

West Virginia Board of Pharmacy Prescription Monitoring Program  
CRFQ 0913 PHB1700000002



**State of West Virginia  
West Virginia Board of Pharmacy  
Prescription Monitoring Program**

**Solicitation Number CRFQ 0913 PHB1700000002**



03/28/17 12:39:29  
WV Purchasing Division

**Proposal Original  
March 28, 2017 1:30 PM EST**

## Title Page

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Channa Arjuna  
President  
[carjuna@mahantech.com](mailto:carjuna@mahantech.com)  
March 28, 2017

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Melissa Pettrey,  
Buyer  
Department of Administration,  
Purchasing Division,  
2019 Washington Street East,  
Charleston, WV 25305

Dear Ms. Pettrey,

**Re: Mahantech's response to the State of West Virginia and the West Virginia Board of Pharmacy RFQ: CRFQ 0913 PHB1700000002 for a Prescription Monitoring Program.**

### **Background**

Mahantech Corporation is pleased to submit this proposal in response to the Request for Quotation CRFQ 0913 PHB1700000002 for a Prescription Monitoring Program. We have thoroughly reviewed your request and have prepared a submission that meets or exceeds all requirements for this invaluable and critical tool for Physicians, Pharmacists, Law Enforcement and State Agencies.

Mahantech is proud of the long-term relationship we have built with the Board of Pharmacy. Over the last thirteen years, we have been privileged to demonstrate our commitment to the goals and mission of the Board of Pharmacy in the task of reducing drug abuse and diversion. Our proposal will speak to our strong Prescription Monitoring experience and our ability to adapt and to react to critical changes with minimum response time. We are committed to meeting or exceeding your needs and expectations every day.

Mahantech Corporation is an **SBA recognized Small Minority Owned Business** that has been based in **Charleston, West Virginia** since 1998. In 2003, the company became an early entrant in the specialty area of Controlled Substance Prescription Data Management and Pseudo Ephedrine product reporting with its product RxDataTrack. We initially worked with the Board of Pharmacy to migrate early datasets from Microsoft Access to Microsoft SQL databases. We then introduced the first of many generations of our product known as CSAPP/ RxDataTrack (Controlled Substance Automated Prescription Program the Prescription Monitoring Program and RxDataTrack being the system software). RxDataTrack is an electronic database and reporting tool which collects designated data on controlled substances dispensed both within the State of West Virginia and those provided by pharmacies in other states to West Virginia residents. This product was designed using programming methodologies that allow the utmost flexibility to make rapid changes to meet the changing needs of the client agencies.

As a tool to address prescription drug abuse, addiction and diversion, RxDataTrack serves and supports multiple capabilities including:

1. To provide data to counteract the CDC key identifier of prescriber and dispenser shopping as an indicator of prescription drug misuse/abuse;
2. To support access to legitimate medical use of controlled substances;
3. To identify and deter or prevent drug abuse and diversion;
4. To facilitate and encourage the identification, intervention with and treatment of persons addicted to prescription drugs;
5. To inform public health initiatives through outlining of use and abuse trends; and
6. To educate individuals about PDMPs and the use, abuse and diversion of and addiction to prescription drugs.

Our system is designed to operate in real time, allowing for better decision making by Prescribers and Dispensers and more efficient use in drug diversion intervention efforts. CSAPP/RxDataTrack gives instant access to data for individuals who are authorized under state law to receive the information for purposes of their profession.

#### **Data Center**

Under the new PMP host model for the Board of Pharmacy, we shall move the existing nineteen operational databases (with their corresponding 15,000+ datasets) that comprise CSAPP/RxDataTrack from the current state data center to our secure hosting facility in a designated data center where it will be managed by Mahantech Corporation.

We intend to relocate our Corporate Data Center IT support services in a co-location environment with our partner Alpha Technologies LLC. **Alpha Technologies** is a **West Virginia Service Disabled Veteran Owned Small Business** located in South Charleston. This data center is the only HIPAA certified data center in West Virginia and already supports a number of West Virginia corporate and state entities including regional hospitals and also large national contracts. This center provides full IT hosting services that will meet or exceed the requirements of this contract:

- 80,000 sq ft data center;
- Redundant commercial power feeds supplied by four diverse power supplies;
- Backup up power including diverse battery systems and multiple megawatt generators;
- Cooling is provided by 3 diverse chillers;
- Internet connectivity will be provided by multiple providers via a load balanced connection. So if one provider has an issue the service itself will remain unchanged as the other providers will assume the load and keep the connection up and working;
- Multiple telecommunication service providers with diverse paths into DC1;
- Separate fire detection zones coupled with Halon fire suppression and dry-pipe water system;
- The only data center in West Virginia with the following certifications/accreditations;

**HIPAA- HiTech**

PCI -DSS

SSAE16

SOC 1/2

ISO27001

FISMA

LEED certification pending

### **Transition Plan**

Mahantech Corporation, with its product CSAPP/RxDataTrack, offers the West Virginia Board of Pharmacy and the state of West Virginia a Low to No Risk transition to a new contract.

### **The challenge:**

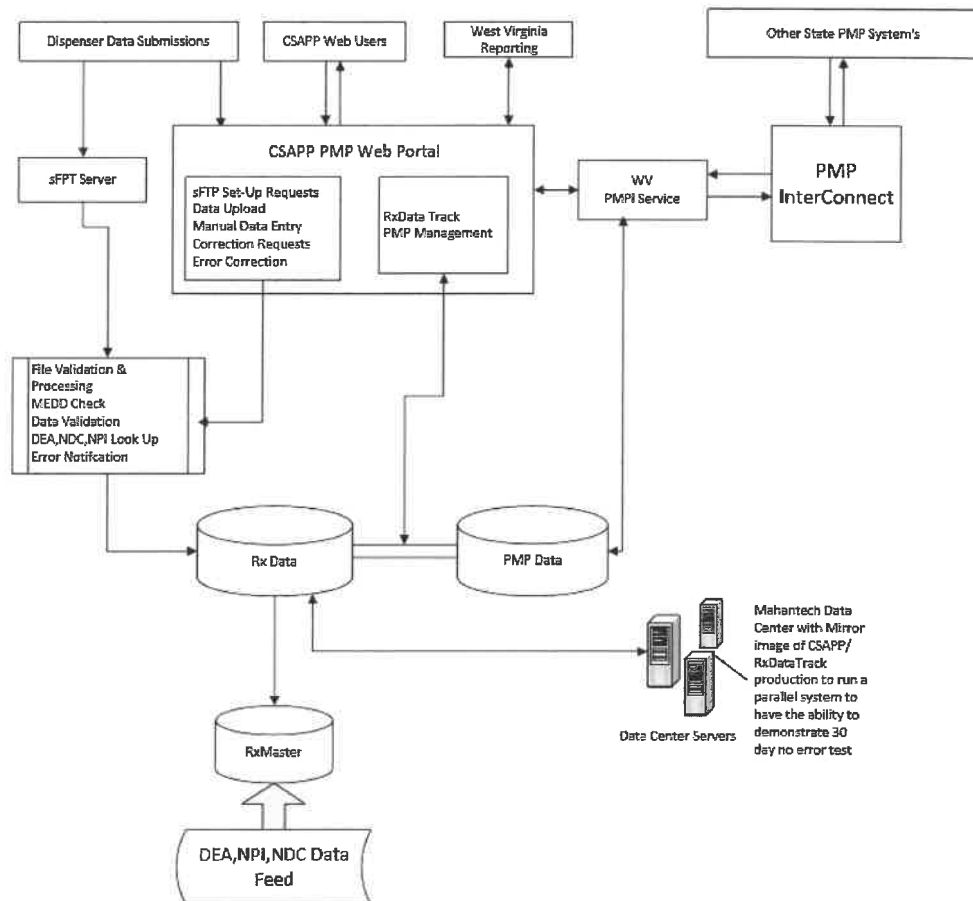
- The RFQ requires that after notice to proceed, the Agency will not formally accept the System until operational without failure for thirty consecutive days.
- Every thirty days, the system (CSAPP/RxDataTrack) receives and processes 500,000 new pieces of data.
- This data is then added to the existing production database and delivered back to the 250,000 report requests that the system receives and processes during those same 30 days.
- Maintain all audit trails for both users and data during test period and through migration to new system.
- West Virginia rules require reporting of controlled prescriptions each 24 hours by sFTP (secure file transfer protocol – electronic server to server transmission) or electronic file data upload to the website or manual data entry at the website.
- More than **300** sFTP accounts are being used by chain pharmacies and individually owned stores to submit data electronically from their servers to an IP address at the CSAPP/RxDataTrack servers.
- To redirect this data flow will require all data submitters to make changes to their hardware and software to meet the new contract requirements in order to submit to a new IP address or a new website instead of the current .gov domain addresses.
- Maintain 24/7 access to live dynamic patient data for users during the transition to a new contract.
- Maintain ongoing receipt of data and maintain data integrity during 30 day test period and carry this through the transition to a new contract.

