



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

## Header 1

List View

## General Information | Contact | Default Values | Discount | Document Information | Clarification Request

Procurement Folder: 808174

Procurement Type: Central Contract - Fixed Amt

Vendor ID: VS0000015320

Legal Name: NETRAID LLC

Alias/DBA:

Total Bid: \$31,320.00

Response Date: 12/17/2020

Response Time: 11:49

Responded By User ID: netraid

First Name: Matthew

Last Name: Langan

Email: matt@netraid.com

Phone: 8556387243

SO Doc Code: CRFQ

SO Dept: 0506

SO Doc ID: MIS2100000005

Published Date: 12/2/20

Close Date: 12/17/20

Close Time: 13:30

Status: Closed

Solicitation Description: HP SERVER SUPPORT

Total of Header Attachments: 1

Total of All Attachments: 1



Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	HPE Hardware Maintenance Onsite Support or equal,				12960.00

Comm Code	Manufacturer	Specification	Model #
81112201			

**Commodity Line Comments:**

**Extended Description:**

HPE Hardware Maintenance Onsite Support or equal

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
2	HPE Collaborative Remote Support, or Equal				9180.00

Comm Code	Manufacturer	Specification	Model #
81112201			

**Commodity Line Comments:**

**Extended Description:**

HPE Collaborative Remote Support, or Equal

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
3	HP Software Technical Unlimited Support or equal,				9180.00

Comm Code	Manufacturer	Specification	Model #
81112201			

**Commodity Line Comments:**

**Extended Description:**

HP Software Technical Unlimited Support or equal

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
4	HPE Return to Support charge part number (HU1D4AC) or Eq				0.00

Comm Code	Manufacturer	Specification	Model #
81112201			

**Commodity Line Comments:**

**Extended Description:**

HPE Return to Support charge part number (HU1D4AC) or Equal

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
5	HPE Return to Support charge part number (UJ558AC) or Eq				0.00

Comm Code	Manufacturer	Specification	Model #
81112201			

**Commodity Line Comments:**

**Extended Description:**

HPE Return to Support charge part number (UJ558AC) or Equal

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
6	Return to Support				0.00

Comm Code	Manufacturer	Specification	Model #
81112201			

**Commodity Line Comments:**

**Extended Description:**

The Return to Support fee equals HPE's current monthly support charge for each product the Customer wishes to add to their support contract, multiplied by the number of months the product has been without support coverage.



## Capability Statement

NETRAID was founded in 2004, has been providing comprehensive multi-vendor data center hardware maintenance services and solutions nationwide for over 16 years offering onsite hardware support for all major OEM's nationwide. With the ability to provide 24x7x2 hour onsite support.

Since that time, our company has become authorized resellers and partners for Dell, HPE, EMC, IBM, Nexsan, Cisco and many more. We have direct access to onsite support with all major OEM's as needed. The ability to use OEM personnel allows us to escalate any maintenance issue if needed, by contacting the OEM directly. This includes emergency services. We have been servicing these types of equipment for many years.

NETRAID will provide service on the agreed service level agreement for hardware maintenance. All service calls will be placed to a dedicated 800 number or through our online portal. We offer the ability for your staff to open tickets anytime directly online, via email or phone. Service begins the moment a service request is placed. The online portal and service numbers are monitored 24/7 with service beginning by diagnosing the maintenance issue using a number of techniques which include; error messages, symptoms, and error codes.

Care packages will also be placed onsite; prior to failure. This will further reduce downtime to minutes instead of hours. This ensures timely parts will be available to you when a hardware failure is reported. The inventory will be defined upon contract execution and stocked. A typical inventory of parts placed onsite, prior to failure, includes hard drives, ram, and power supplies, boards.

We have multiple highly qualified engineers that we employ based on performance and equipment needs of the customer. Technicians are located within a 20 mile radius of the data center to ensure a 4 hour response time with parts. NETRAID prides itself on its engineers. We understand very well that our product per se is technical service. Therefore, our service engineers must be the very best in the industry.

In order to ensure that the service we deliver is just as exemplary, NETRAID has various systems, tools, and processes to screen and manage our engineers. Engineer assignment is done manually, not through a bulletin board or bidding process.

More detailed information can be found in our attached Service Delivery Process, Call Flow Process and Total Call Ownership..

We thank you for the opportunity and look forward to serving you as one of our customers in the near future.

Thank you,

A handwritten signature in black ink, appearing to read "Matthew Langan".

Matthew Langan  
Director of Operations



## Call Flow Process

NETRAID has defined processes that govern the way we handle calls from beginning to end. NETRAID's typical call flow for a Break-Fix service call is listed below:

