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## Header

List View

### General Information

Contact

Default Values

Discount

Document Information

Procurement Folder: 221216

SO Doc Code: CRFQ

Procurement Type: Central Purchase Order

SO Dept: 0511

Vendor ID:

SO Doc ID: HHR1700000002

Legal Name: SUTTLE & STALNAKER PLLC

Published Date: 8/10/16

Alias/DBA:

Close Date: 8/17/16

Total Bid: \$170,000.00

Close Time: 13:30

Response Date:

Status: Closed

Response Time:

Solicitation Description:

Total of Header Attachments: 0

Total of All Attachments: 0



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

State of West Virginia  
Solicitation Response

Proc Folder : 221216

Solicitation Description : Addendum #2 Certified Public Accts for LTC Report Exams

Proc Type : Central Purchase Order

Date issued	Solicitation Closes	Solicitation Response	Version
	2016-08-17 13:30:00	SR 0511 ESR08171600000000709	1

**VENDOR**

000000202390

SUTTLE & STALNAKER PLLC

Solicitation Number: CRFQ 0511 HHR1700000002

Total Bid : \$170,000.00

Response Date: 2016-08-17

Response Time: 09:34:14

Comments:

**FOR INFORMATION CONTACT THE BUYER**

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

Signature on File

FEIN #

DATE

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

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	CPA examination of Long Term Care Reports - Ansted Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** Certified Public Accountant examination of Long Term Care Financial and Statistical Reports from West Virginia Medicaid Providers, per the attached detailed specifications - Ansted Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	CPA examination of Long Term Care Reports - Brightwood Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Brightwood Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	CPA examination of Long Term Care Reports - Canterbury Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Canterbury Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	CPA examination of Long Term Care Reports - Oak Ridge Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Oak Ridge Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	CPA examination of Long Term Care Reports - Carehaven Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

Extended Description : CPA examination of Long Term Care Financial and Statistical Reports for Carehaven Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	CPA examination of Long Term Care Reports - Raleigh Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

Extended Description : CPA examination of Long Term Care Financial and Statistical Reports for Raleigh Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
7	CPA examination of Long Term Care Reports - Sisterville Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

Extended Description : CPA examination of Long Terms Care Financial and Statistical Reports for Sisterville Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
8	CPA examination of Long Term Care Reports -Teays Valley Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

Extended Description : CPA examination of Long Term Care Financial and Statistical Reports for Teays Valley Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
9	CPA examination of Long Term Care Reports - Cedar Ridge Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Cedar Ridge Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
10	CPA examination of Long Term Care Reports - Dawnview Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Dawnview Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
11	CPA exam of Long Term Care Reports-Hampshire Health Care Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Hampshire Health Care Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
12	CPA examination of Long Term Care Reports - Heritage Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Heritage Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
13	CPA examination of Long Term Care Reports -Hidden Valley Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Hidden Valley Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
14	CPA examination of Long Term Care Reports - Hilltop Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Hilltop Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
15	CPA examination of Long Term Care Reports - Logan Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Logan Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
16	CPA examination of Long Term Care Reports - Marmet Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :** CPA examination of Long Term Care Financial and Statistical Reports for Marmet Ctr

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
17	CPA exam of Long Term Care Reports-Bishop Joseph H. Hodges				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

Extended Description :	CPA examination of Long Term Care Financial and Statistical Reports for Bishop Joseph H. Hodges C.C.C.
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COMMITMENT TO SERVE

**West Virginia**  
**Department of Health and Human Resources**  
**Office of Accountability and Management Reporting**

West Virginia Department of Health and Human Resources

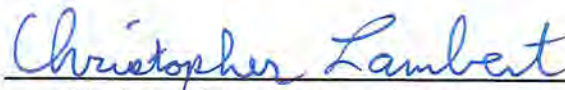
Office of Accountability and Management Reporting

Response to Request for Quotation  
CRFQ 0511 HHR1700000002

To Provide Examinations of Long Term Care  
Financial & Statistical Reports

Suttle & Stalnaker, PLLC  
The Virginia Center, Suite 100  
1411 Virginia Street East  
Charleston, West Virginia 25301  
(304) 343-4126  
(800) 788-3844

Contact Person:



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Christopher S. Lambert, CPA, Member

August 17, 2016

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TRANSMITTAL LETTER
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August 17, 2016

West Virginia Department of Health and Human Resources  
Office of Accountability and Management Reporting  
One Davis Square, Suite 401  
Charleston, West Virginia 25301

We are pleased to submit our proposal to provide examination engagements of the Long Term Care Financial and Statistical Reports (LTC-FSRs) received from West Virginia Medicaid providers listed in attachments 1, 2, 3 and 4 per the CRFQ 0511 HHR1700000002.

The examinations will be in accordance with the Office of Accountability and Management Reporting Audit Guide for Long Term Care Facilities, and will address: cost submitted by long term care providers participating in the West Virginia Medicaid Program are accurate, allowable, and in accordance with the West Virginia Medicaid Provider Manuals, all of the applicable laws, rules and regulations.


The services provided will include:

- Examinations of each six-month cost report filed by the individual nursing facilities as listed in the CRFQ 0511 HHR1700000002 in accordance with the OAMR Audit Guide.
- Issuance of individual examination reports by facility, expressing an opinion as to the completeness and accuracy of the providers' cost reports in accordance with the regulations and policies governing the filing of that report. The examination report will include a summary of findings, detailing all incidence of noncompliance regardless of the amount and effect on the opinion discovered as a result of the testing. The summary of findings will also include the questioned amount, the period in which the finding occurred, and the cost center affected by the finding.
- Immediate notification to the Agency in writing of any irregularities or misrepresentations that might indicate a criminal act, or intentional abuse of the Medicaid funding discovered while conducting the examination.
- Providing appeal representation and consultation for all levels of appeal, administrative reviews, evidentiary hearings, and judicial reviews.

We demonstrate in the attached proposal that we exceed your mandatory qualifications, understand your Request for Proposal and examination needs, and commit to meeting all of your requirements. Our detailed proposal which follows is formatted in the same order as the Request for Quotation, and includes specific responses to all required elements.

We will serve OAMR in a dedicated manner and you will be a top priority client of our office. We would appreciate the opportunity to meet personally to further discuss this written proposal. Please feel free to contact Chris Lambert in respect to any questions you may have concerning this proposal. The following technical proposal is a firm and irrevocable offer for ninety (90) days.

Very truly yours,



Suttle & Stalnaker, PLLC

<p>MANDATORY REQUIREMENTS – VENDOR EXPERIENCE/CAPABILITIES</p>
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**1 Vendor must have been in business at least fifteen (15) years and have at least (10) years experience conducting governmental audits.**

**Response:**

Suttle & Stalnaker, PLLC (S&S or Firm ) was founded in 1973 and has offices at 1411 Virginia Street East, The Virginia Center, Suite 100, Charleston, West Virginia 25301 and at Towne Square, 201 Third Street, PO Box 149, Parkersburg, West Virginia 26102.

Suttle & Stalnaker, PLLC has a long history of serving the State of West Virginia, having served virtually every major division and department in some capacity, including participating as a joint venturer/subcontractor in every Single Audit of the State of West Virginia. **As part of the Single Audit, Suttle & Stalnaker, PLLC persone I have audited the major programs of the Department of Health and Human Resources, including the Medicaid program.** Suttle & Stalnaker, PLLC has performed governmental audits for over 40 years.

The State of West Virginia and its departments, divisions, and component units are the cornerstone of our government practice. Through a joint venture, we participate in the audit of the State of West Virginia's financial statements, and perform extensive work related to the requirements of the Single Audit Act and Office of Management and Budget's Circular A-133 and/or the Uniform Guidance. In addition to the State Government Entities listed earlier our Firm has served numerous other governmentally and nonprofit funded clients and similar entities requiring audits in accordance with *Government Auditing Standards*, developing a strong reputation for providing quality services in the West Virginia market.

Other engagements with the State of West Virginia have included auditing component units, divisions or programs to be incorporated into the State of West Virginia's Comprehensive Annual Financial Reports. These engagements include the West Virginia Offices of the Insurance Commissioner, West Virginia Regional Jail Authority, West Virginia Parkways Authority, West Virginia Racing Commission, West Virginia School of Osteopathic Medicine, Fairmont State University, Pierpont Community and Technical College, New River Community and Technical College, BridgeValley Community and Technical College, the West Virginia Council for Community and Technical College Education and Southern West Virginia Community College. These engagements demonstrate our ability to meet the time parameters required by OAMR, as well as our ability to effectively and efficiently complete audits in the complex State environment. This preeminence in governmental and nonprofit services is not the result of casual experience acquired through an on-going accounting practice. Rather, it results from the commitment of our Firm to the highest standards of service in the governmental and nonprofit sector.

Suttle & Stalnaker, PLLC currently serves as the independent auditor of a chain of long term care facilities. Though we are independent under generally accepted auditing standards to complete the examinations of the LTC-FASRs for these facilities we will engage a partner firm to complete the LTC-FASRs examinations for these facilities to avoid any conflicts. S&S will partner with Gray Griffith & Mays. Gray Griffith & Mays specializes in not-for-profit organizations, healthcare, and governmental auditing and tax services.



- 2 Vendor must be a Certified Public Accountant (CPA) firm and must currently have on staff at least ten (10) accounting professionals with at least five (5) of those holding CPA certification valid in the State of West Virginia.**

**Response:**

S&S was founded in 1973 and has approximately 70 professionals, including 12 members (partners). S&S has 30 certified public accountants on staff holding a CPA certification valid in the State of West Virginia. S&S is one of the largest accounting firms in the State of West Virginia and has a rich heritage in the West Virginia market. Our professionals are organized according to their functional discipline: accounting and auditing, tax and tax consulting, and management consulting. We consider ourselves business advisors who not only solve problems but also prevent them. S&S performs a full range of services including financial reporting consulting, SOX consulting and compliance, audit and attest services, tax and tax planning, merger and acquisition consulting, operational consulting, internal audit assistance, audit preparation consulting, business valuations, and outsourcing. The Firm is one of the fastest growing CPA firms in West Virginia which is a primary result of our high quality services, commitment to clients and competitive fees.

- 3 Vendor will provide work history of at least five (5) past engagements that demonstrate experience in providing Medicaid agencies with the audits of cost report data for nursing homes, as well as hospital-based long term care units.**

**Response:**

Suttle & Stalnaker, PLLC has been serving clients in the health care industry for over 29 years. Our experience includes numerous clients operating under Medicaid statutes and regulations related to nursing facilities. Our audit experience includes:

1. Stonerise Healthcare, LLC
2. Jefferson Memorial Hospital nursing facilities
3. WV OAMR – separate audits of approximately 50 facilities
4. Ohio Valley Health Care Nursing Home
5. Montgomery General Elderly Care

In serving our clients during the past 43 years, we have numerous years of experience in working with a State Agency for Medicaid performing nursing facility audits as well as 29 years of experience in performing the Single Audit of the State of West Virginia including DHHR including Medicaid.

Suttle & Stalnaker, PLLC currently serves as the independent auditor of a chain of long term care facilities. Though we are independent under generally accepted auditing standards to complete the examinations of the LTC-FASRs for these facilities we will engage a partner firm to complete the LTC-FASRs examinations for these facilities to avoid any conflicts. S&S will partner with Gray Griffith & Mays. Gray Griffith & Mays specializes in not-for-profit organizations, healthcare, and governmental auditing and tax services. Our partner at Gray Griffith & Mays, Ryan Lindsay is the current President of the West Virginia Healthcare

Financial Management Association and is a Certified HealthCare Financial Professional (CHFP). He has spent much of his time in the past 10 years providing audit and consulting services to Hospitals, Skilled Nursing facilities and assisted living communities, Behavioral Health Facilities, Federally Qualified Health Centers, and physician practices.