### **Our solution to this challenge:**

Should Mahantech Corporation be selected and given the notice to proceed under this RFQ:

- To operate parallel systems during the 30 to 90 day pre-approval testing phase prior to formal acceptance. The goal to maintain receipt of dynamic data plus user access without any interruption during both test period and ultimately during the transition to new system and new data location. To achieve this we intend to use our data center as an additional data back- up center and use this to show a fully operational system operating for thirty days, without compromising the integrity of the production databases. After the proven testing phase, it is then a straight forward process to transition the users and data to our data center since there is no data conversion or data re-structuring for the 19 databases and the 15,000+ datasets in the current system or 50 million active records currently in production. There will be no interruption in data flow or access.
- Mahantech Corporation will offer, if selected under this contract award, dual-licensing to the state. We will allow the state government of West Virginia 90 days use of our proprietary software after the current contract expires to be used, if necessary, in the state data center to facilitate ease of transition from the old to the new data location and new system.

- During the critical change over period from post-acceptance to fully operational system, we will provide assistance to the Board of Pharmacy as it coordinates the use of a new website name with its constituents /users and to inform all Pharmacies, Dispensing Prescribers and reporting entities that data needs to be re-directed to the new IP address of the data center commencing on a predetermined date.
- During the critical change over period from post-acceptance to a fully operational system, we will provide assistance to the Board of Pharmacy as it communicates the use of a new contract with its prescriber, dispenser, law enforcement, state boards and other constituents/users that a new domain /website will be used commencing on a predetermined operational date.
- Move all operational and communication email accounts from .gov to the new domain.
- Mahantech’s operational and transition teams and data center are all local to Charleston, WV.
- Mahantech Corporation stands ready to immediately standup the parallel system and databases under this contract for the test phase in our data center. Upon notice to proceed, we can run in parallel for 30 days and if requested can start by June 1<sup>st</sup> if selected.





Mahantech Corporation will provide a West Virginia PMP system that meets or exceeds all of the stated requirements. Mahantech acknowledges the Bid Bond and will provide same upon notice of award. We appreciate the opportunity to serve you and to contribute to a healthier West Virginia.

If you have any questions or require further information, please do not hesitate to contact us at 304 610 3720 or email [carjuna@mahantech.com](mailto:carjuna@mahantech.com)

Sincerely,

  
Channa Arjuna  
President  
Mahantech Corporation

**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.

          Channa M Arjuna    President  
(Name, Title)  
          Channa M Arjuna    President  
(Printed Name and Title)  
          405 Capitol Street, Suite 101, Charleston, WV 25301  
(Address)  
          (304) 610-3720 / (304) 720-2247  
(Phone Number) / (Fax Number)  
          carjuna@mahantech.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.

          Mahantech Corp  
(Company)

          Channa Arjuna  
(Authorized Signature) (Representative Name, Title)

          CHANNA MARJUNA    President  
(Printed Name and Title of Authorized Representative)

          March 27, 2017  
(Date)

          (304) 610-3720 / (304) 720-2247  
(Phone Number) (Fax Number)

Revised 01/18/2017

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: Mahantech Corp

Authorized Signature: Channer Hill Date: 03/24/2017

State of West Virginia

County of Kanawha, to-wit:

Taken, subscribed, and sworn to before me this 24 day of March, 2017

My Commission expires Oct 1 2017, 20  

AFFIX SEAL HERE

NOTARY PUBLIC Karen Brunfield

Purchasing Affidavit (Revised 03/01/2015)



WV-10  
 Approved / Revised  
 12/16/15

State of West Virginia  
**VENDOR PREFERENCE CERTIFICATE**

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

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


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

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

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Mahantech Corp Signed: Chromis Ayers  
 Date: 03/27/2017 Title: President

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

	Purchasing Division 2019 Washington Street East Post Office Box 50130 Charleston, WV 25305-0130	<b>State of West Virginia</b> <b>Request for Quotation</b> <b>14 -- Service - Prof</b>

Proc Folder: 307109				
Doc Description: Prescription Monitoring Program				
Proc Type: Central Master Agreement				
Date Issued	Solicitation Closes	Solicitation No		Version
2017-03-02	2017-03-28 13:30:00	CRFQ 0913 PHB1700000002		1

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 Mahantech Corp 405 Capital Street, Suite 101 Charleston, WV 25301 Phone: 304-720-2246 Fax: 304-720-2247 Email: carjuna@mahantech.com	

FOR INFORMATION CONTACT THE BUYER		
Melissa Petrey (304) 659-0004 melissa.k.petrey@wv.gov		
 Signature X	FEIN# 34-1855007	DATE March 27th, 2017

**ADDITIONAL INFORMATION:**

Request For Quotation

The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Board of Pharmacy to establish a contract for the one-time purchase of a Prescription Monitoring Program per the attached bid requirements, specifications and terms and conditions.

INVOICE TO		SHIP TO	
BOARD OF PHARMACY 2310 KANAWHA BLVD E		BOARD OF PHARMACY 2310 KANAWHA BLVD E	
CHARLESTON	WV25311	CHARLESTON	WV 25311
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	Prescription Monitoring Program Database	0.00000	LS		

Comm Code	Manufacturer	Specification	Model #
81111507			

**Extended Description :**

Comprehensive Controlled Substance Monitoring Program for the WV Board of Pharmacy with migration of historical data and transfer of user accounts. This includes a database management system, with hosting of the database, collection and loading of data, providing access for authorized users and customer support. Also providing system tools to query the database, assist with and modify user accounts and monitor CSMP activities.

