



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
INS07092

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
RON PRICE
304-558-0492

RFQ COPY
 TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

INSURANCE COMMISSION

1124 SMITH STREET
CHARLESTON, WV
25305-0540 304-558-3707

DATE PRINTED 12/19/2006	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: **01/24/2007** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		961-20		
<p>TRANSCRIPTION SERVICES</p> <p>TO PROVIDE TRANSCRIPTION AND DECISIONS TYPING SERVICES FOR THE OFFICES OF THE INSURANCE COMMISSION PER THE ATTACHED SPECIFICATIONS</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 CERTIFICATION; OR</p> <p>() 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</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

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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



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<p>() 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.</p> <p>B. APPLICATION IS MADE FOR 2.5% PREFERENCE FOR THE REASON CHECKED:</p> <p>() 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;</p> <p>OR</p> <p>() 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</p>						

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<p>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> <p>BIDDER: -----</p> <p>DATE: -----</p> <p>SIGNED: -----</p> <p>TITLE: -----</p>						

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<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 style="text-align: center;">NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p style="text-align: center;">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> <p>BUYER: RP-41</p> <p>RFQ. NO.: INS07092</p> <p>BID OPENING DATE AND TIME</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:</p>						

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CONTACT PERSON (PLEASE PRINT CLEARLY):						

***** THIS IS THE END OF RFQ INS07092 ***** TOTAL: _____						

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(West Virginia Offices of Insurance Commissioner – RFQ# INS07-092)

Part 1 GENERAL INFORMATION

1.1 Purpose:

The Acquisition and Contract Administration Section of the Purchasing Division, on behalf of the Department of Revenue, Offices of Insurance Commissioner, Office of Judges, is soliciting quotations from qualified vendors to provide **transcription and decision typing services**. The successful vendor will transcribe, from cassette tapes, hearings conducted by the Office of Judges regarding disputed Workers' Compensation claims as well as provide a system allowing for Office of Judges employees to dictate decisions or orders via the telephone or other electronic transmission system and typing these documents within required time periods. The successful vendor shall have the ability to securely transfer electronically the transcribed documents to Office of Judges for printing at their location.

1.2 Project:

- a) **Transcribing of Hearings** – The Office of Judges conducts hearings that are recorded on cassette tape to be transcribed. These include (but may not be limited to) evidentiary hearings, occupational pneumoconiosis board hearings, final permanent total disability hearings and other assigned types of hearings. The specific number of hearings held varies from month to month. The Office of Judges estimates 350 hearings recorded on cassette to be transcribed per month.

Transcripts shall be typed in the following manner:

- The first page shall have 1" margin at top.
- 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 Answers format
- Arial 12 point Font type 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 on page.

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

b) **Typing of Decisions/orders**

The Office of Judges has approximately 45 individuals reviewing claim files and dictating decisions. These decisions vary in length from two pages to as many as 18 pages. A "typical" decision is 5 – 7 pages. The Office of Judges issues approximately 1200 decision per month.

Decisions 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-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 space with appropriate paragraphing
- Arial 12 point Font type size
- Index of Direct, Cross, Redirect, Recross, etc. on second page

"Standard" decisions are attached to this RFQ for the Office of Judges (**Attachment A**) to show the form of the respective decisions/orders.

The persons dictating the decisions/orders will reference certain preformatted language. The Office of Judges will provide this language to the successful vendor for insertion into the decisions/orders. The Office of Judges uses approximate 55 of the preformatted "paragraphs". The Office of Judges will update and change the preformatted language as necessary.

The successful bidder must provide toll-free receipt of the dictation of decisions/orders by employees of Office of Judges from locations in Charleston, Beckley and Fairmont, West Virginia via the telephone and such other electronic communication means as is compatible with the Dictaphone Enterprise System.

The vendor must have the ability to accommodate the possibility that **all** decisions/orders writers may be 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 inquires regarding specifications of this RFQ must be submitted in writing to the State Buyer with the exception of questions regarding Quote submissions, which may be oral. The deadline for written inquires is identified in the Schedule of Events, Section 1.16. All inquires of specification clarification must be addressed to:

Ron Price, Senior Buyer
 Purchasing Division
 2019 Washington Street, East
 P.O. Box 50130
 Charleston, WV 25305-0130
 Fax: (304) 558-4115
 E-Mail: Rprice@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 inquires 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 of 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

1.11.1 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.

1.11.2 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.