**4 Vendor shall provide work history of five (5) prior engagements that demonstrate experience in working with state and/or federal officials or regulators to assist with resolving findings, inquiries, disallowance issues, etc.**

**Response:**

Suttle & Stalnaker has had many engagements over the years that we have worked with state and federal officials or regulators to assist with resolving findings, inquiries and disallowance issues including the following:

1. Healthcare Management Solutions subcontract to review what CMS reimburses States for costs incurred in performing survey and certification functions for ten states. Direct contact with CMS on resolving findings, inquiries, and disallowance issues. (Federal Regulators)
2. Healthcare Management Solutions subcontract to review Pre-Existing Condition Insurance Plan (PCIP) Compliance and Oversight project to assess the extent to which the Federal and State PCIP contractors are compliant with the Affordable Care Act Section 1101 and 45 CFR Part 152 Pre-Existing Condition Insurance Plan Program for fifteen states. Direct contact with CMS on resolving findings, inquiries, and disallowance issues. (Federal Regulators)
3. Single Audit of State of West Virginia including the financial and compliance auditing for several departments including the West Virginia Department of Health and Human Resources (Federal Regulators).
4. WVOAMR contract to review nursing home cost reports from 2002 to 2005 for approximately 50 facilities (State Regulators).
5. WV Department of Highways and Transportation audits that included findings reported to the Legislative Auditor's Office (State Regulators) and Federal Highways Administration (Federal Regulators).
6. Community Action Partnership Agencies:
  - a. PRIDE in Logan County, Inc. audits with one direct federally funded program and numerous other programs (Federal and State) funded through State of West Virginia agencies. Direct contact with U.S. Department of Health and Human Services and with various state agencies on resolving findings, inquiries, and disallowance issues (Federal and State Regulators).

- b. Capital Resource Agency audits with both federal and state programs. Direct contact with U.S. Department of Health and Human Services and with various state agencies on resolving findings, inquiries, and disallowance issues (Federal and State Regulators).

We have also worked to represent clients before the IRS, the Department of Labor and State Board of Education. We have many years experience working with state and federal officials and regulators dealing with findings, inquiries and disallowance issues.

- 5 Vendor shall provide work history of five (5) past client engagements that demonstrate experience in providing state Medicaid agencies with insight relevant to changes in law, rules, and direction associated with the state's ability to effectively and efficiently manage the audit and reimbursement process in a compliant manner.**

**Response:**

Suttle & Stalnaker, PLLC has on numerous engagements that will demonstrate our experience in providing state Medicaid agencies with insight relevant to changes in laws, rules, and direction associated with the state's ability to effectively and efficiently manage the audit and reimbursement process in a compliant manner as follows:

1. Healthcare Management Solutions subcontract to review what CMS pays States for costs incurred in performing survey and certification functions for ten states.
2. Healthcare Management Solutions subcontract to review Pre-Existing Condition Insurance Plan (PCIP) Compliance and Oversight project to assess the extent to which the Federal and State PCIP contractors are compliant with the Affordable Care Act Section 1101 and 45 CFR Part 152 Pre-Existing Condition Insurance Plan Program for fifteen states.
3. Single Audit of State of West Virginia including the financial and compliance auditing for several departments including the Department of Health and Human Resources.
4. WVOAMR contract to review nursing home cost reports from 2002 to 2005 for approximately 50 facilities.
5. Numerous Community Action Partnership agencies, Comprehensive Community Mental Health Centers, and Hospitals serving the residents of West Virginia including assistance with indirect cost rate proposals.

- 6 Vendor shall provide a work history, (if any) of past engagements that demonstrate experience representing Medicaid agencies throughout the appeals process including the ability to effectively testify as an expert witness.**

**Response:**

Suttle & Stalnaker, PLLC has had significant experience representing WVOAMR throughout the appeals process including the ability to effectively testify as an expert witness during appeals by numerous nursing homes. During our last contract we worked successfully with WVOAMR to testify during various hearings and appeals for numerous nursing homes including, but not limited to, AMFM, Arbors, The Maples and others.

## SCOPE OF WORK - MANDATORY REQUIREMENTS

The vendor must comply with the following specifications in the performance of the services.

1. Suttle & Stalnaker, PLLC will perform the engagements included in RFQ Attachments 1-3 Cost Sheets in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA), Government Auditing Standards (GAS), and provisions contained in the RFQ. Suttle & Stalnaker, PLLC is the only vendor bidding but will partner with Gray Griffith & Mays for any potential conflicted engagements.
2. Upon request by OAMR, Suttle & Stalnaker, PLLC will perform financial and compliance audit engagements of semi-annual LTC-FASRs in accordance with standards established by the AICPA, and applicable GAS. Suttle & Stalnaker, PLLC will issue an opinion on the fair presentation, in conformity with GAAP and the rules and regulations established by the West Virginia Department of Health and Human Resources, of the financial and statistical information submitted in the LTC-FASRs for each facility examined along with a list of findings of non-compliance as described in the RFQ. Suttle & Stalnaker, PLLC will issue a report on compliance and internal control for each facility examined in accordance with GAS.
3. For each engagement Suttle & Stalnaker, PLLC will incorporate a pre-engagement planning meeting between an authorized representative of Suttle & Stalnaker, PLLC and the Agency to establish the procedures to be performed, whether OAMR staff intends to be present for any portion of the examination fieldwork, the planned timing and expected completion of fieldwork, and the anticipated timing of draft and final report issuance. This meeting will include a review of the cost reports to be examined as well as any additional information OAMR is aware of that would impact the examination procedures or engagement.
4. Suttle & Stalnaker, PLLC agrees that the procedures for each engagement will include, at a minimum, the procedures outlined in the OAMR Audit Guide (Appendix B attached to the RFQ). Suttle & Stalnaker, PLLC understands that this is not an all-inclusive list of procedures and that it is responsible for performing any and all procedures necessary to support the opinion and findings included in the examination report as described in the RFQ. Materiality determination and examination procedures will focus on the schedules within the LTC-FASR that have the most impact upon the rate calculation (i.e. schedules WV-6, WV-7 and WV-16 through WV-22). Errors found in items sampled from those schedules will result in an expansion of testing to allow qualification and determination of the pervasiveness of the errors found, as appropriate.
5. Each engagement is to be conducted on an individual facility basis, and shall include up to eight (8) semi-annual LTC-FASRs or cost reports. Suttle & Stalnaker, PLLC will issue a report for each engagement expressing an opinion as to the completeness and accuracy of the information submitted on the LTC-FASRs in accordance with the WV Medicaid Provider Manuals and all applicable laws, rules and regulations. The report will include the following elements:
  - 1) Independent accountants' examination report and report in accordance with *Government Auditing Standards*
  - 2) A definitive list of findings of non-compliance, numbered sequentially and including the following elements:

- a. Criteria
- b. Condition (to include cost report period, LTC-FASR cost center charged, page/line mapping to LTC-FASR field(s) affected, account number(s) and description(s) (from West Virginia Long Term Care Medicaid Chart of Accounts), amount originally reported on the LTC FASR, correct amount, and quantification of increase or decrease necessary to adjust for cost or census error).
- c. Cause
- d. Effect or Potential Effect
- e. Recommendation

3) Status of prior findings (if any)

6. Suttle & Stalnaker, PLLC agrees that examinations of facilities that share a common ownership or control (Chain Facilities) will generally be performed together as a group and shall include in the examination home office or other costs that have been allocated among the facilities and included in the LTC-FASRs submitted for those facilities.
7. Suttle & Stalnaker, PLLC agrees that examinations of facilities that are owned by or located within a hospital (Hospital-Based Facilities) are to include in the examination any hospital costs allocated to the long term care facility and included in the LTC-FASR submitted for those facilities.
8. Suttle & Stalnaker, PLLC will adequately staff the engagement without reliance on OAMR staff for the performance of any audit related work or clerical support necessary for completion of the engagement.
9. Suttle & Stalnaker, PLLC agrees that it is responsible for knowledge of the West Virginia Medicaid Provider Manuals, particularly Chapter 500, Volume 15 "Nursing Facility Services" as well as the West Virginia Medicaid Long Term Care Chart of Accounts. The OAMR staff shall be available to Suttle & Stalnaker, PLLC to assist in provision of information and explanations, as well as interpretations of rules and regulations as they pertain to audit findings and results of audit tests. Suttle & Stalnaker, PLLC agrees that it is responsible for contacting OAMR with any questions as to interpretation of rules or regulations as they pertain to audit findings and results of audit tests.
10. Suttle & Stalnaker, PLLC agrees to immediately notify OAMR in writing in the event that any of the following are noted in the course of performing any engagement under this contract; criminal acts; fraudulent transactions; intentional abuse of WV Medicaid funding; irregularities; misrepresentations by facility management; or any issues that would cause delays in the issuance of the engagement report or an adverse opinion.
11. Suttle & Stalnaker, PLLC will provide representation and consultation for all levels of provider appeals whether or not scheduling of such proceedings occurs during the term of this contract; this may include administrative hearings, evidentiary hearings, and judicial reviews as well as other legal proceedings not individually listed here. This representation shall be included in the price of the engagements and no additional compensation shall be made whether the timing is within or subsequent to the term of this contract.

12. Suttle & Stalnaker, PLLC will meet with OAMR representatives upon completion of each engagement and will provide at that meeting a draft copy of the report for the engagement (or engagements if Chain Facilities). Any necessary changes must be discussed and agreed upon before final acceptance. Suttle & Stalnaker, PLLC will be prepared (with workpapers) to discuss each finding and to perform additional work at the request of OAMR for any areas not sufficiently explained or findings not sufficiently quantified. In the event that changes or additional work are deemed necessary a subsequent draft will be submitted and discussed with OAMR.
13. Suttle & Stalnaker, PLLC will submit the final draft of the report to OAMR and OAMR will transmit the draft report to the facility. The facility shall have ten (10) business days from receipt to provide additional information to Suttle & Stalnaker, PLLC to mitigate or resolve the findings.
14. Suttle & Stalnaker, PLLC is responsible for final report preparation, editing and printing. Suttle & Stalnaker, PLLC is to provide OAMR with three (3) copies of the final report for each engagement as well as one (1) copy of the engagement workpapers resulting from the examination or electronic versions as agreed by OAMR.
15. All workpapers and reports are to be retained, at Suttle & Stalnaker, PLLC's expense, for a minimum of five (5) years. After the five (5) years have elapsed all workpapers and reports are to be delivered and surrendered unto the OAMR.
16. Suttle & Stalnaker, PLLC will be available to OAMR to assist in adapting the engagement procedures as necessary to accommodate rule and regulation changes as they affect the rate determination and audit process on an as-needed basis.
17. Suttle & Stalnaker, PLLC will complete audit fieldwork and submit final draft audit reports for OAMR quality review not later than 90 days before contract expiration date unless expressly approved and granted extension by OAMR. Suttle & Stalnaker, PLLC understands that any audits not submitted by this date will not be considered complete and final outstanding payments therefore will be withheld. Suttle & Stalnaker, PLLC agrees that final drafts submitted by the 90 day deadline will be quality reviewed and upon acceptance by OAMR as final, OAMR will authorize approval of final payment.
18. Suttle & Stalnaker, PLLC's bid includes a firm fixed fee for the performance of each facility engagement for the services discussed above. In the event that less than (eight (8) LTC-FASRs) cost reporting periods are to be examined in an engagement due to extenuating circumstances, Suttle & Stalnaker, PLLC will adjust the per engagement fee to accommodate the reduction in work accordingly. Suttle & Stalnaker, PLLC's All-Inclusive Engagement Cost assumes that all engagements will include eight cost reporting periods.

19. Suttle & Stalnaker, PLLC has committed a cohesive, dedicated, highly skilled core team of key personnel to oversee and conduct the tasks required under this agreement. Suttle & Stalnaker, PLLC has designated Chris S. Lambert, CPA, Member to report to the Director of OAMR or his designee regarding all matters related to this contract. Chris S. Lambert is a Certified Public Accountant in good standing licensed by the West Virginia Board of Accountancy. Chris S. Lambert is able to act on behalf of Suttle & Stalnaker, PLLC and has appropriate experience and expertise in overseeing similar engagements. Chris S. Lambert will be available for monthly on-site meetings with the OAMR Office Director or designee.
20. Suttle & Stalnaker, PLLC will notify OAMR immediately of any noncompliance by LTC Providers to submit requested information necessary to complete the audit. As covered in section 514 of the WV Nursing Facility Provider Manual, records found to be incomplete or missing at the time of the scheduled on-site visit must be delivered with 48 hours or an amount of time mutually agreed upon with the audit staff at the exit conference. Provider costs found to be unsubstantiated will be disallowed and considered an overpayment. Failure of Providers to submit records will not be justification for late submission by Suttle & Stalnaker, PLLC of expected audit report deliverables. Meetings may be conducted less frequently than a monthly basis, if deemed appropriate by the OAMR, and may be requested more frequently on an as needed basis.



## **SPECIAL TERMS AND CONDITIONS**

### **General Terms and Conditions:**

Suttle & Stalnaker, PLLC understands and agrees that by signing and submitting its proposal, it agrees to be bound by all the terms contained in the Request for Quotation.

