



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
PTR09021

PAGE
1

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

RFQ COPY  
 TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

DIVISION OF PUBLIC TRANSIT  
 BUILDING 5, ROOM 906  
 1900 KANAWHA BOULEVARD, EAST  
 CHARLESTON, WV  
 25305-0432 304-558-0428

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
01/13/2009				

BID OPENING DATE: 01/29/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		952-90		
<p>DRUG &amp; ALCOHOL MONITORING &amp; TRAINING SERVICES</p> <p>OPEN-END CONTRACT TO PROVIDE DRUG AND ALCOHOL MONITORING &amp; TRAINING SERVICES FOR THE WEST VIRGINIA DIVISION OF PUBLIC TRANSIT, PER THE 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 ORIGINAL CONTRACT AND SHALL BE LIMITED TO TWO (2) ONE (1) YEAR PERIODS.</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 fee.
5. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, 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 Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
15. **WEST VIRGINIA ALCOHOL & DRUG-FREE WORKPLACE ACT:** If this Contract constitutes a public improvement construction contract as set forth in Article 1D, Chapter 21 of the West Virginia Code ("The West Virginia Alcohol and Drug-Free Workplace Act"), then the following language shall hereby become part of this Contract: "The contractor and its subcontractors shall implement and maintain a written drug-free workplace policy in compliance with the West Virginia Alcohol and Drug-Free Workplace Act, as set forth in Article 1D, Chapter 21 of the West Virginia Code. The contractor and its subcontractors shall provide a sworn statement in writing, under the penalties of perjury, that they maintain a valid drug-free work place policy in compliance with the West Virginia and Drug-Free Workplace Act. It is understood and agreed that this Contract shall be cancelled by the awarding authority if the Contractor: 1) Fails to implement its drug-free workplace policy; 2) Fails to provide information regarding implementation of the contractor's drug-free workplace policy at the request of the public authority; or 3) Provides to the public authority false information regarding the contractor's drug-free workplace policy."

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**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 case 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: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130



State of West Virginia  
 Department of Administration  
 Purchasing Division  
 2019 Washington Street East  
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ADDRESS CORRESPONDENCE TO ATTENTION OF
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<b>304-558-2544</b>

PURCHASER	RFQ COPY
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SHIP TO	DIVISION OF PUBLIC TRANSIT
	BUILDING 5, ROOM 906 1900 KANAWHA BOULEVARD, EAST CHARLESTON, WV 25305-0432 304-558-0428

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<b>01/13/2009</b>				

BID OPENING DATE: **01/29/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p><b>CANCELLATION:</b> THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p><b>OPEN MARKET CLAUSE:</b> 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><b>QUANTITIES:</b> 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><b>ORDERING PROCEDURE:</b> 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><b>BANKRUPTCY:</b> IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THIS CONTRACT IS AUTOMATICALLY NULL AND VOID, AND IS TERMINATED WITHOUT FURTHER ORDER.</p>						

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<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 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: JOHN ABBOTT-----</p> <p>RFQ. NO.: PTR09021-----</p> <p>BID OPENING DATE: 9/29/2009-----</p> <p>BID OPENING TIME: 1:30 PM-----</p>						

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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 PTR09021 ***** TOTAL: _____						

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

West Virginia Department of Transportation  
 Division of Public Transit  
 Building 5, Room 906  
 1900 Kanawha Blvd., E.  
 Charleston, WV 25305-0432

RFQ # PTR09021

## SECTION 1 – GENERAL INFORMATION, PURPOSE AND QUALIFICATIONS

### 1.1 PURPOSE OF WORK

The West Virginia Department of Transportation, Division of Public Transit (DPT) is responsible for administering the Federal Transit Administration Section 5311 (Non-urbanized Area) Program for rural transit systems. One of the many responsibilities in administering this program includes overseeing systems' compliance with United States Department of Transportation (USDOT), Federal Transit Administration (FTA) Drug & Alcohol Testing Regulations: 49 CFR (Code of Federal Regulations) Parts 40 and 655 and FTA's interpretations of those regulations. The DPT has taken many actions to ensure transit systems receiving Section 5311 funds are in compliance with these regulations. These include providing supervisory, policy oversight and regulation update training and offering technical assistance to transit operators for policy development, implementation and oversight.

The need exists for the DPT to employ a qualified service provider who would be responsible for various oversight activities. These include:

- Conducting on-site visits to verify that public transit systems receiving FTA Section 5311 funds are in compliance with the regulations. (See **EXHIBIT A** for a complete listing of transit systems.) Also, ensure that all transit systems are performing the necessary oversight functions to verify that drug and alcohol testing regulations are being followed.
- Reviewing transit systems' oversight procedures of all collection facilities, testing laboratories, Breath Alcohol Technicians (BAT's), Screen Testing Technicians (STT's) Medical Review Officers (MRO's), Substance Abuse Professionals (SAP's) and other providers of drug and alcohol testing services employed by the transit systems. **Additionally, the successful bidder shall conduct and perform their own review of the above listed service agents and ensure any deficiencies found are corrected by the facilities/individuals and/or transit systems.**
- Ensuring that the State's existing "generic" transit system drug and alcohol policy remains current with any changes to the regulations. The successful bidder shall conduct reviews of each system's policy to insure that the document is still compliant.
- Developing a Drug & Alcohol Review Checklist for use by Division of Public Transit staff when performing routine transit system site visits.
- Conducting up to four, half-day Supervisory Awareness Training sessions for those employees authorized to make reasonable suspicion determinations.
- Conducting up to four, one-day trainings on the drug and alcohol regulations. Training shall include a review of any on-site findings; updates and/or new regulation interpretations or regulation changes; educate new systems/grantees on the drug and alcohol regulations; and, educate personnel about the risks of using prescription and over-the-counter medications.