1.11.3 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 exemptions 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	12-20-06
Vendor's Written Questions Submission Deadline	01-05-07
Addendum Issued	01-08-07
Bid Opening Date	01-24-07

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 not 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

The successful vendor shall furnish a bid bond equivalent to five percent (5%) of the estimated value of this contract. The estimated value of this contract is \$200,000.00. The successful bidder must also furnish a performance bond, payable to the State of West Virginia in the amount of \$75,000.00. Bonds may be provided in the form of a certified check, irrevocable letter of credit, or bond furnished by a solvent surety company authorized to do business in the State of West Virginia.

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 not-responsive.

1.16 RFQ Sections:

There are two sections required for vendor response to this request for quotations. Attachment B: Acknowledgment of Mandatory requirements and Attachment C: Cost proposal.

Attachment B: *Mandatory Requirements Acknowledgement and Signature Page*

By signing this page vendor certifies that they have read and understand all requirements of this request for quotations and can provide the services in the manner requested by the agency.

Attachment C: *Cost Proposal*

Cost must be all inclusive. The price(s) quoted in the bidder's proposal 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. All cost associated with the provision of this service must be included in the cost per page.

Part 2 SCOPE OF WORK

2.1 Decisions/Orders from Cassette Tapes – The successful vendor will transcribe decisions/orders from cassette tapes if telephone communication or other electronic means is unavailable due to malfunction of equipment. If vendor's equipment malfunctions, it 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 Office of Judges. It is also a requirement that the vendor be available for in-person pick-up of cassettes at One Players Club Drive, Charleston, West Virginia.

2.2 Searchable Data Base Program – It is the desire of the Office of Judges for the Vendor to provide and maintain a searchable database program of all decisions and 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 highlighted 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 Documents** – The vendor must have the ability to electronically mail decisions/transcripts to Office of Judges in format compatible with the Office of Judges software such as Word 2000.

The vendor must have the ability to electronically mail the typed decisions/order to the electronic mail address provided by the Office of Judges 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 Office of Judges 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 Office of Judges 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 Office of Judges 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 decisions/orders to the Office of Judges by magnetic mass storage device (such as a compact disc).

- 2.4 Confidentiality** – The successful vendor agrees to keep all dictation of decisions/orders, and storage of those decisions/orders 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 Office of Judges. 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 Office of Judges and the successful vendor) the contract may be terminated as defined in section 3.12 of this RFQ. The Office of Judges 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 Office of Judges.

Part 3 GENERAL TERMS AND CONDITIONS

By signing and submitting their proposal, the successful Vendor agrees to be bound by all the terms and requirements 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 of 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 of Gratuities:***
Vendor warrants that it has not employed any company or person other than a bona fide employee working solely for the vendor or 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 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 in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress 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 submission-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

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 *Contract Provisions:*

After the successful Vendor is selected, a formal purchase order will be executed between the State and the Vendor. In addition, the RFQ and the Vendor's response will be included as part of the contract by reference. The order of precedence is the purchase order, the RFQ and the Vendor's proposal in response to the RFQ.

3.7 *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.

3.8 *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 hereto 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.

3.9 *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 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.

3.10 *Term of Contract & Renewals:*

This contract will be effective (date set upon award) 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 thirty (30) 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 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 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.

3.11 *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.

3.12 *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.

3.13 *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 a 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 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.

3.14 *Invoices:*

The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract.

3.15 *Record Retention (Access & Confidentiality):*

Vendor shall comply with the applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost 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 by Vendor.

Vendor agrees to protect the decisions/orders and any personal health information and financial information contained therein from oral or written disclosure and to that end should implement and maintain policies to safeguard and protect this information from inappropriate use or disclosure by its employees, agents, subcontractors and any other individuals permitted by Vendor to have access to the information. Vendor shall take industry best security practices to protect the confidentiality of the

electronic transmission of this information. Should Vendor be confronted with any legal action to disclose any portion of this information, Vendor shall notify the Office of Judges within two (2) business days of such action.

Attachment A

**STATE OF WEST VIRGINIA
WORKERS' COMPENSATION OFFICE OF JUDGES**

P.O. Box 2233, Charleston, WV 25328
Telephone (304) 558-0852

IN THE MATTER OF:

CLAIMANT

RE: OOJ Case ID: OOJ-A

Carrier No:

and

D.O.I.:

EMPLOYER

and

The Insurance Commissioner of
West Virginia in its capacity as
Administrator of the Old Fund

DECISION OF ADMINISTRATIVE LAW JUDGE

PARTIES:

Claimant by counsel,
Employer, without counsel
WV Office of Insurance Commissioner – Old Fund, by counsel,

ISSUE:

The claimant protested the Claims Administrator's Order of April 25, 2005, granting the claimant no permanent partial disability award.

