



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
BHS70095

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
ROBERTA WAGNER
304-558-0067

RFQ COPY
 TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

|||||
DHR/BBH/HF
Room 350
350 Capitol Street
Charleston, WV 25301-3702

| DATE PRINTED | TERMS OF SALE | SHIP VIA | F.O.B | FREIGHT TERMS |
|--------------|---------------|----------|-------|---------------|
| 03/07/2007 | | | | |

BID OPENING DATE: **04/05/2007** BID OPENING TIME **01:30PM**

| LINE | QUANTITY | UOP | CAT NO | ITEM NUMBER | UNIT PRICE | AMOUNT |
|--|----------|-----|--------|-------------|------------|--------|
| 0001 | 3 | EA | | 465-75 | | |
| UNIT DOSE ORAL SOLID AUTOMATED MEDICATION PACKAGING AND BARCODING SYSTEMS INCLUDING ONE (1) YEAR SUPPORT AND MAINTENANCE, INSTALLATION AND TRAINING, PER ATTACHED SPECIFICATIONS. | | | | | | |
| 0002 | 1 | EA | | 465-75 | | |
| UNTI DOSE ORAL LIQUID AUTOMATED MEDICATION PACKAGING AND BARCODING SYSTEM INCLUDING ONE (1) YEAR SUPPORT AND MAINTENANCE, INSTALLATION AND TRAINING, PER ATTACHED SPECIFICATIONS. EXHIBIT 3 | | | | | | |
| LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON AWARD OF CONTRACT.. 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 | | | | | | |

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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| SIGNATURE | | TELEPHONE | | DATE |
| TITLE | FEIN | ADDRESS CHANGES TO BE NOTED ABOVE | | |

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

**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



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| <p>CONTRACT.</p> <p>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.</p> <p>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.</p> <p>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 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>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</p> | | | | | | |

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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| | | | | ELECTRONIC MEDIUM SUCH AS CD-ROM. REV. 04/11/2001 | | |
| <p>INQUIRIES WRITTEN QUESTIONS SHALL BE ACCEPTED THROUGH CLOSE OF BUSINESS ON MARCH 20, 2007. QUESTIONS MAY BE SENT VIA USPS, FAX, COURIER, OR E-MAIL. IN ORDER TO ASSURE NO VENDOR RECEIVES AN UNFAIR ADVANTAGE, NO SUBSTANTIVE QUESTIONS WILL BE ANSWERED ORALLY. IF POSSIBLE, E-MAIL QUESTIONS ARE PREFERRED. ADDRESS INQUIRIES TO:</p> <p>ROBERTA WAGNER DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25311</p> <p>FAX: 304-558-4115 EMAIL: RWAGNER@WVADMIN.GOV</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> <p>A. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>() BIDDER IS AN INDIVIDUAL RESIDENT VENDOR AND HAS RESIDED CONTINUOUSLY IN WEST VIRGINIA FOR FOUR (4) YEARS IMMEDIATELY PRECEDING THE DATE OF THIS</p> | | | | | | |

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| CERTIFICATION; OR <input type="checkbox"/> 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 <input type="checkbox"/> 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: <input type="checkbox"/> BIDDER IS A RESIDENT VENDOR WHO CERTIFIES THAT, DURING THE LIFE OF THE CONTRACT, ON AVERAGE AT LEAST 75% OF THE EMPLOYEES WORKING ON THE PROJECT BEING BID ARE RESIDENTS OF WEST VIRGINIA WHO HAVE RESIDED IN THE STATE CONTINUOUSLY FOR THE TWO YEARS IMMEDIATELY PRECEDING SUBMISSION OF THIS BID; OR <input type="checkbox"/> 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 | | | | | | |

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| <p>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 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.</p> | | | | | | |

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| <p>BIDDER: -----</p> <p>DATE: -----</p> <p>SIGNED: -----</p> <p>TITLE: -----</p> <p>* CHECK ANY COMBINATION OF PREFERENCE 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)</p> <p>CONSIDERATION(S)</p> <p>NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> | | | | | | |