The detailed project scope and objectives for which bidders should submit their bids and qualifications are contained in Section 2.

## **1.2. EXPERIENCE, MANAGEMENT & TECHNICAL QUALIFICATIONS**

All bidders shall have a minimum of three (3) years of work experience with FTA's drug and alcohol testing regulations. All bidders shall provide specific examples of their work experience and performance including the name(s) of the FTA recipients where work was performed, contact person and phone number, a brief description of the work, duration of work, and whether the work was satisfactorily completed on time. Examples of experience include, but are not limited to: providing regulation implementation guidance to transit systems, developing policies, reviewing policies, reviewing vendor qualifications and procedures, conducting site visits, managing transit system drug and alcohol testing programs and serving on national panels, committees, boards and working groups.

All bidders shall also have experience working with at least three (3) other state departments of transportation in administering their FTA Section 5311 drug and alcohol testing oversight program. All bidders shall provide specific examples of their work experience and performance including the name(s) of the state department(s) of transportation where work was performed, state department of transportation contact person(s) and phone number(s), duration of work, and a brief description of the work.

All bidders shall also demonstrate three (3) years of providing training on FTA's drug and alcohol testing regulations. Examples of training provided to departments of transportation, transit systems, consortiums and other vendors responsible for complying with FTA's drug and alcohol testing regulations shall be included. Relevant training topics include, but are not limited to, implementation, oversight, regulation changes and interpretations, identifying the signs and symptoms of abuse and misuse, and the FTA drug and alcohol audit process.

All bidders shall also provide a description of their management and technical ability to perform the tasks required in this solicitation. This shall include a description of the bidder's organizational structure, resources available to perform the work, plan for directing and controlling the project, including any subcontractors, and qualifications of staff that will be involved in completing the work. The bidder shall also identify the proposed project manager.

All bidders shall also indicate whether you or any subcontractor has status as a certified minority, woman owned, and/or disadvantaged business enterprise. Documentation of status must be provided. If a bidder or any subcontractor has minority, woman owned and/or disadvantaged business enterprise status, the bidder shall also describe the proportion of the bid proposal that would be performed by a minority, woman owned, and/or disadvantaged business enterprise.

All individuals working on this project except administrative staff must meet the experience, management and technical qualifications as outlined in 1.2.

## **1.3. BIDDING**

On the **BID FORM #1** bid sheet. The successful bidder shall be paid only for the services actually provided. **Additional charges such as administration costs, travel or lodging will not be allowed.**

#### **1.4. BID PROPOSAL & SUBMISSION**

The successful bidder agrees to accept all of the terms and conditions, both federal and state requirements, contained in this bid package.

At a minimum, the bid should contain the following:

- a. All materials related to experience, management, and technical qualifications requested in Section 1.2.
- b. Any affidavits, forms or documents required by the State of West Virginia.
- c. The completed price bid sheet found in BID FORM # 1.
- d. A statement of Equal Employment Opportunity that assures that the firm has an affirmative action plan.
- e. A statement indicating if your firm is a Disadvantaged Business Enterprise (DBE). The Division cannot give preference to minority firms, but federal regulations require the reporting of this information.
- f. Bid Forms #1 - #6.

#### **1.5 TRAVEL COSTS**

Any and all anticipated costs for travel should be included in the proposed cost for the completion of this project. The successful bidder shall be responsible for all travel costs of this project.

#### **1.6 OWNERSHIP OF DATA**

All materials developed for this project shall become the property of the West Virginia Division of Public Transit.

#### **1.7. METHOD OF AWARD & EVALUATION**

Award will be made to the lowest responsible bidder. The DPT reserves the right to recommend to the Director of Purchasing the rejection of all bids.

#### **1.8. INTERPRETATIONS AND REPRESENTATIONS**

If for any reason it becomes necessary to revise or clarify any information published herein, such revision or clarification shall be set forth by written amendment. The DPT shall not be bound by any oral representations or any written changes made to the specifications, terms, and conditions issued by any person, including employees of the DPT, unless such clarification, revision, or other change is provided to bidders via written amendment issued by the Purchasing Division.

#### **1.9. CLARIFICATION OF OFFERS**

The Division of Purchasing reserves the right to request clarification from offerer's for purposes of assuring a full understanding of responsiveness to the requirements of this solicitation. Clarification may be permitted from all offerer's determined to be acceptable for being selected for



contract award. All offerer's will be accorded fair and equal treatment with respect to their opportunity for discussion and clarification of offers upon contact by Division of Purchasing.

### **1.10 VENDOR PREFERENCE CERTIFICATION**

The Federal Transit Administration's "Third Party Contracting Circular" (4220.1F), requires grantees (the Division) to conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Therefore, the in-state vendor preference shall not apply to this procurement since it is partially or entirely funded with Federal Transit Administration funds.

### **1.11 VENDOR REGISTRATION:**

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

### **1.12 BID FORM**

The successful Bidder will be paid only for the services actually provided. The bid amount shall be **all-inclusive**. All travel costs and any other expenses associated with visits to Charleston, workshop sites or the on-site reviews and all other work tasks or items associated with the project shall be included in the price quote. **All prices should be quoted in whole dollars and submitted on the bid form.**

### **1.13 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 by the State with thirty (30) days prior notice.

### **1.14 Termination for Convenience**

The performance of work under this Contract may be terminated with thirty (30) days written notice by the Director of the Division of Purchasing in accordance with this clause in whole, or from time to time in part, whenever the Purchasing Division shall determine that such termination is in the best interest of the State. Any such termination shall be effected by delivery to the Vendor of a notice of termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