INVOICE TO		SHIP TO	
BOARD OF PHARMACY 2310 KANAWHA BLVD E		BOARD OF PHARMACY 2310 KANAWHA BLVD E	
CHARLESTON	WV25311	CHARLESTON	WV 25311
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	Implementation and Installation to Acceptance	0.00000	LS		

Comm Code	Manufacturer	Specification	Model #
81111507			

**Extended Description :**

Implementation and Installation to Acceptance; and First Year Maintenance and Support/Warranty/Hosting

INVOICE TO		SHIP TO	
BOARD OF PHARMACY 2310 KANAWHA BLVD E		BOARD OF PHARMACY 2310 KANAWHA BLVD E	
CHARLESTON	WV25311	CHARLESTON	WV 25311
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	Year 2 Maintenance, Support/ Warranty/Hosting	0.00000	YR		

Comm Code	Manufacturer	Specification	Model #
81111507			

Extended Description :  
 Second Year Maintenance and Support/Warranty/Hosting

INVOICE TO		SHIP TO	
BOARD OF PHARMACY 2310 KANAWHA BLVD E		BOARD OF PHARMACY 2310 KANAWHA BLVD E	
CHARLESTON	WV25311	CHARLESTON	WV 25311
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	Year 3 Maintenance, Support/ Warranty/Hosting	0.00000	YR		

Comm Code	Manufacturer	Specification	Model #
81111507			

Extended Description :  
 Third Year Maintenance and Support/Warranty/Hosting

INVOICE TO		SHIP TO	
BOARD OF PHARMACY 2310 KANAWHA BLVD E		BOARD OF PHARMACY 2310 KANAWHA BLVD E	
CHARLESTON	WV25311	CHARLESTON	WV 25311
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	Year 4 Maintenance, Support/ Warranty/Hosting	0.00000	YR		

Comm Code	Manufacturer	Specification	Model #
81111507			

Extended Description :  
 Fourth Year Maintenance and Support/Warranty/Hosting

INVOICE TO		SHIP TO	
BOARD OF PHARMACY 2310 KANAWHA BLVD E		BOARD OF PHARMACY 2310 KANAWHA BLVD E	
CHARLESTON	WV25311	CHARLESTON	WV 25311
US		US	

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Additional Professional Services Support Hours	0.00000	HOURL		

Comm Code	Manufacturer	Specification	Model #
81111507			

Extended Description :  
 Additional Professional Services Support Hours

**SCHEDULE OF EVENTS**

Line	Event	Event Date
1	Question Submission Deadline @	10:00 A.M 2017-03-13



PHB170000002	<b>Document Phase</b> Draft	<b>Document Description</b> Prescription Monitoring Program	<b>Page 5</b>
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**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: PHB170000002**

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

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

Mahantech Corp

\_\_\_\_\_  
Company

*Chandra A. ...*

\_\_\_\_\_  
Authorized Signature

March, 27 2017

\_\_\_\_\_  
Date

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

## **SPECIFICATIONS**

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Board of Pharmacy (WVBOP) to establish a one-time contract for a Prescription Monitoring Program.

The database and all of the data in the database shall belong to WVBOP

- 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 Use and Support for Prescription Monitoring Software as more fully described in these specifications.

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

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

**2.4 "DEA"** means Drug Enforcement Administration

**2.5 "NDC"** means National Drug Code

**2.6 "NPI"** means National Provider Identifier

**2.7 "PMP"** means Prescription Monitoring Program

**2.8 "PMPI"** means Prescription Monitoring Program Interconnect

**2.9 "Schedule II, III and IV Controlled Substances"** means drugs, substances or immediate precursors listed in the Chapter 60A WV Controlled Substances Act

**2.10 "ASAP"** means American Society for Automation in Pharmacy

**2.11 CSAPP/RxDataTrack** (Controlled Substance Automated Prescription Program) means the Prescription Monitoring Program and the system software.

### 3. QUALIFICATIONS:

- 3.1 Mahantech Corporation has provided a comprehensive large scale prescription monitoring program for the state of West Virginia PMP, **continuously for period of twelve years** (since 2005) prior to the date of this Solicitation.
- 3.2 Mahantech Corporation, as part of its pmp/software product CSAPP/RxDataTrack, maintains a copy of PMPi Interconnect v4 providing a current connection to the multi-state PMP data sharing hub PMP Interconnect.
- 3.3 Mahantech Corporation's CSAPP/RxDataTrack has the ability to perform multi-state PMP data query and retrieval, to include (at a minimum) the states of Virginia, Ohio, Kentucky, Maryland, Pennsylvania, Connecticut, Indiana, Arizona, Nevada, Kansas, Massachusetts, New York, Colorado, South Carolina, Rhode Island, North Dakota, Minnesota and New Mexico.

- 4 **DELIVERABLES:** Mahantech will meet all of the above qualifications and will provide a WV PMP system that provides all of the stated requirements.

### 5 MANDATORY REQUIREMENTS

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

#### 5.1.1. PRESCRIPTION MONITORING SOFTWARE AND SERVICES

##### GENERAL

**5.1.1.1** CSAPP/RxDataTrack is web-based (no dedicated client-side component) with graphical Internet interfaces for all users and browser agnostic to include standard browsers.

**5.1.1.2** CSAPP/RxDataTrack will provide

**i) database management,**

Mahantech will provide database management for the current (nineteen) and future databases that may be added as part of this contract.

**ii). hosting of the database(s) in a dedicated data center**

The hosting will be at a dedicated Data Center with all complementing features:

Redundant commercial power feeds

Dual Battery backup banks

Multiple Megawatt backup diesel generators

Separate fire detection zones coupled with Halon fire suppression

HIPAA, PCI, ISO 27001, SOC compliant (FISMA pending)

Multiple telecommunication service providers with diverse paths into DC1

**iii).collection and loading of data**

Mahantech will collect and load data from Dispensers both in and out of state as required

**iv). provide access for authorized users**

Mahantech will provide access for authorized users.

**5.1.1.3.** CSAPP/RxDataTrack website will provide a homepage in collaboration with WVBOB to brand with West Virginia Board of Pharmacy information with the ability for their staff to update and modify elements of the page with changing relevant information.

**5.1.1.4.** CSAPP/RxDataTrack does / will not use Pop-up windows to communicate information or messages.

**5.1.1.5.** CSAPP/RxDataTrack is able to auto-fill and auto-populate NDC and DEA related data.

**5.1.1.6.** CSAPP/RxDataTrack will ensure name fields are in proper upper/lower case.

**5.1.1.7.** Mahantech will provide comprehensive user's manuals, documenting database structure, relationships between tables and database dictionary. Manual includes instructions for all administrative functions (e.g. user management, password management, role/profile management, etc.).

**5.1.1.8.** CSAPP/RxDataTrack permits administrators to assign user level permissions.

**5.1.1.9.** CSAPP/RxDataTrack shall permit administrators to create their own ad-hoc reports, to include ability to map and graph data based on any fields within data sets.

**5.1.1.10** CSAPP/RxDataTrack has online registration for users. At the conclusion of the registration process, users will have the option to choose the method of supporting documentation submission to include ability to upload related documents.

**5.1.1.11** CSAPP/RxDataTrack has capabilities to utilize data from DEA for license verifications.

**5.1.1.12** CSAPP/RxDataTrack shall provide support and maintenance for all PMP user accounts.

**5.1.1.13** CSAPP/RxDataTrack shall support and maintenance of connections to the PMPi interstate data sharing hub, including adding new states as needed and maintaining any PMPi version updates/modifications.

**5.1.1.14** We will make our best effort to interface with data from WVBOB license registrations and other licensing boards (license verifications) as required. However, this is dependent upon receiving more detailed information regarding the WVBOB license registration product after the award of solicitation PHB1700000004 which is currently in procurement for the Board of Pharmacy. Similarly, for a license

registration system of other licensing boards, more detail concerning the registration systems of the other licensing Boards (not detailed in this RFQ) would be required. Once we have received details such as their functionality, interface and data structure, we can better determine level of effort and cost to meet this requirement.

### **USER ACCOUNTS**

**5.1.1.15** Each user account has/will have a unique user id/password combination.

**5.1.1.16** Email verification is/will be performed during registration.

**5.1.1.17** Security questions are/will be selected from a list by users.

**5.1.1.18** Passwords do/will expire on scheduled intervals. This schedule is set /changed at the request of BOP.

**5.1.1.19** Change password opportunity is/will be available for users to change their password at each logon.

**5.1.1.20** The system has/will have an automatic expiration of password with prior warning. A notice appears with a countdown upon login.

