

**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



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:
PRS08013

PAGE:
2

ADDRESS CORRESPONDENCE TO ATTENTION OF:
**JOHN ABBOTT
 304-558-2544**

RFQ COPY

TYPE NAME/ADDRESS HERE

SHIP TO

**PROTECTIVE SERVICES
 DIVISION OF
 BUILDING 1, ROOM 152-A
 1900 KANAWHA BOULEVARD, EAST
 CHARLESTON, WV
 25305 304-558-9911**

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
08/20/2007				

BID OPENING DATE: **08/31/2007** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>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> <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</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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



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
PRS08013

PAGE
3

ADDRESS CORRESPONDENCE TO ATTENTION OF
JOHN ABBOTT
304-558-2544

VENDOR

RFQ COPY
TYPE NAME/ADDRESS HERE

SHIP TO

PROTECTIVE SERVICES
DIVISION OF
BUILDING 1, ROOM 152-A
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV
25305 **304-558-9911**

DATE PRINTED	TERMS OF SALE	SHIP VIA	FOB	FREIGHT TERMS
08/20/2007				

BID OPENING DATE: 08/31/2007 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>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> <p>DATE: -----</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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



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:
PRS08013

PAGE:
4

ADDRESS CORRESPONDENCE TO ATTENTION OF:
JOHN ABBOTT
304-558-2544

VENDOR

RFQ COPY
 TYPE NAME/ADDRESS HERE

SHIP TO

PROTECTIVE SERVICES
DIVISION OF
BUILDING 1, ROOM 152-A
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV
25305 304-558-9911

DATE PRINTED	TERMS OF SALE	SHIP VIA	FOB	FREIGHT TERMS
08/20/2007				

BID OPENING DATE: **08/31/2007** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<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: JOHN ABBOTT-----</p> <p>RFQ. NO.: PRS08013-----</p> <p>BID OPENING DATE: 08/31/2007-----</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS		
SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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



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:
PRS08013

PAGE:
5

ADDRESS CORRESPONDENCE TO ATTENTION OF:
JOHN ABBOTT
304-558-2544

SHIP TO

RFQ COPY
 TYPE NAME/ADDRESS HERE

SHIP TO

PROTECTIVE SERVICES
DIVISION OF
BUILDING 1, ROOM 152-A
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV
25305 **304-558-9911**

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
08/20/2007				

BID OPENING DATE: **08/31/2007** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
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 PRS08013 ***** TOTAL: _____						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE		TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE	

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

EXPRESSION OF INTEREST
Environmental Security Design PRS08013

Part 1 GENERAL INFORMATION

1.1 Purpose:

The Acquisition and Contract Administration Section of the Purchasing Division "State" on behalf of Department of Military Affairs and Public Safety - Division of Protective Services is soliciting Expression(s) of Interest (EOI) from qualified firms to provide engineering/architectural/landscape design services as defined in section two (2) and three (3).

1.2 Project:

The mission or purpose of the project described in sections 2 and 3 is to provide a design for a perimeter security plan using architectural elements of design and their placement across the capitol complex campus. The plan is to have elements that are esthetically pleasing to the eye while preventing an unauthorized vehicle to access the campus at any point.

1.3 Format: The information submitted must be formatted in the same order as set forth below. All elements must be responded to with specific answers and in an unequivocal manner. Failure to address all elements or comply with the above instructions as to format may be cause for rejection of the entire proposal.

- A. A statement of the firm's ability to handle the project in its entirety.
- B. A statement of the firm's ability to formulate designs for the campus, proposed structures and other design elements in conformance with any and all Local, State or Federal regulations
- C. Examples of the firm's prior work using environmental design elements for security.
- D. A statement of the firm's acceptance and full understanding that any and all work produced as a result of the contract will become property of the agency and can be used or shared by the agency as deemed appropriate.
- E. A Statement of as to where the firm has offices or facilities and from which facility they intend to supervise this project.
- F. Resume of potential personnel working on this project.
- G. Names, addresses and phone numbers of the last five entities that the firm has conducted business similar to this project.
- H. A description of any litigation or arbitration proceedings, including vendor complaints filed with the State's Purchasing Division, related to the firms delivery of design services.

1.4 Inquiries:

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

John Abbott, Senior Buyer
Purchasing Division
2019 Washington Street, East
Charleston, WV 25305-0130
Fax: (304) 558-4115

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

1.5 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 an EOI, but the **successful bidder must** register and pay the fee prior to the award of an actual purchase order/contract.

1.6 Oral Statements and Commitments:

Vendor must clearly understand that any verbal representations made or assumed to be made during any oral discussions held between Vendor's representatives and any State personnel is **not** binding. Only the information issued in writing and added to the Request for Proposal specifications file by an official written addendum are binding.