DECISION:

It is hereby ORDERED that the Claims Administrator's Order of April 25, 2005, granting the claimant no permanent partial disability award, is hereby AFFIRMED.

RECORD CONSIDERED:

See attached Record Considered.

FINDINGS OF FACT:

1. The claimant developed bilateral carpal tunnel syndrome in the course of and as a result of his employment on October 27, 2003. The claim was held compensable. The claim was closed for temporary total disability benefits on April 28, 2004. Subsequently, on August 7, 2006, the claimant has been granted a 9% permanent partial disability award in this claim.

2. The claimant was originally evaluated by Dr. Bill Hennessey on March 3, 2005. Dr. Hennessey indicated that the claimant's most current EMG reflected a normal median ulnar and radial nerve function. He found the claimant to have a full range of motion and determined that the claimant had no impairment, for he had no residuals. No weight is placed upon the findings of Dr. Hennessey.

3. The claims administrator, by Order dated April 25, 2005, granted the claimant no permanent partial disability award and the claimant protested.

4. The claimant submitted the report of Dr. Thomas Kennedy, dated April 7, 2005, indicating that the claimant had diminished sensation and a grip strength loss.

5. The claimant introduced the report of Dr. Edita Milan, dated September 14, 2005, in which Dr. Milan found the claimant to have a 45% whole-person impairment. No weight is placed upon the findings of Dr. Milan, for Dr. Milan found the claimant to have ulnar nerve involvement and the most current EMG did not substantiate this finding.

6. The Insurance Commission submitted a report of Dr. Jack Koay, dated January 23, 2006, in which Dr. Koay found the claimant to have a 5% right hand impairment and a 4% left hand impairment for range of motion loss. Dr. Koay indicated that the claimant had no ulnar nerve involvement. He found the claimant to have a 9% impairment.

7. The report of Dr. Edward Doyle, dated June 16, 2006, was submitted, in which Dr. Doyle found the claimant to have a 5% right hand impairment and a 3% left hand impairment under the range of motion model. Dr. Doyle agreed with Dr. Koay's 9% assessment based upon the fact that there was no ulnar nerve involvement.

8. The claimant submitted a closing argument on May 2, 2005, requesting a reevaluation, which was granted to the claimant.

DISCUSSION:

The issue is the amount of claimant's permanent partial disability. This award is for residual disability, which will remain with the claimant after his or her recovery. It is referred to as "partial" because, even though it may affect an individual's ability to work and enjoy life, the individual is not totally disabled because of it.

If a party protests the Order pertaining to an award, the parties have an opportunity to present evidence concerning the claimant's disability. Evidence of permanent partial disability in the form of testimony and reports by physicians and other experts may be submitted. The fact that a particular expert may find a certain percentage of permanent partial disability does not mean the Office of Judges is required to accept it. All reliable, probative and substantial evidence will be weighed and considered in determining if the permanent partial disability awarded is correct.

For injuries occurring after May 12, 1995, under W. Va. Code § 23-4-6 and 85 CSR 20, permanent partial disability awards are based on medical impairment. The Commission has adopted the American Medical Association's Guides to the Evaluation of Permanent Impairment, Fourth Edition, as the measure of whole body medical impairment. In cases where the examination upon which the award was based was conducted on or after June 14, 2004, range of impairment limitations, as set forth in 85 CSR 20, apply to some types of injuries.

W. Va. Code §23-4-1g provides that, for all awards made on and after July 1, 2003, the resolution of any issue shall be based upon a weighing of all evidence pertaining to the issue and a finding that a preponderance of the evidence supports the chosen manner of resolution. The process of weighing evidence shall include, but not be limited to, an assessment of the relevance, credibility, materiality and reliability that the evidence possesses in the context of the issue presented. No issue may be resolved by allowing certain evidence to be dispositive simply because it is reliable and is most favorable to a party's interests or position. The resolution of issues in claims for compensation must be decided on the merits and not according to any principle that requires statutes governing workers' compensation to be liberally construed because they are remedial in nature. If, after weighing all of the evidence regarding an issue, there is a finding that an equal amount of evidentiary weight exists for each side, the resolution that is most consistent with the claimant's position will be adopted.