### **Conflicts of Interest:**

Suttle & Stalnaker, PLLC affirms that it, its members and employees presently have no interest and shall not acquire any interest, direct or indirect, which would conflict or compromise in any manner or degree with the performance or its services hereunder. Suttle & Stalnaker, PLLC further covenants that in the performance of the contract, Suttle & Stalnaker, PLLC shall periodically inquire of its members and employees concerning such interests. Any such interests discovered shall be promptly presented in detail to the Agency.

### **Prohibition against Gratuities:**

Suttle & Stalnaker, PLLC warrants that it has not employed any company or person other than a bona fide employee working solely for Suttle & Stalnaker, PLLC 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 or person any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of the contract.

Suttle & Stalnaker, PLLC understands and agrees that for breach or violation of this warranty, the Agency shall have the right to annul this contract without liability at its discretion or to pursue any other remedies available under this contract or by law.

### **Certifications Related to Lobbying:**

Suttle & Stalnaker, PLLC certifies that no federal appropriated funds have been paid or will be paid, by or on behalf of the firm 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 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, Suttle & Stalnaker, PLLC shall complete and submit a disclosure form to report the lobbying.

Suttle & Stalnaker, PLLC agrees that this language of certification shall be included in the award documents 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.

### **Vendor Relationship:**

The relationship of Suttle & Stalnaker, PLLC to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the parties to this contract. Suttle & Stalnaker, PLLC as an independent contractor is solely liable for the acts and omissions of its employees and agents.

Suttle & Stalnaker, PLLC shall be responsible for selecting, supervising and compensating any and all individuals employed pursuant to the terms of this RFQ. Neither, Suttle & Stalnaker, PLLC, nor any employees or contractors of Suttle & Stalnaker, PLLC, shall be deemed to be employees of the State Agency for any purposes whatsoever.

Suttle & Stalnaker, PLLC 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, and licensing fees, etc. and the filing of all necessary documents, forms and returns pertinent to all of the foregoing.

Suttle & Stalnaker, PLLC 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.

Suttle & Stalnaker, PLLC shall not assign, convey, transfer or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association or entity without expressed written consent of the Agency.

### **Indemnification:**

Suttle & Stalnaker, PLLC 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 Suttle & Stalnaker, PLLC, its members, 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 Suttle & Stalnaker, PLLC, its members, employees or subcontractors to observe State and Federal laws, including but not limited to labor and wage laws.

### **Governing Law:**

Suttle & Stalnaker, PLLC agrees that this contract shall be governed by the laws of the State of West Virginia. Suttle & Stalnaker, PLLC further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws and regulations, Federal, State and Local Government.

### **Compliance with Laws and Regulations:**

Suttle & Stalnaker, PLLC will procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body.

Suttle & Stalnaker, PLLC will pay any applicable sales, use or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, or the equipment, or services delivered pursuant hereto shall be borne by Suttle & Stalnaker, PLLC. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

#### **Subcontracts/Joint Ventures:**

Suttle & Stalnaker, PLLC agrees that it is solely responsible for all work performed under the contract and shall assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. The Agency will consider Suttle & Stalnaker, PLLC to be the sole point of contact with regard to all contractual matters. Suttle & Stalnaker, PLLC may, with the prior written consent of the Agency, enter into written subcontracts for performance of work under this contract; however, Suttle & Stalnaker, PLLC is totally responsible for payment of all subcontractors.

#### **Non-Appropriation of Funds:**

If the Agency is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this contract by the West Virginia Legislature, the Agency may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The Agency shall give Suttle & Stalnaker, PLLC written notice of such non-allocation of funds as soon as possible after the Agency receives notice. No penalty shall accrue to the Agency in the event this provision is exercised.

#### **Contract Termination:**

The Agency may terminate any contract resulting from this RFQ with 30 days prior notice or immediately at any time Suttle & Stalnaker, PLLC fails to carry out its responsibilities or to make substantial progress under the terms of this RFQ and resulting contract. The Agency shall provide Suttle & Stalnaker, PLLC with advance notice of performance conditions which are endangering the contract's continuation. If after such notice Suttle & Stalnaker, PLLC fails to remedy the conditions contained in the notice, within the time period contained in the notice, the Agency shall issue Suttle & Stalnaker, PLLC an order to cease and desist any and all work immediately. The Agency shall be obligated only for services rendered and accepted prior to the date of the notice of termination.

#### **Changes:**

If changes to the original contract become necessary, a formal contract change order will be negotiated by the State, the Agency and Suttle & Stalnaker, PLLC, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change order is defined as one approved by the Purchasing Division and approved as to form by the West Virginia Attorney General's Office, encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision or the scope of the work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

As soon as possible after receipt of a written change request for the Agency, but in no event more than thirty (30) days thereafter, Suttle & Stalnaker, PLLC shall determine if there is an impact on price with the change requested and provide the Agency a written statement to identify any price impact on the contract or to state that there is no impact. In the event that price will be impacted by the change, Suttle & Stalnaker, PLLC will provide a description of the price increase or decrease involved in implementing the requested change.

### **Price Quotations:**

The bid includes a price for each engagement based on the facilities to be audited during the term of this contract as listed in Attachments 1-4 of the RFQ. Attachments 1-4 of the RFQ lists the names and locations of the facilities, chain or hospital affiliation of each facility (if applicable) along with the locations of home offices or hospital, and the number of LTC-FASR's to be included in the engagement. The price quotation is all inclusive to render the product outlined in "Mandatory Requirements" above, it includes all travel, administrative or other costs as well as any work deemed necessary, including the examination of home office costs, management fees, hospital or other similar costs allocated to each facility on the LTC-FASR's. Suttle & Stalnaker, PLLC has reviewed the bid specification prior to bidding to ensure that the per audit engagement price is all-inclusive in allowing for unknown circumstances. The price includes any future representation at administrative hearings or other legal proceedings, and Suttle & Stalnaker, PLLC will be prepared to explain and defend the findings of the audit engagements. The price quote is on an individual engagement basis. However, Suttle & Stalnaker, PLLC is committed to perform all seventeen (17) engagements during the term of this contract.

### **Invoices, Progress Payments:**

Suttle & Stalnaker, PLLC will submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract. Suttle & Stalnaker, PLLC understands that progress payments will be made on the basis of percentage of work completed at the per engagement prices per the Cost Sheet. Suttle & Stalnaker, PLLC understands that progress reports must be submitted to Agency with the invoice detailing progress completed or any deliverables identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the Suttle & Stalnaker, PLLC report. Invoices may not be submitted more than once monthly and State law forbids payment of invoices prior to receipt of services.

### **Liquidated Damages:**

According to West Virginia State Code §5A-3-4(8), Suttle & Stalnaker, PLLC agrees that liquidated damages will be imposed at the rate of \$200 per week for failure to meet deadlines agreed upon for an audit. This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue to any other additional remedy to which the State or Agency may have legal cause for action including further damages against Suttle & Stalnaker, PLLC.

### **Record Retention (Access & Confidentiality):**

Suttle & Stalnaker, PLLC will comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Suttle & Stalnaker, PLLC. Suttle & Stalnaker, PLLC will maintain such records a minimum of five (5) years and make available all records to Agency personnel at Suttle & Stalnaker, PLLC's location during normal business hours upon written request by Agency within 10 days after receipt of the request.

Suttle & Stalnaker, PLLC understands that it will have access to private and confidential data maintained by Agency to the extent required for Suttle & Stalnaker, PLLC to carry out the duties and responsibilities defined in this contract. Suttle & Stalnaker, PLLC agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State and Agency against any and all claims brought by any party attributed to actions of breach of confidentiality by Suttle & Stalnaker, PLLC, subcontractors or individuals permitted access by Suttle & Stalnaker, PLLC.

### **Insurance Requirements:**

Suttle & Stalnaker, PLLC understands that, as an independent Vendor, it is solely liable for the acts and omissions of its employees and agents. Proof of Insurance shall be provided by Suttle & Stalnaker, PLLC at the time the contract is awarded. Suttle & Stalnaker, PLLC will maintain and furnish proof of coverage of liability insurance for loss, damage, or injury (including death) of third parties arising from acts and omissions on the part of Suttle & Stalnaker, PLLC, its agents and employees in the following amounts at a minimum:

- 1) For bodily injury (including death): Minimum of \$500,000.00 per person, \$1,000,000.00 per occurrence.
- 2) For property damage and professional liability: Minimum of \$1,000,000.00 per occurrence.

Suttle & Stalnaker, PLLC is solely responsible for required coverage of worker's compensation.

### **HIPAA Business Associate Addendum:**

The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's website (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the Agreement. Provided that, the Agency meets the definition of a Covered Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to Suttle & Stalnaker, PLLC.

### **Debarment and Suspension:**

Suttle & Stalnaker, PLLC certifies that no entity, agency or person associated with the firm, is currently debarred or suspended from conducting business with any governmental agency.

COST PROPOSAL
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## FEES

We generally base our fees on the time required at our regular rates for the services and personnel assigned. Our charges also include other appropriate factors, including the difficulty of the assignment, the degree of skill required, time limitations imposed on us by others, the experience and ability of the personnel assigned, and the value of the services to the client. Assuming adequate records, and entity cooperation our fees are estimated to be as follows, including out-of-pocket expenses:

Audits of cost reports for the 68 specified nursing facilities for year 1, year 2, year 3 and year 4, including all costs and expenses related to performing the audits, and including representation and participation in resolving any appeal issues or hearings arising from this engagement.

Not to Exceed All inclusive Cost:

Total "Not to Exceed" Cost Year 1	\$ 170,000
Total "Not to Exceed" Cost Year 2	170,000
Total "Not to Exceed" Cost Year 3	170,000
Total "Not to Exceed" Cost Year 4	<u>170,000</u>
Total	<u>\$ 680,000</u>

## Attachment 1

HHR1700000002 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)  
 WEST VIRGINIA DHHR OAMR  
 COST QUOTE FOR STANDARD FACILITY ENGAGEMENT  
 YEAR 1 ALL-INCLUSIVE COST SHEET

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>
1. Ansted Center	\$ 10,000
2. Brightwood Center	10,000
3. Canterbury Center	10,000
4. Oak Ridge Center	10,000
5. Carehaven Center	10,000
6. Raleigh Center	10,000
7. Sistersville Center	10,000
8. Teays Valley Center	10,000
9. Cedar Ridge Center	10,000
10. Dawnview Center	10,000
11. Hampshire Health Care Center	10,000
12. Heritage Center	10,000
13. Hidden Valley Center	10,000
14. Hilltop Center	10,000
15. Logan Center	10,000
16. Marmet Center	10,000
17. Bishop Joseph H. Hodges C.C.C.	<u>10,000</u>
SUBTOTAL FOR STANDARD ENGAGEMENTS COST Year 1	<u>\$ 170,000</u>



## Attachment 2

HHR1700000002 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)  
 WEST VIRGINIA DHHR OAMR  
 COST QUOTE FOR STANDARD FACILITY ENGAGEMENT  
 YEAR 2 ALL-INCLUSIVE COST SHEET

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>
1. Miletree Center	\$ 10,000
2. Pocahontas Center	10,000
3. Ravenswood Center	10,000
4. Rosewood Center	10,000
5. Shenandoah Center	10,000
6. Valley Center	10,000
7. White Sulphur Springs Center	10,000
8. Willows Center	10,000
9. Tygart Center	10,000
10. Madison Center	10,000
11. Pierpont Center	10,000
12. Fox Nursing Home	10,000
13. Trinity Health Care Services of Logan	10,000
14. Trinity Health Care Services of Mingo	10,000
15. Weirton Medical Center	10,000
16. Roane General Hospital	10,000
17. St. Joseph's Hospital Buckhannon	10,000
SUBTOTAL FOR STANDARD ENGAGEMENTS COST Year 2	\$ 170,000

## Attachment 3

HHR1700000002 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)  
 WEST VIRGINIA DHHR OAMR  
 COST QUOTE FOR STANDARD FACILITY ENGAGEMENT  
 YEAR 3 ALL-INCLUSIVE COST SHEET

