



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

Request for Quotation

RFQ NUMBER

BEP07050

PAGE

1

ADDRESS CORRESPONDENCE TO ATTENTION OF:

KRISTA FERRELL
304-558-2596

RFQ COPY

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BUREAU OF EMPLOYMENT PROGRAMS
5501FED-UC BOARD OF REVIEW

1321 PLAZA EAST
CHARLESTON, WV
25301-1400 558-2634

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS		
10/19/2006						
BID OPENING DATE: 11/27/2006		BID OPENING TIME 01:30PM				
LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	JB		961-72		
TRANSCRIPTION\TYPING SERVICE						
REQUEST FOR QUOTATION						
THE WEST VIRGINIA PURCHASING DIVISION FOR THE AGENCY, WORK FORCE WEST VIRGINIA, BOARD OF REVIEW, IS SOLICITING BIDS FOR COMPETENT, EXPERIENCED AND QUALIFIED VENDOR TO SUBMIT QUOTATIONS FOR CONTRACT FOR TRANSCRIPTION AND DECISION TYPING SERVICE PER THE ATTACHED SPECIFICATIONS.						
A MANDATORY PRE-BID MEETING WILL BE HELD ON THURSDAY, NOVEMBER 2, 2006 AT 2 PM AT AGENCY'S LOCATION AT 1321 PLAZA EAST CHARLESTON, WV 25301. VENDORS FAILING TO ATTEND THE MANDATORY PRE-BID MEETING WILL BE DISQUALIFIED FROM BIDDING ON THIS PROJECT. NO ONE PERSON MAY REPRESENT MORE THAN ONE VENDOR.						
TECHNICAL QUESTIONS MAY BE SUBMITTED IN WRITING TO KRISTA FERRELL IN THE WEST VIRGINIA PURCHASING DIVISION VIA FAX 304-558-4115 OR VIA EMAIL AT KFERRELL@WVADMIN.GOV. DEADLINE FOR QUESTIONS IS NOVEMBER 8, 2006 AT 5PM. ALL QUESTIONS RECEIVED BEFORE THE NOVEMBER 8TH DEADLINE (IF ANY) WILL BE ANSWERED BY ADDENDUM. QUESTIONS CONCERNING BID SUBMISSION MAY BE SUBMITTED AT ANY TIME AND IN ANY FORMAT.						
SEE REVERSE SIDE FOR TERMS AND CONDITIONS						
SIGNATURE				TELEPHONE		DATE
TITLE		FEIN		ADDRESS CHANGES TO BE NOTED ABOVE		

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



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EXHIBIT 3						
LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON UPON AWARD AND EXTENDS FOR A PERIOD OF ONE (1) YEAR OR UNTIL SUCH "REASONABLE TIME" THEREAFTER AS IS NECESSARY TO OBTAIN A NEW CONTRACT OR RENEW THE ORIGINAL CONTRACT. THE "REASONABLE TIME" PERIOD SHALL NOT EXCEED TWELVE (12) MONTHS. DURING THIS "REASONABLE TIME" THE VENDOR MAY TERMINATE THIS CONTRACT FOR ANY REASON UPON GIVING THE DIRECTOR OF PURCHASING 30 DAYS WRITTEN NOTICE.						
UNLESS SPECIFIC PROVISIONS ARE STIPULATED ELSEWHERE IN THIS CONTRACT DOCUMENT, THE TERMS, CONDITIONS AND PRICING SET HEREIN ARE FIRM FOR THE LIFE OF THE CONTRACT.						
RENEWAL: THIS CONTRACT MAY BE RENEWED UPON THE MUTUAL WRITTEN CONSENT OF THE SPENDING UNIT AND VENDOR, SUBMITTED TO THE DIRECTOR OF PURCHASING THIRTY (30) DAYS PRIOR TO THE EXPIRATION DATE. SUCH RENEWAL SHALL BE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.						
CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.						
OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR						

