



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
FAR106065

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
**KRISTA FERRELL
 304-558-2596**

RFQ COPY
 TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

DEPARTMENT OF ADMINISTRATION
 FINANCIAL ACCOUNTING AND
 REPORTING SECTION
 2101 WASHINGTON ST E
 CHARLESTON, WV
 25305-1510 304-558-4083

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
11/23/2009				

BID OPENING DATE: **12/30/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		906-29		
<p>SOFTWARE ENGINEERING SERVICES FOR ERP</p> <p>EXPRESSION OF INTEREST (EOI)</p> <p>THE WEST VIRGINIA DIVISION OF PURCHASING FOR THE AGENCY, THE WEST VIRGINIA DIVISION OF ADMINISTRATION'S DIVISION OF FINANCE IS SOLICITING EXPRESSIONS OF INTEREST FOR SOFTWARE ENGINEERING, CONSULTING, AND PROJECT MANAGEMENT SERVICES FOR AN ENTERPRISE RESOURCE PLANNING SYSTEM PER THE ATTACHED.</p> <p>TECHNICAL QUESTIONS CONCERNING THIS EXPRESSION OF INTEREST MUST BE SUBMITTED IN WRITING TO KRISTA FERRELL IN THE WEST VIRGINIA STATE PURCHASING DIVISION VIA MAIL AT THE ADDRESS SHOWN IN THE BODY OF THIS EOI, VIA FAX AT 304-558-4115, OR VIA EMAIL AT KRISTA.S.FERRELL@WV.GOV. DEADLINE FOR ALL TECHNICAL QUESTIONS IS MONDAY, DECEMBER 14, 2009 AT THE CLOSE OF BUSINESS. ALL TECHNICAL QUESTIONS RECEIVED, IF ANY, WILL BE ANSWERED BY ADDENDUM AFTER THE DEADLINE HAS LAPSED.</p> <p>QUESTIONS CONCERNING THE PROCESS BY WHICH A VENDOR MAY SUBMIT AN EXPRESSION OF INTEREST TO THE STATE OF WEST VIRGINIA ARE NOT CONSIDERED TO BE TECHNICAL QUESTIONS AND MAY BE SUBMITTED AT ANY TIME PRIOR TO THE EOI OPENING AND IN ANY FORMAT.</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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

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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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
			 COMPANY		
			 DATE		
<p>NOTE: THIS ADDENDUM ACKNOWLEDGEMENT SHOULD BE SUBMITTED WITH THE EOI.</p> <p>REV. 09/21/2009</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> <p>NOTICE</p> <p>A SIGNED EOI MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> <p>THE EOI SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE EOI MAY NOT BE CONSIDERED:</p> <p>SEALED EOI</p>						

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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
BUYER:				KRISTA FERRELL-FILE 21		
EOI. NO.:				FAR106065		
EOI OPENING DATE:				12/30/2009		
EOI OPENING TIME:				1:30 PM		
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR EOI:						

CONTACT PERSON (PLEASE PRINT CLEARLY):						

***** THIS IS THE END OF RFQ FAR106065 ***** TOTAL:						

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**EXPRESSION OF INTEREST
CONSULTING ENGINEERING SERVICES AND PROJECT MANAGEMENT
FAR106065, ENTERPRISE RESOURCE PLANNING SYSTEM**

Part 1 GENERAL INFORMATION

1.1 Purpose:

The Acquisition and Contract Administration Section of the Purchasing Division, "State", is soliciting Expression(s) of Interest (EOI) for the state government in West Virginia as described within the Executive Order 15-09 of the Governor, from qualified firms to provide software engineering consulting and project management services as defined in section two (2) and three (3).

1.2 Project:

The State of West Virginia plans to implement an Enterprise Resource Planning solution, hereinafter referred to as "ERP", to address the business and technology needs of the State. The selected firm shall provide qualified professionals to partner with and augment State personnel to assist in: Needs assessment and planning; preparation of the ERP system solicitation document; proposal and system evaluations; ERP system contract negotiations; system acquisition, configuration, installation and data conversion; and potential project advisory and quality assurance and management oversight.

The successful firm shall be prohibited from submitting a proposal for an ERP solution. The successful firm shall be further prohibited from consulting with or advising any potential ERP vendor on any procurement solicitation issued to develop and/or procure the ERP solution for the State.