After receipt of a notice of termination, and except as otherwise directed by the Purchasing Division, the Vendor shall: stop work under the Contract on the date and to the extent specified in the notice of termination; place no further orders or subcontracts for materials, services or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;

terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination; assign to the State in the manner, at the time, and to the extent directed by the Purchasing Division, all of the right, title, and interest of the Vendor under the orders and subcontractors so terminated, in which case the State shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts; settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Purchasing Division, to the extent as may be required, which approval or ratification shall be final for all the purposes of this clause, transfer title to the State and deliver in the manner, at the times, and to the extent, if any, directed by Purchasing Division the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of, the work terminated, and the completed or partially completed plans, drawing, information and other property which, if the Contract had been completed, would have been required to be furnished to the Division of Public Transit; use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed or authorized by the Purchasing Division, any property of the types referred to above, provided, however, that the Vendor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the Purchasing Division, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the State to the Vendor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the Purchasing Division may direct; complete performance of such part of the work as shall not have been terminated by the notice of termination; and take such action as may be necessary, or as the Purchasing Division may direct, for the protection or preservation of the property related to this contract which is in the possession of the Vendor and in which the State has or may acquire an interest.

Settlement of claims by the Vendor under this termination for convenience clause shall be in accordance with the provisions set forth in Federal Procurement Regulations (FPR) 18.701 (c), (d), (e), (f), (g), (h), (i), (j), and (k) except that wherever the word "Government" appears, it shall be deleted and the word "State" shall be substituted in lieu thereof.

### **1.15 Termination for Default**

The Division of Public Transit may, by written notice of default to the Vendor, terminate the whole or any part of this Contract if the Vendor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Vendor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Purchasing Division may authorize in writing) after receipt of notice from the Purchasing Division specifying such failure.

If the Contract is terminated in whole or in part for default, the Division of Public Transit may procure, upon such terms and in such manner as the Purchasing Division may deem appropriate, supplies or services similar to those so terminated. The Vendor shall be liable to the Division of Public Transit for any excess costs for such similar supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

Except with respect to defaults of subcontractors, the Vendor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Vendor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Vendor and subcontractor, and without the fault or negligence of either of them, the Vendor shall not be liable for any excess costs for

failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery schedule.

Payment for completed supplies delivered to and accepted by the Division of Public Transit shall be at the Contract price. The Division of Public Transit may withhold from amounts otherwise due the Vendor for such completed supplies such sum as the Purchasing Division determines to be necessary to protect the Division of Public Transit against loss because of outstanding liens or claims of former lien holders. If, after notice of termination of this Contract under the provision of this clause, it is determined for any reason that the Vendor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the Division of Public Transit.

The rights and remedies of the Division of Public Transit provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

## **Section 2 - DETAILED PROJECT SCOPE AND OBJECTIVES**

### **2.1. PREPARE INTRODUCTION LETTER**

The successful bidder will develop an information letter for transit system operators. The DPT will provide the names, addresses and phone numbers of transit system operators. The DPT shall approve the letter before it is sent out. The successful bidder shall provide a total cost for completing this task. The letter shall be issued to the transit system operators and transit system consortiums and the information will be used by the successful bidder to complete the remaining tasks. The letter will include:

1. Successful bidder background, experience and qualifications.
2. Description of services that will be provided.
3. Time frame for work completion.
4. Request the name, address and phone number of any vendor, consortium and/or Third Party Administrator (TPA) utilized by the transit system and inquire as to the extent of services provided by the vendor, consortium or TPA.
5. Request a description of each system's oversight process and the contact person name, address and phone number responsible for ensuring oversight.
6. Successful bidder shall survey all transit systems with the introduction letter to ensure they are receiving the ***FTA Drug and Alcohol Regulation Updates***. If any organizations are not receiving the updates, the successful bidder shall ensure those systems are added to the mailing list as well as receive the missing issues. Successful bidder shall also survey all transit systems to ensure they are updated on all recent changes to the regulations. If those reports have not been received, the successful bidder shall ensure those systems receive copies.

### **2.2. TRANSIT SYSTEM DRUG AND ALCOHOL POLICY**

A. The successful vendor will ensure that the State's existing "generic" policy remains current with any changes to the regulations. The successful bidder shall conduct reviews of each system's policy to insure that the document is compliant.

B. The successful bidder will assist any new transit system/grantee with policy development, review, and implementation.

### 2.3. NEW TRANSIT SYSTEM/GRANTEE DRUG AND ALCOHOL VENDOR SERVICES

The successful bidder will assist new transit systems/grantees in identifying and evaluating vendor services in the transit system's local area. (MRO, Lab and SAP may be located outside of the transit system area.) The bidder will **not** act as a TPA for the transit system. The bidder must not have any financial relationship with any vendor identified and evaluated. The successful bidder shall provide the new transit system with employee awareness training information and materials. The successful bidder should anticipate up to four (4) new systems during the contract period.

### 2.4. TRANSIT SYSTEM OPERATOR SITE VISITS

A. The successful bidder shall conduct site visits at transit systems to ensure drug and alcohol testing regulations, policies and procedures are being followed. The successful bidder will review transit system policy implementation, testing procedures, training and record keeping. The successful bidder shall conduct the site visits in the least intrusive manner possible as transit systems have limited resources to devote to lengthy site visits. **The successful bidder must submit for approval the documentation and the interview format that will be used for ensuring compliance.** The successful bidder shall provide each system and The DPT with a report consistent with the **approved documentation**. The report should include the transit system name, the name of the staff person(s) contacted, phone number, and date(s) and time(s) of contact. The DPT must approve the format of the report in advance. The successful bidder will be responsible for ensuring deficiencies are corrected by transit systems and notify The DPT when such corrections are complete.