1.7 Economy of Preparation:

Proposals should be prepared simply and economically, providing a straightforward, concise description of Vendor's abilities to satisfy the requirements of the EOI. Emphasis should be placed on completeness and clarity of content.

1.8 Labeling of the Sections: The response sections should be labeled for ease of evaluation.**1.9 Submission:**

1.9.1 State law requires that the original expression shall be submitted to the Purchasing Division. All copies to the Purchasing Division must be submitted **prior** to the date and time stipulated as the opening date. All expressions will be date and time stamped on the Purchasing Division official time clock to verify time and date of receipt.

1.9.2 Vendors mailing expressions should allow sufficient time for mail delivery to ensure timely arrival. **The Purchasing Division can NOT waive** or excuse late receipt of an expression which is delayed and late for any reason according West Virginia State Code §5A-3-11. Any EOI received after the bid opening time and date will be immediately disqualified in accordance with State law and the Legislative Rule 148-CSR-1.

Submit:

One original plus three (3) convenience copies to:
Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130

The outside of the envelope or package(s) should be clearly marked:

Buyer: John Abbott
Req#: PRI08013
Opening Date: 8/31/2007
Opening Time: 1:30 PM

1.10 Rejection of Expressions:

The State shall select the best value solution according to §5G-1-3 of the West Virginia State Code. However, the State reserves the right to accept or reject any or all expressions and to reserve the right to withdraw this Expression of Interest at any time and for any reason. Submission of, or receipt by the State of Expressions of Interest confers no rights upon the bidder nor obligates the State in any manner.

1.11 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 EOI for expenses to prepare, deliver, or to attend the short list interviews.

1.12 Addenda:

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

1.13 Independent Price Determination:

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

1.14 Price Quotations: No "price" or "fee" quotation is requested or permitted in the response.

1.15 Public Record:

1.15.1 Submissions are Public Record.

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.

1.15.2 Written Release of Information.

All public information may be released with or without a Freedom of Information request, however, only a written request will be acted upon with duplication 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 greater.

1.15.3 Risk of Disclosure.

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

1.16 Schedule of Events:

Release of the EOI.....	8/20/2007
Vendor's Written Questions Submission Deadline.	8/24/2007
Expressions of Interest Opening Date.....	8/31/2007
Approximate Short Listing Due Date.....	9/06/2007
Estimated Date for Interviews... (Wk of).....	9/10/2007
Final Ranking Due Date.....	9/21/2007
Approximate Award date.....	October, 2007

1.17 Mandatory Prebid Conference: N/A

1.18 Bond Requirements: N/A

1.19 Purchasing Affidavit:

West Virginia State Code §5A-3-10a (d) (3) requires that all bidders submit an affidavit regarding any debt owed to the State. The affidavit **must** be signed and submitted prior to award. It is preferred that the affidavit be submitted with the proposal.

PART 2 OPERATING ENVIRONMENT

- 2.1 **Location:** The Department of Military Affairs and Public Safety - Division of Protective Services is located in Room 152A of the State Capitol Building, 1900 Kanawha Boulevard, Charleston, West Virginia.
- 2.2 **Background:** It is the desire of the Division of Protective Services to provide certain enhanced levels of security on the Capitol Campus. The Division in conjunction with the General Services Division of the Department of Administration desires to use elements of Environmental Design to better secure the perimeter of the 55-acre campus.

PART 3 PROCUREMENT SPECIFICATIONS

- 3.1 **General Requirements:** The successful bidder will create biddable specifications for the securing of the perimeter of the campus through elements of environmental design.
- 3.2 **Scope of Work:** The successful bidder to this EOI will perform design work to use elements of Environmental Design to better secure the campus perimeter from vehicular traffic. The campus will remain open for pedestrian traffic and will maintain its "park like" atmosphere. A combination of elements such as steel rod reinforced flower planters, concrete insets with concrete benches, task level lighting, and concrete bollards are preferred. The final design will be submitted to the Capitol Building Commission. The successful bidder will be responsible for making any modifications to the design as requested by the Commission. The successful bidder will also be responsible for coordination of efforts between various State agencies and the City of Charleston to possibly reorient parking and traffic lanes along Piedmont Road on the north perimeter of the campus. The design will include detailed specifications and drawings for the placement of items and will be represented in a format to allow competitive bidding of the actual construction and placement of elements.
- 3.3 **Special Terms and Conditions:**
- 3.3.1 *Bid and Performance Bonds:* N/A
 - 3.3.2 *Insurance Requirements:* \$1,000,000 Professional Liability and \$1,000,000 Property Damage.
 - 3.3.3 *License Requirements:* Workers Compensation Certificate upon award.
 - 3.3.4 *Litigation Bond:* N/A
- 3.4 **General Terms and Conditions:**
By signing and submitting the EOI, the successful Vendor agrees to be bound by all the terms contained in Section Three (3) of this RFP.