1. Service call comes into our Customer Care Center or online at our PowerPanel Online Management System.
2. Independent of the service call entry process, the agent who receives the request enters the pertinent information into our call management system. This would include:
  - a. Customer Name
  - b. Customer Address
  - c. Customer City, State, Zip
  - d. Point of Contact Name
  - e. Point of Contact Phone
  - f. Customer Reference Number (optional)
  - g. Equipment Model #
  - h. Equipment Serial #
  - i. Problem Description
  - j. Troubleshooting Performed (optional)
  - k. Parts Required (optional)
3. Once the agent enters this information, he/she will place the call in queue for our technical support team.
4. Our technical support team will telephone the customer within 1 hour of call entry to do problem determination in order to determine the parts needed.
  - a. NETRAID does not simply dispatch a technician onsite to do the part diagnosis. NETRAID performs phone triage in order to obtain a First Time Fix (FTF).
    - i. Once the part has been identified the ticket is submitted to our dispatch queue for a technician to be assigned.
    - ii. If the problem determination cannot be made, the call will be placed in our dispatch queue for a technician to be dispatched the within the required SLA to diagnose and replace parts or order parts in necessary.
5. The Technical Assignment Group agent will identify the appropriate engineer to which the service call should be dispatched. The appropriate engineer is determined using a custom built management tool that stores all information about our engineers.
6. The Technical Assignment Group matches an engineer based on the zip code, equipment skill, certification, availability, and customer satisfaction ratings.
7. The Technical Assignment Group personally calls the engineer to ensure that he/she is available and can work on the equipment in question to fully qualify the tech prior to dispatch.
8. The Technical Assignment Group also reviews the customer specific information with the engineer, including who he/she is representing and the process for this customer, as well as sending him/her the correct paperwork for the event. This paperwork will contain a signature sheet for the client (called an RFS), the specific instructions for this service call, and any additional material that may be needed
9. Once the engineer is confirmed, the Technical Assignment Group conferences the engineer in with the client to set the appropriate ETA..



## Call Flow Process

10. The Client Relationship Specialist then calls the engineer again and reviews with him/her the client information and the ETA.
11. The engineer arrives on-site and calls into our Customer Care Center to note that he/she is onsite.
12. If the engineer has any technical questions while on-site or once they are finished their diagnosis, the engineer will call into our Helpdesk, and the correct part will be determined. If there is any difficulty in performing this triage, the OEM or part vendor of the unit in question will be brought in via phone to assist.
13. The Helpdesk agent identifies the part number required for the failing unit and places the call into our Logistics queue.
14. The Logistics agent is then responsible for procuring the part from the best available source within the SLA, whether it be onsite or for delivery. This agent will check client stocking locations, forward stock locations, engineer stock locations, and then the best available vendor. If the part is not available at a stocking location onsite or near the service location, it is sent Next Day Air or Same Day Critical from the appropriate stocking location.
15. The part arrives within the SLA, and the Client Relationship Specialist manages the ETA with the customer and the engineer to complete the repair.
16. The engineer arrives on-site, installs the part, and repairs the machine. If another part is required, the engineer will call back into our Help desk, repeating the process from above.





## Service Delivery Process

**NETRAID** provides a wide range of coverage to our customers in order to better provide the expected service delivery. We are available to provide service up to 24 hours a day, 7 days a week including holidays. We can customize a Service Level Agreement to meet your needs. If you would like more information on these, please contact your Representative.

There are many different departments that work together at NETRAID to attain the World Class Service that we deliver. Below you will find a list of our departments and what you can expect from each.

**Call Center** – All calls are routed to this department. If the customer is not using our web based call management tool, they can phone in to the call center to open a service order. Additionally, if the customer has any questions or concerns and cannot contact their dedicated account manager, they may call the Call Center for assistance.

**PowerPanel Online Management** – All customers are provided with an account to our web based support and billing tool. This tool allows you to place, interact with, and open tickets on all service events placed with NETRAID, as well as managing invoices and payments. All users are presented with training on how to utilize this program to its fullest capabilities. If you would like more information on this program, please contact your Representative.

**Technical Support** – Once a service order is opened, our Technical Support Department will contact the site contact in an attempt to triage the malfunction on the unit. It is their goal to make a part determination at the opening of a ticket. Our tech support group has many resources available, including 3rd party vendors as well as electronic resources. In addition to the resources, our tech support undergoes weekly “hands-on” training classes on our customer’s assets.