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| BUYER:-----ROBERTA WAGNER/FILE 22----- RFQ. NO.:-----BHS70095----- BID OPENING DATE:-----4/5/2007----- BID OPENING TIME:-----1:30 PM----- A CONVENIENCE COPY WOULD BE APPRECIATED. PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID: ----- CONTACT PERSON (PLEASE PRINT CLEARLY): ----- ----- ***** THIS IS THE END OF RFQ BHS70095 ***** TOTAL: _____ | | | | | | |

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WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES, BUREAU FOR BEHAVIORAL HEALTH AND HEALTH FACILITIES, OFFICE OF HEALTH FACILITIES 350 CAPITOL STREET, ROOM 350 CHARLESTON, WEST VIRGINIA 25301-3702

Request for Quotation

RFQ#BHS70095

ADMINISTRATIVE AND CONTRACTUAL TERMS

Purpose:

The purpose of this Request for Quotation (RFQ) is to provide unit dose oral solid and unit dose oral liquid automated medication packaging and bar coding systems for facilities within the Department of Health and Human Resources (DHHR), Bureau for Behavioral Health and Health Facilities (BHBF).

Locations:

- Mildred Mitchell Bateman Hospital (one unit dose oral solid)
1530 Norway Ave.
Huntington, WV 25709
- Welch Community Hospital (one unit dose oral solid)
454 McDowell Street (one unit dose oral liquid)
Welch, WV 24801
- William R. Sharpe, Jr. Hospital (one unit dose oral solid)
936 Sharpe Hospital Road
Weston, WV 26452

General Requirements:

The words "will", "must", and "shall", listed herein are used to identify mandatory requirements for this project.

The vendor shall provide three (3) unit dose oral solid automated medication packaging and bar coding systems and one (1) unit dose oral liquid automated medication packaging and bar coding system. All systems must include installation, training, maintenance, and support.

Minimum Requirements:**Unit Dose Oral Solid Systems**

- a. Systems must be countertop sized, not to exceed: 44"L x 26"W x 30"H.
- b. Systems must have sequential numbering feature.
- a. Systems must be able to package oral solid medications at a rate of at least sixty (60) packages per minute.
- d. Systems must include software that has report writing and bar code labeling capabilities.
- e. Systems must include a sufficient amount of perforated packaging materials to insure proper testing upon installation.

Unit Dose Oral Liquid System

- a. System must be countertop sized, not to exceed: 44"L x 26"W x 30"H.
- b. System must have sequential numbering feature.
- c. System must be able to package oral liquid medications at a rate of at least fifteen (15) doses per minute.
- d. System must include software that has report writing and bar code labeling capabilities.
- e. System must include a sufficient amount of packaging materials to insure proper testing upon installation.
- f. System must have capability of packaging multiple size milliliter containers.

Misc. Consumable Supplies

- a. Vendor must provide a complete list of all consumable supplies necessary for the operation of the systems. A contract for consumables will not be included with the contract for these systems.
- b. Vendor must provide (on bid cost sheet) a complete list of pricing (per unit) for all consumable supplies necessary for the operation of the systems.

Installation:

Installation of each system must be provided by vendor and must include testing to assure the system is fully operational.

Training:

Training for the complete operation of the systems must be provided by the vendor, for all facility pharmacy staffs within seven days of the installation of each system at each installation location.

Maintenance and Support:

A minimum of one (1) year maintenance is required for each system. Support must be made available for a minimum of one (1) year and must include any and all software updates.

Delivery:

Delivery of equipment is required within thirty (30) days of issuance of purchase order.

PROCUREMENT SPECIFICATIONS

Cancellation:

The Purchasing Director reserves the right to cancel any contract or purchase order upon written notice to the vendor if the commodities and services supplied are of an inferior quality or do not conform with the specifications of the bid and contract.

Vendor Registration:

Vendors participating in this process should complete and file a Vendor Registration and Disclosure Statement (Form WV-1) and remit the registration fee. Vendor is not required to be a registered vendor in order to submit a Quotation, but the successful vendor must register and pay the fee prior to the award of an actual purchase order/contract.

Affidavit:

West Virginia State Code 5A-3-1-a-(3)(d) requires that all vendors submit an affidavit of debt, which certifies that there are no outstanding obligations or debts owing the State of West Virginia. The Affidavit is attached to this request for Quotation which must be completed, signed, and returned. If bidding a joint Quotation, an Affidavit must be completed for both vendors.