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>
1. Mansfield Place - (Broaddus Hospital)	\$ 10,000
2. Grafton City Hospital (Wallace B. Murphy)	10,000
3. Grant Memorial Hospital	10,000
4. Cortland Acres	10,000
5. Crestview Manor	10,000
6. Guardian Elder Care @ Wheeling	10,000
7. Pine View Nursing & Rehab Center	10,000
8. Mound View Health Care, Inc.	10,000
9. Pleasant Valley Hospital	10,000
10. Sundale Nursing Home	10,000
11. Parkersburg Center	10,000
12. Dunbar Center	10,000
13. Glenville Center	10,000
14. Pine Lodge Center	10,000
15. Putnam Center	10,000
16. Salem Center	10,000
17. New Martinsville Center	<u>10,000</u>
SUBTOTAL FOR STANDARD ENGAGEMENTS COST Year 3	<u>\$ 170,000</u>

## Attachment 4

HHR1700000002 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)  
 WEST VIRGINIA DHHR OAMR  
 COST QUOTE FOR STANDARD FACILITY ENGAGEMENT  
 YEAR 4 ALL-INCLUSIVE COST SHEET

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>
1. Summersville Memorial Hospital	\$ 10,000
2. Golden Living Center - Glasgow	10,000
3. Golden Living Center - Morgantown	10,000
4. Golden Living Center - Riverside	10,000
5. Hampshire Memorial Hospital	10,000
6. War Memorial Hospital	10,000
7. Heartland of Clarksburg	10,000
8. Heartland of Keyser	10,000
9. Heartland of Martinsburg	10,000
10. Heartland of Preston County	10,000
11. Heartland of Rainelle WV, LLC	10,000
12. Holbrook Nursing Home	10,000
13. Nella's Inc.	10,000
14. Nella's Nursing Home, Inc.	10,000
15. Ohio Valley Health Care	10,000
16. The Heritage	10,000
17. Minnie Hamilton Health Care Center	10,000
SUBTOTAL FOR STANDARD ENGAGEMENTS COST Year 4	<u>\$ 170,000</u>

## SUMMARY OF ALL COSTS

GRAND TOTAL 4 - YEAR CONTRACT COSTS (SUM OF YEARS 1-4) \$ 680,000

Evaluation of Bids: Cost evaluations will be based on the total contract cost for four years. Award of the contract will be based on the lowest cost bid of the vendor who meets or exceeds the specifications and requirements. It is preferred that all vendors complete the attached pricing pages for year 1-4 rather than submitting a separate quote.

Suttle &amp; Stalnaker, PLLC

1411 Virginia Street East, Suite 100, Charleston, WV 25301

Vendor Name:

Vendor Address:



Chris Lambert, CPA, CGMA, Member

Vendor Authorized Representative Signature:

Vendor Authorized Representative Name Printed-Date:

304-343-4126

304-343-8008

[CSLambert@SuttleCPAs.com](mailto:CSLambert@SuttleCPAs.com)

Telephone#:

Fax#:

E-Mail:



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

State of West Virginia  
Request for Quotation  
34 — Service - Prof

Proc Folder: 221216

Doc Description: Addendum #2 Certified Public Accts for LTC Report Exams

Proc Type: Central Purchase Order

Date Issued	Solicitation Closes	Solicitation No	Version
2016-08-10	2016-08-17 13:30:00	CRFQ 0511 HHR1700000002	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:

Suttle & Stalnaker, PLLC

1411 Virginia Street, East, Suite 100

Charleston, WV 25301

304-343-4126

#### FOR INFORMATION CONTACT THE BUYER

April Battle

(304) 558-0067

april.e.battle@wv.gov

Signature X *Christopher Lambert* FEIN # 55-0538163

DATE 08/17/2016

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

**ADDITIONAL INFORMAITON:**

Addendum #2 - To provide the correct pages of Attachments 1 through 4.

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	CPA examination of Long Term Care Reports - Ansted Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

Certified Public Accountant examination of Long Term Care Financial and Statistical Reports from West Virginia Medicaid Providers, per the attached detailed specifications - Ansted Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	CPA examination of Long Term Care Reports - Brightwood Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Brightwood Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	CPA examination of Long Term Care Reports - Canterbury Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Canterbury Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	CPA examination of Long Term Care Reports - Oak Ridge Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Oak Ridge Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	CPA examination of Long Term Care Reports - Carehaven Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Carehaven Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	CPA examination of Long Term Care Reports - Raleigh Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Raleigh Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
7	CPA examination of Long Term Care Reports - Sisterville Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Terms Care Financial and Statistical Reports for Sisterville Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
8	CPA examination of Long Term Care Reports -Teays Valley Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Teays Valley Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209		BUYER - 304-957-0209	
HEALTH AND HUMAN RESOURCES		HEALTH AND HUMAN RESOURCES	
FINANCE		FINANCE	
ONE DAVIS SQUARE, STE 300		ONE DAVIS SQUARE, STE 300	
CHARLESTON	WV25301	CHARLESTON	WV 25301
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
9	CPA examination of Long Term Care Reports - Cedar Ridge Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Cedar Ridge Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209		BUYER - 304-957-0209	
HEALTH AND HUMAN RESOURCES		HEALTH AND HUMAN RESOURCES	
FINANCE		FINANCE	
ONE DAVIS SQUARE, STE 300		ONE DAVIS SQUARE, STE 300	
CHARLESTON	WV25301	CHARLESTON	WV 25301
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
10	CPA examination of Long Term Care Reports - Dawnview Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Dawnview Ctr



INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
11	CPA exam of Long Term Care Reports-Hampshire Health Care Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Hampshire Health Care Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
12	CPA examination of Long Term Care Reports - Heritage Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Heritage Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
13	CPA examination of Long Term Care Reports -Hidden Valley Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Hidden Valley Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
14	CPA examination of Long Term Care Reports - Hilltop Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Hilltop Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV25301 US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300 CHARLESTON WV 25301 US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
15	CPA examination of Long Term Care Reports - Logan Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Logan Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
16	CPA examination of Long Term Care Reports - Marmet Ctr				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Marmet Ctr

INVOICE TO		SHIP TO	
BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV25301  US		BUYER - 304-957-0209 HEALTH AND HUMAN RESOURCES FINANCE ONE DAVIS SQUARE, STE 300  CHARLESTON WV 25301  US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
17	CPA exam of Long Term Care Reports-Bishop Joseph H. Hodges				\$10,000.00

Comm Code	Manufacturer	Specification	Model #
93151607			

**Extended Description :**

CPA examination of Long Term Care Financial and Statistical Reports for Bishop Joseph H. Hodges C.C.C.

**SCHEDULE OF EVENTS**

<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Questions Due	2016-08-01
2	Mandatory PreBid	2016-07-26

<b>HHR1700000002</b>	<b>Document Phase</b> <b>Final</b>	<b>Document Description</b> Addendum #2 Certified Public Accts for LTC Report Exams	<b>Page 9</b> <b>of 9</b>
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#### **ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

## **INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

**1. REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

**2. MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

**3. PREBID MEETING:** The item identified below shall apply to this Solicitation.

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

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

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

One Davis Square, Charleston, West Virginia 25301  
Conference Room - To Be Determined  
Time 1:30 PM Date: July 26, 2016

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: **August 1, 2016, 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](mailto: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: CPA Examinations of Long Term Care Financial & Statistical Reports  
BUYER: April Battle, Buyer 22  
SOLICITATION NO.: CRFQ 0511 HHR1700000002  
BID OPENING DATE: August 17, 2016  
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 of Interest or Request for Proposal is not permitted in wvOASIS.

**For Request For Proposal ("RFP") Responses Only:** In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus \_\_\_\_\_ 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: August 17, 2016, 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 by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately opened and/or viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening if those documents are required with the bid.

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

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

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

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

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

## **GENERAL TERMS AND CONDITIONS:**

**1. CONTRACTUAL AGREEMENT:** Issuance of a Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

**2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

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

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

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

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

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

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

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

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

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

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

☒ **Term Contract**

**Initial Contract Term:** This Contract becomes effective on  
upon award \_\_\_\_\_ and extends for a period of one (1) year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to three (3) successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 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 of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

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

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

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

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

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

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

☒ **INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award and shall list the state as a certificate holder:

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

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

☒ Professional Liability Insurance \$1,000,000. per occurrence.

☐

☐

☐

☐

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

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

☒ Certified Public Accountant license/certification.

☐

☐

☐

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

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

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

**10. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount of \$200.00 per week

for failure to meet deadlines agreed upon for an audit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

**32. LICENSING:** In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

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

**34. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

**35. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

**36. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

**37. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.

**38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

**39. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

**40. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at [purchasing.requisitions@wv.gov](mailto:purchasing.requisitions@wv.gov).

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

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

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

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
- c. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
- d. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

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

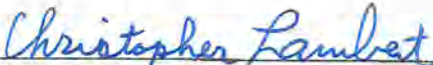
The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

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

**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.

Suttle & Stalnaker, PLLC  
(Name, Title)  
Chris Lambert, CPA, CGMA, Member  
(Printed Name and Title)  
1411 Virginia Street East, Suite 100, Charleston, WV 25301  
(Address)  
304-343-4126 / 304-343-8008  
(Phone Number) / (Fax Number)  
CSLambert@SuttleCPAs.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.

Suttle & Stalnaker, PLLC  
(Company)  
 Chris Lambert, CPA, CGMA, Member  
(Authorized Signature) (Representative Name, Title)  
Chris Lambert, CPA, CGMA, Member  
(Printed Name and Title of Authorized Representative)  
08/17/2016  
(Date)  
304-343-4126 / 304-343-8008  
(Phone Number) (Fax Number)



**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: CRFQ 0511 HHR1700000002**

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

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

Addendum Numbers Received:

*(Check the box next to each addendum received)*

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

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

Suttle & Stalnaker, PLLC

Company

Christopher Lambert  
Authorized Signature

08/17/2016

Date

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

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#### SPECIFICATIONS

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of WV DHHR Office of Accountability & Management Reporting (OAMR) to establish a contract for a Certified Public Accountant firm to provide examination engagements of Long Term Care Financial and Statistical Reports (LTC-FASRs) received from West Virginia Medicaid providers. Engagements are to ensure that the costs submitted by long term care providers participating in the West Virginia Medicaid Program ("Provider") are accurate, allowable, and in accordance with the West Virginia Medicaid Provider Manuals and all of the applicable laws, rules and regulations. Work is to be performed onsite at Provider offices as well as home office locations (for long term care providers that are part of a chain of facilities) or at the vendor's location. Limited space and resources are available at the Agency offices to accommodate vendor staff.

Background: The WVDHHR Office of Accountability and Management Reporting (OAMR) are responsible for receiving semiannual LTC-FASRs, (cost reports) from all nursing facility providers for whom per diem rates are set on behalf of WV Medicaid.

The costs are submitted to OAMR semi-annually and are used to calculate the per diem rates that participating long term care providers are paid for services rendered to West Virginia Medicaid clients. Examination engagements of the LTC-FASRs are used to determine whether any retroactive rate adjustments are necessary (e.g. based on unallowable or undocumented costs submitted, adjustments in census information, or other matters increasing or decreasing costs as originally reported).

Long term care providers are reimbursed only for allowable costs (as outlined in the rate setting methodology per the West Virginia Medicaid State Plan). Any reimbursement over cost is recovered through recalculation of the rate after the LTC-FASRs have been examined and adjusted for any findings of the examination. The rate is adjusted for any discrepancies noted in the examination; additionally, any other payments received by the provider during the period covered by the LTC-FASR under examination (such as payments for bed reservation days or West Virginia Medicaid credit balances) that are determined to be in error are recovered through this process as well.

Providers have a right to appeal the findings, recoveries and rate adjustments resulting from examinations and auditors are required to appear in evidentiary or other hearings to support the findings and conclusions or the examinations as well as prepare documents necessary for the attorneys or hearings examiner to sufficiently evaluate the findings or conclusions at issue.

These LTC-FASRs are desk reviewed and used to calculate the prospective per diem rates that will be paid to each provider for the next six-month period. OAMR is also responsible for examining LTC-FASRs to determine whether the costs and other data included on the



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submitted LTC-FASRs are allowable per WV Medicaid rules and regulations, documented, and appropriately classified and accounted for on the LTC-FASR. A typical examination of LTC-FASRs is performed on an individual provider basis (including all facilities or locations owned by the provider, typically incorporating six (6) to ten (10) consecutive semi-annual cost reporting periods per engagement. Any adjustments needed as a result of this process are incorporated into an adjusted rate calculation for each six-month rate period. The adjusted rate is then used to determine whether the provider was appropriately paid resulting in a recovery or additional payment to be processed as needed.