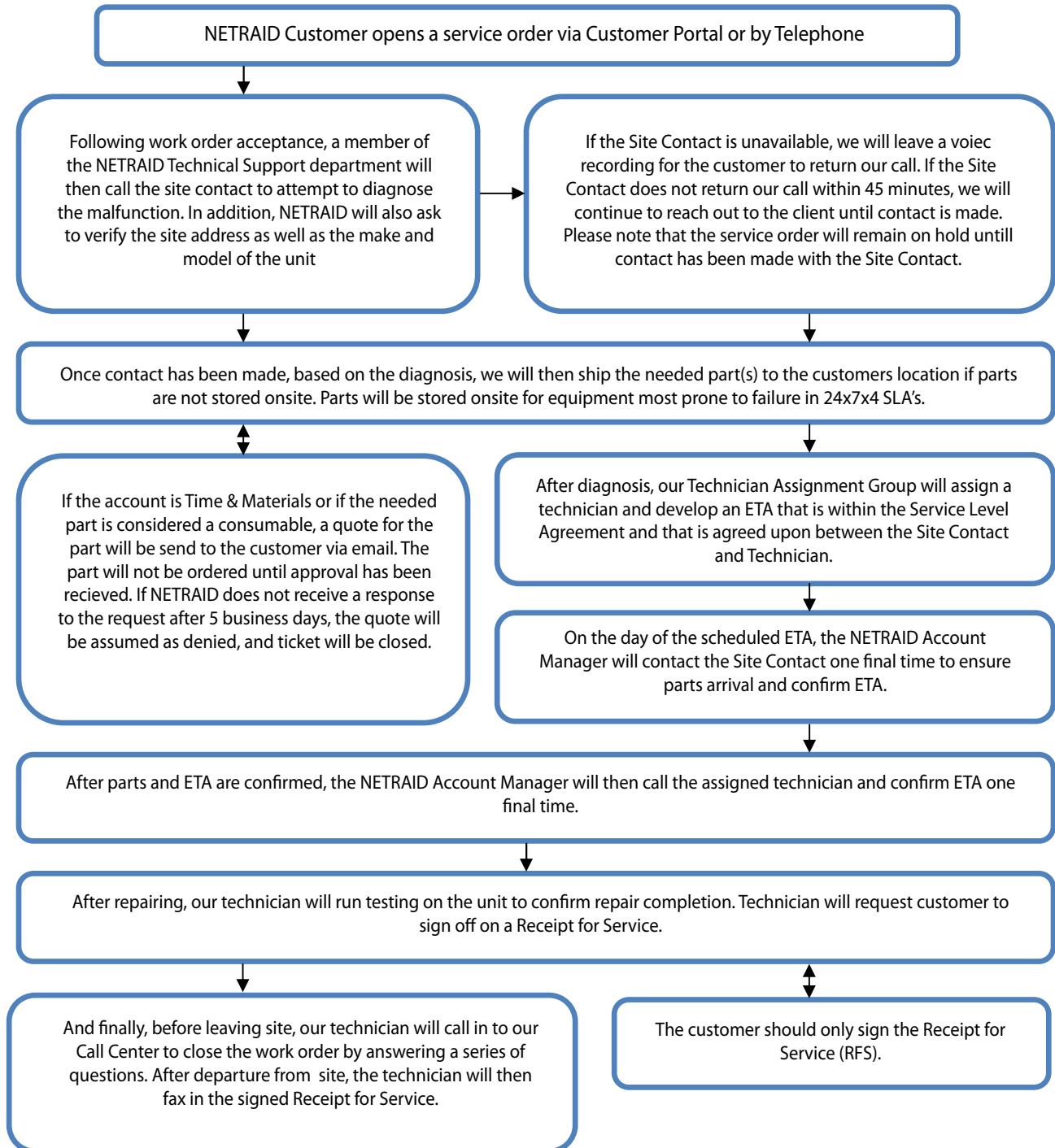
**Logistics** – Once the needed part is determined and is not available onsite, our Logistics Department procures the part same business day. Based on the customer’s contract, the part will be ordered and shipped to the site overnight. Once the quote is approved, the part will be shipped via overnight delivery in order to ensure next day fix.

**Technician Assignment Group (TAG)** – After tech support makes contact with the site contact, our TAG group will then make contact with the technician who is assigned to that area and review the scope of work, and ensure that he/she is fully confident and capable. The TAG agent will then confirm the technician is available to service the work order within the SLA. If the technician meets all of the previous requirements, they will then agree on an ETA. After ETA has been established with the technician, the site contact will be contacted to confirm that the ETA is convenient for them. If the ETA needs to be revised, our TAG will return to the technician and make the necessary arrangements.

**Service Engineers** – NETRAID prides itself on its engineers, also referred to as Technicians. We understand very well that our product per se is technical service. Therefore, our service engineers must be the very best in the industry. In order to ensure that the service we deliver is just as exemplary, NETRAID has various systems, tools, and processes to screen and manage our engineers.

**Client Relationship Specialists (CRS)** – Each customer has an assigned CRS, also known as Account Manager who oversees all activities made on a service order. The CRS is responsible for ensuring all of the above is done correctly and within a timely manner. They are also responsible for confirming the ETA with both the technician and the site contact to ensure nothing has changed. And finally, they are the main point of contact here at NETRAID and are to keep all parties updated with each work order and handle any and all escalations that may occur.

## Service Delivery Process





## Total Call Ownership

**TOTAL CALL OWNERSHIP** – It's in every service ticket we do. Your dedicated Customer Relationship Specialist (CRS) is your Single Point of Contact for Service Events. Your CRS provides real-time monitoring with proactive issue resolution by managing all phases of the service call.

**PHASE 1 – TICKET OPEN** is the initiation of every service event requested by our clients and managed by NETRAID. Service requests can be opened via:

- Telephone
- E-mail
- Our proprietary web-based service portal - PowerPanel

**PHASE 2 – TECHNICIAN ASSIGNMENT** is done manually, not through a bulletin board or bidding process. Our technician assignment group contacts the technician directly and confirms availability. We also maintain documentation that our technician is:

- Minimum of A+ Certified
- Qualified to Service the Specific Equipment
- "Real World Experienced" – not just "book smart"

**PHASE 3 – DIRECT COORDINATION** with the service location ensures that our technician and the point of contact at the service address are able to set the on-site appointment as quickly as possible. We make the calls to:

- Schedule Availability
- Follow up to re-confirm appointment
- Close the ticket and get feedback on Service Quality

**PHASE 4 – PLATINUM LEVEL TRIAGE** is conducted by our Premier Service Level Tech Support staff. Our access to over 20 Major OEM support centers provides

- Competent and Accurate remote diagnosis
- Quick resolution to un-common errors
- Fast and Detailed prognosis for on-site resolution

What does Total Call Ownership mean to you?