B. The successful bidder will also review the transit systems' oversight of MRO's, SAP's, BAT's, STT's, collection sites, and laboratories. Additionally, the successful bidder shall perform an oversight review, on behalf of the transit system (through site visits if local to the transit system or phone interviews for vendors outside of the State of West Virginia), of these service agents. The most expeditious and cost effective method must be utilized. The successful bidder will determine compliance with 49 CFR Part 40 by using **documentation approved by The DPT**. The successful bidder shall provide each system and The DPT with a report, consistent with the **approved format**, on each phone interview or site visit that details strengths and deficiencies. The report should include the transit system name, the subcontractor or vendor reviewed, the name of the staff person(s) contacted, phone number, and date(s) and time(s) of contact. The DPT must approve the format of the report in advance. The successful bidder will be responsible for ensuring transit systems work with their vendors to correct deficiencies and notify The DPT when such corrections are complete.

C. If a consortium and/or Third Party Administrator performs drug and/or alcohol testing services or overall drug and/or alcohol program management, the successful bidder shall utilize the information obtained from the introductory letter required under Task 2.1 to determine the extent of services provided to the transit system by the consortium and/or TPA. Once the extent of services has been determined, the successful bidder shall use the appropriate review questions to determine whether the transit system has performed adequate oversight of the consortium and/or TPA. In addition, the successful bidder shall also perform that oversight for the transit system and provide each system and The DPT with a report, consistent with **the approved documentation**, on each consortium and/or TPA that details strengths and deficiencies, if any, that need to be corrected. The report

should include the transit system name, the consortium or TPA reviewed, the name of the staff person(s) contacted, phone number, and date(s) and time(s) of contact. The DPT must approve the format of the report in advance. The successful bidder will be responsible for ensuring transit systems work with vendors to correct any deficiencies found and notify The DPT when such corrections are complete. On the bid sheet, this task has been divided into two sections with a bid price for phone interviews or site visits.

#### **2.5. MUNICIPAL SPONSOR OVERSIGHT OF THIRD PARTY OPERATORS (IF APPLICABLE)**

In instances where a public transit system is operated for a municipal government (city), the municipal government is responsible for ensuring that its contractor(s) are complying with the federal drug and alcohol testing regulations. The successful bidder shall document municipal oversight functions using the questions approved by The DPT. The successful bidder shall provide each transit system and The DPT with a report that details strengths and deficiencies, if any, that need to be corrected. The report should include the transit system name, the municipality reviewed, the name of the staff person(s) contacted, phone number, and date(s) and time(s) of contact. The DPT must approve the format of the report in advance. The successful bidder will be responsible for ensuring any deficiencies found are corrected and notify The DPT when such corrections are complete.

#### **2.6. DRUG & ALCOHOL CERTIFICATION CHECKLIST**

The successful bidder shall develop a detailed drug and alcohol certification checklist page with questions that would provide The DPT with an enhanced oversight tool to indicate that transit systems' drug and alcohol testing policies are being kept up to date and implemented according to the regulations. The DPT staff will use this checklist when performing routine transit system site visits. The format of the checklist must be approved by the The DPT and is expected to cover key areas that would indicate if the transit system and their vendors remain in compliance with FTA regulations.

#### **2.7. "800" TELEPHONE NUMBER & E-MAIL ACCESS**

The successful bidder shall maintain an "800" telephone number and e-mail address for transit systems to use to contact the successful bidder to provide information and assistance with any policy changes and program oversight recommended by the successful bidder through the policy review exercise and site visits. All responses must be made within 24 hours. A log shall be maintained and a briefing sent to the DPT on a semi-annual basis detailing the questions and resolutions.

#### **2.8. DRUG & ALCOHOL PROGRAM COMPLIANCE AUDIT**

A. The successful bidder may be required to assist The DPT in the event FTA conducts a Section 5311 Drug and Alcohol Testing Program Compliance Audit or in other administrative or legal matters concerning state oversight of FTA's drug and alcohol testing regulations. The successful bidder, with assistance from The DPT, may be responsible for gathering and providing any materials requested by FTA for an audit, may also be required to travel to any transit systems FTA chooses to visit during an audit, and would also assist The DPT and Transit Systems with resolving any audit findings. An audit may or may not happen during the contract period, however, the successful bidder

should provide a separate hourly cost for this task should The DPT require the successful bidder's services.

B. If other miscellaneous administrative matters relevant to the drug and alcohol testing program regulations and its administration should arise for which The DPT requires assistance, the successful bidder shall be paid the hourly rate for consulting.

## **2.9. DRUG & ALCOHOL TRAINING SESSIONS**

- A. The successful bidder shall conduct up to four, half-day Supervisory Awareness Training sessions for those employees authorized to make reasonable suspicion determinations.
- B. The successful bidder shall also conduct up to four, full-day trainings on the drug and alcohol regulations. Training shall include a review of any on-site findings; updates and/or new regulation interpretations or regulation changes; educate new systems/grantees on the drug and alcohol regulations; and, educate personnel about the risks of using prescription and over-the-counter medications. The successful bidder shall be responsible for any and all handouts or other such materials.

## **SECTION 3 - SPECIAL TERMS AND CONDITIONS:**

### **3.1 PURCHASING AFFIDAVIT:**

West Virginia State Code § 5A-3-10a-(3)(d) requires that all Vendors submit an affidavit of debt, which certifies that there are no outstanding obligations or debts owed the State of West Virginia. The Purchasing Affidavit is attached to this request for proposal, which should be completed, signed and returned with the Vendor's bid. **If bidding a joint proposal, a Purchasing Affidavit must be completed for both (all) Vendors.**

### **3.2 INSURANCE REQUIREMENTS:**

The successful bidder as an independent contractor is solely liable for the acts and omissions of its employees and agents. The Vendor shall provide proof of insurance to the Purchasing Division at the time the contract is awarded. The Vendor shall maintain and furnish proof of coverage of liability insurance for loss, damage, or injury (including death) of third parties arising from acts and omissions on the part of the Vendor, its agents and employees in the following amounts:

1. For bodily injury (including death): \$500,000 per person up to \$1,000,000 per occurrence.
2. For property damage and professional liability: Up to \$1,000,000.