**5.1.1.21** A notification of password expiration is displayed with number of days until password expires is displayed upon User login.

**5.1.1.22** Self-service password reset is/will be available for users who successfully answer pre- set security questions or email a link to reset password is available.

**5.1.1.23** The system currently locks / will lock out after three failed login attempts. The Board of Pharmacy administration has the ability to lock account with email notification for reporting and unlocking ability. The board can also review all locked accounts at any time to view reason for lock-out.

**5.1.1.24** CSAPP/RxDataTrack tracks, records and times out illegal attempts at system access. A full audit trail is recorded and saved.

**5.1.1.25** User access is/will be controlled by the role(s) assigned to the user.

**5.1.1.26** Users are able to save and print a confirmation certificate to demonstrate that they have an active CSMP account. This certificate details Name, DEA number, License Number, Date of Enrolment with CSAPP/RxDataTrack, Account Active/Non Active, Issue Date of certificate. Users are able to print or save an electronic copy of the certificate.

**SECURITY TO INCLUDE THE FOLLOWING**

**5.1.1.27** All network traffic is currently / will be encrypted using SSL or stronger.

**5.1.1.28** CSAPP/RxDataTrack does not use proprietary encryption techniques.

**5.1.1.29** The standard for exchange of data within CSAPP/RxDataTrack is a secure hypertext transport protocol or https.

**5.1.1.30** CSAPP/RxDataTrack identifies and logs attempted illegal accesses at place of occurrence and at system level.

**5.1.1.31** CSAPP/RxDataTrack maintains transaction log (including edits and deletions) for the entire system.

**5.1.1.32** CSAPP/RxDataTrack maintains a system access (log in/out history by client, server and database locations) with time stamp.

**5.1.1.33** CSAPP/RxDataTrack has the ability to limit access to a minimum of these levels (Screens, Reports, Applications, Menus, Fields).

**WORK FLOW TOOLS**

**5.1.1.34** CSAPP/RxDataTrack currently permits / shall permit WVBP administrators to generate e-mails, alerts and labels, to notify users about timelines, flags, workflow, tasks or other information.

**5.1.1.35** WVBP administrators are able to select recipients of notifications by user type.

**5.1.1.36** CSAPP/RxDataTrack shall have the ability to track tasks, notifications, flags and any other workflow data, including to scheduled start date, scheduled end date and who received notices and will meet the requirements clarified under Technical Question 1 response detailed in the following.

*Technical Question 1 Response: The intent of 5.1.1.36 is for the state to have a record of the activities mentioned in 5.1.1.34 and 5.1.1.35. Examples of which would be:*

- *If the state sent out a report or alert to a system user(s), they would be able to track the report, its recipient(s) and dates involved.*
- *Ability to track system notices sent to users, such as scheduled maintenance, updates or other information.*
- *If the state sent out a notice or information to a specific group or user type, they would be able to track the notice, the recipient group and dates involved.*

### **SYSTEM DESIGN**

**5.1.1.37** CSAPP/RxDataTrack shall have editing, coding, and validation routines to minimize data entry errors and enforce data entry consistency (e.g. pick-lists, drop-down boxes, or other easy-to-use options to assist users in correctly entering data). This utilizes a proprietary add-on software for manual data entry and reporting, RxDataFlow. In addition to the standard data entry, it maintains its own dataset to pre populate manual data submissions reducing the repetitive user specific data and the number of keystrokes necessary to submit a manual report. This *potentially* also allows for non-DEA certified entities to report other required substances such as Naloxone products, to include regional agencies and first responders.

**5.1.1.38** CSAPP/RxDataTrack has a consistent look/feel (for navigation and use) among the modules within system.

**5.1.1.39** CSAPP/RxDataTrack accommodates at least ten thousand (10,000) queries per day and is scalable for future demand without system performance degradation.

## **5.1.2 CONTRACTUAL REQUIREMENTS**

### **DATA COLLECTION FROM DISPENSERS**

**5.1.2.1** Data shall be collected by the Mahantech Corporation in the ASAP 4.2 format, or latest approved version, established by the American Society for Automation in Pharmacy in its ASAP Rules Based Implementation Guide for Prescription Monitoring Programs. Mahantech Corporation shall be able to receive the electronic data from dispensers via secure email, Secure FTP, Virtual Private Network (VPN), SSL Website and any other agreed upon media.

**5.1.2.2 Mahantech Corporation** shall prepare and provide to all users any instructions needed to comply with the reporting requirements, including technical assistance. WVBO reserves the right to review and approve any communication prior to it being distributed to dispensers. WVBO will provide the Mahantech with a list of dispensers required to report, which will include the dispensers' names and addresses. There are approximately 1,500 dispensers that may be required to report to the program. The composition of the dispensers currently includes approximately 700 in-state pharmacies, 600 out-of-state pharmacies and approximately 200 dispensing physicians.

**5.1.2.3 Mahantech Corporation** shall collect prescription data from all dispensers for Schedule II, III and IV Controlled Substances, as well as any other products required by the WVBO, such as opioid antagonists or other substances required by West Virginia State law.

**5.1.2.4 Mahantech Corporation** shall collect all prescription data from all dispensers at least daily. Mahantech Corporation shall document receipt of each data transmission from



a dispenser, and provide acknowledgement to the dispenser of receipt of data transmission.

**5.1.2.5 Mahantech Corporation** is able to receive electronic prescription information transmitted directly from dispensers, seven (7) days a week, and twenty-four (24) hours per day, three hundred sixty-five (365) days per year.

**5.1.2.6 Mahantech Corporation** shall accept a report of no (or zero) prescriptions issued in a given time period and generate and deliver a report of those submissions

**5.1.2.7** Dispensers under common ownership are permitted to submit their data in a single, joint transmission, provided each dispenser is clearly identified for each prescription dispensed. **Mahantech Corporation** is responsible for monitoring that each dispenser has submitted data on the required schedule, and for notifying both the dispenser and WVBOP of any failure to submit.

**5.1.2.8 Mahantech Corporation** shall perform data checks to ensure that the data submitted is accurate and complete. Mahantech Corporation will ensure the presence of data in 100% of the patient name and address, and date filled fields, and in 97% of the other required fields, and that data in all required fields are valid, e.g., the dispensing date must be greater than the date of birth but less than or on the current date.

**5.1.2.9** If a data file submitted by a dispenser does not meet the established threshold for accuracy and completeness of data, Mahantech Corporation shall be responsible for notifying the dispenser, specifying the problem with the data, and ensuring that the data is corrected and resubmitted by the dispenser. If the data is not corrected and returned by any WVBOP established deadline, Mahantech shall report this to WVBOP.

**5.1.2.10** Mahantech shall allow dispensers to submit corrected data and display the corrected data with a notice that the data has been corrected.

**5.1.2.11** Mahantech shall provide a method for WVBOP staff to produce reports, on demand or scheduled, displaying information about all uploads by a dispenser, including contact information for each dispenser and the reported date ranges of the submission.

**5.1.2.12** Mahantech Corporation shall provide a method for WVBOP staff to sort and view the upload history of a dispenser by timeframe, number of prescription errors, zero reports filed, late submissions and trends.

**5.1.2.13** Mahantech Corporation shall convert and store the most recent five (5) years of data from the current PMP system, maintained by Mahantech Corporation.