Quite Simply . . . . . Peace of Mind



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

State of West Virginia  
 Centralized Request for Quote  
 Info Technology

<b>Proc Folder:</b> 808174			<b>Reason for Modification:</b>
<b>Doc Description:</b> HP SERVER SUPPORT			
<b>Proc Type:</b> Central Contract - Fixed Amt			
<b>Date Issued</b>	<b>Solicitation Closes</b>	<b>Solicitation No</b>	<b>Version</b>
2020-12-02	2020-12-17 13:30	CRFQ 0506 MIS2100000005	1

**BID RECEIVING LOCATION**

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

**VENDOR**

**Vendor Customer Code:**

**Vendor Name :** NETRAID

**Address :** HQ

**Street :** 225 Wimpole Drive


**City :** Rochester Hills

**State :** Michigan **Country :** USA **Zip :** 48309

**Principal Contact :** Matthew Langan

**Vendor Contact Phone:** 855-638-7243 **Extension:** 558

**FOR INFORMATION CONTACT THE BUYER**  
 Crystal G Hustead  
 (304) 558-2402  
 crystal.g.hustead@wv.gov

**Vendor Signature X** 

**FEIN#** 73-1702250 **DATE** 12/17/2020

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

**ADDITIONAL INFORMATION**

THE STATE OF WEST VIRGINIA PURCHASING DIVISION FOR THE AGENCY, WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCE, OFFICE OF MANAGEMENT INFORMATION SERVICES, IS SOLICITING BIDS TO ESTABLISH A CONTRACT FOR THE PURCHASE OF SUPPORT FOR HEWLETT PACKARD SERVERS PER THE ATTACHED DOCUMENTS.

\*\*\*QUESTIONS REGARDING THE SOLICITATION MUST BE SUBMITTED IN WRITING TO CRYSTAL.G.HUSTEAD@WV.GOV PRIOR TO THE QUESTION PERIOD DEADLINE CONTAINED IN THE INSTRUCTIONS TO VENDORS SUBMITTING BIDS\*\*\*

INVOICE TO	SHIP TO
HEALTH AND HUMAN RESOURCES 321 CAPITOL STREET SUITE 400 CHARLESTON WV 25301 US	HEALTH AND HUMAN RESOURCES ONE DAVIS SQUARE, STE 200 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
1	HPE Hardware Maintenance Onsite Support or equal,				\$12960.00

Comm Code	Manufacturer	Specification	Model #
81112201			

**Extended Description:**

HPE Hardware Maintenance Onsite Support or equal

INVOICE TO	SHIP TO
HEALTH AND HUMAN RESOURCES 321 CAPITOL STREET SUITE 400 CHARLESTON WV 25301 US	HEALTH AND HUMAN RESOURCES ONE DAVIS SQUARE, STE 200 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
2	HPE Collaborative Remote Support, or Equal				\$9180

Comm Code	Manufacturer	Specification	Model #
81112201			

**Extended Description:**

HPE Collaborative Remote Support, or Equal

INVOICE TO	SHIP TO
HEALTH AND HUMAN RESOURCES 321 CAPITOL STREET SUITE 400 CHARLESTON WV 25301 US	HEALTH AND HUMAN RESOURCES ONE DAVIS SQUARE, STE 200 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
3	HP Software Technical Unlimited Support or equal,				\$9180

Comm Code	Manufacturer	Specification	Model #
81112201			

**Extended Description:**  
HP Software Technical Unlimited Support or equal

INVOICE TO	SHIP TO
HEALTH AND HUMAN RESOURCES 321 CAPITOL STREET SUITE 400 CHARLESTON WV 25301 US	HEALTH AND HUMAN RESOURCES ONE DAVIS SQUARE, STE 200 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
4	HPE Return to Support charge part number (HU1D4AC) or Eq				\$0

Comm Code	Manufacturer	Specification	Model #
81112201			

**Extended Description:**  
HPE Return to Support charge part number (HU1D4AC) or Equal

INVOICE TO	SHIP TO
HEALTH AND HUMAN RESOURCES 321 CAPITOL STREET SUITE 400 CHARLESTON WV 25301 US	HEALTH AND HUMAN RESOURCES ONE DAVIS SQUARE, STE 200 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
5	HPE Return to Support charge part number (UJ558AC) or Eq				\$0

Comm Code	Manufacturer	Specification	Model #
81112201			

**Extended Description:**

HPE Return to Support charge part number (UJ558AC) or Equal

INVOICE TO	SHIP TO
HEALTH AND HUMAN RESOURCES 321 CAPITOL STREET SUITE 400 CHARLESTON WV 25301 US	HEALTH AND HUMAN RESOURCES ONE DAVIS SQUARE, STE 200 CHARLESTON WV 25301 US

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Total Price
6	Return to Support				\$0

Comm Code	Manufacturer	Specification	Model #
81112201			

**Extended Description:**

The Return to Support fee equals HPE's current monthly support charge for each product the Customer wishes to add to their support contract, multiplied by the number of months the product has been without support coverage.