### **3.3 GENERAL TERMS AND CONDITIONS:**

By signing and submitting their bid, the successful bidder agrees to be bound by all the terms contained in Part 3 of the RFQ.

#### **3.3.1 Conflict of Interest:**

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

**3.3.2 Prohibition Against Gratuities:**

Vendor warrants that it has not employed any company or person other than a bona fide employee working solely for the Vendor or a company regularly employed as its marketing agent to solicit or secure the contract and that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of the contract.

For breach or violation of this warranty, the State shall have the right to annul this contract without liability at its discretion, and/or to pursue any other remedies available under this contract or by law.

**3.3.3 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.

**3.3.4 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.

**3.3.5 Contract Provisions:**

After the successful bidder is selected, a formal contract document 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 contract, the RFQ and the Vendor's bid in response to the RFQ.

**3.3.6 Governing Law:**

The laws of the State of West Virginia shall govern this contract. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws (Federal, State or Local Government) regulations.

**3.3.7 Compliance with Laws and Regulations:**

The Vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use, or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, or the equipment, or services delivered pursuant here to shall be borne by the Contractor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

**3.3.8 Subcontracts/Joint Ventures:**

The Vendor is solely responsible for all work performed under the contract and shall assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. The State will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of the State, enter into written subcontracts for performance of work under this contract; however, the Vendor is totally responsible for payment of all subcontractors.

**3.3.9 Term of Contract & Renewals:**

This contract will be effective **as of the date of the issuance of the encumbered purchase order** and shall extend for the period of one (1) year, at which time the contract may, upon mutual consent, be renewed. Such renewals are for a period of up to one (1) year, with a maximum of two (2) one year renewals, or until such reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period shall not exceed twelve (12) months. During the "reasonable time" period the Vendor may terminate the contract for any reason upon giving the Agency ninety (90) days written notice. Notice by Vendor of intent to terminate will not relieve Vendor of the obligation to continue to provide services pursuant to the terms of the contract.

Any change in Federal or State law, or court actions which constitute binding precedent in West Virginia, and which significantly alters the Vendor's required activities or any change in the availability of funds, shall be viewed as binding and shall warrant good faith renegotiation of the compensation paid to the Vendor by the Agency and of such other provisions of the contract that are affected. If such renegotiation proves unsuccessful, the contract may be terminated by the State upon written notice to the Vendor at least thirty (30) days prior to termination of this contract.

**3.3.10 Non-appropriation of Funds:**

If the Agency is not allotted funds in any succeeding fiscal year for the continued use of the service covered by the 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.



### 3.3.11 **Contract Termination:**

The State may terminate any contract resulting from this RFQ immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFQ and resulting contract. The State shall provide the Vendor with advance notice of performance conditions which are endangering the contract's continuation. If after such notice the Vendor fails to remedy the conditions contained in the notice, within the time period contained in the notice, the State shall issue the Vendor an order to cease and desist any and all work immediately. The State shall be obligated only for services rendered and accepted prior to the date of the notice of termination.

The contract may also be terminated upon mutual agreement of the parties with thirty (30) days prior notice.

### 3.3.12 **Changes:**

If changes to the original contract become necessary, a formal contract change order will be negotiated by the State, the Agency and the Vendor, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change order is defined as one approved by the Purchasing Division and approved as to form by the West Virginia Attorney General's Office, encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision and/or the scope of the work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

As soon as possible after receipt of a written change request from the Agency, but in no event more than thirty (30) days thereafter, the Vendor shall determine if there is an impact on price with the change requested and provide the Agency a written statement 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.**

### 3.3.13 **Invoices, Payments**

The Vendor shall submit invoices, in arrears, pursuant to the terms of the contract, to the

Division of Public Transit  
Building 5, Room 906  
1900 Kanawha Boulevard, East  
Charleston, WV 25305-0432

When submitting invoices for payment to the Division of Public Transit, the Vendor shall be required to provide an original typed invoice that reflects the Vendor's Federal Employee Identification Number (FEIN) and Purchase Order Number.

Payment will be made only upon approval of acceptable progress or deliverables as documented in the Vendor's report. On-site visits can be billed as completed once the on-site report has been submitted and accepted by the Division. All on-site reports must be completed within 30 days of the on-site review. An extension of 30 days can be granted by the Division if the request is made prior to the expiration of the 30 day period and the successful vendor provides an explanation acceptable to the Division. Invoices may not be submitted more than once monthly and State law forbids payment of invoices prior to receipt of services. Additionally, the successful bidder agrees to bill on a monthly basis.

**3.3.14 Record Retention (Access & Confidentiality):**

Vendor shall comply with all applicable Federal and State of West Virginia rules and regulations, and requirements governing the maintenance of documentation to verify any cost of services or commodities rendered under this contract by Vendor. The Vendor shall maintain such records a minimum of five (5) years and make available all records to Agency personnel at Vendor's location during normal business hours upon written request by Agency within 10 days after receipt of the request.

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

**3.3.15 Federal Transit Administration Master Agreement:**

The "Federal Transit Administration Master Agreement," FTA MA (15), October 1, 2008 and any revisions, amendments or reissuance under any title which may occur now or in the future for the life of the Agreement by the Federal Transit Administration or its assigns is incorporated by reference and made a part of this agreement. Copies of the Master Agreements can be found on the FTA web site. In the event that any of the covenants, agreements, terms or provisions contained in this Agreement shall be in conflict with the "Federal Transit Administration Master Agreement", the current "Federal Transit Administration Master Agreement" shall prevail and be the instrument governing the receipt of Federal assistance from the Federal Transit Administration.