Through the course of the contract the vendor is expected to allow OAMR staff to be present during fieldwork (at the discretion of OAMR). The OAMR Audit and Rate Setting staff will be available as a resource for assistance in interpretation of applicable rules and regulations. Additionally, the adjusted rate calculation will be performed by OAMR's Rate Setting staff. The transmittal of the final report and communication with the provider regarding recovery or additional payment due will be performed by the WV DHHR Bureau for Medical Services, (BMS). Vendor is expected to appear at any and all hearings resulting from provider appeals of findings, and is expected to provide documentation sufficient to support the conclusions and findings included in the report. Appearance at hearings is expected whether or not the timing of the hearing coincides with the term of the contract.

The vendor's principal contact with OAMR will be OAMR Office Director, or a designated representative, who will coordinate the assistance that OAMR will provide for the LTC-FASR engagements.

The contract awarded as a result of this solicitation may be funded in whole or in part with Federal Funds and thus this solicitation and its resulting awarded contract are subject to the requirements of Attachment 1: Provisions Required for Federally Funded Procurements.

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 performance of LTC-FASR's (cost reports) examinations by Certified Public Accountant firm as more fully described in these specifications.

2.2 **"Pricing Page"** means the pages, contained in wvOASIS or attached hereto as Exhibit A1-A4, 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.

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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 must have been in business at least fifteen (15) years and have at least (10) years of experience conducting governmental audits.
- 3.2. Vendor must be a Certified Public Accountant (CPA) firm and must currently have on staff at least ten (10) accounting professionals with at least five (5) of those holding CPA certification valid in the State of West Virginia.
- 3.3. Vendor will provide work history of at least five (5) past engagements that demonstrate experience in providing Medicaid agencies with the audits of cost report data for nursing homes, as well as hospital-based long term care units.
- 3.4. Vendor shall provide work history of five (5) prior engagements that demonstrate experience in working with state and/or federal officials or regulators to assist with resolving findings, inquiries, disallowance issues, etc.
- 3.5. Vendor shall provide work history of five (5) past client engagements that demonstrate experience in providing state Medicaid agencies with insight relevant to changes in law, rules, and direction associated with the state's ability to effectively and efficiently manage the audit and reimbursement process in a compliant manner.
- 3.6. Vendor shall provide a work history, (if any) of past engagements that demonstrate experience representing Medicaid agencies throughout the appeals process including the ability to effectively testify as an expert witness.

#### **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 The engagements performed under this contract and reports issued upon completion of those engagements are to be in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA) as well as Government Auditing Standards as issued by the Comptroller General of the United States. All work is to be performed in accordance with the provisions contained herein.

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Those standards may be found at the following link:

<http://www.aicpa.org/Research/Standards/AuditAttest/Pages/SSAE.aspx>

<http://www.gao.gov/yellowbook>. Up to seventeen (17) engagements will be performed under this contract per year. The information specific to each facility is included in **Exhibits A1-A4**.

This contract may be extended upon the mutual written consent of the Agency, and the Vendor, with the approval of the Purchasing Division and the Attorney General's Office (Attorney General approval is as to form only). Contract extension shall be in accordance with the terms and conditions of the original contract and are to add work bid by the vendor for the original solicitation. Extension of this Contract is limited to three (3) successive one (1) year periods. Vendor understands that the Agency has created an audit schedule listing 68 audit locations and that each year Vendor will be expected to perform 17 audits as selected by the Agency from the list of 68 locations. If Agency and Vendor agree to exercise subsequent extensions, the Vendor will perform an additional 17 audits in each extension year as selected by the Agency.

- 4.1.2 Upon request by OAMR, the vendor is to perform financial and compliance audit engagements of semi-annual LTC-FASRs in accordance with the standards established by the American Institute of Certified Public Accountants and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States. The vendor is to issue an opinion on the fair presentation, in conformity with Generally Accepted Accounting Principles and the rules and regulations established by the West Virginia Department of Health and Human Resources, of the financial and statistical information submitted in the LTC-FASRs for each facility examined along with a list of findings of non-compliance as described below. Additionally, the vendor is to issue a report on compliance and internal control in accordance with Government Auditing Standards.
- 4.1.3 Each engagement is to incorporate a pre-engagement planning meeting between an authorized representative of the vendor and the Agency to establish the procedures to be performed, whether OAMR staff intends to be present for any portion of the examination field work, the planned timing and expected completion of fieldwork, and the anticipated timing of draft and final report issuance. This meeting is to include a review of the cost reports to be examined as well as any additional information OAMR is aware of that would impact the examination procedures or the engagement.
- 4.1.4 The procedures for each engagement are to include, at a minimum, the procedures outlined in the **OAMR Audit Guide (Appendix B)**. However, this is not an all-

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inclusive list of procedures and the vendor is responsible for performing any and all procedures necessary to support the opinion and findings included in the examination report as described below. Materiality determination and examination procedures should focus on the schedules within the LTC-FASR that have the most impact upon the rate calculation (i.e. schedules WV-6, WV-7 and WV-16 through WV-22). Errors found in items sampled from those schedules should result in an expansion of testing to allow qualification and determination of the pervasiveness of the errors found.

- 4.1.5** Each engagement is to be conducted on an individual facility basis, and shall include up to eight (8) semi-annual LTC-FASRs, or cost reports. The vendor shall issue a report for each engagement expressing an opinion as to the completeness and accuracy of the information submitted on the LTC-FASRs in accordance with the WV Medicaid Provider Manuals and all applicable laws, rules and regulations, The report shall include the following elements:
1. Independent accountants examination report and report in accordance with Government Auditing Standards
  2. A definitive list of findings of non-compliance, numbered sequentially and including the following elements:
    - a. Criteria
    - b. Condition (to include cost report period, LTC-FASR cost center charged, page/line mapping to LTC/FASR field(s) affected, account number(s) and description(s) (from West Virginia Long Term Care Medicaid Chart of Accounts), amount originally reported on the LTC-FASR, correct amount, and quantification of increase or decrease necessary to adjust for cost or error).
    - c. Cause
    - d. Effect or Potential Effect
    - e. Recommendation
  3. Status of prior findings (if any)

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- 4.1.6** Examination of facilities that share a common ownership or control (Chain Facilities) will generally be performed together as a group and shall include in the examination home office or other costs that have been allocated among the facilities and included in the LTC-FASRs that is submitted for those facilities.
- 4.1.7** Examination of facilities that are owned by or located within a hospital (Hospital-Based Facilities) are to include in the examination any hospital costs allocated to the Long term care facility and included in the LTC-FASR submitted for those facilities.
- 4.1.8** Vendor must be prepared to adequately staff the engagement without reliance on OAMR staff for the performance of any audit related work or clerical support necessary for completion of the engagement.
- 4.1.9** The vendor shall be responsible for knowledge of the West Virginia Medicaid Provider Manuals, particularly Chapter 500, Volume 14 "Nursing Facility Services" as well as the West Virginia Medicaid Long Term Care Chart of Accounts. The OAMR staff shall be available to the vendor to assist in provision of information and explanations, as well as interpretations of rules and regulations as they pertain to audit findings and results of audit tests. It shall be the vendor's responsibility to contact OAMR with any questions as to interpretation of rules and regulations as they pertain to audit findings and results of audit test.
- 4.1.10** Vendor is to immediately notify OAMR in writing in the event that any of the following are noted in the course of performing the engagement under this contract: criminal acts; fraudulent transactions; intentional abuse of WV Medicaid funding; irregularities; misrepresentations by facility management; or any issues that would cause delays in the issuance of the engagement report or an adverse opinion.

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- 4.1.11** Vendor is to provide representation and consultation for all levels of provider Appeals whether or not scheduling of such proceedings occurs during the term of this contract; this may include administrative hearings, evidentiary hearing, and judicial reviews as well as other legal proceedings not individually listed here. This representation shall be included in the price of the engagements and no additional compensation shall be made whether the timing is within or subsequent to the term of this contract.
- 4.1.12** Vendor is to meet with OAMR representative upon completion of each engagement and will provide at the meeting a draft copy of the report for the engagement (or engagements if Chain Facilities). Any necessary changes must be discussed and agreed upon before final acceptance. Vendor is to be prepared (with workpapers) to discuss each finding and to perform additional work at the request of OAMR for any areas not sufficiently explained or findings not sufficiently quantified. In the event that changes or additional work are deemed necessary a subsequent draft will be submitted and discussed with OAMR.
- 4.1.13** The final draft of the report is to be submitted to OAMR by the vendor and OAMR will transmit draft report to the facility. The facility shall have ten (10) business days from receipt to provide additional information to the vendor to mitigate or resolve the findings.
- 4.1.14** Vendor is responsible for final report preparation, editing and printing. The vendor is to provide OAMR with three (3) copies of the final report for each engagement as well as one (1) copy of the engagement workpapers resulting from the examination or electronic versions as agreed by OAMR.
- 4.1.15** All workpapers and reports are to be retained, at the vendor's expense, for a minimum of five (5) years. After the (5) years have elapsed documents are to be delivered and surrendered unto the OAMR.
- 4.1.16** Vendor is to be available to OAMR to assist in adapting the engagement procedures as necessary to accommodate rule and regulation changes as they affect the rate determination and audit process on an as-needed basis.
- 4.1.17** Vendor will be expected to complete audit fieldwork and submit final draft audit reports for OAMR quality review not later than 90 days before contract expiration date, unless express approval or extension is granted by OAMR. Any audits not submitted by this date will not be considered complete and final outstanding payments therefore will be withheld. Final drafts submitted by 90 day deadline will be quality reviewed and upon acceptance by OAMR as final, OAMR will authorize approval of final payment.

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- 4.1.18** The bid must include a firm fixed fee for the performance of each facility engagement for the services discussed above. In the event that less than eight (8) LTC-FASR's cost reporting periods are to be examined in an engagement due to extenuating circumstances, the vendor is to adjust the per engagement fee to accommodate the reduction in work accordingly. The All-Inclusive Engagement cost should assume that all engagements will include eight (8) cost reporting periods.
- 4.1.19** Vendor is to commit cohesive, dedicated, highly skilled core team of key personnel to oversee and conduct the tasks required under this agreement. The vendor is to designate one contact person to report to the Director of OAMR or his designee regarding all matters related to this contract. This individual shall be a Certified Public Accountant in good standing licensed by the West Virginia Board of Accountancy. The designated contact person must be able to act on behalf of the vendor and have appropriate experience and expertise in overseeing similar engagements. The designated contact person must be available for monthly on-site meetings with the OAMR Office Director or designee.
- 4.1.20** Vendor should notify OAMR immediately of any noncompliance by LTC Providers to submit requested information necessary to complete the audit. As covered in section 514 of the WV Nursing Facility Provider Manual, records found to be incomplete or missing at the time of the scheduled on-site visit must be delivered within 48 hours or an amount of time mutually agreed upon with the audit staff at the exit conference. Provider costs found to be unsubstantiated will be disallowed and considered an overpayment. Failure of Providers to submit records will not be justification for last submission by vendor of expected audit report deliverables. Meetings may be conducted less frequently than a monthly basis, if deemed appropriate by the OAMR, and may be requested more frequently on an as needed basis.

## 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 Attachments 1-4. 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. In most cases, the

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Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: [April.E.Battle@wv.gov](mailto:April.E.Battle@wv.gov)

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.
7. **PAYMENT:** Agency shall pay the all-inclusive per audit amount, as shown on the Pricing pages for all contract services performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.
8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.
9. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:
  - 9.1. Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.
  - 9.2. Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
  - 9.3. Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.
  - 9.4. Anyone performing under this Contract will be subject to Agency's security protocol and procedures.
  - 9.5. Vendor shall inform all staff of Agency's security protocol and procedures.



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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.

#### 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:** Chris Lambert, CPA, CGMA  
**Telephone Number:** 304-343-4126  
**Fax Number:** 304-343-8008  
**Email Address:** CSLambert@SuttleCPAs.com

#### 11.2. Record Retention (Access & Confidentiality):

Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor. The Vendor shall maintain such records a minimum of five (5) years and make available all records to Agency personnel at Vendor's location during normal business hours upon written request by Agency within 10 days after receipt of the request.

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Vendor shall have access to private and confidential data maintained by Agency to the extent required for Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless the State and Agency against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractor or individuals permitted access by the Vendor.

**11.3. Invoices, Progress Payments:**

The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract. Progress payments shall be made on the basis of percentage of work completed at the per engagement prices per the Pricing pages. Progress reports must be submitted to the Agency with the invoice detailing progress completed of any deliverable identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the Vendor's report. Invoices may not be submitted more than once monthly and State law forbids payment of invoices prior to receipt of services.