**5.1.2.14** Data collected from the dispensers shall include for each prescription submitted, the following information, at a minimum:

### **General Reporting Requirements**

- a. Dispenser Information
  - DEA registration number
  - Name
  - Full address, including, city, state and zip code
- b. Patient Information;
  - Last name
  - First name
  - Full Address, including city, state and zip code
  - Date of birth
  - Gender
  - Identification number (if available)
- c. Person Picking Up (if different than patient) Information
  - Last name
  - First name
  - Full Address, including city, state and zip code
  - Date of birth
  - Gender
  - Identification number (if available)
- d. Prescription Information
  - Prescription number
  - Date the prescription was written by prescriber
  - Refills authorized
  - Date the prescription was dispensed
  - Refill number
  - NOC code for drug dispensed
  - Metric quantity dispensed
  - Estimated days' supply
  - Method of payment (classification for payment type)
- e. Prescriber Information
  - DEA registration number
  - Name
  - Full address, including, city, state and zip code

### **DATABASE MANAGEMENT**

**5.1.2.15 Mahantech Corporation** shall be responsible for hosting the PMP database, and shall collect and load data into the database, which will reside with the **Mahantech Corporation** on its servers, within their own secure environment, and must reside in the contiguous 48 states of the US. The database and all of the data in the database shall belong to WVBOP.

Under the new PMP host model for the Board of Pharmacy, we shall move the existing

nineteen operational databases (with their corresponding 15,000+ datasets) that comprise CSAPP/RxDataTrack from the current state data center to our secure hosting facility in a designated data center where it will be managed by Mahantech Corporation.

We shall relocate our **Corporate Data Center IT support services** in a collocation environment with our partner Alpha Technologies LLC. **Alpha Technologies** is a **West Virginia Service Disabled Veteran Owned Small Business** located in South Charleston, WV. This data center already supports a number of West Virginia corporate and West Virginia state entities plus large national contracts. The details of clients are confidential but do include large hospital groups.

This Data Center is perfectly suited to our response to the RFQ, in particular as the only HIPAA certified data center in West Virginia, to best meet the requirements of both the State of West Virginia and the West Virginia Board of Pharmacy:

- Comprising an 80,000 sq ft data center
- Redundant commercial power feeds supplied by four diverse power supplies,
- Backup up power including diverse battery systems and multiple megawatt generators
- Cooling is provided by 3 diverse chillers
- Internet connectivity will be provided by multiple providers via a load balanced connection. So if one provider has an issue the service itself will remain unchanged as the other providers will assume the load and keep the connection up and working.
- Multiple telecommunication service providers with diverse paths into DC1
- Separate fire detection zones coupled with Halon fire suppression and dry-pipe water system
- The only data center in West Virginia with the following certifications/accreditations:
  - HIPAA- HiTech**
  - PCI -DSS
  - SSAE16
  - SOC 1/2
  - ISO27001
  - FISMA

LEED certification pending

**5.1.2.16** Mahantech Corporation shall be responsible for maintaining system hardware and software that will be used by Mahantech Corporation and WVBOP for data collection, access and reporting, for the life of the Contract Services.

**5.1.2.17** Mahantech Corporation shall be responsible for updating CSAPP/RxDataTrack due to changes in security standards, changes in State IT requirements, or changes in State legislation, at no cost to the State.

**5.1.2.18** Mahantech Corporation shall have a help desk located in a call center and

provide a toll-free number and email address by which dispensers or other users may contact Mahantech Corporation to resolve problems, assist with registration and receive information concerning data transmission and access. The toll-free number shall be staffed to provide assistance seven days a week, and twenty-four hours per day, three hundred sixty-five (365) days per year.

**5.1.2.19** Conversion of Drug Enforcement Agency (DEA) registration numbers: When a dispenser reports to CSAPP/RxDataTrack, the DEA registration numbers of the prescriber and dispenser are reported. CSAPP/RxDataTrack is able to convert the DEA registration numbers to prescriber and dispenser name, address and registered schedules. Mahantech Corporation shall maintain a current reference source of DEA numbers for conversion, and also make that information available to WVBOP staff.

**5.1.2.20** Conversion of NOC (National Drug Code) numbers: CSAPP/RxDataTrack is able to convert NOC numbers to drug, name, strength, controlled substance schedule and dosage form (to include compounds), both at the point of data import and also retrospectively upon receiving NOC number updates. Mahantech Corporation shall maintain a current reference source of NDC numbers for conversion, and also make that information available to WVBOP staff.

**5.1.2.21** Conversion of NPI (National Provider Identifier) numbers: CSAPP/RxDataTrack (The PMP) is able to convert NPI numbers to prescriber or dispenser name and address when NPI number is supplied. Mahantech Corporation will maintain a current reference source of NPI numbers for conversion, and also make that information available to WVBOP staff.

**5.1.2.22** CSAPP/RxDataTrack shall provide data access and data management capabilities, integrated with data mining for ease of data analysis.

**5.1.2.23** CSAPP/RxDataTrack shall group recipients with different variations of their first name, last name, street address, birth date, or zip code so that when a search is performed for a recipient all matching records will simultaneously display (clustering).

**5.1.2.24** Mahantech Corporation shall maintain the information in the database for five (5) years, rolling monthly, and be made available to all system users. All information more than five (5) years old shall be deleted from the database by Mahantech Corporation.

**5.1.2.25** Mahantech Corporation shall provide WVBOP with a copy of the current PMP data set if requested. Data exchange will be by secure FTP or web services or as mutually agreed upon by both parties.

**5.1.2.26** Mahantech Corporation shall provide system tools for the query of relational or multi-dimensional data that supports a broad range of search criteria.

**5.1.2.27 Mahantech Corporation** shall provide system tools that will assist in the identification of illegal or unprofessional activities as identified by WVBOP.

**5.1.2.28 Mahantech Corporation** shall provide the capability for geocoding of patient, prescriber and dispenser locations to enable geographic analysis of the relationships to identify potential criminal activity, abuse or trending. Displayable on a map, WVBOP shall be able to see the relationship between the patient's address, the prescriber's location and the dispenser's location.

### **SECURE WEB SERVICES**

**5.1.2.29 Mahantech Corporation** will provide a system that is able to meet current demand and scalable to meet future demand to successfully manage this program, to keep response times to a minimum, and to provide continuous, twenty-four (24) hours a day, access to authorized users.

**5.1.2.30 Mahantech Corporation** will provide an online registration process to enroll prospective users. CSAPP/RxDataTrack will allow WVBOP to authenticate user registrations before providing login accounts. User types will include prescribers, dispensers, dispensing prescribers, professional licensing boards, law enforcement, Office of the Chief Medical Examiner, Bureau for Medical Services, WVBOP administrative staff, user delegates and others as defined by WVBOP staff.

**5.1.2.31 Registered users** roles and related account information will be able to be modified by WVBOP staff. These include email, license numbers and expirations, NPI numbers and user address.

**5.1.2.32 Mahantech Corporation** shall migrate /transfer existing user/delegate accounts to CSAPP/RxDataTrack including user specific information (Currently approximately 10,000 users) to the new system at the new data center location. No data conversion will be necessary. Additional user information can/will also be collected when users initially logon to the new system if requested by WVBOP.

**5.1.2.33 CSAPP/RxDataTrack** will meet or exceed the privacy and security standards of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Mahantech Corporation is willing to sign a Business Associate Addendum ("Exhibit B") in accordance with HIPAA privacy and security standards. This Addendum is made part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency") and the Business Associate ("Associate"), and is in effect as of the date of the execution of this Agreement. This will be signed by Mahantech Corporation and returned with Mahantech Corporation's submitted bid. This will be required prior to award of contract.