1.3 Format: N/A

1.4 Inquiries:

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

Krista Ferrell
Purchasing Division
P.O. Box 50130
Charleston, WV 25305-0130
Fax: (304) 558-4115
Krista.S.Ferrell@wv.gov

The firm, or anyone on the firm's behalf, is not permitted to make any contact whatsoever with any member of the evaluation committee. Violation may result in rejection of the EOI. The State Buyer named above is the sole contact for any and all inquiries after this EOI has been released.

1.5 Vendor Registration:

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

1.6 Oral Statements and Commitments:

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

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

1.8 Labeling of the Sections: The response sections should be labeled for ease of evaluation including but not limited to qualifications, experience, and methodology.

1.9 Submission:

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

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

Submit:

One (1) original and ten (10) CDs to:
Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130

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

Krista Ferrell, Buyer Supervisor

Requisition No: FAR106065

Opening Date: 12-30-09

Opening Time: 1:30 PM

1.10 Rejection of Expressions:

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

1.11 Incurring Costs:

The State and any of its employees or officers shall not be held liable for any expenses incurred by any firm responding to this EOI for expenses to prepare, deliver, or to attend the short-list interviews.

1.12 Addenda:

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

1.13 Independent Price Determination:

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

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

1.15 Public Record:

1.15.1 Submissions are Public Record.

All documents submitted to the State Purchasing Division related to purchase orders/contracts are considered public records. All EOI's submitted by firms shall become public information and are available for inspection during normal official business hours in the Purchasing Division Records and Distribution center after the expressions have been opened.

1.15.2 Written Release of Information.

All public information may be released with or without a Freedom of Information request, however, only a written request will be acted upon with duplication fees paid in advance. Duplication fees shall apply to all requests for copies of any

document. Currently the fees are \$0.50/page, or a minimum of \$10.00 per request, which ever is greater.

1.15.3 *Risk of Disclosure.*

The only exemptions to disclosure of information are listed in West Virginia Code §29B-1-4. Primarily, only trade secrets as submitted by a firm are the only exemption to public disclosure. The submission of any information to the State by a firm puts the risk of disclosure on the firm. The submission of any information to the State by a vendor puts the risk of disclosure on the vendor. The State does not guarantee non-disclosure of any information to the public.

1.16 **Schedule of Events:**

Release of the EOI.....	11/27/09
Firm's Written Questions Submission Deadline.	12/14/09
Expressions of Interest Opening Date.....	12/30/09

Questions regarding this project must be submitted in writing to:

**Krista Ferrell, Senior Buyer, Purchasing Division
Krista.S.Ferrell@wv.gov**

The Purchasing Division will obtain responses to written question which shall be issued in the form of an addendum. Written questions must be received on or before the close of business on Monday, December 14, 2009 as indicated above

1.17 **Economy of Preparation:**

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

1.18 **Bond Requirements:** Not Applicable

1.19 **Purchasing Affidavit:**

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

PART 2**OPERATING ENVIRONMENT****2.0 Background:**

The State of West Virginia is seeking to acquire an ERP system to help streamline and improve the business processes and decisions made on behalf of the taxpayers. Article 7.1 of the West Virginia Constitution states, "The executive department shall consist of a governor, secretary of state, auditor, treasurer, commissioner of agriculture and attorney general, who shall be ex officio reporter of the court of appeals. Their terms of office shall be four years, and shall commence on the first Monday after the second Wednesday of January next after their election. They shall reside at the seat of government during their terms of office, keep there the public records, books and papers pertaining to their respective offices, and shall perform such duties as may be prescribed by law." Additional information in regards to the duties of these officers and the applicable state code is available at <http://www.legis.state.wv.us/WVCODE/Code.cfm>.

The West Virginia Financial Information Management System, WVFIMS, has been the "accounting system of record" for the State of West Virginia since the end of the first quarter of Fiscal Year 1994. WVFIMS is a custom developed system that is resident on two technical platforms: the Department of Administration side resides on the Information Services & Communication's, IS&C, enterprise server whereas the West Virginia State Auditor's, SAO, side of WVFIMS resides on a enterprise server managed by that office. Direction for WVFIMS is set by the Comptroller of the State (who is designated by the Secretary of Administration) under the authority granted by §5A-2-33. The Comptroller works with the State Auditor's Office, the State Treasurer's Office, the State Budget Office (which is a part of the Department of Revenue), as well as the Department of Administration's Purchasing Division in order to set this direction. Additionally, input for enhancement has traditionally been solicited from a user steering committee, the Legislative Auditor's Office, as well as ad hoc user requests.