**3.3.16 Disadvantage Business Enterprise (DBE):**

The Bidder shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The requirements of 49 C.F.R. Part 26 and the WV Department of Transportation's (WVDOT) U.S. Department of Transportation (USDOT) approved Disadvantaged Business Enterprise (DBE) Program are incorporated in the Contract by reference. The Bidder agrees to take all necessary and reasonable steps under the requirements of 49 C.F.R. Part 26 and the USDOT approved Disadvantaged Business Enterprise (DBE) Program (where required) to ensure that eligible DBEs have the maximum feasible opportunity to participate in USDOT approved Contracts. Failure by the Bidder to carry out these requirements is a material breach of the Contract, which may result in the termination of this Contract or such other remedy as the WV Division of Public Transit deems appropriate

A directory of DBE firms (consultants) which are certified by the WV DOT, EEO office, may be found at: <http://www.wvdot.com>, under Doing Business, click on EEO/DBE, scroll to bottom of page to DBE Resources and select DBE Listing- Contractors.

**3.3.17 No Federal Government Obligations to Third Parties**

The WV Division of Public Transit and Vendor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the WV Division of Public Transit, Vendor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Vendor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the Federal Transit Administration. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**3.3.18 Program Fraud and False or Fraudulent Statements or Related Acts**

The Vendor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Vendor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Vendor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Vendor to the extent the Federal Government deems appropriate.

The Vendor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Vendor, to the extent the Federal Government deems appropriate.

The Vendor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**3.3.19 Exclusionary or Discriminatory Specifications**

The Vendor agrees that it will comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any Federal assistance awarded by the WV Division of Public Transit to support procurements using exclusionary or discriminatory specifications.

**3.3.20 Geographic Restrictions**

The Vendor agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute, and as permitted by FTA.

**3.3.21 Civil Rights**

The following requirements apply to the underlying contract:

1. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans With Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Vendor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying contract:

a. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Vendor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Vendor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

b. Age. In accordance with the Age Discrimination Act of 1975, as amended, 29 U.S.C. §§ 6101 et seq. and implementing regulations, the Vendor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

c. Disabilities. In accordance with Section 102 of the Americans With Disabilities Act, as amended, 42 U.S.C. § 12112, the Vendor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans With Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.

3. The Vendor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

### **3.3.22 Energy Conservation**

The Vendor agrees to comply with, and obtain the compliance of its subcontractors, with mandatory standards and policies relating to energy efficiency contained in applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 et seq.

### **3.3.23 Application of Federal, State and Local Laws and Regulations**

To achieve compliance with changing federal, state and local requirements, the Vendor shall note that federal, state and local requirements may change and the changed requirements will apply to this Contract as required.

### **3.3.24 Bankruptcy**

Upon entering of a judgment of bankruptcy or insolvency by or against a Vendor, the WV Division of Public Transit may terminate this Contract for cause.

### **3.3.25 Prohibited Interest**

No employee, officer, board member, agent or their family members of the WV Division of Public Transit may participate in the selection, award, or administration of a Contract

supported by Federal funds if a real or apparent conflict of interest is involved. Such a conflict could arise when any of the parties mentioned above have a financial or other interest in the Vendor selected for the Contract.

**3.3.26 Metric System**

As required by U.S. DOT or FTA, the Vendor agrees to use the metric system of measurement in its Project activities, as may be required by Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a et. seq.; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205a note; and other regulations, guidelines, and policies issued by U.S. DOT or FTA.

**3.3.27 Severability**

In the event any provision of the Contract is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the Contract and each provision of the Contract will be and is deemed to be separate and severable from each other provision.

**3.3.28 FTA Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provision. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any WV Division of Public Transit requests that would cause the WV Division of Public Transit to be in violation of the FTA terms and conditions.

**3.3.29 Prompt Payment**

The prime Vendor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime Vendor receives from the Division of Public Transit. The Vendor agrees further to return retainage payments to each subcontractor within 15 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Division of Public Transit. This clause applies to both DBE and non-DBE subcontractors.

**3.3.30 Debarment and Suspension**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder certifies as follows:

The certification in this clause is a material representation of fact relied upon by the WV Division of Public Transit. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to remedies available to the WV Division of Public Transit, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder agrees to comply with the requirements of 49

CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions. All Contractors shall be required to certify that they are not on the Comptroller General's list of ineligible contractors on **Bid Form #3**.

### 3.3.31 Restrictions on Lobbying

Every Vendor who applies or bids for an award of \$100,000 or more shall file the certification on **Bid Form #2** required by C.F.R. Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of the registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the Division of Public Transit.

### 3.3.32 Amendments to Solicitation and Postponement of Bid Due Date

1. The State of West Virginia reserves the right to amend any element or part of these bid documents and specifications and/or change the bid opening date and time, up to the time and date that bids are due. In this event, all potential Vendors that have received a copy of these contract documents and specifications shall be notified of the postponement and the new time and date that bids will be due. Such notification shall be mailed or otherwise provided. Any bids received in accordance with the original bid due date shall be held unopened till the new bid opening date.

2. In the event that amendments are issued by the State fourteen (14) or more days prior to the original bid due date, the original date and time established for the receipt of bids, at the State's option, may or may not be changed. The addendum notification sent by the State shall contain either a statement that the bid due date remains as previously established or shall provide a new time and date if the bid due date is changed.

3. In the event that addenda are issued by the State, Vendors must complete the Addendum Acknowledgment form contained within these contract documents and specifications and submit that form with their bid. **Bid Form #6** shall be used for this purpose.

### 3.3.33 Protest Procedures

#### 1. Submission of Protest

a. Protests based on bid specifications must be submitted no later than (5) working days prior to the bid opening to the Purchasing Division. Protest of purchase order/contract award must be submitted no later than five working days after the award. The vendor is responsible for knowing the bid opening and award dates. Protests received after these dates may be rejected at the option of the Purchasing Division Director.

b. All protests shall be submitted in writing to the Purchasing Division and contain the following information:

1. The name and address of the protester;
2. The requisition, purchase order/contract numbers;
3. A statement of the grounds of protest;

4. Supporting documentation (if necessary); and
5. The resolution or relief sought.

Failure to submit this information shall be grounds for rejection of the protest by the Director of the Purchasing Division.

