



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
668C0014

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF
MICHAEL AUSTIN
304-558-2402

VENDOR

RFQ COPY
TYPE NAME/ADDRESS HERE

SHIP TO

DIVISION OF HIGHWAYS
VARIOUS LOCALES AS INDICATED
BY ORDER

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
12/12/2007				

BID OPENING DATE: **01/03/2008** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		630-09		
<p>CINDERS</p> <p>OPEN END CONTRACT</p> <p>TO FURNISH ALL LABOR, MATERIALS AND EQUIPMENT NECESSARY TO SUPPLY CINDERS TO THE WEST VIRGINIA DIVISION OF HIGHWAYS, PINE GROVE, DISTRICT 6 PER THE ATTACHED SPECIFICATIONS.</p> <p>EXHIBIT 3</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON 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.</p> <p>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.</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</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 may be deemed null and void, and 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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DIVISION OF HIGHWAYS
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<p>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 SERVICE 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>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>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A WRITTEN STATE CONTRACT ORDER (FORM NUMBER WV-39) TO THE VENDOR FOR COMMODITIES COVERED BY THIS CONTRACT. THE ORIGINAL COPY OF THE WV-39 SHALL BE MAILED TO THE VENDOR AS AUTHORIZATION FOR SHIPMENT, A SECOND COPY MAILED TO THE PURCHASING DIVISION, AND A THIRD COPY RETAINED BY THE SPENDING UNIT.</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</p>						

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<p>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>PURCHASING CARD ACCEPTANCE: THE STATE OF WEST VIRGINIA CURRENTLY UTILIZES A VISA PURCHASING CARD PROGRAM WHICH IS ISSUED THROUGH A BANK. THE SUCCESSFUL VENDOR MUST ACCEPT THE STATE OF WEST VIRGINIA VISA PURCHASING CARD FOR PAYMENT OF ALL ORDERS PLACED BY ANY STATE AGENCY AS A CONDITION OF AWARD.</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 CORPORA-</p>						

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<p>TION 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 VENDO 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> <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; 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</p>						

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<p>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> <p>BIDDER: -----</p>						

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<p>DATE: -----</p> <p>SIGNED: -----</p> <p>TITLE: -----</p> <p>* 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)</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> <p>BUYER: 33</p> <p>RFQ. NO.: 668C0014</p> <p>BID OPENING DATE: 01/03/2008</p>						

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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):						

***** THIS IS THE END OF RFQ 668C0014 ***** TOTAL:						_____

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The following sections of the West Virginia Department of Transportation, Division of Highways, Standard Specifications Roads and Bridges, adopted 2000, as modified by the current Supplemental Specifications shall apply to the administration of this Contract: Sections 101, 102.4, 102.5, 105.1, 105.3, 105.4, 105.10, 105.11, 105.12, 105.13, 106.3, 106.4, 106.5, 106.6, 106.7, 106.9, 107.1, 107.2, 107.3, 107.14, 107.19, 107.20, 108.8, 109.1, 109.2, and 109.20.

The requirements of the West Virginia Department of Transportation, Division of Highways Standard Specifications Roads and Bridges, Section 109.20, PRICE ADJUSTMENT FOR LOAD LIMIT VIOLATIONS shall apply to all material supplied under this contract. This will include material loaded by the vendor into Division of Highways owned and/or rented trucks.

The terms "Contractor" and "Vendor" used in the above specifications or this contract are interchangeable. Contractor shall mean Vendor and Vendor shall mean Contractor.

West Virginia Department of Transportation, Division of Highways' Standard Specifications Roads and Bridges, adopted 2000 and the current Supplemental Specifications may be obtained from:

Engineering Division, Technical Section
West Virginia Division of Highways
State Capitol Complex, Building 5, Room A-650
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

Cinders (Power Plant Slag) shall conform to the following specifications:

A. Definition

Cinders (Power Plant Slag) consists of Wet Bottom Boiler Slag (shiny, black, glassy material) formed when molten ash from the burning of coal drops into water and shatters at the bottom of the boiler, and/or Bottom Ash formed when ash particles from the burning of pulverized coal is allowed to air cool at the bottom of the furnace.