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<p>IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p> <p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. 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.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATICALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 04/11/2001</p> <p>VENDOR PREFERENCE CERTIFICATE</p> <p>CERTIFICATION AND APPLICATION* IS HEREBY MADE FOR PREFERENCE IN ACCORDANCE WITH WEST VIRGINIA CODE, 5A-3-37 (DOES NOT APPLY TO CONSTRUCTION CONTRACTS).</p>						
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LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
A. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:						
() BIDDER IS AN INDIVIDUAL RESIDENT VENDOR AND HAS RESIDED CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR						
() BIDDER IS A PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR AND HAS MAINTAINED ITS HEAD-QUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR 80% OF THE OWNERSHIP INTEREST OF BIDDER IS HELD BY ANOTHER INDIVIDUAL, PARTNERSHIP, ASSOCIATION OR CORPORATION RESIDENT VENDOR WHO HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION; OR						
() BIDDER IS A CORPORATION NONRESIDENT VENDOR WHICH HAS AN AFFILIATE OR SUBSIDIARY WHICH EMPLOYS A MINIMUM OF ONE HUNDRED STATE RESIDENTS AND WHICH HAS MAINTAINED ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA CONTINUOUSLY FOR THE FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS CERTIFICATION.						
B. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:						
() BIDDER IS A RESIDENT VENDOR WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES WORKING ON THE PROJECT BEING BID ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY						

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<p>PRECEDING SUBMISSION OF THIS BID; OR () BIDDER IS A NONRESIDENT VENDOR EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS OR IS A NONRESIDENT VENDOR WITH AN AFFILIATE OR SUBSIDIARY WHICH MAINTAINS ITS HEADQUARTERS OR PRINCIPAL PLACE OF BUSINESS WITHIN WEST VIRGINIA EMPLOYING A MINIMUM OF ONE HUNDRED STATE RESIDENTS WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES OR BIDDERS' AFFILIATE'S OR SUBSIDIARY'S EMPLOYEES ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID.</p> <p>BIDDER UNDERSTANDS IF THE SECRETARY OF TAX & REVENUE DETERMINES THAT A BIDDER RECEIVING PREFERENCE HAS FAILED TO CONTINUE TO MEET THE REQUIREMENTS FOR SUCH PREFERENCE, THE SECRETARY MAY ORDER THE DIRECTOR OF PURCHASING TO: (A) RESCIND THE CONTRACT OR PURCHASE ORDER ISSUED; OR (B) ASSESS A PENALTY AGAINST SUCH BIDDER IN AN AMOUNT NOT TO EXCEED 5% OF THE BID AMOUNT AND THAT SUCH PENALTY WILL BE PAID TO THE CONTRACTING AGENCY OR DEDUCTED FROM ANY UNPAID BALANCE ON THE CONTRACT OR PURCHASE ORDER.</p> <p>BY SUBMISSION OF THIS CERTIFICATE, BIDDER AGREES TO DISCLOSE ANY REASONABLY REQUESTED INFORMATION TO THE PURCHASING DIVISION AND AUTHORIZES THE DEPARTMENT OF TAX AND REVENUE TO DISCLOSE TO THE DIRECTOR OF PURCHASING APPROPRIATE INFORMATION VERIFYING THAT BIDDER HAS PAID THE REQUIRED BUSINESS TAXES, PROVIDED THAT SUCH INFORMATION DOES NOT CONTAIN THE AMOUNTS OF TAXES PAID NOR ANY OTHER INFORMATION DEEMED BY THE TAX COMMISSIONER TO BE CONFIDENTIAL.</p> <p>UNDER PENALTY OF LAW FOR FALSE SWEARING (WEST VIRGINIA</p>						

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CODE 61-5-3), BIDDER HEREBY CERTIFIES THAT THIS CERTIFICATE IS TRUE AND ACCURATE IN ALL RESPECTS; AND THAT IF A CONTRACT IS ISSUED TO BIDDER AND IF ANYTHING CONTAINED WITHIN THIS CERTIFICATE CHANGES DURING THE TERM OF THE CONTRACT, BIDDER WILL NOTIFY THE PURCHASING DIVISION IN WRITING IMMEDIATELY.						
BIDDER: -----						
DATE: -----						
SIGNED: -----						
TITLE: -----						
* CHECK ANY COMBINATION OF PREFERENCE CONSIDERATION(S) IN EITHER "A" OR "B", OR BOTH "A" AND "B" WHICH YOU ARE ENTITLED TO RECEIVE. YOU MAY REQUEST UP TO THE MAXIMUM 5% PREFERENCE FOR BOTH "A" AND "B". (REV. 12/00)						
NOTICE						
A SIGNED BID MUST BE SUBMITTED TO:						
DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130						

