC

Authorized Signature: [Signature] Date: 05/17/2017

State of West Virginia

County of Fayette, to-wit:

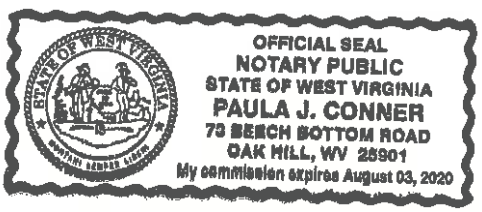
Taken, subscribed, and sworn to before me this 17 day of May, 2017.

My Commission expires Aug. 3, 2020, 20 .

AFFIX SEAL HERE

NOTARY PUBLIC Paula J. Conner

Purchasing Affidavit (Revised 08/01/2015)



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;
- Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; **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 that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's 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) rescind the contract or purchase order; 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.

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: Appalachian Mtns Medical LLC Signed: 
Date: 05/17/2017 Title: owner

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

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: May 2, 2017, at 3:00 PM EST

Submit Questions to: April Battle, Buyer 22

2019 Washington Street, East

Charleston, WV 25305

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

Email: april.e.battle@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: OB/GYN Physician Services
BUYER: April Battle, Buyer 22
SOLICITATION NO.: CRFQ 0506 WEH1700000014
BID OPENING DATE: May 10, 2017
BID OPENING TIME: 1:30 PM EST
FAX NUMBER: (304) 558-3970

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 or 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 _____ 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: May 10, 2017, at 1:30 PM EST

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 and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and 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 to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

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
Award _____ and extends for a period of One (1) _____ year(s).

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed thirty-six (36) months in total. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

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

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

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days.

Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional _____ successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed _____ months in total. Automatic renewal of this Contract is prohibited.

One Time Purchase: The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

Other: See attached.

4. NOTICE TO PROCEED: Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

Open End Contract: Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

Service: The scope of the service to be provided will be more clearly defined in the specifications included herewith.

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

7. REQUIRED DOCUMENTS: All of the items checked 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. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

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.

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.

WV Physician License

CPR/First Aid Card, UPIN, DEA number, Medicaid and Medicare numbers.

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. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. Subsequent to contract award, and prior to the insurance expiration date, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies mandated herein, including but not limited to, policy cancelation, policy reduction, or change in insurers. The insurance coverages identified below must be maintained throughout the life of this contract. 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 in this section.

Vendor must maintain:

Commercial General Liability Insurance in at least an amount of:
\$1,000,000.00 or more

Automobile Liability Insurance in at least an amount of: _____

Professional/Malpractice/Errors and Omission Insurance in at least an amount of:
\$1,000,000.00 or more

Commercial Crime and Third Party Fidelity Insurance in an amount of:

Cyber Liability Insurance in an amount of: _____

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

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

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

11. LIQUIDATED DAMAGES: Vendor shall pay liquidated damages in the amount of 4.1.A.11.2 CHFR will impose a \$250 per day fee; 4.1.A.11.3 A rate of 3.5 times the amount owed or \$10,000 whichever is greater, an additional \$100 per day shall be imposed after day 30.
for 4.1.A.11.2 each time vendor fails to allow CHFR access to its records or copies of any specific records; 4.1.A.11.3 failure to provide annual collections report and any amount due the hospital.
This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

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

13. 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.

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

15. 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.

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

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

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

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

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE: 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.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

Revised 04/07/2017

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

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. 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.

31. 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>.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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@wy.gov.

42. 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.

43. 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.

44. 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.

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.

Patricia Keith, owner
(Name, Title)
Patricia Keith, owner Appalachian Mtns Med, LLC
(Printed Name and Title)
123 Hunters Ridge Rd, Fayetteville WV 25840
(Address)
C: 304-719-8658 F: 681-207-7353
(Phone Number) / (Fax Number)
Patty.Keith@appalachianmountainsmedicalllc.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.

Appalachian Mountains Medical, LLC
(Company)
Patricia Keith
(Authorized Signature) (Representative Name, Title)
Patricia Keith, owner
(Printed Name and Title of Authorized Representative)
05/17/2017
(Date)
C: 304-719-8658 F: 681-207-7353
(Phone Number) (Fax Number)

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: Welch Community Hospital

Name of Associate: Appalachian Mountains
Medical, LLC

Signature: _____

Signature: 

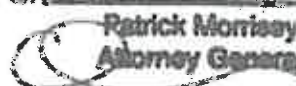
Title: C.E.O.

Title: owner

Date: _____

Date: 05/17/2017

Form - WVBA-012004
Amended 06.26.2013

APPROVED AS TO FORM THIS 26th
DAY OF May 2017
BY 
Patrick Morrissey
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: Appalachian Mountains Medical, LLC

Name of Agency: WVDHHR/BHHFF/Welch Community Hospital

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

Any and all personally identifiable information including but not limited to patient name, address, date of birth, Social Security Number, telephone number, and insurance information.

Any and all protected health information including but not limited to patient diagnosis, lab test, radiological exams, physical health exams, and/or treatment procedures.