B. Quality

Total deleterious substances (including but not limited to metal, glass, clay, shale, and thin or elongated pieces) shall not exceed 3% of the dry weight of the total sample. Deleterious content shall be determined on that fraction of material retained on the US Standard #4 (4.75 mm) sieve.

C. Gradation

The material shall conform to the following gradation requirements determined in accordance with AASHTO T-27.

<u>Sieve Size</u>	<u>% Passing by Weight</u>
½ inch	100
3/8 inch	85-100
#100	0-20

2. INSTRUCTIONS

The purpose of this contract is to provide for the delivery of CINDERS to the various locations in the estimated quantities set out in the bid schedule. Actual quantities to be delivered to each location will be specified in a State Contract Purchase Order (SCO) which will be issued by the Division of Highways at the time delivery is required.

The Vendor is not authorized to ship, nor is the Division authorized to receive materials prior to the issuance of an "SCO".

Vendors may bid cinders as follows:

- (1) F.O.B. Vendor's Storage Site (see bid schedule, Subsection 11.1). This bid price shall include the cost of vendor loading Division trucks.
- (2) F.O.B. Division's Storage Site (see bid schedule, Subsection 11.2). This bid price shall include the cost of Vendor hauling to, and stockpiling at the Division's Storage Site. Vendor may bid any or all locations on the bid schedule.

Vendors shall provide the information requested in Subsection 11.1, paragraphs (a) and (b) on the bid schedule. Failure to provide required information will be sufficient grounds to invalidate the bid.

Any qualification of bids, or any modification of the specifications or conditions governing the bids may be cause for their rejection.

3. DETERMINING LOW BID

Bids will be evaluated by the Division on the basis of cost per cubic yard. Cost per cubic yard will be determined by the Division by multiplying the Vendor's bid price in dollars per ton by a "tons per cubic yard factor" which is listed, per source, in the following table:

<u>Cinders</u>	
<u>Source (Note 1)</u>	<u>Tons per Cubic Yard Factor (Note 2)</u>
Albright Power Albright, WV	0.90 (1,792)
Burger Power Dilles Bottom, OH	1.29 (2,579)
Fort Martin Power Fort Martin, WV	0.94 (1,883)

Harrison Power Haywood, WV	0.95 (1,900)
John Amos Power Winfield, WV	0.82 (1,631)
Pleasants Power Plant Willow Island, WV	1.09 (2,185)
Mountaineer Power New Haven, WV	0.65 (1,305)
Bruce Mansfield Plant Shippingport, PA	1.09 (2,160)
Virginia Electric Power Mt. Storm, WV	0.79 (1,585)
Hatfield Power Masontown, Pa	0.85 (1,700)

Note 1: In the event the bidding source is not listed, it will be necessary for the Division to establish the weight per unit volume of said source prior to award.

Note 2: Numbers in parenthesis are pounds per cubic yard.

4. CONTRACT AWARD

All qualified Vendors who submit a valid bid "F.O.B. Vendor's Storage Site" will be awarded a contract to establish a unit price for those items bid (See Subsection 11.1). A Blanket State Contract Purchase Order (SCO) specifying Division of Highways pick up may be issued when material for maintenance operations at various locations is to be purchased. When material is secured on an SCO of this nature, the District Engineer shall take those steps necessary to assure that material is secured from the Vendor; which results in the lowest cost to the Division. Factors to be considered shall include, but are not limited to; bid price of material, haul cost at \$1.10 for the first ton-miles and \$0.12 for each additional mile.

Qualified Vendors who submit a valid bid "F.O.B. Division Storage Site" will be awarded a contract to establish a unit price for those locations for which their bid is low based on cost per cubic yard (see Subsection 11.2). A State Contract Purchase Order (SCO), with the required delivery schedule, will be issued for the actual quantity of material to be delivered to the location specified. If the Vendor is unable to furnish material in accordance with the specified delivery schedule the District Engineer shall be advised in writing five (5) working days of the reason for failure to conform to delivery requirements.

In the event a Vendor fails to conform to the requirements stated in this contract document, the State Contract Purchase Order (SCO) or the governing specifications, the State Contract Purchase Order (SCO) may be cancelled and reissued to the next lowest bidder.