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THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:						
SEALED BID						
BUYER: KF-21						
RFQ. NO.: BEP07050						
BID OPENING DATE: NOVEMBER 27, 2006						
BID OPENING TIME: 1:30 PM						
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:						

CONTACT PERSON (PLEASE PRINT CLEARLY):						

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**GENERAL TERMS & CONDITIONS
REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)**

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. All quotations are governed by the *West Virginia Code* and the *Legislative Rules* of the Purchasing Division.
4. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125.00 registration fee.
5. All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
6. Payment may only be made after the delivery and acceptance of goods or services.
7. Interest may be paid for late payment in accordance with the *West Virginia Code*.
8. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
9. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
10. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
11. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
12. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, this contract is automatically null and void, and is terminated without further order.
14. **HIPAA Business Associate Addendum** - The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, and available online at the Purchasing Division's web site (<http://www.state.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement. Provided that, the Agency meets the definition of a Covered Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division.
2. **SPECIFICATIONS:** Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Complete all sections of the quotation form.
4. Unit prices shall prevail in cases of discrepancy.
5. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
6. **BID SUBMISSION:** All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications.

SIGNED BID TO:

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

REQUEST FOR QUOTE

(WORKFORCE West Virginia - RFQ# BEP07050)

1 GENERAL INFORMATION

1.1 Purpose:

The Acquisition and Contract Administration Section of the Purchasing Division "State" for the agency, WORKFORCE West Virginia, which consists of the Bureau of Employment Programs and the Governor's Workforce Investment Division, Board of Review is requesting quotes from qualified vendors to provide transcription and decision typing services. The successful vendor will transcribe, from cassette tapes, or digital recordings, hearings conducted by the Board of Review. The board conducts hearings regarding disputed WORKFORCE West Virginia Bureau of Employment Programs claims as well as hearing appeals to decisions in unemployment benefit cases made by the Unemployment Compensation Division. The Board of Review conducts hearings, receives evidence, and issues written decisions regarding these claims. The successful vendor shall have the ability to securely transfer electronically the transcribed documents to Board of Review for printing at their location.

1.2 Project:

Transcribing of Hearings – The Board of Review conducts hearings that are recorded on cassette tape or digital recording to be transcribed. The specific number of hearings held varies from month to month. The Board of Review estimates 700 hearings to be transcribed per month.

Transcripts shall be typed in the following manner:

- The first page shall have 1" margin
- All subsequent pages shall have header on line 5 leaving 5/8" margin at top. All pages shall have 1" margin on left and 5/8" margin on the right side.
- Single spacing Questions and Answer format
- Arial 12 point Font type and size
- Index of Direct, Cross, Redirect, Recross, etc. on second page
- Certification on last page
- Header with claimant name and claim number
- The first typing line is line 8 on all pages after first and end on line 59 leaving 51 typing lines per page.
- Index of key words at the end of the transcript.

The completed transcripts shall be printed on 8.5" by 11", 20#, White Bond as "mini-pages" using four-to-a-page formatting compatible with existing MS Word 2000.

Typing of Decisions/Orders – Approximately 4,500 decisions are issued by the Board of Review per year. They have approximately seven individuals holding hearings and dictating decisions. These decisions vary in length from two (2) pages to as many as five (5) pages. A "typical" decision is three (3) pages.

Decisions shall be typed in the following manner:

- The first page shall have a 1" margin at the top.
- All subsequent pages shall have a header on line 5, leaving a 5/8" margin at the top. All pages will have a 1" margin on the left-hand side and a 3/4" margin on the right hand side of each page.
- The first typing line on page 1 is "7" and shall end at approximately "59", for 52 typing lines on page 1.

- All subsequent pages shall begin on line "8" and end approximately on line "59" leaving 51 typing lines per page.
- Single-spaced with appropriate paragraphing.
- Arial 12 point Font type and size.

"Standard" decisions are attached to this RFQ for the Board of Review (Attachment A) to show the form of the respective decision/orders. Hearings transcribed from cassettes and those transcribed from phone or other electronic format will be prepared in this format.

The persons dictating decisions/orders will reference certain preformatted language. The Board of Review will provide this language to the successful vendor for insertion into the decision/orders. The Board of Review will update and change the preformatted language as necessary.