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#### SPECIFICATIONS

- PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of WV DHHR Office of Accountability & Management Reporting (OAMR) to establish a contract for a Certified Public Accountant firm to provide examination engagements of Long Term Care Financial and Statistical Reports (LTC-FASRs) received from West Virginia Medicaid providers. Engagements are to ensure that the costs submitted by long term care providers participating in the West Virginia Medicaid Program ("Provider") are accurate, allowable, and in accordance with the West Virginia Medicaid Provider Manuals and all of the applicable laws, rules and regulations. Work is to be performed onsite at Provider offices as well as home office locations (for long term care providers that are part of a chain of facilities) or at the vendor's location. Limited space and resources are available at the Agency offices to accommodate vendor staff.

Background: The WVDHHR Office of Accountability and Management Reporting (OAMR) are responsible for receiving semiannual LTC-FASRs, (cost reports) from all nursing facility providers for whom per diem rates are set on behalf of WV Medicaid.

The costs are submitted to OAMR semi-annually and are used to calculate the per diem rates that participating long term care providers are paid for services rendered to West Virginia Medicaid clients. Examination engagements of the LTC-FASRs are used to determine whether any retroactive rate adjustments are necessary (e.g. based on unallowable or undocumented costs submitted, adjustments in census information, or other matters increasing or decreasing costs as originally reported).

Long term care providers are reimbursed only for allowable costs (as outlined in the rate setting methodology per the West Virginia Medicaid State Plan). Any reimbursement over cost is recovered through recalculation of the rate after the LTC-FASRs have been examined and adjusted for any findings of the examination. The rate is adjusted for any discrepancies noted in the examination; additionally, any other payments received by the provider during the period covered by the LTC-FASR under examination (such as payments for bed reservation days or West Virginia Medicaid credit balances) that are determined to be in error are recovered through this process as well.

Providers have a right to appeal the findings, recoveries and rate adjustments resulting from examinations and auditors are required to appear in evidentiary or other hearings to support the findings and conclusions or the examinations as well as prepare documents necessary for the attorneys or hearings examiner to sufficiently evaluate the findings or conclusions at issue.

These LTC-FASRs are desk reviewed and used to calculate the prospective per diem rates that will be paid to each provider for the next six-month period. OAMR is also responsible for examining LTC-FASRs to determine whether the costs and other data included on the

**Attachment 1**  
**HHR15100 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)**  
**WEST VIRGINIA DHHR OAMR**  
**COST QUOTE FOR STANDARD FACILITY ENGAGEMENT**  
**YEAR 1 ALL-INCLUSIVE COST SHEET**

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>	<u>General Location</u>
1. Ansted Center		Chain – Home Office - PA
2. Brightwood Center		Chain - Home Office - PA
3. Canterbury Center		Home Office - PA
4. Oak Ridge Center		Home Office - PA
5. Carehaven Center		Home Office - PA
6. Raleigh Center		Home Office - PA
7. Sistersville Center		Home Office - PA
8. Teays Valley Center		Home Office - PA
9. Cedar Ridge Center		Home Office - PA
10. Dawnview Center		Home Office - PA
11. Hampshire Health Care Center		Chain
12. Heritage Center		Chain – Home Office - PA
13. Hidden Valley Center		Home Office - PA
14. Hilltop Center		Home Office - PA
15. Logan Center		Home Office - PA
16. Marmet Center		Home Office – PA
17. Bishop Joseph H. Hodges C.C.C.		Free Standing
<b>SUBTOTAL STANDARD ENGAGEMENTS COST Year 1</b>		

**Attachment 2**  
**HHR15100 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)**  
**WEST VIRGINIA DHHR OAMR**  
**COST QUOTE FOR STANDARD FACILITY ENGAGEMENT**  
**YEAR 2 ALL-INCLUSIVE COST SHEET**

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>	<u>General Location</u>
1. Miletree Center		Home Office - PA
2. Pocahontas Center		Home Office - PA
3. Ravenswood Center		Home Office - PA
4. Rosewood Center		Home Office - PA
5. Shenandoah Center		Home Office - PA
6. Valley Center		Home Office - PA
7. White Sulphur Springs Center		Home Office - PA
8. Willows Center		Home Office - PA
9. Tygart Center		Home Office - PA
10. Madison Center		Home Office - PA
11. Pierpont Center		Home Office - PA
12. Fox Nursing Home		Free Standing - Chester, WV
13. Trinity Health Care Services of Logan		Chain - Logan WV
14. Trinity Health Care Services of Mingo		Chain - Logan WV
15. Weirton Medical Center		Hosp. Based - Weirton WV
16. Roane General Hospital		Hosp. Based - Spencer WV
17. St. Joseph's Hospital Buckhannon		Hosp. Based - Buckhannon WV
<b>SUBTOTAL STANDARD ENGAGEMENTS COST Year 2</b>		

**Attachment 3**  
**HHR15100 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)**  
**WEST VIRGINIA DHHR OAMR**  
**COST QUOTE FOR STANDARD FACILITY ENGAGEMENT**  
**YEAR 3 ALL-INCLUSIVE COST SHEET**

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>	<u>General Location</u>
1. Mansfield Place – (Broadus Hospital)		Hosp. Based – Philippi, WV
2. Grafton City Hospital ( Wallace B. Murphy)		Hosp. Based – Grafton, WV
3. Grant Memorial Hospital		Hosp. Based – Petersburg, WV
4. Cortland Acres		Free Standing – Thomas, WV
5. Crestview Manor		Free Standing – Jane Lew, WV
6. Guardian Elder Care @ Wheeling		Chain - Home Office – PA
7. Pine View Nursing & Rehab Center		Free Standing – Harrisville, WV
8. Mound View Health Care, Inc.		Free Standing – Moundsville, WV
9. Pleasant Valley Hospital		Hosp. Based – Pt. Pleasant, WV
10. Sundale Nursing Home		Free Standing – Morgantown, WV
11. Parkersburg Center		Chain – RO – Morgantown, WV
12. Dunbar Center		Chain – RO – Morgantown, WV
13. Glenville Center		Chain – RO – Morgantown, WV
14. Pine Lodge Center		Chain – RO – Morgantown, WV
15. Putnam Center		Chain – RO – Morgantown, WV
16. Salem Center		Chain – RO – Morgantown, WV
17. New Martinsville Center		Chain – RO – Morgantown, WV
<b>SUBTOTAL STANDARD ENGAGEMENTS COST Year 3</b>		

**Attachment 4**  
**HHR15100 Auditing of Long Term Care Financial and Statistical Reports (LTC-FASR)**  
**WEST VIRGINIA DHHR OAMR**  
**COST QUOTE FOR STANDARD FACILITY ENGAGEMENT**  
**YEAR 4 ALL-INCLUSIVE COST SHEET**

<u>FACILITY</u>	<u>All-Inclusive Per Engagement Cost</u>	<u>General Location</u>
1. Summersville Memorial Hospital		Hosp. Based – Summersville WV
2. Golden Living Center – Glasgow		Chain – Home Office - AR
3. Golden Living Center – Morgantown		Chain – Home Office – AR
4. Golden Living Center – Riverside		Chain – Home Office - AR
5. Hampshire Memorial Hospital		Hosp. Based – Chain- VA
6. War Memorial Hospital		Hosp. Based – Chain - VA
7. Heartland of Clarksburg		Chain – Home Office – Toledo, OH
8. Heartland of Keyser		Chain – Home Office – Toledo, OH
9. Heartland of Martinsburg		Chain - Home Office – Toledo, OH
10. Heartland of Preston County		Chain - Home Office – Toledo, OH
11. Heartland of Rainelle WV, LLC		Chain - Home Office – Toledo, OH
12. Holbrook Nursing Home		Free Standing – Buckhannon, WV
13. Nella's Inc.		Chain - Elkins
14. Nella's Nursing Home, Inc.		Chain - Elkins
15. Ohio Valley Health Care		Free Standing – Parkersburg, WV
16. The Heritage		Chain – Home Office - TN
17. Minnie Hamilton Health Care Center		Hosp. Based – Harrisville, WV
<b>SUBTOTAL STANDARD ENGAGEMENTS COST Year 4</b>		

**SUMMARY OF ALL COSTS**

**GRAND TOTAL 4-YEAR CONTRACT COSTS (SUM OF YEARS 1-4)      \$ \_\_\_\_\_**

Evaluation of Bids: Cost evaluations will be based on the total contract cost for four years. Award of the contract will be based on the lowest cost bid of the vendor who meets or exceeds the specifications and requirements. It is preferred that all vendors complete the attached pricing pages for years 1-4 rather than submitting a separate quote.

## 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. 111<sup>th</sup> 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](http://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](mailto: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 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: WV DHHR OAMR

Signature: \_\_\_\_\_

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

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

Name of Associate: Suttle & Stalnaker, PLLC  
Chris Lambert, CPA, CGMA

Signature: Christopher Lambert

Title: Member of Suttle & Stalnaker, PLLC

Date: 08/17/2016

Form - WVBA-012004  
Amended 06.26.2013

APPROVED AS TO FORM THIS 26th  
DAY OF Jan 20 17  
Patrick Montoy  
Attorney General  
BY \_\_\_\_\_

## 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: Suttle & Stalnaker, PLLC by Chris Lambert, CPA, CGMA, Member

Name of Agency: WV DHHR OFFICE OF ACCOUNTABILITY & MANAGEMENT REPORTING (OAMR)

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

PHI could be in the form of patient related information included in submission of cost reports by West Virginia Nursing Homes/Long Term Care Facilities. Inclusion of PHI by nursing facilities could be part of regular submission in schedules such as census data or bed hold data as well as others.



**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING  
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

**FACILITY NAME**

**01/01/2010 - 12/31/2013**

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
OFFICE OF ACCOUNTABILITY AND MANAGEMENT REPORTING  
AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

**IX. HOME OFFICE COSTS**

	Date	Initials	Reference
1. Document (or obtain documentation of) services provided to the facility by the Home Office. Inquire of facility management how the services provided by the home office benefit resident care as required by Section 514.30.9, Chapter 514 of the WV Medicaid Provider Manuals. Document the response to this inquiry. Reconcile home office costs reported on the FASR to the home office trial balance.			
2. Obtain Home Office General Ledgers that support Home Office Expenses. Review for allocation reasonableness and allowability.			
3. Review the home office allocation to determine the propriety of the allocation method and for reasonableness and allowability. Determine whether the allocation was based on resident days (in accordance with Section 514.30.9 of Chapter 514 of the Medicaid Provider Manuals). If an allocation method other than resident days was used, review approval for change from WVDHHR or Medicare intermediary.			
4. Perform a reasonableness test of Home Office expenses by comparing amount of Home Office costs per cost reports to amount of Home Office cost reported to Medicare for the commensurate period. Document any variances and determine whether additional testing is warranted.			
5. Review home office expenses for reasonableness and allowability. Ensure that home office expenses do not include personal expenses of owners. The review should include but not be limited to those accounts/account classifications tested when auditing an independent non-chain facility.			
6. a. If applicable, request a list of home office employees that include classifications and salaries. Review for reasonableness and determine employees are performing necessary functions related to patient care. Verify documentation of time worked.			
b. If applicable, document details of any applicable bonus programs. Inquire how bonuses are earned and accrued.			
7. a. Request an amortization schedule and supporting documentation of interest expense. Review for non-allowable interest expense such as automobile purchases.			
b. Determine whether working capital interest is included in the cost reports and whether it is appropriate per Section 514.30.6 of Chapter 514 of the WV Medicaid Provider Manuals.			
8. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.	00/00/15	??	I1

**X. MANAGEMENT FEES**

1. Review Management Agreement Contract. Obtain a copy for OAMR files and document whether management fees paid to related parties are reported on page WV24, Non-allowable Expenses. (in accordance with Section 514.30.9 of Chapter 514 of the Medicaid Provider Manuals).			
2. Determine the basis used to calculate the management fees for the period under audit.			
3. Review the transaction register and identify all management fees paid.			
4. Ensure that payments are calculated in accordance with the management agreement and that they do not exceed allowable amounts.			
5. Document whether duplication of services is noted in above testing.	00/00/15	??	J1

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
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AUDIT GUIDE FOR LONG TERM CARE FACILITIES**

**XI. REVENUES**

Date Initials Reference

1. Reconcile facility general ledger revenue to cost report revenue. Document the reasons for significant variances noted.
2. Review miscellaneous and other income accounts. Determine if these accounts are required to be offset against expenses. Examples requiring offset are:
  - a. Interest Income
  - b. Sale of Meals
  - c. Rental of facility space