5. SUPPLYING POLITICAL SUB-DIVISIONS OF THE STATE

In accordance with Chapter 5A, Article 3, Section 9 of the Code of West Virginia the commodities or services contracted for herein shall be available to all local governmental bodies in accordance with the same prices, terms and conditions afforded to the State of West Virginia.

In the event any Vendor does not wish to extend the prices, terms and conditions of his bid and subsequent contract to all political sub-divisions of the State, he must so indicate in a clear and unambiguous manner in his bid. This indication does not prejudice the award of the contract. If a Vendor does not indicate his refusal to extend the prices, terms and conditions of his bid to political sub-divisions of the State he is bound to extend them upon issuance of a purchase order by these sub-divisions.

Political Sub-divisions of the State using this provision of the contract shall do so without any involvement of the Division of Highways. That is, the sub-division shall make its own purchase arrangements with the Vendor and shall make its own arrangement for payment.

6. WEIGHING MATERIALS DELIVERED BY TRUCK

Material delivered by truck shall be weighed in accordance with Section 401.9.3 of the West Virginia Department of Transportation, Division of Highways Standard Specifications Roads and Bridges, adopted 2000 and the current Supplemental Specifications.

7. WEIGHING MATERIALS DELIVERED BY MODES OF TRANSPORTATION OTHER THAN TRUCKS

Materials delivered to the designated site by barge, rail car, or other non-truck modes shall have their weight determined by a means acceptable to the Division, and the weights of materials so shipped shall be certified, by the Vendor or his authorized agent, to be correct.

8. SAMPLING AND TESTING

All material furnished under this contract shall be sampled, tested and approved. The minimum frequency shall be in accordance with the following:

<u>Property</u>	<u>Frequency</u>
Quality	One sample every six days of shipment (or if Tested during production, at least one sample every six days of production). See Note 1.
Gradation	One sample per each day of shipment (or if Tested during production, one sample per each day of production). See Note 1.
Gradation (Division pick up: A-1 Source)	One sample per each week of shipment per MP 700.00.52. Or if tested during production, one sample per each day of production. See Note 2.
Moisture Content	See Note 2.

Note 1: Sampling and testing for quality and gradation for items furnished in this contract will be the responsibility of the Division.

Note 2: In the event visual inspection indicates excess or unusual moisture beyond that normally expected, the Division reserves the right to determine the moisture content by standard methods and, if this becomes necessary, the net weight of the portion represented will be adjusted utilizing the test results obtained by the Division in accordance with MP 700.00.22. The normal moisture content used for this adjustment shall be that of cinders and defined in Table 1 of MP 700.00.22.

9. ACCEPTANCE PLAN

Material failing to comply with the quality requirements will not be accepted. A lot shall consist of a quantity of material represented by an average value (not to exceed 5 sublots). A subplot shall consist of the quantity of material represented by a single gradation test. In the case where only one sample is taken to represent the total quantity, the subplot and lot will be considered the same.

Gradation test results will be averaged in accordance with MP 300.00.51. When the average falls outside the applicable limits, the lot of material represented thereby will be considered nonconforming. When a lot of material is nonconforming, then the last subplot contained therein will have its degree of nonconformance determined as set forth below.

When a subplot of material is to have its price adjusted, the percentage point difference between the nonconforming test value and the specification limit will be determined for each sieve size determined to be nonconforming, and this value shall be multiplied by its appropriate multiplication factor as set forth in Table 1.

TABLE 1

<u>Nonconforming Sieve Size</u>	<u>Multiplication Factor</u>
1/2"	1
3/8"	1
#100	1.3

The total measure of nonconformance of an individual subplot is the sum of all nonconformances on the various sieve sizes of that subplot. In no case, however, will a subplot of material have its price adjusted more than once, and the first adjustment which is determined shall apply.

When the total degree of nonconformance has been established and it is 12 or less, the material will be paid for at an adjusted contract price as specified in Table 2.

TABLE 2

<u>Degree of Nonconformance</u>	<u>Percent of Contract Price to be Reduced</u>
1.0 to 3.0	2
3.1 to 5.0	4
5.1 to 8.0	7
8.1 to 12.0	11
Greater than 12	*

*The Division will make a special evaluation of the material and determine the appropriate action.