The successful bidder must provide toll-free receipt of the dictation of the decisions/orders by employees of the Board of Review. ..

The vendor must have the ability to accommodate the possibility that all decisions/order writers may be dictating simultaneously. A sufficient number of lines shall be available in place to accommodate all employees dictating simultaneously. All cost necessary to accommodate this level of dictation, is a cost of doing business with the agency similar to all other overhead and must be calculated within the vendor's price/cost per page quotation. .

1.3 Inquires

Additional information inquiries regarding specifications of this RFQ must be submitted in writing to the State Buyer with the exception of questions regarding Quote submission, which may be oral. The deadline for written inquiries is identified in the Schedule of Events, Section 1.16. All inquiries of specification clarification must be addressed to:

Krista Ferrell, Buyer
Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130
Fax: (304) 558-4115
E-Mail: kferrell@wvadmin.gov

Absolutely NO contact shall be made by the vendor with the requesting agency. Violation of this clause may result in rejection of the bid. The State Buyer named above is the sole contact for any and all inquiries after this RFQ has been released.

1.4 Vendor Registration

Bidders participating in this process should complete and file a **Vendor Registration and Disclosure Statement** (Form WV-1) and remit the registration fee. Bidder is not required to be a registered Vendor in order to submit a quote, but the **successful bidder must** register and pay the fee prior to the award of an actual purchase order/contract. The Vendor Registration and Disclosure Statement can be downloaded at the following State web site: www.state.wv.us/admin/purchase/vrc/pforms.htm.

1.5 Oral Statements or Commitments

Bidders must clearly understand that any verbal representations made or assumed to be made during any oral discussions held between the bidder's representatives and any state personnel are **not** binding. Only that information issued in writing via official addendum is binding.

1.6 Rejection of Bids

The State reserves the right to accept or reject any or all bids, in part or in whole at its discretion. The State reserves the right to withdraw this RFQ at any time and for any reason. Submission of, or receipt by the State of bids confers no rights upon the bidder nor obligates the State in any manner.

A contract, based on this RFQ and the bidder's response, may or may not be awarded. Any contract resulting in an award from this RFQ is not valid until properly approved and executed by the Purchasing Division and the Attorney General's Office.

1.7 Incurring Costs

The State and any of its employees or officers shall not be held liable for any expenses incurred by any bidder responding to this RFQ for expenses to prepare or deliver the bid.

1.8 Addenda

If it becomes necessary to revise any part of this RFQ, an official written addendum will be issued by the State to all bidders of record.

1.9 Independent Price Determination

A bid will not be considered for award if the price in the bid was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other offer or with any competitor.

1.10 Price Quotations

The price(s) quoted in the bidder's response will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided for adjustment in the original contract.

1.11 Public Record

1.12.1 All documents submitted to the State Purchasing Division related to purchase orders/contracts are considered public records. All bids, or offers submitted by bidders shall become public information and are available for inspection during normal official business hours in the Purchasing Division Records and Distribution center after the documents have been microfilmed.

1.12.2 All public information may be released with or without a Freedom of Information request; however, only a written request will be acted upon with duplications fees paid in advance. Duplication fees shall apply to all requests for copies of any document. Currently the fees are \$0.50/page, or a minimum of \$10.00 per request which ever is greatest.

1.12.3 The only exemptions to disclosure of information are listed in West Virginia Code 29B-1-4. Primarily, only trade secrets as submitted by a bidder are the only exemption to public disclosure. The submission of any information to the State by a Vendor puts the risk of disclosure on the Vendor. The State will make a reasonable effort not to disclose information that is within the guidelines of 29B-1-4 and is properly labeled "proprietary information not for public disclosure". The State does not guarantee non-disclosure of any information to the public.

1.12 Schedule of Events

Release of the RFQ.....	10/20/2006
Mandatory Pre-Bid Meeting.....	11/02/2006
Vendor's Written Questions Submission Deadline.	11/08/2006
Addendum Issued.....	11/14/2006 (approx.)
Bid Opening Date.....	11/27/2006

1.13 Debt Affidavit

West Virginia State Code 5A-3-10a(3)(d) requires that all vendors submit an affidavit of debt to Certify that no debts are outstanding and owing to the State of West Virginia. The No Debt Affidavit

can be downloaded at the following State web site:
www.state.wv.us/admin/purchase/vrc/pforms.htm.