## **2. Protest Review**

a. The Purchasing Director or his/her designee shall review the matter of protest and issue a written decision. A hearing may be conducted at the option of the Purchasing Director or assigned designee. Continuation or delay of the purchase order/contract is at the discretion of the Purchasing Director.

b. The Purchasing Division may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided in a previous protest by the Purchasing Division. The provisions of this subsection do not apply where the court requests, expects, or otherwise expresses interest in the decision of the State.

## **3. Appeals to the Federal Transit Administration (FTA)**

Under the Federal Transit Administration's Circular 4220.1F, the Federal Transit Administration's (FTA's) review of any protest will be limited to:

a. Failure of the Division of Public Transit to have or adhere to its written bid protest procedures, or failure of the Division of Public Transit to review a complaint or protest.

b. Alleged violations on other grounds are under the jurisdiction of the appropriate State or local administrative authorities.

c. Alleged violations of a specific Federal Law or regulation that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal Law or regulation. See, e.g., Buy America Requirements, 49 C.F.R. Part 661 (Section 661.15); Participation by Minority Business Enterprise in Department of Transportation Programs, 49 C.F.R. Section 26.89.

d. The Federal Transit Administration will only review protests submitted by an actual or prospective bidder, whose direct economic interest would be affected by the award of the Contract or by failure to award the Contract. The Federal Transit Administration reserves the right not to participate in the funding of any Contract awarded pending resolution of a protest to them.

e. An appeal to the Federal Transit Administration must be received by the cognizant FTA Regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by the Division of Public Transit or other basis of appeal to FTA.

### **3.3.34 Privacy**

The Vendor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Vendor agrees to obtain the express consent of the Federal Government before the Vendor or its employees operate a system of records on behalf of the Federal Government. The Vendor understands that the requirements of the Privacy Act,

including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract.

The Vendor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**3.3.35 Clean Air & Clean Water Requirements**

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the WV Division of Public Transit and understands and agrees that the WV Division of Public Transit will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided from FTA.



**BID FORM #1  
Cost Proposal**

**For all work tasks as outlined in the proposal**

**Base Price: \$\_\_\_\_\_per hour  
(Quote in whole dollars)**

**Vendor Name:** \_\_\_\_\_

**Vendor Address:** \_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**BID FORM #2**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

The undersigned [Vendor, Contractor] certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, 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.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government Wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Vendor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

**BID FORM #3****CERTIFICATION OF PRIMARY PARTICIPANT REGARDING  
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant (applicant for an FTA grant or cooperative agreement, or potential contractor for a major third party contract),

\_\_\_\_\_ (COMPANY NAME) certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participation (applicant for an FTA grant, or cooperative agreement, or potential third party contractor) is unable to certify to any statements in this certification, the participant shall attach an explanation to his certification.)

**THE PRIMARY PARTICIPANT (APPLICANT FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT),**

\_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_  
Signature and Title of Authorized Official

**BID FORM #4**

\_\_\_\_\_ hereby certifies that it  **IS** or  **IS NOT** (check the appropriate box) included on the U.S. Comptroller General's Consolidated List of Persons or Firms Currently Debarred for violations of Various Public Contracts Incorporating Labor Standards Provisions.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

**BID FORM #5**

**VENDOR'S CERTIFICATION OF UNDERSTANDING AND ACCEPTANCE**

The Contractor hereby certifies that all Technical Specifications and Contract Terms and Conditions have been carefully reviewed, are fully understood and shall be adhered to in the performance and completion of any contract resulting from this bid.

---

Date

---

Authorized Signature

---

Title

---

Company Name

**BID FORM #6**

**ADDENDUM ACKNOWLEDGMENT**

I hereby acknowledge receipt of the following checked addendum(s) and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum No.'s

No. 1 \_\_\_\_\_

No. 2 \_\_\_\_\_

No. 3 \_\_\_\_\_

No. 4 \_\_\_\_\_

No. 5 \_\_\_\_\_

I understand that failure to confirm the receipt of the addendum(s) is cause for rejection of bids.

If no addendums are issued, please check this box and sign this form.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company

\_\_\_\_\_  
Date

**Exhibit A****Bluefield Area Transit**

Patrick McKinney, Manager  
 1642 Bluefield Avenue  
 P O Box 1838  
 Bluefield, WV 24701  
 Serving the Bluefield/Princeton Area  
 Mercer County; Welch, McDowell County

**Phone:** (304) 327-8418  
**FAX:** (304) 325-6783  
 TDD: (304) 327-8418  
 E-mail: [pmckinney@ridethebatbus.com](mailto:pmckinney@ridethebatbus.com)  
 Toll Free for McDowell 1-866-759-0978  
 Web: <http://ridethebatbus.com>

**Buckwheat Express** operated by  
 Preston County Senior Citizens, Inc.  
 Sidney Murphy, Executive Director  
 421 ½ East Main Street  
 P O Box 10  
 Kingwood, WV 26537  
 Serving Preston County

**Phone:** (304) 329-0464  
 or (304) 329-0678  
**FAX:** (304) 329-2584  
 E-mail: [prestonseniors@atlanticbb.net](mailto:prestonseniors@atlanticbb.net)  
 Web: [www.busride.org/Kingwood.htm](http://www.busride.org/Kingwood.htm)

**Central West Virginia Transit Authority**

Belinda J. Rollins, Manager  
 208 North 4<sup>th</sup> Street  
 P O Box 430  
 Clarksburg, WV 26301  
 County