**5.1.2.34 Mahantech Corporation** as part of its system/software CSAPP/RxDataTrack will provide WVBOP the required role based user accounts. At a minimum, this would include an administrator level for WVBOP staff, a level appropriate for dispensers/prescribers, a level appropriate for law enforcement a level for other users and

a level for all delegate users. User roles can be created and modified as needed by WVBOP staff.

**5.1.2.35** CSAPP/RxDataTrack permits multiple users to be on CSAPP/RxDataTrack and in the same applications at the same time.

**5.1.2.36** CSAPP/RxDataTrack permits a registered user to request and receive information, including automatic reports, via the Internet. The user would automatically receive the report without intervention by WVBOP staff. This enables users to access CSAPP/RxDataTrack twenty-four (24) hours a day/seven (7) days a week/three hundred sixty-five (365) days a year.

**5.1.2.37** CSAPP/RxDataTrack provides the capability for WVBOP to have the ability to communicate information of interest to registered users of the web-based program through broadcast alerts, emails and an information section on the home page. The registered users shall be classed under specific role types and information may be sent to specific groups of system users based on that role type.

**5.1.2.38** CSAPP/RxDataTrack provides the capability to support account documentation necessary for registration with upload capabilities to ensure completion of submittal requirements. At the conclusion of the registration process, users will have the option to choose the method of supporting documentation submission. This will be to submit an electronic copy with the completed registration, or to email after completion or to fax.

**5.1.2.39** CSAPP/RxDataTrack provides the capability for account management to include delegate responsibilities. The system will permit a registered master account user to establish/deactivate delegate subaccounts, and further, provide a mechanism for the user to monitor CSAPP/RxDataTrack activity of those delegates online and through a reporting mechanism.

**5.1.2.40** CSAPP/RxDataTrack provides the capability for Master account holders to be limited to the number of delegates allowed. WVBOP administrators can select the number of delegates for master accounts, ranging from zero to two hundred (200). Delegates may be linked to more than one master account holder. If the delegate is associated with more than one master account holder, the delegate is provided with a list from which to select the master account holder for whom the query is performed.

**5.1.2.41** CSAPP/RxDataTrack will provide WVBOP at least three different types of Online Registration to meet their requirement:

- a. Minimum fields for Practitioner/Delegate On-line Registration
  - First Name, Middle Name, Last Name
  - Date of Birth
  - Last 4 Digits of SSN
  - Role Type (drop down box)
  - Professional License Number (if applicable)

- Professional License State (if applicable)
  - DEA number (if applicable)
  - NPI (if applicable)
  - Specialty Type (drop down box)
  - Facility Practice Name
  - Mailing Address
  - City, State, County & Zip Code
  - Phone number • Email Address
  - Fax
  - Security Question
  - Security Answer
- b. Minimum fields for Law Enforcement On-line Registration
- First Name, Middle Name, Last Name
  - Job Title/Rank
  - Role Type (drop down box)
  - Badge or Agency ID Number
  - Driver's License number and State
  - Date of Birth
  - Agency Name
  - Office Location Street Address
  - City, County, State, Zip
  - Area code and office telephone number
  - Area code and cell number
  - Area code and fax number
  - Email address
  - Supervisor's First Name, Last Name
  - Supervisor's Phone number
  - Supervisor's Email Address
  - Security Question
  - Security Answer
- c. Minimum fields for Other On-line Registration
- First Name, Middle Name, Last Name
  - Job Title
  - Role Type (drop down box)
  - Driver's License number and State
  - Date of Birth
  - Agency Name
  - Office Location Street Address
  - City, County, State, Zip
  - Area code and office telephone number
  - Area code and cell number
  - Area code and fax number

- Email address
- Supervisor's First Name, Last Name
- Supervisor's Phone number
- Supervisor's Email Address
- Security Question
- Security Answer

#### **DATA SECURITY AND CONFIDENTIALITY**

**5.1.2.42** Mahantech Corporation shall comply with Federal, State of West Virginia and WVBOP privacy and security laws, regulations and rules.

**5.1.2.43** Mahantech Corporation shall be willing to provide the results of a third-party, privacy and security assessment or be willing to complete a State provided privacy and security self-assessment.

**5.1.2.44** Mahantech Corporation shall be willing to attest to a completed, annual risk analysis, in accordance with the HIPAA Security Rule.

**5.1.2.45** The maintenance and electronic transmission of patient records must be Health Insurance Portability and Accountability Act (HIPAA) compliant per Exhibit "B". This has been signed by Mahantech Corporation and returned with the submitted bid.

**5.1.2.46** Mahantech Corporation shall have a system disaster recovery plan for data in the event the program is unavailable due to human error, equipment failure or a natural disaster. Upon award/ implementation, a full disaster recovery plan will be submitted to WVBOP.

**5.1.2.47** For any breach or suspected breach of security of the collected data, Mahantech Corporation shall notify WVBOP staff as soon as possible by telephone or e-mail, and also:

- Conduct an investigation,
- Confiscate and secure any evidence in conjunction with any such occurrences,
- Provide WVBOP with a written report of the investigation within three (3) business days of first learning of the breach.
- Subsequently supply a written report within 7 business days outlining the impact of the breach and the steps taken to correct the situation and prevent future breaches, and time frame for completion. Assist WVBOP, including testifying, in any proceedings or hearings, which may be undertaken for any security violation.

#### **QUERIES AND REPORTS**

**5.1.2.48** CSAPP/RxDataTrack provides the capability for data that has passed the checks for accuracy and completeness will be accessible by WVBOP as soon as possible after submission and, at most, no more than one (1) calendar day after submission.



CSAPP/RxDataTrack does operate in real time and currently has some dispensers reporting in real time.

**5.1.2.49** Mahantech Corporation shall prepare reports for WVBOP at least monthly identifying dispensers that have not submitted a required report and dispensers that submitted a report but the report was rejected.

**5.1.2.50** CSAPP/RxDataTrack will allow WVBOP administrators to search, correlate, query, and match user activity logs, to provide an audit trail for each user's system logins, reports and requests.

**5.1.2.51** CSAPP/RxDataTrack shall create three (3) basic queries, in the following format.

- Patient (recipient) query, to include patient name and date of birth, drug name and schedule, date filled, quantity and days' supply, Morphine Equivalent Daily Dose, method of payment and dispenser and prescriber name, DEA # and address;
- Prescriber query, to include prescriber name and address, patient name and date of birth, drug name and schedule, date prescribed and filled, and pharmacy name and address; and,
- Dispenser query, to include dispenser name and address, patient name and date of birth, drug name and schedule, date filled, quantity and days' supply, method of payment and prescriber name and address.

**5.1.2.52** CSAPP/RxDataTrack shall include the following reporting:

- a. Top Ranking Reports (Summary by total and by each county monthly)
  - Top Prescribers of Controlled Substances by schedule, class and combinations
  - Top Dispensers of controlled substances by schedule, class and combinations
  - Top household addresses receiving controlled substances
  - Top recipients of Controlled substances by schedule, class and combinations
  - Recipients using most different pharmacies\*
  - Recipients using most different prescribers\*
  - Top controlled substances by generic name
  - Top drug usage by therapeutic class
  - Top drug usage by NDC
- b. Trend Review Reports (Summary by total and by each county monthly)
  - RxCount.
  - Total Quantity.
  - Total Days Supply.

- Misc. Reports.
- Total Number of queries by role user by month.
- Total number of users per role per month.
- Recipients exceeding a certain MED/MME per user defined date range.
- Prescribers and dispensers whose patients exceed a certain MEDD/MME per user defined date range.

*Technical Question 2 answer relating to 5.1.2.52 (b): Yes, the Misc Reports listed in 5.1.2.51 (b) would be the same as an ad-hoc report.*

**5.1.2.53** Users shall be able to view reports, print reports and save reports in PDF, Excel and other formats.

**5.1.2.54** WVBOP will have the option to request at no charge ad hoc reports as necessary, not to exceed 15 per contract year.