Agreement Addendum: WV-96:

Any contract resulting from an award from this RFQ and a vendor's quotation must include, but is not limited to, in its terms and conditions all mandatory sections contained herein. Agreement Addendum (WV-96) submissions requirements are outlined in "Procurement Specifications". Agreement Addendum (Form WV-96) can be found by clicking on Vendor Resource Center on Website <http://www.state.wv.us/admin/purchase>.

Subcontracts Prohibited:

The Successful vendor will be solely responsible for all work performed under the contract. The vendor shall not enter into written subcontracts for performance or work under the contract without written permission of the Department.

Renewal:

This contract may be renewed upon mutual agreement of both parties. The renewal is limited to two (2), one (1) year renewals.

Software Maintenance:

Vendor shall include with their bids, any forms or documentation concerning software maintenance for these systems. All third party software maintenance will require the third party to also sign the Agreement Addendum (WV96) and software maintenance form, prior to issuance of the purchase order.

BHS70095 – BID COST SHEET

| QUANTITY | ITEM DESCRIPTION | UNIT COST | TOTAL COST |
|----------|--|-----------|------------|
| 3 | Unit Dose Oral Solid System | | |
| 3 | One (1) year support and Maintenance – Technical Support and Software Support | | |
| 3 | Installation and Testing | | |
| 3 | Training of Pharmacy Staff | | |
| 3 | **Second year support and Maintenance – Technical Support and Software Support | | |
| 3 | **Third year support and Maintenance – Technical Support and Software Support | | |

TOTAL: \$ _____

| | | | |
|---|--|--|--|
| 1 | Unit Dose Oral Liquid System | | |
| 1 | One (1) year support and Maintenance – Technical Support and Software Support | | |
| 1 | Installation and Testing | | |
| 1 | Training of Pharmacy Staff | | |
| 1 | **Second year support and Maintenance – Technical Support and Software Support | | |
| 1 | **Third year support and Maintenance – Technical Support and Software Support | | |

TOTAL: \$ _____

****The provision of the cost for the second and third year support and maintenance, is mandatory. However, there are no automatic renewals on any purchasing document. All contract renewals are processed through the mutual agreement between the parties and approval of the State Purchasing Division.**

The award of this contract (BHS70095) will be based upon the initial cost of the equipment, one (1) year of support and maintenance, installation, testing & training. The cost of the second and third years of support and maintenance will not be considered in the evaluation of the bids but shall be included in the bid.

MISCELLANEOUS CONSUMABLE SUPPLIES

Vendor will provide a complete list of all consumable supplies necessary for the operation of these systems, minus the pharmaceuticals. Vendor shall provide a complete list of pricing (per unit) for all consumable supplies and this list must include any minimum order quantities required for delivery. Cost of consumables shall include all shipping and/or freight charges in the price of the consumable.

| <u>Item Description:</u> | <u>Minimum Order</u> | <u>Unit Cost</u> |
|--------------------------|----------------------|------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |
| 5. | | |
| 6. | | |
| 7. | | |
| 8. | | |
| 9. | | |
| 10. | | |

A F F I D A V I T

014

West Virginia Code §5A-3-10a states:

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 the debt owned is an amount greater than one thousand dollars in the aggregate

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.

“Debtor” means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. “Political subdivision” means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. “Related party” means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

EXCEPTION:

The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this 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.

LICENSING:

Vendors 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 agencies or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.

CONFIDENTIALITY:

The vendor agrees that he or she 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. Vendors should visit www.state.wv.us/admin/purchase/privacy for the Notice of Agency Confidentiality Policies.

Under penalty of law for false swearing (West Virginia Code, §61-5-3), it is hereby certified that the vendor acknowledges the information in this said affidavit and are in compliance with the requirements as stated.

Vendor’s Name: _____

Authorized Signature: _____ Date: _____

ATTACHMENT
P.O.# _____

This agreement constitutes the entire agreement between the parties, and there are no other terms and conditions applicable to the licenses granted hereunder.

Agreed

Signature Date

Title

Company Name

Signature Date

Title

Agency/Division

AGREEMENT ADDENDUM

016

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

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

ACCEPTED BY:
STATE OF WEST VIRGINIA

VENDOR

Spending Unit: _____

Company Name: _____

Signed: _____

Signed: _____

Title: _____

Title: _____

Date: _____

Date: _____