



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
ABCA22

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
SHELLY MURRAY 304-558-8801

VENDOR	RFQ COPY
	TYPE NAME/ADDRESS HERE

SHIP TO	ALCOHOL BEVERAGE CONTROL COMMISSION
	322 70TH STREET, S.E. CHARLESTON, WV 25304-2900 558-2487

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
08/12/2009				

BID OPENING DATE: 08/21/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
----- ADDENDUM NO. 1 -----						
THIS ADDENDUM IS TO RE-ISSUE THE SPECIFICATIONS FOR THIS PROJECT.						
THE BID OPENING DATE IS MOVED:						
FROM: 08/20/2009						
TO : 08/21/2009						
0001	1	LS		961-20		
PROFESSIONAL CONSULTING						
EXHIBIT 10						
REQUISITION NO.: ABCA22						
ADDENDUM ACKNOWLEDGEMENT						
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						

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

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

GENERAL TERMS & CONDITIONS PURCHASE ORDER/CONTRACT

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of this order.
2. **APPLICABLE LAW:** 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.
3. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all Federal, State and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: {a} conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; {b} be merchantable and fit for the purpose intended; and/or {c} be free from defect in material and workmanship.
8. **CANCELLATION:** The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in this Order.
10. **LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the *West Virginia Code*.
11. **TAXES:** The State of West Virginia is exempt from Federal and State taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** 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, the State may deem this contract null and void, and terminate such contract 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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BID OPENING DATE: 08/21/2009 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
	NO. 4					
	NO. 5					
<p>I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.</p> <p>VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.</p> <p>..... SIGNATURE</p> <p>..... COMPANY</p> <p>..... DATE</p>						
	REV. 11/96					
----- END OF ADDENDUM NO. 1 -----						

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

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WEST VIRGINIA ALCOHOL BEVERAGE CONTROL ADMINISTRATION

REQUEST FOR QUOTATIONS

ABCA22 – Re-Issued

BACKGROUND:

The West Virginia Legislature created the West Virginia Alcohol Beverage Control Administration (“WVABCA”) in 1935 (*See* W.Va. Const. Art. IV '46 and W.Va. Code '60-1-1 *et seq.*) The WVABCA was organized to give effect to the mandate of the people expressed in the repeal of the state prohibition amendment, and to assure the greatest degree of personal freedom that is consistent with the health, safety, and good morals of the people of West Virginia. During the WVABCA’s first 56 years of existence, the WVABCA functioned as the exclusive wholesaler and retailer of liquor in West Virginia; non fortified wines were "privatized" in 1981.

On February 27, 1990, with the passage of Senate Bill 337, legislative action was taken to discontinue the retail sale of alcoholic beverages by the State. This legislation created the Retail Liquor Licensing Board (“RLLB”) to establish market zones and bid retail liquor outlets throughout West Virginia. Currently, the RLLB is comprised of five board members, two statutory members, the Chairman of the Board who is the Secretary of Revenue, and the Secretary of the Board who is the WVABCA Commissioner. The RLLB is also comprised of three additional gubernatorial board appointments. No member of the board may hold a retail license or have any financial interest, directly or indirectly, in any retail licensee. The RLLB and the Commissioner are authorized to engage any accounting, legal or other necessary consultant to assist them in carrying out their duties per W.Va. Code '60-3A-6.

During fiscal year 1991, public bids were held in August 1990, January 1991, and May 1991. This resulted in the sale of retail liquor store licenses in all 98 zones offered and the possibility of 214 privately owned liquor stores being opened in West Virginia. The sale of state owned liquor stores and the conversion of state owned liquor inventories enabled the WVABCA to transfer profits to West Virginia’s General Revenue Fund.

In 2000, the RLLB’s license bid process utilized minimum bids which were calculated based on demographics, population and other factors. The bidding generated revenue from all issued licenses which was deposited into the general revenue fund based on the minimum bids calculated at that time and the Governor’s official revenue estimate. The licenses were issued for a 10 year period and will expire June 30, 2010.