**5.1.2.55** Mahantech Corporation shall provide reporting for research or education; provided that data elements that would reasonably identify a specific recipient, prescriber or dispenser must be deleted or redacted from such information prior to disclosure. Release of the information only may be made pursuant to a written agreement between the requestor and the WVBOP in order to ensure compliance.

**5.1.2.56** Mahantech Corporation shall provide at no charge, copies of any portion of the data set to the WVBOP as needed, including de-identified data.

**5.1.2.57** CSAPP/RxDataTrack shall have the ability to perform multi state query and retrieval into a collated report.

**5.1.2.58** CSAPP/RxDataTrack shall identify the number of registered user requests made by user type, and provide complete audit report capabilities for individual users on demand.

**5.1.2.59** CSAPP/ RxDataTrack will enable WVBOP to perform ad hoc queries to respond to requests from other states' primary monitoring authorities, to respond to lawful court orders and for statistical, research or educational purposes. Since these queries and reports may vary in substance, an ad hoc query and reporting function will be an essential aspect of CSAPP/RxDataTrack.

**5.1.2.60** CSAPP/ RxDataTrack will have the capability to produce automatic patient threshold reports. Criteria may consist of number of prescriptions dispensed, number of prescribers used, number of pharmacies used and Morphine Equivalent Daily Dose, in a designated time period. These criteria can be modified by WVBOP staff. Under the current contract the system provides 150 reports including multiple ad hoc covering all areas to include patients, dispensers, prescribers and prescriptions.

**5.1.2.61** WVBOP requires a threshold report template designed by Mahantech Corporation that would enable WVBOP to change the parameters, independent from Mahantech Corporation, for producing automatic threshold reports. Mahantech Corporation will assist in defining threshold criteria and then providing a report template.

**5.1.2.62** CSAPP/RxDataTrack provides the capability for Prescribers to have the ability to run a report of prescriptions issued under their DEA number as the prescriber (Self-Report). Currently limited to past three months at the request of WVBOP.

**5.1.2.63** CSAPP/ RxDataTrack will be able to provide prescriber users with unsolicited reports of their prescribing history and behavior (Prescriber Report Cards). These reports will include comparisons of the prescriber's behavior to others of the same specialty. The reports will also summarize patient and prescription volumes, as well as PMP usage. The reports will be provided at least quarterly.

**5.1.2.64** CSAPP/RxDataTrack shall enable WVBOP administrators to create unsolicited reports for practitioners and dispensers based on specific thresholds. The reports may be shared via a secure website, delivered via secure email or printed for delivery via US mail.

**5.1.2.65** Reports will be available to verify supervisor/subordinate relationship.

**5.1.2.66** CSAPP/RxDataTrack currently and shall provide WVBOP staff the ability to deactivate and lock user accounts that are no longer authorized to access CSAPP/ RxDataTrack for any reason.

#### **DATA RECEIPT AND RECORDS**

**5.1.2.67** Mahantech Corporation shall document receipt of each data transmission from a dispenser. All documentation shall be retained by Mahantech Corporation for five (5) years. All data more than five (5) years old shall be purged. Upon request by WVBOP, or six (6) months prior to the expiration of this Contract, Mahantech Corporation shall provide to WVBOP a written turnover plan designed to ensure a smooth turnover of data. Mahantech shall take all reasonable action to provide a minimally disruptive turnover.

**5.1.2.68** At no additional cost to WVBOP, Mahantech Corporation shall provide to WVBOP all electronic and paper files, including data and historical files, at Contract end. This information should include but is not limited to procedures, training manuals, and instructions. The software used to access and view these files shall not be proprietary and shall not in any manner preclude access to the files by WVBOP. WVBOP reserves the right to transfer all data, desk procedures, i.e., any information that would be required to use the program, such as passwords, training materials and system instructions to any future vendors.

**5.1.2.69** Mahantech Corporation shall create and maintain electronic copies of all

correspondence. Each document shall be identified and referenced to a specific request ID in a manner that will facilitate case reviews or appeals. Mahantech Corporation shall also assure that the correspondence and written notifications can be accessed in real time by WVBOP. At the conclusion of the contract, Mahantech Corporation shall transfer to WVBOP all correspondence and notifications in a format that can be read by a standard document manager with text search capabilities (for example .pdf format) specified in advance by WVBOP. Mahantech Corporation shall also transfer in electronic form all pertinent desk procedures, training manuals, letter templates, and instructions.

**5.1.2.70** Mahantech Corporation will include in their bid the cost of optional Annual renewals through year four (4). This optional Annual renewal will be initiated by agency request agreed to by Mahantech Corporation and processed as a Change Order authorized as issued by the West Virginia Purchasing Division.

**6. CONTRACT SCHEDULE:** Contract shall be completed within ninety (90) calendar days from the issuance of the written Notice to Proceed.

**6.1 Mahantech Corporation** representatives and Agency shall meet at the Agency's premises within 15 calendar days after issuance of purchase order to discuss pre-installation activities as well as the actual installation, and to agree on an installation date.

**6.2** Agency will not formally accept CSAPP/RxDataTrack until the System has operated without failure for thirty (30) consecutive days. The Agency will issue a request for Change Order to the West Virginia Purchasing Division stating acceptance of CSAPP/RxDataTrack thereby beginning the first (1) year warranty. Future requests for warranty and maintenance will be based on these dates.

The formal acceptance will necessitate the following:

### **Transition Plan / "Risk" Mitigation**

#### **Our solution to this challenge:**

Should Mahantech Corporation be selected and given the notice to proceed under this RFQ, Mahantech Corporation will:

- To operate parallel systems during the 30 to 90 day pre-approval testing phase prior to formal acceptance. The goal to maintain receipt of dynamic data plus user access without any interruption during both test period and ultimately during the transition to new system and new data location. To achieve this we intend to use our data center as an additional data back-up center and use this to show a fully operational system operating for thirty days, without compromising the integrity of the production databases. After the proven testing phase, it is then a straight forward process to transition the users and data to our data center since there is no data conversion or data re-structuring for the 19 databases and the 15,000+ datasets in the current system or 50 million active records currently in production. There will be no interruption in data flow or access;

- Mahantech Corporation will offer, if selected under this contract award, dual-licensing to the state. We will allow the state government of West Virginia 90 days use of our proprietary software after the current contract expires to be used, if necessary, in the state data center to facilitate ease of transition from the old to the new data location and new system;
- During the critical change over period from post-acceptance to fully operational system, we will provide assistance to the Board of Pharmacy as it coordinates the use of a new website name with its constituents /users and to inform all Pharmacies, Dispensing Prescribers and reporting entities that data needs to be re-directed to the new IP address of the data center commencing on a predetermined date;
- During the critical change over period from post-acceptance to a fully operational system, we will provide assistance to the Board of Pharmacy as it communicates the use of a new contract with its prescriber, dispenser, law enforcement, state boards and other constituents/users that a new domain /website will be used commencing on a predetermined operational date;
- Move all operational and communication email accounts from .gov to the new domain;
- Mahantech's operational and transition teams and data center are all local to Charleston, W.V.
- Mahantech Corporation stands ready to immediately standup the parallel system and databases under this contract for the test phase in our data center. Upon notice to proceed, we can run in parallel for 30 days and if requested can start by June 1<sup>st</sup> if selected;
- Our past experience in managing the PMP for WVBOB prior to it being moved to the State Data Center plus our knowledge in assisting the migration to the State's Data Center will prove invaluable in this contract;
- The additional bonus of software refreshes will mean that new features not offered under the existing contract will add enhancements to functionality and efficiency. For example, the new SQL upgrade will add encryption to increase security; and
- Since there are low to no transition issues / risks that can be anticipated, we have reflected the same in our pricing with no data conversion, user conversion or data migration costs.