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**XII. RESIDENT FUNDS**

1. Review the Resident Fund Questionnaire completed by the provider for inclusion with the report.
2. Select one month and test reconciliation process for all residents. Reconcile the sum of cash in the bank and petty cash (if applicable) to the subsidiary records as of the statement date.
3. Verify that interest earned is credited to the residents' account.
4. Determine whether funds are being held for discharged residents. If any are noted, determine the method of disposition.
5. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**XIII. MEDICAID CREDIT BALANCES**

1. Compare Account Receivable Aging Report balances to the facility's general ledger. Reconcile any differences noted.
2. Review accounts receivable aging report and/or resident ledger cards as of the last date in the engagement period to identify any credit balances which might indicate duplicate payments (third party payments) or other overpayments.
3. Inquire as to whether or not there exist any unapplied credits to resident accounts, if so review and determine whether any are related to periods under examination and if recoupment is appropriate.
4. If credit balances are found to exist for Medicaid residents review documentation to determine the amount of recoupment (if any) that is necessary. Create a list of credit balances to include account number (if any), initials, amount.
5. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
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**XIV. CONCLUSIONS**

	Date	Initials	Reference
1. Schedule exit conference to discuss findings or issues noted during fieldwork. Provide any information needed by provider to resolve findings or issues. <b>NOTE:</b> Do not copy work papers; provide details (i.e. account number, amount, invoice numbers, check numbers, resident names, etc.)	00/00/15	??	B1
2. Provide to Division of Rate Setting staff list of all proposed and passed adjustments (including mapping to cost report page and line) for evaluation of potential impact to adjusted rate.			B2
3. Prepare a draft report containing all proposed findings and adjustments.			B3
4. Provide a copy of the draft report to the provider. Allow provider ten working days to supply any additional information or documentation. Request confirmation of delivery of draft report.			B3-B4
5. Review any additional provider documentation submitted during 10 day draft report review period. Make necessary revisions to report.			B5
6. Calculate adjusted rate incorporating all proposed findings and adjustments.			A3-A4
7. Issue final report containing all cost report and rate adjustments to Bureau for Medical Services. Include BMS Letter and any supporting documentation when received.			A1-A4

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
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**I. ENGAGEMENT PLANNING**

	Date	Initials	Reference
1. Send provider engagement letter notifying them of examination.	00/00/15	??	C2
2. Perform review of submitted cost report and provider submitted work papers. Note any unusual entries, adjustments, allocations or reclassifications.			C1
3. Perform review of rate calculations. Note any unusual or significant variances in provider's reported allowable costs between periods and compare allowable costs to applicable caps. Also calculate planning material amounts by determining the dollar amount of cost standards compared to allowable costs. For any unusual or significant variances noted, determine whether scope of examination should be modified; consider any such issues noted in testing of general ledger to cost report tie-in and suspect account analysis (Step 15 of this section). Document the conclusions and any effect on the examination scope in a narrative memorandum.			C3a-d
4. For all rate components that have increased from the previous period and exceed to applicable cap, perform additional testing to isolate the account(s) creating the variance and test to ensure the variance is not the result of error.			C3e
5. Perform review of facility appraisal reports and depreciation schedule. Note any additions or renovations occurring during the examination periods.			C1 & C4
6. Perform review of prior year reports and examinations in OAMR files. Note adjustments and appeals.			C1 & C5
7. Discuss with Division of Rate Setting Director their awareness of any provider issues or complaints that would affect the scope of the engagement. Discuss evaluation of materiality and document any effect on engagement scope.			C1
8. Request that Division of Rate Setting staff prepare electronic adjusted rate worksheets for each cost report period audited.			C1
9. Make arrangements with provider to begin field work. This includes sending a confirmation letter regarding the date and time of the entrance conference and sending the provider a list of information required at the entrance conference.			C6
10. Forward a copy of the Internal Control Questionnaire and letter to provider for completion and return to OAMR prior to beginning of field work.			C7 & C8
11. Forward a copy of Resident Trust Fund Questionnaire and letter to provider for completion.			C7 & L2
12. Arrange for a discussion with the appropriate provider personnel to discuss in detail the individual items on the Audit List, the Internal Control Questionnaire and Resident Trust Fund Questionnaire. If feasible, arrange for this discussion to occur on site; if not, via conference call that includes all parties that may be involved in preparing or providing items requested for the audit. Ensure that the items on the audit list are discussed with the provider and that understanding of what is needed is achieved, as well as understanding that the items should be available when the field work begins (if not provided electronically prior to field work). In addition to the items on the Audit List, discuss the following:			C1
a. Adequacy and access to providers records.			
b. Provider's personnel who will be the primary contact person providing necessary documentation (including email, fax number and telephone number).			

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
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**I. ENGAGEMENT PLANNING (continued)**

	Date	Initials	Reference
13. Review the completed Internal Control Questionnaire in order to obtain an understanding of the following. a. Control Environment b. Accounting System c. Reporting Process			C8 & C9
14. Using the beginning and ending check numbers from the completed Internal Control Questionnaire, select a sample of disbursements from operating (i.e. non-payroll) bank accounts for substantive testing. Request that the provider complete and return an electronic (Excel) work sheet containing the following elements for each disbursement selected: check number, date, amount, payee, general ledger account posting.			C1 & G3
15. Prepare a work paper to determine "suspect accounts" to compare amounts reported by cost center for each period examined. Calculate the variance between periods and identify the accounts with significant variances for additional testing.			G2a

**II. ENTRANCE CONFERENCE**

1. Provide introductions of engagement team and identify facility personnel that will be available to assist the team.	00/00/15	??	C1
2. Discussions with provider should include (but not limited to) the following: a. Working area for the engagement team. b. Changes in the provider's operation. c. Changes in accounting methods or principles applied. d. Changes in key personnel. e. Significant accounting or reporting problems. f. Findings of internal or external audits. g. Changes or issues in any facility software or hardware (or other system) h. Conversions/changes occurring during the examination period that could affect testing. i. Adjustments to census statistics as originally reported. j. Other issues as necessary.			C1
3. If additional issues are found as a result of the entrance conference that affect the scope of the engagement, document in a narrative memorandum; if no such issues are noted mark N/A at right.			N/A

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**III. PRELIMINARY WORK**

	Date	Initials	Reference
1. Conduct a tour of the provider's facility to become familiar with operations. Using the depreciation schedule and latest appraisal, physically observe additions, renovations, construction in progress, and any major equipment purchases. Document items reviewed on appraisal. Note any significant additions or changes not included in the appraisal or depreciation schedule on a separate work paper.	00/00/15	??	C1
2. Review the Board of Director's Minutes, noting capital expenditures, changes in contracts, leasing arrangements, management contracts, salary and revenue increases.			C1
3. Perform a reconciliation of Medicaid Cost Report to the providers general ledger/trial balance for a sample of the cost report periods under examination.			C1 & C10
a. Agree amounts, account titles and account numbers per facility general ledger to WV Medicaid Grouping Report.			
b. Review general ledger expense accounts for appropriate classification within the cost report cost centers (i.e. nature of expenses for particular general ledger accounts is appropriately classified to commensurate cost center on cost report).			
c. Agree amounts per WV Medicaid Grouping Report to cost report.			
4. If available, perform review of annual external audit reports. Document any items noted that impact the scope of the engagement or planned procedures.			C1 & C11
5. Obtain copies of the Federal corporate or partnership tax returns for years under examination.			C1 & C12
6. Ask facility administrator and CFO if they are aware of any instances of fraud or mismanagement that have occurred (not specifically limited to the period of the audit).			C1
7. Expand audit scope and testing as necessary to obtain an understanding and quantify any issues noted in performance of Step 6 above.			C1
8. Document the results of the above testing, conclusions and any adjustments to engagement scope in a narrative memorandum.			C1



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**IV. STATISTICS (CENSUS)**

Date      Initials      Reference

1. Select one month for each cost report period included in the engagement and perform the following:
  - a. Mathematically test midnight census documentation for accuracy and tie selected midnight census to resident day summaries.
  - b. Mathematically test resident day summaries and tie to census reported by category on the cost report.
  - c. If errors are noted in the above testing, expand testing for cost report periods for which errors are noted by selecting additional months for testing.
  - d. Summarize any adjustments needed to census based on the above testing.
  
2. In examination planning the facility was requested to provide a listing of bed reservation days from one selected month during each cost report period (for months with bed reservation days). Using the listings provided by the facility, examine supporting documentation to ensure the appropriateness of bed reservation days paid by Medicaid to include the following:
  - a. Calculate the facility occupancy for the midnight census prior to the individual's departure from the facility to ensure that it was above 95% (in accordance with Chapter 514, Section 514.10 of the Medicaid Provider Manuals).
  - b. Summarize any bed reservation days that were inappropriately billed based on the above testing.
  
3. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
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**V. PAYROLL**

Date      Initials      Reference

1. Perform a reasonableness test of total wages per cost report to wages on the provider's IRS Form 941 wage tax return or other payroll tax form based on wages. Document the reasons for any variance noted in which the cost report wages exceed the wages reported on the Form 941 by a significant amount. Expand testing as necessary to verify the reasons for such variances.
2. If payroll is allocated to cost centers, determine if the allocation methodology is reasonable.
3. Select one payroll period and test for the following:
  - a. Gross pay per payroll is mathematically correct.
  - b. Gross to net pay per payroll is mathematically correct.
  - c. Time card ties to payroll register.
  - d. Trace postings from the payroll register to the general ledger.
4. Review time records for administrative personnel to ensure compliance with Section 514.31.1 of Chapter 514 of the WV Medicaid Provider Manuals.
5. Confirm the time records, work efforts and classifications for employees related to owners and or management.
6. Review any bonuses accrued and/or paid.
7. Review documentation of fringe and employee benefits. Document any benefit and/or bonus plans that are not equally applicable to all employee classes.
8. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**VI. RESTORATIVE**

1. Identify the types of therapies being administered at the facility and determine if the therapies are being performed by facility employees or by outside contractor. (e.g. Physical Therapy, Speech Therapy, Inhalation Therapy, Occupational Therapy).
2. Obtain explanation for material variances of total Restorative costs reported between FASR periods audited.
3. If therapies are being performed by an outside contractor, obtain a copy of the current contract and select a sample of transactions and trace to supporting invoices and cancelled checks. Mathematically test the accuracy of the invoices by recalculating against the contract rate.
4. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.

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**VII. EXPENSES**

	Date	Initials	Reference
1. Using the worksheet prepared in Section I, Step 14, review the following for the sampled items:	00/00/15	??	G4
a. Original invoice,			
b. Canceled check (or electronic image),			
c. General ledger posting (noting appropriateness of general ledger account in relation to type of expense),			
d. Approval by appropriate facility staff.			
2. Review the general ledger account details supporting the accounts identified in the suspect account analysis in Section I, Step 15. Judgmentally select a sample of postings from these accounts and vouch to appropriate supporting documentation.			G2b
3. Review for personal expenses of the owner/administrator paid by the facility and reported on the cost report.			G1
4. Determine whether the results of testing in Step 1 and 2 above indicate cost shifting between cost centers to avoid ceiling limitations or to maximize incentives. If any such shifting is indicated, expand expense testing as necessary to quantify the adjustment needed to remove the effects of shifted costs.			G1
5. Review the provider's mileage log for existence and appropriateness. Review general ledger vehicle expense accounts for insurance or other vehicle expenses and determine whether such expenses have been appropriately reclassified to cost report page WV24 Non-Allowable Vehicle Expenses.			G5
6. Determine whether working capital interest is included in the cost reports and whether it is appropriate per Section 514.30.6 of Chapter 514 of the WV Medicaid Provider Manuals.			G1 or G6
7. Using the related party detail list requested during engagement planning determine if any related parties exist and if so determine the nature of any relationships. Judgmentally select individual items from the related party detail list for substantive testing to include examination of the facility's calculation to remove profit and ensure that the transaction is reported at cost. If any transactions are noted in the testing that include related party profit, expand the testing to quantify the amount of related party profit adjustment needed. Document the nature of any related party transactions noted as well as any adjustments needed in a narrative memorandum.			G1 or G7
8. Document the results of the above testing, findings and adjustments, and conclusions in a narrative memorandum or summary work paper.			G1

**WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
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**VIII. HOSPITAL-BASED FACILITY COST ALLOCATION**