**SCHEDULE OF EVENTS**

Line	Event	Event Date
1	VENDOR QUESTION DEADLINE	2020-12-08

## **INSTRUCTIONS TO VENDORS SUBMITTING BIDS**

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

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

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

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

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

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting



are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

**4. VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

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

Question Submission Deadline: December 8, 2020 at 10:00 AM ET

Submit Questions to: Crystal Hustead

2019 Washington Street, East

Charleston, WV 25305

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

Email: Crystal.G.Hustead@wv.gov

**5. VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

**6. BID SUBMISSION:** All bids must be submitted electronically through wvOASIS or signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via e-mail. Acceptable delivery methods include electronic submission via wvOASIS, hand delivery, delivery by courier, or facsimile.

The bid delivery address is:

Department of Administration, Purchasing Division

2019 Washington Street East

Charleston, WV 25305-0130

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope or the bid may be rejected by the Purchasing Division.:

**SEALED BID:**

**BUYER:** Crystal Hustead

**SOLICITATION NO.:** CRFQ MIS2100000005

**BID OPENING DATE:** December 17, 2020

**BID OPENING TIME:** 1:30 PM ET

**FAX NUMBER:** 304-558-3970

Revised 01/09/2020

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

**For Request For Proposal ("RFP") Responses Only:** In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus       n/a       convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: (This only applies to CRFP)

Technical

Cost

**7. BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time: December 17, 2020 at 1:30 PM ET

Bid Opening Location: Department of Administration, Purchasing Division  
2019 Washington Street East  
Charleston, WV 25305-0130

**8. ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

**9. BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

**10. ALTERNATE MODEL OR BRAND:** Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the

equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

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

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

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

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

**15. PREFERENCE:** Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at:

<http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

**15A. RECIPROCAL PREFERENCE:** The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

**16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or

minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

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

**18. ELECTRONIC FILE ACCESS RESTRICTIONS:** Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

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

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

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

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

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

**22. INTERESTED PARTY DISCLOSURE:** West Virginia Code § 6D-1-2 requires that the vendor submit to the Purchasing Division a disclosure of interested parties to the contract for all contracts with an actual or estimated value of at least \$1 Million. That disclosure must occur on the form prescribed and approved by the WV Ethics Commission prior to contract award. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

**23. WITH THE BID REQUIREMENTS:** In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

## **GENERAL TERMS AND CONDITIONS:**

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

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

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

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

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

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

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

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

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

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

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

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

**Term Contract**

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

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then 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. Unless otherwise specified below, 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 the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

**Alternate Renewal Term** – This contract may be renewed for \_\_\_\_\_ successive \_\_\_\_\_ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

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

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

**Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within \_\_\_\_\_ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for \_\_\_\_\_ year(s) thereafter.

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

**Other:** See attached.

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

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

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

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

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

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

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

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

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

**PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.



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

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

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

**LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

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

**8. INSURANCE:** The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, 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, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

- Commercial General Liability Insurance** in at least an amount of: \$1,000,000-\*\*See Below per occurrence.
- Automobile Liability Insurance** in at least an amount of: \$1,000,000 per occurrence.
- Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: \_\_\_\_\_ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.
- Commercial Crime and Third Party Fidelity Insurance** in an amount of: \_\_\_\_\_ per occurrence.
- Cyber Liability Insurance** in an amount of: \_\_\_\_\_ per occurrence.
- Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.
- Pollution Insurance** in an amount of: \_\_\_\_\_ per occurrence.
- Aircraft Liability** in an amount of: \_\_\_\_\_ per occurrence.
- \*\*\*STATE OF WEST VIRGINIA MUST BE LISTED AS ADDITIONAL INSURED ON INSURANCE CERTIFICATE**

**\*\*\*INSURANCE CERTIFICATE HOLDER SHOULD READ AS FOLLOWS:**  
WV DHR  
321 CAPITOL STREET, SUITE 400  
CHARLESTON, WV 25301

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

**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. [Reserved]**

**11. LIQUIDATED DAMAGES:** 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. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

N/A \_\_\_\_\_ for \_\_\_\_\_

Liquidated Damages Contained in the Specifications

**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. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

**14. PAYMENT IN ARREARS:** 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. PAYMENT METHODS:** Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

**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 § 148-1-5.2.b.

**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 WITH LAWS:** 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.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

**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.

**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.

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

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

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

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

**32. LICENSING:** In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. 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.

**SUBCONTRACTOR COMPLIANCE:** Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

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

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

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

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

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

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

**37. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the Purchasing Division affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

**38. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts (“Other Government Entities”), provided that both the Other Government Entity and the Vendor agree. 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. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

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

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

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

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

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

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

Revised 01/09/2020



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

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

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

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

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a

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

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

**44. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the vendor must submit to the Agency a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-award interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

**45. PROHIBITION AGAINST USED OR REFURBISHED:** Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

**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.

\_\_\_\_\_  
(Name, Title)

\_\_\_\_\_  
(Printed Name and Title)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Phone Number) / (Fax Number)

\_\_\_\_\_  
(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.

\_\_\_\_\_  
(Company)

\_\_\_\_\_  
(Authorized Signature) (Representative Name, Title)

\_\_\_\_\_  
(Printed Name and Title of Authorized Representative)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Phone Number) (Fax Number)

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: CRFQ MIS2100000005**

**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 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 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.