In the event a Vendor delivers a specific quantity of material from a stockpile, and said quantity is less than the total quantity contained in the stockpile, and it has been determined from test data that a nonconforming subplot(s) is contained in said stockpile, the price reduction will be calculated for the specific quantity as follows:

The percent price reduction will be determined as set forth above for the nonconforming subplot. The quantity represented by the nonconforming subplot will then be calculated as a percent of the total (total material contained in the stockpile). To determine the price reduction on the specific quantity delivered, multiply the percent of nonconforming material contained in the stockpile by the quantity delivered, and reduce this quantity by the percent price reduction as determined.

Example: If it has been determined that a stockpile of 100 tons contains 10 percent failing material, and said material is to have its price reduced by 4 percent, then the actual quantity delivered, say 15 tons, will be multiplied by 0.10 (10 percent failing material) which equals 1.5 tons. Thus 1.5 tons will have its price reduced by 4 percent. The remaining 13.5 tons will be paid for at full contract price.

$$TD \left[\frac{1 - PQ_n}{100 Q_t} \right] = AP \text{ (price to be paid after adjustment)}$$

Where: T = tonnage delivered
P = percent price reduction
D = cost per ton
Q_n = quantity of nonconforming subplot(s)
Q_t = quantity of total stockpile

If two (2) sublots are nonconforming within the stockpile, calculate each separately for the adjusted payment on the quantity delivered (as above). Add these two adjusted payments together and subtract from the total the price to be paid before adjustment for tonnage delivered (TD). If three (3) sublots are nonconforming, calculate each separately and subtract twice the price to be paid before adjustment for tonnage delivered, and so on. Example:

$$(AP1 + AP2) - TD = \text{Final price to be paid after adjustments}$$

or

$$(AP1 + AP2 + AP3) - 2 TD = \text{Final price to be paid after adjustments}$$

Where: AP = price to be paid after initial adjustment for one nonconforming subplot determined by above equation

T = tonnage delivered

D = cost per ton

The price adjustment is based on the delivered price for material FOB the Division's storage site and on the pick-up price for material FOB the Vendor's storage site.

In the event material is delivered from a continuous stockpile, that is, a stockpile which is continuously being replenished while also having material removed for these applications, acceptance will be based on shipment samples.

10. VENDOR'S INVOICES

Vendor's invoices must be submitted in original and one copy and contain the following:

- a. Division of Highway's State Contract Purchase Order Number, and this Contract Number.
- b. Total quantity and unit price with the total cost of each type of material furnished. [Total quantity invoiced shall be scale weights (supported by weigh tickets) adjusted in accordance with Section 8, Note 3.]
- c. Invoices must be accompanied by supporting weigh tickets.

Note: Under no circumstance will the West Virginia Division of Highways accept, or pay for, quantities of material in excess of the quantity stated on the State Contract Purchase Order.

11. BID SCHEDULE

DISTRICT SIX

11.1 Bidding F.O.B. Vendor's Storage Site

<u>Contract Item</u>	<u>Description of Material</u>	<u>Bid Price (\$/Ton) F.O.B. Vendor's Storage Site (Note 1)</u>
A	Cinders	_____

Note 1: Bid price shall include cost of Vendor Loading Department trucks.

(a) **SOURCE OF MATERIAL** (Name and Location of plant which produces the material): _____

(b) **EXACT LOCATION OF VENDOR'S STORAGE SITE:** _____

11.2 Bidding F.O.B. Division's Storage Site

If a supplier is bidding materials from more than one source, a set of bid schedules with all required information shall be provided for each source. The type and source of materials indicated in 11.1 (a) and (b) therefore shall apply to the materials to be delivered to the Division's storage site as described below.

<u>Contract Item</u>	<u>Material</u>	<u>Estimated Quantity (Tons)</u>	<u>Location of Division's Storage Site</u>	<u>Bid Price (\$/Ton) FOB DOH Storage Site</u>
A	Cinders	2,000	Wetzel Co., Pine Grove	_____

STATE OF WEST VIRGINIA
Purchasing Division**PURCHASING AFFIDAVIT**

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 owed 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 exceeds 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: _____