1.14 **Resident Vendor Preference**

West Virginia State Code §5A-3-37 provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the West Virginia State Code. A certificate of application is used to request this preference. Generally, a West Virginia vendor may be eligible for two 2.5% preferences in the evaluation process. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

1.15 **Special Terms and Conditions**

1.15.1 Bid and Performance Bonds – A bid bond equivalent to five (5) percent of the total estimated value must be submitted by the vendor. A performance bond in the amount of \$25,000 must be submitted by the successful vendor. (Note: The total estimated value of this contract is \$60,000)

Failure to submit an appropriate bond or alternate bond with the proposal at the time of bid opening will result in automatic disqualification of the vendor's proposal and the proposal will be considered non-responsive.

2. **Scope of Work**

2.1 **Decisions Orders from Cassette Tapes**

The successful vendor will transcribe decision/orders from cassette tapes or digital recordings if telephone communication or other electronic means is unavailable due to malfunction of equipment.

If vendor's equipment malfunctions, the equipment must be repaired within a maximum of three (3) working days. The cassettes shall be delivered via U.S. Mail to the successful vendor at the mailing address specified by the vendor, unless other arrangements are mutually agreed to by the vendor and the Board of Review. Also, the vendor must be available for in-person pick-up of cassettes each day. The pick up location will be in the Charleston, West Virginia area.

2.2 **Searchable Data Base Program**

The successful vendor shall maintain and provide to the Board of Review a searchable database program of all transcripts available on either Boolean or natural language search which will produce a listing of all files having the search criteria, as well as a high lighted display of the searched words with the file. For example, all the transcripts with the words "fatal" and "cardiac" will be listed in a directory-style listing and the transcripts will come up one at a time with the keywords fatal and cardiac highlighted every time they appear in each document.

2.3 **Electronic Transfer of Document**

The vendor must have the ability to electronically mail decisions/transcripts to Board of Review in format compatible with the Board of Review software such as Word 2000.

The vendor must have the ability to electronically mail the typed decision/order to the electronic mail address provided by the Board of Review for printing at the local site within 48 hours of receiving the dictation. For example, a decision dictated by 5:00 p.m. on Friday must be transcribed and returned to the Board of Review no later than 5:00 p.m. on Tuesday. The Vendor selected must indicate the security in place for electronic transfer of information. The vendor must accommodate the requirement of the Board of Review to prioritize the order in which the dictations of decisions are typed.

The successful vendor will retain a "copy" of the electronically transmitted documents for a 45-day period. The successful vendor will provide to the Board of Review the previous month's transcription

of decisions/orders on a mass magnetic storage device (such as a compact disc) within ten (10) days of the end of each month.

If electronic mail is unavailable for a 24-hour period, the successful vendor shall deliver the transcribed decision/orders to the Board of Review by magnetic mass storage device (such as a compact disc).

2.4 Confidentiality

The successful vendor agrees to keep all dictation of hearings transcripts and decisions/orders, and storage of those materials confidential and as secure as possible.

2.5 Accuracy

The quality of the decisions/orders/transcripts shall be subject to a quality review by the Board of Review. If the quality of the documents falls below 95% accuracy or if there is a consistent loss of dictation material (either to or from the Board of review and the successful vendor) the contract may be terminated as defined on page 7 of this RFQ. The Board of Review considers three or more errors per page of typed decision/order/transcript to exceed an acceptable level. This includes typing, grammar and English context or spelling errors. If the vendor fails to cure and the contract is terminated, all work in progress shall be delivered to the Board of Review.

2.6 Prioritization

Vendor must accommodate the requirements of the Board of Review to prioritize work and comply with special requests regarding the order in which dictations are transcribed.

2.7 Indexing

The vendor will provide keyword indexing at the end of each transcript. The indexing will be an alphabetical listing of all words in the transcript, their page number (in parenthesis) and their line number. For sample, see Attachment B.

2.8 Qualifications

Vendor must have a minimum of five (5) years experience in doing legal and medical transcription.

3. General Terms and Conditions:

By signing and submitting their quotation, the successful Vendor agrees to be bound by all the terms contained in this RFQ.