\_\_\_\_\_  
Company

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

\_\_\_\_\_  
Date

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

**REQUEST FOR QUOTATION  
CRFQ MIS210000005  
Support for Hewlett Packard Servers**

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**SPECIFICATIONS**

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of West Virginia Department of Health and Human Resource, Office of Management Information Services to establish a contract for the purchase of Support for Hewlett Packard Servers.

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

**NOTE:** The WVDHHR has developed an EEO Utilization Report and it is available at: <http://www.wvdhhr.org/pdfs/H1.5%20Utilization%20Report%20and%20EEO%20policy.pdf>

- 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 Items”** means Hewlett Packard Enterprise Hardware Maintenance Onsite Support as more fully described in these specifications.
- 2.2 “Pricing Page”** means the pages, contained wvOASIS, upon which Vendor should list its proposed price for the Contract Items.
- 2.3 “Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
- 2.4 “HP”** means Hewlett Packard.
- 2.5 “HPE”** means Hewlett Packard Enterprise.
- 2.6 “DMR” (Defective Media Retention)** means that when a Drive goes bad, the agency can keep it (as most public sector customers have regulations preventing their data from leaving the site).
- 2.7 “SVC”** means “Remote Delivery Service”.
- 2.8 “TRAVEL ZONE ONE”** means how far the customer’s location is from nearest Support Dispatch facility.

**REQUEST FOR QUOTATION  
CRFQ MIS210000005  
Support for Hewlett Packard Servers**

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**3 QUALIFICATIONS:** Vendor, or Vendor's staff if requirements are inherently limited to individuals rather than corporate entities, shall have the qualifications listed below. Compliance will be determined prior to contract award by the State through documentation provided by the Vendor with its bid or upon request, Vendor must provide any documentation requested by the State to assist in confirmation of compliance with this provision. References, documentation, or other information to confirm compliance with this experience requirement are preferred with the bid submission but may be requested after bid opening and prior to contract award.

3.1 Vendor must be authorized by Hewlett Packard to provide software maintenance and support for the Licenses.

**4. MANDATORY REQUIREMENTS:**

4.1. **Software Maintenance and Support:** Vendor must provide maintenance and support for the Licenses as follows:

<u>Product Number</u>	<u>Description</u>	<u>Serial No.</u>
H1K93AC	HPE Proactive Care 24x7 wDMR SVC	

<u>*Hardware Support*</u>	<u>HPE Hardware Maintenance Onsite Support</u>
	Hardware Problem Diagnosis Onsite Support Parts and Material provided 4 Hour Onsite Response 24 Hours Standard Office Days 24 hrs, Day 6 (Weekend coverage is included) 24 hrs, Day 7 (Weekend coverage is included) Holidays Covered Travel Zone 1 Defective Media Retention No Usage Limitation Remote Delivery SVC Advanced Access to Advanced Technical Specialists

455880-B21	HP BLc VC Flex-10 Enet Module Opt	3C42480124
455880-B21	HP BLc VC Flex-10 Enet Module Opt	3C42480128

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AJ821B	HP B-series 8/24c BladeSystem SAN Switch	CN8245B04J
<b>Please note HPE can no longer support this item from: 08/31/2023</b>		
AJ821B	HP B-series 8/24c BladeSystem SAN Switch	CN8245B05J
<b>Please note HPE can no longer support this item from: 08/31/2023</b>		
504636-001	HP DL360 G6 L5520 Eff US Svr	MXQ01500KL
409513-B22	HP BLc Virtual Connect 4Gb FC Opt Kit	MY59170249
456204-B21	HPE BLc7000 DDR2 Encl Mgmt Option	OB01BP0575
456204-B21	HPE BLc7000 DDR2 Encl Mgmt Option	OB0ABK4015
456204-B21	HPE BLc7000 DDR2 Encl Mgmt Option	OB26BP3496
456204-B21	HPE BLc7000 DDR2 Encl Mgmt Option	OB2BCP3745
456204-B21	HPE BLc7000 DDR2 Encl Mgmt Option	OB9BBP5109
507019-B21	HP BLc7000 CTO 3 IN LCD ROHS Encl	SGH252PRK4
455880-B21	HP BLc VC Flex-10 Enet Module Opt	TW202600A5
455880-B21	HP BLc VC Flex-10 Enet Module Opt	TW292000X8
455880-B21	HP BLc VC Flex-10 Enet Module Opt	TW292000Y2
455880-B21	HP BLc VC Flex-10 Enet Module Opt	TW293100NJ
603718-B21	HP BL460c G7 CTO Blade	USE146KV40
603718-B21	HP BL460c G7 CTO Blade	USE202R3RM
603718-B21	HP BL460c G7 CTO Blade	USE202R3RN
603718-B21	HP BL460c G7 CTO Blade	USE203SKMT
603718-B21	HP BL460c G7 CTO Blade	USE203SKPT
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9WX
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9WY
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X1
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X2
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X3
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X4
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X5
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X9
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XC
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XD
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XE
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XF
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XT
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XW
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XX
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y0
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y1
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y2

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641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y3
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y4
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y6
507019-B21	HP BLc7000 CTO 3 IN LCD ROHS Encl	USE924MWHY

**HPE Collaborative Remote Support**

Basic Software Phone Support  
Collaborative Call Management  
Receive phone support 24 Hours, Day 1-7  
Standard Response Time