Mahantech is ready to immediately standup the system and databases under this contract

**6.3** Until Contract expiration and/or termination, or as soon as possible, Mahantech Corporation shall work jointly with the WVBOB and any subsequent Vendor during the conversion and system startup, to ensure a smooth transition and changeover, prior to releasing Mahantech Corporation's Performance Bond.

**7. CONTRACT AWARD:**

**7.1 Contract Award:** The Contract is intended to provide the 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.

Vendor should provide with their bid a copy of any Software Terms and Conditions or Licenses that the State of West Virginia or the Agency will be required to agree or accept as a part of this solicitation. This information will be required before Purchase Order is issued.

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

**7.2 Pricing Page:** Vendor should complete the Exhibit "A" Pricing Page by adding Unit Price and multiplying by Quantity to equal Extended Cost. Total Bid Amount is total of Extended Cost column. 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 Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: [Melissa.k.pettrey@wv.gov](mailto:Melissa.k.pettrey@wv.gov)

CRFQ PHB170000002  
Prescription Monitoring Program  
Technical Questions and Responses

**Q 1. 5.1.1.36:** System must have the ability to track tasks, notifications, flags and any other workflow data, including to scheduled start date, scheduled end date and who received notices.  
**Question:** The requirements seems wide open and vague. Can the state provide examples or specify specifically what tasks they would like to track?

**A 2.** *The intent of 5.1.1.36 is for the state to have a record of the activities mentioned in 5.1.1.34 and 5.1.1.35.*

*Examples would be:*

- *If the state sent out a report or alert to a system user(s), we would be able to track the report, its recipient(s) and dates involved.*
- *Ability to track system notices sent to users, such as scheduled maintenance, updates or other information.*
- *If the state sent out a notice or information to a specific group or user type, we would be able to track the notice, the recipient group and dates involved.*
- 

**Q2. 5.1.2.52 (b):** Trend Review Reports (Summary by total and by each month).

**Question:** Misc. reports is stated as one of the report types. This can be interpreted as including any report type. Can the state specify if Misc. reports will be limited to what we call Ad hoc reporting? Ad hoc reporting provides the ability for PMP Administrators to create reports within the BI tool based on their specifications and the ability of the BI tool to produce the report.

**A 2.** *Yes, the Misc. Reports listed in 5.1.2.51(b) would be the same as an ad-hoc report.*

**SOLICITATION NUMBER: PHB170000002**

**Addendum Number: 1**

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The purpose of this addendum is to modify the solicitation identified as PHB170000002 ("Solicitation") to reflect the change(s) identified and described below.

**Applicable Addendum Category:**

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

**Description of Modification to Solicitation:**

1. To publish vendor questions and agency responses.
2. The bid opening remains 03/28/2017 at 1:30 p.m.

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

**Terms and Conditions:**

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





RFQ

**EXHIBIT A- Pricing Page for Board of Pharmacy CSMP**

**CONTRACT ITEM**

Item #	Item	Vendor Description	Unit of Measure	Quantity	Cost
1	Comprehensive Controlled Substance Monitoring Program for the WV Board of Pharmacy with migration of historical data and transfer of user accounts. This includes a database management system, with hosting of the database, collection and loading of data, providing access for authorized users and customer support. Also providing system tools to query the database, assist with and modify user accounts and monitor CSMP activities.	RxDatatrack meets the criteria of a Comprehensive Controlled Substance Monitoring Program for the WV Board of Pharmacy. This includes a database management system, with hosting of the database, collection and loading of data, providing access for authorized users and customer support. Also providing system tools to query the database, assist with and modify user accounts and monitor CSMP activities.	Lump Sum	1.00	\$ 497,580.00
2	Implementation and Installation to Acceptance; and First Year Maintenance and Support/Warranty/Hosting	Implementation and Installation to Acceptance; and First Year Maintenance and Support/Warranty/Hosting			
Item #	Item	Vendor Description	Unit of Measure	Quantity	Cost
3	Second Year Maintenance and Support/Warranty/Hosting		Year	1.00	\$ 481,401.12
4	Third Year Maintenance and Support/Warranty/Hosting		Year	1.00	\$ 503,064.17
5	Fourth Year Maintenance and Support/Warranty/Hosting		Year	1.00	\$ 515,640.77

**UNIT PRICES**

Item #	Unit Prices are to be provided for the following item, and will only be used to execute formal Change Orders during the life of the contract, if required. Estimated Quantities are included for bid evaluation only; there is no guarantee that any quantity if the Item(s) will be purchased.					
6	Additional Professional Services Support Hours	Unit Price Per Hour=\$	148.37	Hour	1.00	\$148.37
<b>Total Bid Amount (Item # 1+2+3+4+5+6) =</b>					<b>\$ 1,997,834.43</b>	

Contract evaluation will be of the total bid amount. Award will be the lump sum amount, implementation and year one maintenance only. Renewal options for years 2, 3, and 4 will be initiated by the Agency, Agreed to by the Vendor and Processed by the West Virginia Purchasing Division as Change Orders for subsequent years.

03/28/2017

## Exhibit B

### 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/agencyll.htm](http://www.state.wv.us/admin/purchase/vrc/agencyll.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 a named as an adverse party.

#### 4. Addendum Administration.

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

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

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

**5. General Provisions/Ownership of PHI.**

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



West Virginia Board of Pharmacy Prescription Monitoring Program  
CRFQ 0913 PHB170000002



AGREED

Name of Agency \_\_\_\_\_

Name of Associate Mahantech Corp

Signature \_\_\_\_\_

Signature Chana Arora

Title \_\_\_\_\_

Title President

Date \_\_\_\_\_

Date 03/27/2017

Form WVBPA-01-2004  
Revised 05-26-2013

APPROVED AS TO FORM THIS 26th  
DAY OF Jan 20 17  
Patrick Morrisey  
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: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

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

**Patient Data:** Including name, address, DOB, sex, identification number

**Person Picking Up a Prescription Data:** Including name, address, DOB, sex, identification number

**Prescription Data:** Including date written, date filled, product information, quantity, days supply, form of payment, prescription number

**Prescriber Data:** Including prescriber name, address, DEA number

**Dispenser Data:** Including dispenser name, address, DEA number

**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.

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

**Term Contract**

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

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

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

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

**Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within ninety (90) days.

Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for one year thereafter with an additional three (3) successive one year renewal periods or multiple renewal periods of less than one year provided that the multiple renewal periods do not exceed thirty-six (36) months in total. Automatic renewal of this Contract is prohibited.

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

**Other:** See attached.

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

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

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

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

**Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

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

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

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

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

**PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of \$50,000.00. 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.

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**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.

**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.

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.

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

Vendor must maintain:

- Commercial General Liability Insurance** in at least an amount of:  
\_\_\_\_\_
- Automobile Liability Insurance** in at least an amount of: \_\_\_\_\_
- Professional/Malpractice/Errors and Omission Insurance** in at least an amount of:  
\_\_\_\_\_
- Commercial Crime and Third Party Fidelity Insurance** in an amount of:  
\_\_\_\_\_
- Cyber Liability Insurance** in an amount of: \_\_\_\_\_
- Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.
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Revised 01/18/2017

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**24. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.  
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**25. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Revised 01/18/2017

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

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

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

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

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

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

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

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

Revised 01/18/2017

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

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open 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.

Revised 01/18/2017

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

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

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

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