	Date	Initials	Reference
1. Obtain the allocation work papers and discuss with appropriate provider personnel the allocation methodologies. If facility is not hospital-based; mark N/A at right.	00/00/15	??	N/A
2. Vouch amounts per account on the allocation work papers to general ledger. Document any balances that do not agree.			
3. Trace amounts per account on the allocation work papers to the FASR Grouping Report. Document any balances that do not agree.			
4. Perform a test of the allocation work papers to determine whether accounts are properly classified to either an allowable cost center or non-allowable costs. Document any exceptions to this analysis.			
5. Compare the allocation methodologies used on the allocation work papers to the Medicare cost report allocation methodologies. Discuss any differences between the allocation for Medicare cost reporting and the WV Medicaid cost report with facility management and document the responses.			
6. Review the square footage to identify any changes from prior examination period allocation.			
7. Review resident meal counts. If an actual meal count was not used meals should equal three times in-patient days.			
8. Discuss with appropriate provider personnel any issues or exceptions noted in the above testing.			
9. Document the results of the above testing in a narrative memorandum to indicate any necessary adjustments based on the above testing.	00/00/15	??	H1

## ATTACHMENT 1

### Provisions Required for Federally Funded Procurements

1. **Federal Funds:** This purchase is being funded in whole or in part with Federal Funds and is subject to the requirements established in 2 CFR § 200. Pursuant to 2 CFR § 200.317 the provisions of 2 CFR §§ 200.322 and 200.326 are expressly included in this solicitation below and incorporated into any contract resulting from this solicitation by reference.
2. **2 CFR §200.322 Procurement of recovered materials:** A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
3. **§200.326 Contract provisions:** Pursuant to the requirements contained in 2 CFR §§ 200.317 and 200.326, the following provisions are included any contract resulting from this solicitation, to the extent that the provisions are applicable.
  - (A) At a minimum, the administrative, contractual, or legal remedies contained in W. Va. CSR § 148-1-5 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract resulting from this solicitation in instances where contractors violate or breach contract terms for contracts for more than the simplified acquisition threshold currently set at \$150,000 (which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908).

West Virginia Code of State Rules § 148-1-5 states:

#### § 148-1-5. Remedies.

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

5.2. Contract Cancellation.

**5.2.a. Cancellation.** The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

**5.2.a.1.** The vendor agrees to the cancellation;

**5.2.a.2.** The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

**5.2.a.3.** Failure to honor any contractual term or condition or to honor standard commercial practices;

**5.2.a.4.** The existence of an organizational conflict of interest is identified;

**5.2.a.5.** Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

**5.2.a.6.** Violation of any federal, state, or local law, regulation, or ordinance.

**5.2.b.** The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

**5.2.c. Opportunity to Cure.** In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

**5.2.d. Re-Award.** The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

**5.2.d.1.** The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

**5.2.d.2.** The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

**5.4.b. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:**

**5.4.b.1. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.**

**5.4.b.2. A notice of suspension must inform the vendor:**

**5.4.b.2.A. Of the grounds for the suspension;**

**5.4.b.2.B. Of the duration of the suspension;**

**5.4.b.2.C. Of the right to request a hearing contesting the suspension;**

**5.4.b.2.D. That a request for a hearing must be served on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension;**

**5.4.b.2.E. That the vendor's failure to request a hearing no later than five (5) working days of the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and**

**5.4.b.2.F. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.**

**5.4.b.3. A vendor's failure to serve a request for hearing on the Director no later than five (5) working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.**  
**5.4.b.4. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.**

**5.4.b.5. Within five (5) working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.**

**5.4.b.6. The hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.**

5.4.c. A vendor may appeal a decision of the Director to the Secretary of Administration. The appeal must be in writing and served on the Secretary no later than five (5) working days of receipt of the Director's decision.

5.4.d. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within ten (10) working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.e. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in West Virginia Code § 5A-3-33d or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.a. Debarment proceedings shall be conducted in accordance with West Virginia Code § 5A-3-33e and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.b. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.c. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor,



including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated. 5.5.d. Pursuant to West Virginia Code section 5A-3-33e(e), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.e. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

#### **5.6. Damages.**

5.6.a. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.b. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.c. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

**(B)** At a minimum, the termination for cause and for convenience provisions contained in W. Va. CSR § 148-1-5.2 and the applicable definitions contained in W. Va. CSR § 148-1-2 apply to any contract in excess of \$10,000 resulting from this solicitation.

West Virginia Code of State Rules § 148-1-5.2 states:

#### **5.2. Contract Cancellation.**

5.2.a. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.a.1. The vendor agrees to the cancellation;

5.2.a.2. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.a.3. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.a.4. The existence of an organizational conflict of interest is identified;

5.2.a.5. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition.

5.2.a.6. Violation of any federal, state, or local law, regulation, or ordinance.

5.2.b. The Director may cancel a purchase or contract for any reason or no reason, upon providing the vendor with 30 days' notice of the cancellation.

5.2.c. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

**(C) Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "**federally assisted construction contract**" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

41 CFR § 60-1.3 defines "Federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

Accordingly, to the extent that this contract meets the definition of a "federally assisted construction contract" under 41 CFR Part 60-1.3, the following clause is included:

**41 CFR 60-1.4 - Equal opportunity clause. (b) *Federally assisted construction contracts.***

In accordance with the requirements of described above, and except as otherwise provided in the applicable regulations, the following language is hereby incorporated into any contract resulting from this solicitation involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may

request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

**(D) Davis-Bacon Act, as amended (40 U.S.C.3141–3148).** Any construction contract resulting from this solicitation hereby requires compliance with the Davis-Bacon Act (40 U.S.C 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor

Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors are required to pay wages not less than once a week.

Any construction contract resulting from this solicitation hereby requires compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

- (E) **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).** Where applicable, any contract resulting from this solicitation in excess of \$100,000 that involve the employment of mechanics or laborers hereby requires compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (F) **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—** Any contract resulting from this solicitation in excess of \$150,000 hereby requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C.1251–1387).

**(H) Debarment and Suspension (Executive Orders 12549 and 12689)—** Any contract resulting from this solicitation will not be awarded to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension."

**(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—** Any contract resulting from this solicitation requires compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.



**CAMICO MUTUAL INSURANCE COMPANY  
DECLARATIONS  
ACCOUNTANTS PROFESSIONAL LIABILITY INSURANCE POLICY**

Policy Number: WVL102340-12

Effective Date:	09/24/2015	at 12:01 A.M. Standard time at the address shown below
Expiration Date:	09/24/2016	at 12:01 A.M. Standard time at the address shown below
Retroactive Date:	07/09/1973	

Item 1 - Named Insured: Suttle & Stalnaker, PLLC  
Item 2 - Business Address: 1411 Virginia Street E, Suite 100  
Charleston, WV 25301

Item 3 - Limits of Liability:	\$2,000,000	Per Claim
	\$4,000,000	Policy Aggregate
Item 4 - Deductibles:	\$35,000	Per Claim Deductible

Item 5a - Total Premium:	\$65,322.00
Item 5b - WV State Surcharge:	\$359.27
Item 5c - Total Amount:	\$65,681.27

Item 6 - The policy consists of this Declarations page, and the following policy forms and endorsements:

PL-1000-A	07/14	Accountants Professional Liability Insurance Policy
PL-2029-A (WV)	07/14	State Endorsement - West Virginia
PL-1015-A	07/14	Separate Defense Limit
PL-1007-A	07/14	Exclusion - Claims Following Insureds Suit for Fees
PL-1002-A	07/14	Additional Named Insured Endorsement

**PLEASE READ THESE DECLARATIONS, THE POLICY AND ENDORSEMENTS CAREFULLY.**

**CAMICO Mutual Insurance Company**

\_\_\_\_\_  
Authorized Representative





State of West Virginia  
West Virginia Board of Accountancy  
405 Capitol Street, Suite 908  
Charleston, WV 25301-1744  
(304) 558-3557

*The entity listed below was issued an  
Authorization to Perform  
Attest and/or Compilation Services  
for the period beginning  
July 1, 2016 through June 30, 2017*

**SUTTLE & STALNAKER PLLC**  
1411 VIRGINIA ST E STE 100  
CHARLESTON WV 25301-3086

*Luis J. Costanzo III*  
Board President

*Brenda S. Stenberg*  
Executive Director



West Virginia Board of Accountancy  
405 Capitol Street, Suite 908  
Charleston, WV 25301-1744  
(304) 558-3557

Your fee has been received  
for your firm's Authorization to  
Perform Attest or Compilation  
Services in West Virginia.  
This Authorization may be  
detached and used  
until the date indicated.

Any errors in the  
attached information  
should be reported  
to the Board  
office at  
304/558-3557

*Luis J. Costanzo III*  
Board President  
*Brenda S. Stenberg*  
Executive Director



State of West Virginia  
West Virginia Board of Accountancy  
405 Capitol Street, Suite 908  
Charleston, WV 25301-1744  
(304) 558-3557

*The entity listed below was issued a  
FIRM PERMIT  
for the period beginning  
July 1, 2016 through June 30, 2017*

**SUTTLE & STALNAKER PLLC**  
1411 VIRGINIA ST E STE 100  
CHARLESTON WV 25301-3086

*Luis J. Costanzo III*  
Board President

*Brenda S. Stenberg*  
Executive Director



West Virginia Board of Accountancy  
405 Capitol Street, Suite 908  
Charleston, WV 25301-1744  
(304) 558-3557

Your fee has been  
received for registration  
of your firm. The  
firm permit may be  
detached from the perforation at  
left and used until the  
date indicated.

Any errors in the attached  
information should be  
reported to the Board office at  
304/558-3557

*Luis J. Costanzo III*  
Board President  
*Brenda S. Stenberg*  
Executive Director



State of West Virginia  
West Virginia Board of Accountancy  
405 Capitol Street, Suite 908  
Charleston, WV 25301-1744  
(304) 558-3557

*The person indicated below is  
licensed as a  
Certified Public Accountant  
for the period beginning  
July 1, 2016 through June 30, 2017*

CHRISTOPHER S LAMBERT  
SUTTLE & STALNAKER PLLC  
1411 VIRGINIA ST E STE 100  
CHARLESTON WV 25301-3086

*Louis J. Costanzo III*  
Board President

*Brenda S. Turley*  
Executive Director



West Virginia Board of Accountancy  
405 Capitol Street, Suite 908  
Charleston, WV 25301-1744  
(304) 558-3557

*The person indicated below is  
licensed as a  
Certified Public Accountant  
for the period beginning  
July 1, 2016 through June 30, 2017*

CHRISTOPHER S LAMBERT  
SUTTLE & STALNAKER PLLC  
1411 VIRGINIA ST E STE 100  
CHARLESTON WV 25301-3086

*Louis J. Costanzo III*  
Board President

*Brenda S. Turley*  
Executive Director



STATE OF WEST VIRGINIA  
Purchasing Division**PURCHASING AFFIDAVIT**

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

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

**DEFINITIONS:**

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

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

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

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**Vendor's Name: Suttle & Stalnaker, PLLCAuthorized Signature: Christopher Lambert Date: 08/17/2016State of West VirginiaCounty of Kanawha, to-wit:Taken, subscribed, and sworn to before me this 17 day of August, 2016.My Commission expires Oct. 4, 2021.

AFFIX SEAL HERE



NOTARY PUBLIC

Purchasing Affidavit (Revised 07/01/2012)



## AGREEMENT ADDENDUM

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

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

**ACCEPTED BY:**

**STATE OF WEST VIRGINIA**

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

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

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

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

**VENDOR**

Company Name: Suttle & Stalnaker, PLLC

Signed: Christopher Lambert

Title: Member

Date: 08/17/2016



# State of West Virginia

## VENDOR PREFERENCE CERTIFICATE

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

**1. Application is made for 2.5% vendor preference for the reason checked:**

- ☐ Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,
- ☒ Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; **or**,
- ☐ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or**,

**2. Application is made for 2.5% vendor preference for the reason checked:**

- ☒ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,

**3. Application is made for 2.5% vendor preference for the reason checked:**

- ☐ Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or**,

**4. Application is made for 5% vendor preference for the reason checked:**

- ☒ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or**,

**5. Application is made for 3.5% vendor preference who is a veteran for the reason checked:**

- ☐ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or**,

**6. Application is made for 3.5% vendor preference who is a veteran for the reason checked:**

- ☐ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

**7. Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with West Virginia Code §5A-3-59 and West Virginia Code of State Rules.**

- ☐ Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

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

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

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

Bidder: Suttle & Stalnaker, PLLC

Signed: Christopher Lambert

Date: 08/17/2016

Title: Member