3.4.1 *Conflict of Interest:*

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

3.4.2 *Prohibition Against Gratuities:*

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

3.4.3 *Certifications Related to Lobbying:*

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

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

Vendor agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all 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.

3.4.4 *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 EOI 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.

3.4.5 *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.

3.4.6 *Contract Provisions:*

After the most qualified Vendor is identified, and fee negotiations are concluded, a formal contract document will be executed between the State and the Vendor. The order of precedence is the contract, the EOI and the Vendor's response to the EOI.

3.4.7 *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.

3.4.8 *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 here to shall be borne by the contractor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

3.4.9 *Subcontracts/Joint Ventures:*

The State will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of the State, enter into written subcontracts for performance of work under this contract; however, the vendor is totally responsible for payment of all subcontractors.

3.4.10 *Term of Contract:*

This contract will be effective (date set upon award) and shall extend until the scope of work is complete or for one (1) consecutive twelve (12) month period. The contract may be renewed upon mutual consent for two (2) consecutive years one (1) year periods or until such reasonable time as may be necessary to obtain a new contract. Such reasonable time shall not exceed twelve (12) consecutive months.

3.4.11 *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.

3.4.12 *Contract Termination:*

The State may terminate any contract resulting from this RFP immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFP 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.

3.4.13 *Changes:*

If changes to the original contract become necessary, a formal contract change order will be required. Prior to any work being performed, the change must be negotiated and approved by the State, the Agency and the Vendor. An approved contract change order is defined as one approved by the Purchasing Division and approved as to form by the West Virginia Attorney General's Office prior to the effective date of such amendment. **NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER.**

3.4.14 *Invoices, Progress Payments, and Retainage:*

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. Progress payments may be made at the option of the Agency on the basis of percentage of work completed if so defined in the final contract. Any provision for progress payments must also include language for a minimum 10% retainage until the final deliverable is accepted.

If progress payments are permitted, Vendor is required to identify points in the work plan at which compensation would be appropriate. Progress reports must be submitted to Agency with the invoice detailing progress completed or any deliverables identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the Vendor's report. Invoices may not be submitted more than once monthly and State law forbids payment of invoices prior to receipt of services.

3.4.15 *Liquidated Damages:*

According to West Virginia State Code §5A-3-4(8), Vendor agrees that liquidated damages shall be imposed at the rate of \$100 per work day, for failure to provide deliverables at the agreed upon date identified in the final contract. This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue to any other additional remedy to which the State or Agency may have legal cause for action including further damages against the Vendor.

3.4.16 Record Retention (Access and Confidentiality):

Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor. The Vendor shall maintain such records a minimum of five (5) years and make available all records to Agency personnel at Vendor's location during normal business hours upon written request by Agency within ten (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.

PART 4 EVALUATION and AWARD

4.1 Evaluation & Award Process:

Expressions of Interest will be evaluated and awarded in accordance with §5G-1-3 “**Contracts for architectural and engineering services; selection process where total project costs are estimated to cost two hundred fifty thousand dollars or more.**”

“In the procurement of architectural and engineering services for projects estimated to cost two hundred and fifty thousand dollars or more the director of purchasing shall encourage such firms engaged in the lawful practice of the profession to submit an expression of interest, which shall include a statement of qualifications, and performance data and may include anticipated concepts and proposed methods of approach to the project. All such jobs shall be announced by public notice published as a Class II legal advertisement in compliance with the provisions of article three [§59-3-1 et seq.] A committee comprised of three to five representatives of the agency initiating the request shall evaluate the statements of qualifications and performance data and other material submitted by the interested firms and select a minimum of three firms which in their opinion are the best qualified to perform the desired service.

Interviews with each firm selected shall be conducted and the committee shall conduct discussions regarding anticipated concepts and the proposed methods of approach to the assignment. The committee shall then rank in order of preference no less than three professional firms deemed to be the most highly qualified to provide the services required, and shall commence scope of service and price negotiations with the highest qualified professional firm for architectural or engineering services or both. Should the agency be unable to negotiate a satisfactory contract with the professional firm considered to be the most qualified, at a fee determined to be fair and reasonable, price negotiations with the firm of second choice shall commence. Failing accord with the second most qualified professional firm, the committee shall undertake price negotiations with the third most qualified professional firm. Should the agency be unable to negotiate a satisfactory contract with any of the selected professional firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with this section until an agreement is reached.”

Award Criteria and Points (no partial points):

Qualified Personnel in Primary Office	20 Points
Design Experience of Primary Staff	45 Points
Oral Interview	<u>35 Points</u>
Total	100 Points

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 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: _____