- 3.1 Conflict of Interest:** Vendor affirms that it, its officers or members or employees presently have no interest and shall not acquire any interest, direct or indirect which would conflict or compromise in any manner or degree with the performance or its services hereunder. The Vendor further covenants that in the performance of the contract, the Vendor shall periodically inquire of its officers, members and employees concerning such interests. Any such interests discovered shall be promptly presented in detail to the Agency.

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

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

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Vendor shall complete and submit a disclosure form to report the lobbying.

Vendor agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

- 3.4 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 the parties to 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 RFQ and resulting contract. Neither the Vendor nor any employees or contractors of the vendor shall be deemed to be employees of the State for any purposes 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, and 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.

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

- 3.5 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; (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 laws.

- 3.6 Governing Law:** This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws (Federal, State or Local Government) regulations.
- 3.7 Compliance with Laws and Regulations:** The vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body. The Vendor shall pay any applicable sales, use, or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, or the equipment, or services delivered pursuant here to shall be borne by the contractor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.
- 3.8 Subcontracts/Joint Ventures:** The Vendor is solely responsible for all work performed under the contract and shall assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of the State, enter into written subcontracts for performance of work under this contract, however, the vendor is totally responsible for payment of all subcontractors.
- 3.9 Term of Contract & Renewals:** Upon system acceptance, the maintenance/warranty portion of the contract will be added via change order to the contract and be effective upon implementation and acceptance of the system and shall extend for the period of one (1) year, at which time the contract may, upon mutual consent, be renewed. Such renewals are for a period of up to one (1) year, with a maximum of two (2) one year renewals, or until such reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period shall not exceed twelve (12) months. During the "reasonable time" period the vendor may terminate the contract for any reason upon giving the Agency ninety (90) days written notice. Notice by Vendor of intent to terminate will not relieve Vendor of the obligation to continue to provide services pursuant to the terms of the contract. Any change in Federal or State law, or court actions which constitute binding precedent in West Virginia, and which significantly alters the Vendor's required activities or any change in the availability of funds, shall be viewed as binding and shall warrant good faith renegotiation of the compensation paid to the Vendor by the Agency and of such other provisions of the contract that are affected. If such renegotiation proves unsuccessful, the contract may be terminated by the State upon written notice to the Vendor at least thirty (30) days prior to termination of this contract.
- 3.10 Non Appropriation of Funds:** If the agency is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this contract by the West Virginia Legislature, the Agency may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The Agency shall give the vendor written notice of such non-allocation of funds as soon as possible after the Agency receives notice. No penalty shall accrue to the Agency in the event this provision is exercised.
- 3.11 Contract Termination:** The State may terminate any contract resulting from this RFQ immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFQ and resulting contract. The State shall provide the Vendor with advance notice of performance conditions which are endangering the contract's continuation. If after such notice the Vendor fails to remedy the conditions contained in the notice, within the time period contained in the notice, the State shall issue the Vendor an order to cease and desist any and all work immediately. The State shall be obligated only for services rendered and accepted prior to the date of the notice of termination. The contract may also be terminated upon mutual agreement of the parties with thirty (30) days prior notice.
- 3.12 Changes:** If changes to the original contract become necessary, a formal contract change order will be negotiated by the State, the Agency and the Vendor, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change order is defined as one approved by the Purchasing Division and approved as to form by the West Virginia

Attorney General's Office, encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision and/or the scope of the work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

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

NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER.

- 3.13 **Liquidated Damages:** according to West Virginia State Code §5A-3-4(8), Vendor agrees that liquidated damages shall be imposed at the rate of \$1,000.00 per day or \$10.00 per day for each \$1,000 of the purchase order cost, whichever is greater, for failure to meet milestones identified to keep the project on target, or failure to meet specified deadlines. This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue to any other additional remedy to which the State or Agency may have legal cause for action including further damages against the Vendor.
- 3.14 **Record Retention** (Access & Confidentiality) Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor. The Vendor shall maintain such records a minimum of five (5) years and make available all records to Agency personnel at Vendor's location during normal business hours upon written request by Agency within 10 days after receipt of the request.