**Phone:** (304) 623-6002  
**FAX:** (304) 623-2950  
 TDD: (304) 623-2950  
 E-mail: [bjs@centrabus.com](mailto:bjs@centrabus.com)  
 Web: [www.centrabus.com](http://www.centrabus.com) Serving Harrison

**Country Roads Transit**

Rebecca J. Poe, Executive Director  
 5<sup>th</sup> Street & Railroad Avenue  
 P O Box 727  
 Elkins, WV 26241  
 Serving Randolph and Upshur Counties

**Phone:** (304) 636-6472  
**FAX:** (304) 637-4991  
 E-mail: [randolphcountyseniorcenter@yahoo.com](mailto:randolphcountyseniorcenter@yahoo.com)  
 Toll Free primarily for use in Upshur County  
 1-877-636-6472

**Fairmont-Marion County Transit Authority**

George Levitsky, CCTM, General Manager  
 400 Quincy Street  
 Fairmont, WV 26554  
 Serving Marion County

**Phone:** (304) 366-8177  
 or (304) 366-8180  
**FAX:** (304) 366-2308  
 TDD: (304) 366-5295  
 E-mail: [fmcta@wvdsi.net](mailto:fmcta@wvdsi.net)  
 Web: [www.fmcta.com](http://www.fmcta.com)

**Here and There Transit** operated by

Barbour County Senior Center  
 Brenda Wilmoth, Director  
 101 Church Street  
 P. O. Box 146  
 Philippi, WV 26416  
 Serving Barbour County

**Phone:** (304) 457-1818  
**FAX:** (304) 457-2017  
 E-mail: [bcsc@bcnetmail.org](mailto:bcsc@bcnetmail.org)

**Little Kanawha Transit Authority dba  
Little Kanawha Bus**  
Darlene Harris, Manager  
Rts. 33 & 119, Arnoldsburg, WV 25234  
P O Box 387  
Grantsville, WV 26147  
Serving Calhoun, Jackson and Roane Counties

**Phone:** (304) 655-8999  
**FAX:** (304) 655-9927  
**FAX:** (304) 354-9045  
**E-mail:** [lkbc@frontiernet.net](mailto:lkbc@frontiernet.net)

**Mountain Transit Authority**  
David L. Johnson, Manager  
1096 Broad Street  
Summersville, WV 26651  
Serving Fayette, Greenbrier, Nicholas,  
and Webster Counties

**Phone:** (304) 872-5872  
**FAX:** (304) 872-5877  
**TDD:** (304) 872-5872  
**E-mail:** [mta68@hotmail.com](mailto:mta68@hotmail.com)

**Potomac Valley Transit Authority**  
J. Douglas Carter, Manager  
Grant County Industrial Park  
P O Box 278  
Petersburg, WV 26847  
Serving Grant, Hardy, Hampshire, Mineral,  
and Pendleton Counties

**Phone:** (304) 257-1414  
**FAX:** (304) 257-2804  
**TDD:** (304) 257-1414  
**E-mail:** [pvta@citlink.net](mailto:pvta@citlink.net)  
[www.potomacvalleytransit.org](http://www.potomacvalleytransit.org)

**TriRiver Transit**  
Jennifer Woodall, Manager  
11 Lincoln Plaza  
P O Box 800  
West Hamlin, WV 25571  
Serving Lincoln, Logan, and Boone Counties

**Phone:** (304) 824-2944  
**FAX:** (304) 824-3889  
**E-mail:** [tririvertransit@zoominternet.net](mailto:tririvertransit@zoominternet.net)  
**Web:** [www.tririver.org](http://www.tririver.org)

**Wayne X-Press** operated by Wayne  
County Community Service Organization  
Rose Meredith, Executive Director  
3609 Hughes Street  
Huntington, WV 25704  
Serving Wayne County

**Phone:** (304) 429-0070  
**FAX:** (304) 429-0026 (Rose)  
**FAX:** (304) 429-0027  
**TDD:** 1-800-377-6265  
Rose Meredith: **E-mail:** [rmeredith@wccso.org](mailto:rmeredith@wccso.org)



# VENDOR PREFERENCE CERTIFICATE

Certification and application\* is hereby made for Preference in accordance with *West Virginia Code*, §5A-3-37. (Does not apply to construction contracts). *West Virginia 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 Code*. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

- 1. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,  
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,  
 Bidder is a 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; or,
- 2. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
- 3. **Application is made for 2.5% resident vendor preference for the reason checked:**  
 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 Bidder's 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; or,
- 4. **Application is made for 5% resident vendor preference for the reason checked:**  
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
- 5. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
- 6. **Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**  
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of 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) reject the bid; 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.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of 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.

**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.**

Bidder: \_\_\_\_\_ Signed: \_\_\_\_\_

Date: \_\_\_\_\_ Title: \_\_\_\_\_

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

STATE OF WEST VIRGINIA  
Purchasing Division

## PURCHASING AFFIDAVIT

### VENDOR OWING A DEBT TO THE STATE:

**West Virginia Code** §5A-3-10a provides that: 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.

### PUBLIC IMPROVEMENT CONTRACTS & DRUG-FREE WORKPLACE ACT:

If this is a solicitation for a public improvement construction contract, the vendor, by its signature below, affirms that it has a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code**. The vendor **must** make said affirmation with its bid submission. Further, public improvement construction contract may not be awarded to a vendor who does not have a written plan for a drug-free workplace policy in compliance with Article 1D, Chapter 21 of the **West Virginia Code** and who has not submitted that plan to the appropriate contracting authority in timely fashion. For a vendor who is a subcontractor, compliance with Section 5, Article 1D, Chapter 21 of the **West Virginia Code** may take place before their work on the public improvement is begun.

### ANTITRUST:

In submitting a bid to any agency for the state of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the state of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the state of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the state of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership or person or entity submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

### 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. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.

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

Vendor's Name: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_