504636-001	HP DL360 G6 L5520 Eff US Svr	MXQ01500KL
507019-B21	HP BLc7000 CTO 3 IN LCD ROHS Encl	SGH252PRK4
603718-B21	HP BL460c G7 CTO Blade	USE146KV40
603718-B21	HP BL460c G7 CTO Blade	USE202R3RM
603718-B21	HP BL460c G7 CTO Blade	USE202R3RN
603718-B21	HP BL460c G7 CTO Blade	USE203SKMT
603718-B21	HP BL460c G7 CTO Blade	USE203SKPT
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9WX
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9WY
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X1
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X2
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X3
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X4
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X5
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9X9
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XC
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XD
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XE
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XF
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XT
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XW
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9XX
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y0
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y1
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y2
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y3
641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y4



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641016-B21	HP BL460c Gen8 10/20Gb FLB CTO Blade	USE252R9Y6
507019-B21	HP BLc7000 CTO 3 IN LCD ROHS Encl	USE924MWHY

**\*Software Support\***      **HPE Software Technical Unlimited Support**

Software Technical Support  
 SW Electronic Support  
 24 Hours Standard Office Days  
 24 Hours Day 6(Weekend Support included)  
 24 Hours Day 7(/Weekend Support included)  
 Holidays Covered  
 Standard Response  
 Access to Advanced Technical Specialists

**\*Hardware Support\***

HU1D4AC	<b>HPE Brocade Return to Hardware Support</b>	10/31/2020
UJ558AC	<b>HPE Ind Standard Servers Return to Hardware Support</b>	10/31/2020

**4.2 HPE Hardware Maintenance Onsite Support or equal, must cover the Agency owned hardware listed in Section 3.1:**

- 4.2.1 Must provide hardware problem diagnosis and onsite support.
- 4.2.2 Must provide parts and material.
- 4.2.3 Must provide four onsite response.
- 4.2.4 Must provide twenty-four hours of standard business day.
- 4.2.5 Must provide twenty-four hours a day for 6 days. (Weekend support included)
- 4.2.6 Must provide twenty-four hours a day for 7 days. (Weekend support included)
- 4.2.7 Must cover All HOLIDAYs.
- 4.2.8 Must cover Travel Zone 1.
- 4.2.9 Must provide defective media retention.
- 4.2.10 No usage limitation.
- 4.2.11 Must provide remote delivery services advanced.

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**4.2.12** Must provide access to Advanced Technical Specialist.

**4.3 HPE Collaborative Remote Support, or Equal, must cover the Agency owned hardware listed in Section 4.1:**

**4.3.1** Must provide basic software support for phone.

**4.3.2** Must provide collaborative call management.

**4.3.3** Must provide twenty-four hours a day 1-7 phone support. (24hours a day 7 days a week support

**4.3.4** Must provide standard response time.

**4.4 HP Software Technical Unlimited Support or equal, must cover the Agency owned hardware listed in Section 3.1:**

**4.4.1** Must provide Technical and Electronical software support.

**4.4.2** Must provide twenty-four hours of unlimited technical support per standard business day.

**4.4.3** Must provide twenty-four hours of unlimited technical support 6 days. (Weekend support included.

**4.4.4** Must provide twenty-four hours of unlimited technical support **7 days. (Weekend support included).**

**4.4.5** HP Software Technical Unlimited Support or equal, must cover ALL HOLIDAYs.

**4.4.6** Must provide standard response time.

**4.4.7** Must provide access to Advanced Technical Specialist.

**4.5 HPE Return to Support charge part number (HU1D4AC) or Equal, must cover the agency owned hardware listed in section 3.1:**

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**4.5.1 HPE Brocade Return to Hardware Support (HU1D4AC).**

**4.6 HPE Return to Support charge part number (UJ558AC) or Equal, must cover the agency owned hardware listed in section 3.1:**

**4.6.1 HPE Brocade Return to Hardware Support (UJ558AC).**

**4.7 The Return to Support fee equals HPE's current monthly support charge for each product the Customer wishes to add to their support contract, multiplied by the number of months the product has been without support coverage.**

**5. CONTRACT AWARD:**

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

**5.2 Pricing Page:** 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.

**6. PAYMENT:** Agency shall pay as shown on the Pricing Pages, for all Contract Items performed and accepted under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

**7. FACILITIES ACCESS:** Performance of Contract Items may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:

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- 7.1 Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.
- 7.2 Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.
- 7.3 Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.
- 7.4 Anyone performing under this Contract will be subject to Agency's security protocol and procedures.
- 7.5 Vendor shall inform all staff of Agency's security protocol and procedures.

**8. VENDOR DEFAULT:**

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

- 8.1.1. Failure to perform Contract Services in accordance with the requirements contained herein.
- 8.1.2. Failure to comply with other specifications and requirements contained herein.
- 8.1.3. Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 8.1.4. Failure to remedy deficient performance upon request.

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

- 8.2.1. Immediate cancellation of the Contract.
- 8.2.2. Immediate cancellation of one or more release orders issued under this Contract.
- 8.2.3. Any other remedies available in law or equity.