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

4. COST PROPOSAL

	<u>Estimated Annual Pages</u>		<u>Price per Page</u>		<u>Cost</u>
Transcribing Hearings From Cassette Tapes Or *Digital Recordings	___30,000___	X	_____	=	_____
Transcribing Telephone Dictation	_____7,000___	X	_____	=	_____

*Note: Digital recordings are not currently being used. However, Board of Review plan using this type of recording during the life of the contract.

**Board of Review
WORKFORCE West Virginia
112 California Avenue
Charleston, West Virginia 25305
304-558-2636/1-800-635-0189**

Case No. 1

IN THE MATTER OF:

Claimant:

S.S. No. :

Address :

Employer:

Address :

This case came on for telephonic hearing before F. Malcolm Vaughan, Administrative Law Judge, on June 1, 2006.

APPEARANCES:

CLAIMANT appeared telephonically. Employer appeared telephonically by

ISSUE:

The Employer appealed from the decision of the deputy at Welch, West Virginia, dated May 2, 2006, which held: "Claimant not disqualified; discharged but not for misconduct."

FINDINGS OF FACT:

1. The claimant worked for the above employer as a security guard beginning March 17, 2005. As part of his duties, and immediately precedent to his separation from employment, the claimant was assigned to perform services at an outside mine office for an underground coal mining operation.
2. On Saturday, April 1, 2006, the claimant was working at the mine facility on the 6 a.m. to 6 p.m. shift. Part of his responsibilities was to answer the mine phone as well as the public phone or "land line" to direct calls and answer inquiries from employees and mine officials.

3. It is alleged that the claimant failed to answer two underground calls on the mine phone and also from the mine manager who had reportedly called on the public telephone.

4. The claimant denies this. The only evidence proffered to the contrary was hearsay evidence of what the security company owner had been told. Accordingly, I find the best evidence reveals that the claimant did not fail to answer calls, and was not in dereliction of duty.

5. The coal mining company requested that the claimant be replaced and another security officer assigned to the position. They did not wish him to be on the property further.

6. On or about April 4, 2006, the claimant was terminated from employment. I find no misconduct on his part in connection with the separation.

CONCLUSIONS OF LAW and DISCUSSION:

Chapter 21A-6-3(2) of the West Virginia Code provides that an individual shall be disqualified from receiving unemployment compensation benefits for the week in which he was discharged from his most recent work for misconduct and the six weeks immediately following such week. The Supreme Court of Appeals of West Virginia has defined misconduct to include a willful act on the part of an individual, which is contrary to the best interest of the employer. On the other hand, mere inefficiency, unsatisfactory conduct, failure in job performance as a result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgement or discretion, are not deemed to be misconduct within the meaning of the Code. The burden is on the employer to prove misconduct.

The employer has the burden to establish with competent, reliable and appropriate evidence that an individual committed misconduct. Evidence must be in the form other than total hearsay. The employer's representative at hearing had no personal knowledge of the facts and circumstances other than what he had been told.

The claimant denies these allegations and establishes that he performed his duties at all times to the best of his ability, and any failures were, of necessity, occasioned by failures in either the mine phone or the public telephone service, both of which had occurred at prior times.

The evidence does not preponderant in favor of the employer. The employer has failed to meet its burden. Conversely, I find the claimant's testimony, firsthand, made under oath, and credible. I find that the claimant was guilty of no misconduct. I agree with the deputy that no disqualification and be imposed.

DECISION:

The decision of the deputy is affirmed. The claimant is not disqualified from receiving unemployment compensation benefits. The claimant was discharged from his most recent employment, but not for misconduct.

This, the 9th day of June 2006.



F. MALCOLM VAUGHAN
ADMINISTRATIVE LAW JUDGE
BOARD OF REVIEW, WEST VIRGINIA
BUREAU OF EMPLOYMENT PROGRAMS

FMV/sm

Date Mailed: 06/14/2006

By: sm

RIGHT OF FURTHER APPEAL: If any party in this decision desires to take a further appeal, such appeal must be filed in writing within EIGHT DAYS, or not later than * 06/22/2006 at the local office where the claim was filed. The appeal may also be mailed directly to the Board of Review, 112 California Avenue, Charleston, WV 25305, and must be postmarked no later than the above *date, unless such date falls on a weekend or holiday, at which time the Board of Review will accept the appeal if it is filed on the next working day.

CC: UC Field Operations 5105
Legal 5302 FED
Shirley Shelhammer 5106
Joanne Stone 5106

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