Preponderance of the evidence means proof that something is more likely so than not so. In other words, a preponderance of the evidence means such evidence, when considered and compared with opposing evidence, is more persuasive or convincing. Preponderance of the evidence may not be determined by merely counting the number of witnesses, reports, evaluations, or other items of evidence. Rather, it is determined by assessing the

persuasiveness of the evidence including the opportunity for knowledge, information possessed, and manner of testifying or reporting.

The weighted evidence of record establishes that the claimant has a 9% impairment in which the claimant has been granted a 9% permanent partial disability award in this claim. The claimant was granted this 9% award on August 7, 2006. The report of Dr. Bill Hennessey, used as the basis for the April 25, 2005, grant of no permanent partial disability, is given no weight. Dr. Hennessey found the claimant to have a full range of motion, which is inconsistent with the findings of Dr. Kennedy, Dr. Milan, Dr. Doyle and Dr. Koay. It is further determined that the findings of Dr. Milan, indicating that the claimant has a 45% whole-person impairment, is clearly given no weight. Dr. Milan found ulnar nerve involvement and this is not substantiated by the most current EMG, which was performed by Dr. Hennessey. Therefore, no weight can be placed upon the findings of Dr. Milan. Although there is evidence that the claimant has some diminished sensation, Dr. Koay and Dr. Doyle's findings reflects the most accurate whole-person impairment findings. Since the claimant has been granted a 9% permanent partial disability award in this claim subsequent to the Order in this Decision, it is determined that the April 25, 2005, Claims Administrator's Order must be affirmed. Based upon the weighted evidence, the claimant has been fully compensated by his August 7, 2006, Order that granted the claimant a 9% award. The Claims Administrator's Order of April 25, 2005, must be affirmed.

CONCLUSIONS OF LAW:

The weighted evidence of record establishes that the claimant has been fully compensated by his subsequent permanent partial disability award of 9%.

Accordingly, it is hereby ORDERED that the Claims Administrator's Order of April 25, 2005, granting the claimant no permanent partial disability award, is hereby AFFIRMED.

APPEAL RIGHTS:

Under the provisions of W.Va. Code §23-5-12, any aggrieved party may file a written appeal within thirty (30) days after receipt of any decision or action of the Administrative Law Judge. The appeal shall be filed with the **Board of Review** at **P.O. Box 2628, Charleston, WV, 25329.**

DATE:

ENTER: _____

CC:

Attachment B

**CERTIFICATION OF UNDERSTANDING
MANDATORY REQUIREMENTS
INS07-092**

1. All transcripts will be formatted/typed in the exact manner detailed in the RFQ.
(See pages 1-2)
2. Toll free lines will be provided for receipt of dictation from Office of Judges employees located in Charleston, Beckley and Fairmont, West Virginia. This system must be compatible with the Dictaphone Enterprise System equipment owned by the Office of Judges.

A sufficient number of lines will be available in place to accommodate all employees dictating simultaneously.
3. Hearing transcribed from cassettes and those transcribed from phone or other electronic format will be prepared in the format specified on pages 1 and 2 of the RFQ.
4. In the event telephone communication or other electronic means are unavailable, vendor shall transcribe decision orders from cassette tapes. If required these tapes will be picked up daily at the Office of Judges offices located at One Players Club Drive, Charleston, WV.
5. Vendor shall maintain a searchable database program of all decisions and transcripts. This database will be available to the Office of Judges at all times for search.
6. Vendor shall be able to electronically mail decisions/transcripts to the agency. System used to transmit electronically must provide absolute security of the documents content and format.
7. Vendor must accommodate the requirements of the Office of Judges to prioritize work and comply with special requests regarding the order in which dictations are transcribed.
8. Vendor must provide the agency with a magnetic storage disc (such as compact disc) of all the previous months transcriptions within ten days of the end of each month.
9. Vendor agrees to maintain strict confidentiality and security of dictation system, cassettes and all transcripts.
10. Vendor must provide a bid bond and a performance bond in accordance with page 4 of the RFQ. (Bid bond \$10,000.00; Performance Bond \$75,000.00)

I certify that I have read and understand the requirement of this request by signing this certification; I agree that the terms outlined in the request for quotations are non-negotiable and must be met or the contract may be cancelled.

Vendor Name: _____

Representative: _____

Signature: _____

Date: _____

Attachment C

COST PROPOSAL
INS07-092

TRANSCRIBING HEARINGS FROM CASSETTE TAPES \$ _____ PER PG.

TRANSCRIBING TELEPHONE DICTATION \$ _____ PER PG.

Vendor Name: _____

Representative: _____

Signature: _____

Date: _____

A F F I D A V I T

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: _____