During the 2000 bid, a number of licenses were never issued and some licenses have been abandoned. In 2006, the RLLB approved an Interim Bid and splitting of certain licenses into 3 zones. The licenses were rebid on a pro-rated minimum bid basis and two licenses were awarded in 2007 for the remainder of the ten-year period or until June 30, 2010.

With the passage of House Bill No. 105 during the First Special Session of 2009, effective from passage, (“**HB 105**”), the RLLB and WVABCA are authorized to move forward with the 2010 Purchase Option and License Bid Process (*See* attached Bill, Bullet Points and *See also* W.Va. Code §60-3A- 1, *et seq.*, as amended in 2009). HB 105 adds many requirements and restrictions on newly defined terms of Class A licensees or freestanding retail outlets and Class B licensees or mixed retail outlets. Further HB 105 provides a deferred payment/financing option for current

licensees who can or will be able to meet freestanding retail outlet requirements and who elect the purchase option.

SPECIFICATIONS (SCOPE OF WORK):

The 2010 licensing process will issue approximately 180 licenses in zones throughout West Virginia for 10 years beginning July 1, 2010, and the licensees electing the purchase option and the bidders must meet the new requirements set by HB 105. A licensed accounting firm, financial consulting firm or law firm (“Firm”) will assist in the 2010 license process (Purchase Options and License Bids) and any future bids authorized by the RLLB for never issued, abandoned, or split licenses for up to one year from the date of approval of this request for quotations. The anticipated start of the 2010 license process is December 20, 2009, which will begin with the purchase option packets being sent to all current licensees.

The 2010 license process will consist of processing current licensees who select the purchase option and agree to meet the new Class A license requirements; bidding any licenses not electing to be Class A licenses, the Class B licenses, new licenses, moved licenses or licenses that have not been issued; applying preferences, and possibly bidding some Class B licenses at the discretion of the RLLB. Please carefully review Phase One, Phase Two and specifications listed below:

2010 Purchase Option and License Bid Process

Phase One: The RLLB and WVABCA are authorized to offer a purchase option to all current licensees who either currently operate a Class A freestanding retail liquor outlets or who will seek to operate a Class A freestanding retail liquor outlet with 90 days of July 1, 2010, all subject to the requirements in W.Va. Code §60-3A-1, *et seq.* and the amendments made by HB 105.

The 2010 license process and timeline (*See Timeline attached*) is scheduled to have the Firm mail all purchase option packets by December 21, 2009, have all purchase option packets returned by February 1, 2010, and have all licenses qualifying for the purchase option awarded on or before February 15, 2010.

Phase Two: For Licensees not electing the purchase option, all Class B mixed retail outlets or any additional licenses added by the RLLB, the RLLB and WVABCA are authorized to bid their licenses to the highest bidder subject to preferences. The law provides for the following preferences: (1) Current licenses will have a 5% current licensee preference for the retail outlets licensed and operated by them; (2) WV residents that meet the resident criteria will have a 5% resident preference; and (3) Unsuccessful current licensees will have the right to match the highest bidder for the retail outlets licensed and operated by them, all subject to the requirements in W.Va. Code §60-3A-1, *et seq.* and the amendments made by HB 105.

The 2010 license process is scheduled to have the Firm advertise all licenses being bid (in the appropriate zone) for 1st publication on March 8, 2010 and 2nd publication on March 15, 2010. All licenses being bid will be mailed to current licensees on March 8, 2010, with all bids due by April 20, 2010, and all successful bids awarded on or before May 5, 2010.

The RLLB and the WVABCA are seeking a Firm to:

Prior to Phase One and Phase Two:

- (1) review and provide advice in developing the methodology, formulae and rules for calculation of minimum bids and once approved calculate the minimum bids, purchase option amounts and license minimum bid amounts;
- (2) Review and provide advice in developing the emergency legislative rules developed by the WVABCA pursuant to HB 105;
- (3) Review and provide advice in developing the 2010 Class A deferred payment/financing agreement;
- (4) Work with staff to develop purchase option packets and license bid packets to be mailed to licensees;
- (5) provide data, analysis and recommendations in regards to moving any license from a zone to another zone and any other analysis and recommendations as required by the RLLB or the WVABCA;

Phase One and Phase Two:

- (6) The Firm shall: (a) assist the RLLB and WVABCA in developing the Purchase Option, deferred payment/financing agreement and License Bid packets that meet the requirements of W.Va. Code §60-1-1, *et seq.* and specifically outlined W.Va. Code §60-3A-1, *et seq.*, as amended in 2009; (b) mail Purchase Option and License Bid packets on the set dates; (c) receive the Purchase Option and License Bid packets on the set return dates; (d) open the Purchase Options and Licenses Bids on set dates; and (e) determine the license winner, as approved by the WVABCA;
- (7) The Firm shall conduct, receive, process and award, with WVABCA's approval, the 2010 Purchase Options and License Bids, and any additional license bids for up to one year from the date of approval of this request for quotations;

Other specifications and requirements:

- (8) The Firm shall attend, in person, RLLB Meetings and attend daily/weekly meetings, with staff, and consult with the RLLB, the WVABCA Commissioner, General Counsel, and staff as needed;
- (9) As a part of this licensing process the Firm will use the RLLB approved formulas to calculate the ten year minimum bids for the 2010 licensing process (purchase options and license bids) and any subsequent interim license bids for a period of one year from the date of approval of this request for quotations;
- (10) The Firm must be a partnership, association, limited liability entity, or corporation authorized to do business in West Virginia and in good standing with the State of West Virginia who will be available to attend and participate in meetings located in Charleston, WV for the duration of the RFQ;
- (11) The Firm shall provide the address of its offices;
- (12) The Firm and the person or persons who will be directly providing services per this RFQ must have and provide a list of its experience conducting a sealed bidding process or

bidding retail liquor licenses or other licenses for the State of West Virginia, any other state or any other governmental entity;

- (13) The Firm's person or persons who will be responsible for providing services per this RFQ must provide documentation of being licensed in a state for at least 5 years as:
- (a) An Accountant with an accounting degree and be a Certified Public Accountant;
 - (b) An Attorney with a Juris Doctorate degree with a primary practice area in financial services and/or taxation; or
 - (c) A Financial Advisor with an M.B.A. in Finance or Accounting and certified or licensed as a Certified Financial Advisor;

and further all of the above mentioned persons must be able to be licensed to perform and provide services in West Virginia upon the award of this RFQ;

- (14) The Firm must provide the names, phone numbers, CPA registration and licensure information, West Virginia Bar Identification number and licensure information and CFA registration and licensure information of the person or persons who will be responsible and directly providing services per this RFQ;
- (15) The Firm must provide a list of 3 client references for whom any related work was performed in the past 10 years;
- (16) The Client under the RFQ is the RLLB and the WVABCA. Therefore, the Firm's person or persons responsible and directly providing services per this RFQ must not have a conflict of interest and must not advise any current retail liquor outlets, clients or potential clients who could choose the Purchase Options or potentially bid on licenses. Any person or persons employed by the Firm who have any conflicts of interest shall not provide and perform any services under this RFQ. All services performed for the RLLB and WVABCA are confidential.
- (17) The 2010 license process is scheduled (*See Timeline attached*) to have the Firm mail all purchase option packets in **Phase One** by December 21, 2009, have all purchase option packets returned by February 1, 2010, and have all licenses qualifying for the purchase option awarded on or before February 15, 2010;
- (18) The 2010 license process is scheduled to have the Firm advertise all licenses being bid in **Phase Two** (in the appropriate zone) for 1st publication on March 8, 2010 and 2nd publication on March 15, 2010. All licenses being bid will be mailed to current licensees on March 8, 2010, with all bids due by April 20, 2010, and all successful bids awarded on or before May 5, 2010; and
- (19) The Firm must include all expenses in its total bid, including but not limited to travel, copies, mailings and any other out of pocket costs. No expenses will be paid separately;
- (20) The Firm must provide a lump sum total bid and the selected Firm will be the lowest bidder that meets the specifications and requirements of the RFQ.

PAYMENT:

All Payments will be made quarterly (4 months from the date the RFQ is awarded) upon receipt of Firm's invoice and upon verification and approval by the WVABCA.

EXHIBITS:

- (1) HB 105; (2) HB 105 Bullet Points; and (3) Tentative Timeline**