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**9. MISCELLANEOUS:**

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

**Contract Manager:** Matthew Langan

**Telephone Number:** 855-638-7243 x558

**Fax Number:** 855-638-7243

**Email Address:** matt@netraid.com

## **Provisions Required for Federally Funded Procurements**

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

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

### **§ 148-1-5. Remedies.**

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

**5.2.** Contract Cancellation.

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

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

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

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

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

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

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

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

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

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

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

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

**Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.**

**5.3. Non-Responsible.** If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

**5.4. Suspension.**

**5.4.a.** The Director may suspend, for a period not to exceed one (1) year, the right of a vendor to bid on procurements issued by the Purchasing Division or any state spending unit under its authority if:

**5.4.a.1.** The vendor has exhibited a pattern of submitting bids and then requesting that its bid be withdrawn after bids have been publicly opened. For purposes of this provision, a pattern is two or more instances in any 12 month period.

**5.4.a.2.** The vendor has exhibited a pattern of poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to, two or more instances of any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; and failure to deliver commodities, services, or printing at the quality level required by the contract.

**5.4.a.3.** The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

**5.4.a.4.** The vendor's actions have given rise to one or more of the grounds for debarment listed in section 5A-3-33d.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 5.6. Damages.

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

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

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

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

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

#### 5.2. Contract Cancellation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



- (G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—** Any contract resulting from this solicitation in excess of \$150,000 hereby requires compliance with all applicable standards, orders or regulations issued pursuant to the **Clean Air Act (42 U.S.C. 7401–7671q.)** and the **Federal Water Pollution Control Act as amended (33 U.S.C.1251–1387).**
- (H) Debarment and Suspension (Executive Orders 12549 and 12689)—** Any contract resulting from this solicitation will not be awarded to parties listed on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.”
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—** Any contract resulting from this solicitation requires compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

## West Virginia Ethics Commission



### Disclosure of Interested Parties to Contracts

Pursuant to *W. Va. Code* § 6D-1-2, a state agency may not enter into a contract, or a series of related contracts, that has/have an actual or estimated value of \$1 million or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract. In addition, the business entity awarded a contract is obligated to submit a supplemental Disclosure of Interested Parties reflecting any new or differing interested parties to the contract within 30 days following the completion or termination of the applicable contract.

For purposes of complying with these requirements, the following definitions apply:

*"Business entity"* means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership or corporation, but does not include publicly traded companies listed on a national or international stock exchange.

*"Interested party"* or *"Interested parties"* means:

- (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors;
- (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract. (This subdivision does not apply to a publicly traded company); and
- (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency. (This subdivision does not apply to persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.)

*"State agency"* means a board, commission, office, department or other agency in the executive, judicial or legislative branch of state government, including publicly funded institutions of higher education: Provided, that for purposes of *W. Va. Code* § 6D-1-2, the West Virginia Investment Management Board shall not be deemed a state agency nor subject to the requirements of that provision.

The contracting business entity must complete this form and submit it to the contracting state agency prior to contract award and to complete another form within 30 days of contract completion or termination.

*This form was created by the State of West Virginia Ethics Commission, 210 Brooks Street, Suite 300, Charleston, WV 25301-1804. Telephone: (304)558-0664; fax: (304)558-2169; e-mail: [ethics@wv.gov](mailto:ethics@wv.gov); website: [www.ethics.wv.gov](http://www.ethics.wv.gov).*

West Virginia Ethics Commission  
**Disclosure of Interested Parties to Contracts**

(Required by *W. Va. Code* § 6D-1-2)

Name of Contracting Business Entity: \_\_\_\_\_ Address: \_\_\_\_\_

Name of Authorized Agent: \_\_\_\_\_ Address: \_\_\_\_\_

Contract Number: \_\_\_\_\_ Contract Description: \_\_\_\_\_

Governmental agency awarding contract: \_\_\_\_\_

Check here if this is a Supplemental Disclosure

List the Names of Interested Parties to the contract which are known or reasonably anticipated by the contracting business entity for each category below (*attach additional pages if necessary*):

**1. Subcontractors or other entities performing work or service under the Contract**

Check here if none, otherwise list entity/individual names below.

**2. Any person or entity who owns 25% or more of contracting entity (not applicable to publicly traded entities)**

Check here if none, otherwise list entity/individual names below.

**3. Any person or entity that facilitated, or negotiated the terms of, the applicable contract (excluding legal services related to the negotiation or drafting of the applicable contract)**

Check here if none, otherwise list entity/individual names below.

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

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

***Notary Verification***

State of \_\_\_\_\_, County of \_\_\_\_\_:

I, \_\_\_\_\_, the authorized agent of the contracting business entity listed above, being duly sworn, acknowledge that the Disclosure herein is being made under oath and under the penalty of perjury.

Taken, sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public's Signature

**To be completed by State Agency:**

Date Received by State Agency: \_\_\_\_\_

Date submitted to Ethics Commission: \_\_\_\_\_

Governmental agency submitting Disclosure: \_\_\_\_\_

STATE OF WEST VIRGINIA  
Purchasing Division

**PURCHASING AFFIDAVIT**

**CONSTRUCTION CONTRACTS:** Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

**ALL CONTRACTS:** 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: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, 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: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_, to-wit:

Taken, subscribed, and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission expires \_\_\_\_\_, 20\_\_.

**AFFIX SEAL HERE**

**NOTARY PUBLIC** \_\_\_\_\_