Statistics:

Total Operating Budget – Fiscal Year 2010: \$12.8 billion

- 39,500 Approximate Full Time Employees – Fiscal Year 2009

FY 2010 – 169 organizations with at least one expenditure account

- Over 2,700 online users access the System each month
- 3,634 State expenditure accounts for FY 2010
- 8,616 extended expenditure accounts are in use for FY 2010
- 2,944 State revenue accounts for FY 2010
- 1,958 extended revenue accounts are in use for FY 2010

- Approximately 47% of the State's \$12.2 billion in expenditures for FY 09 was against extended accounts
- For tax year 2008 over 9,151 IRS Form 1099s were produced

Additional statistical information is available at:

Recap of financial information at State Auditor's site.

<http://www.wvsao.gov/>

Recap of budgetary information at the Budget Office Website

<http://www.wvbudget.gov/>

Recap of the state's financial statements

<http://www.wvfinance.state.wv.us/>

PART 3 PROCUREMENT SPECIFICATIONS

3.1 General Requirements:

The mission or purpose of the project described herein is to provide the State of West Virginia assistance in procuring and implementing an ERP solution to address the business and technology needs of the State. The selected firm shall provide qualified professionals to partner with and augment State personnel to assist in: Needs assessment and planning; preparation of the ERP system solicitation document; proposal and system evaluations; ERP system contract negotiations; system acquisition, configuration, installation and data conversion; and potential project advisory and quality assurance and management oversight. A contract shall be negotiated with the selected firm to establish a mutually agreed upon scope of work, identify deliverable requirements and timelines, define State and consultant responsibilities, reporting and monitoring requirements and other services deemed necessary to ensure the success of this project, and costs and charges to the State for software engineering consulting services.

The successful firm shall be prohibited from submitting a proposal for an ERP solution. The successful firm shall be further prohibited from consulting with or advising any potential ERP vendor on any procurement solicitation issued to develop and/or procure the ERP solution for the State.

3.2 Project Description:

Our goal is to fully implement an integrated ERP System consisting of Finance, Human Resources, Payroll and Procurement. Specifically, modules the State will

likely implement include, but may not be limited to, are as follows:

- Finance and Accounting
- General Ledger/General Accounting
- Accounts Payable
- Accounts Receivable
- Projects Accounting (Capital and Operating)
- Fixed Assets
- Investment Accounting
- Financial Reporting and Analysis
- Operating Expense and Revenue, Budgeting and Forecasting
- Procurement
- Payroll
- Human Resources and Benefits Management
- Risk Management
- Asset Management
- Pension Management
- Materials Management
- Transportation Project Billing
- Inventory Control and Accounting
- Material Request
- Grants Management
- Treasury
- Cash Management
- Investment Management
- Debt Management
- Cash Flow Forecasting
- Capital Budgeting and Long Term Financial Planning
- Financial Data Warehouse and Reporting Tool

3.3 Project Governance and Roles

The Governor, Auditor, and Treasurer are the primary stakeholders in the system. Through discussions, negotiations, and consensus building, the Governor, Auditor and Treasurer will decide all issues.

3.4 Primary Stakeholder's Commitment

Primary stakeholders will provide the necessary staff and resources to ensure the successful completion of the project.

3.5 Consulting Engineering Requirements

At a minimum, the consultant is expected to provide methodology and resources to

perform the following:

- As Is Analysis
- To Be Analysis (Best Business Practices)
- Gap Analysis
- Change Management Plan
- Business Case
- Funding Proposal & Cost Recovery
- Implementation Strategies

3.6 Technical Requirements

The Consultant will review and assess the State's technical infrastructure and readiness to implement an ERP package. The Consultant will recommend a high level technical architecture for the ERP system and define requirements that must be met to build that architecture.

3.7 Expression of Interest Response Requirements

Responses should include the following information:

3.7.1 General

- a. Describe the form of business (i.e. individual, sole proprietor, corporation, non-profit corporation; partnership, Limited Liability Company) and detail the name, mailing address, telephone number and e-mail address of the contact person representing the firm and who will be the designated contact person.
- b. Provide a statement of whether there have been any mergers, acquisitions, or sales of the company within the last ten (10) years. If so, include an explanation/information providing relevant details.
- c. Provide a statement of whether there is any pending litigation against the firm and status of claims.
- d. Provide a statement of whether the firm has filed (or had filed against it) any bankruptcy or insolvency proceeding, whether voluntary or involuntary, or undergone the appointment of a receiver, trustee, or assignee for the benefit of creditors during the last ten (10) year period including the current status.
- e. Provide a narrative that illustrates the firm's understanding of the State's requirements.
- f. Provide a narrative that explains and illustrates the firm's concepts for this project as referenced in section 3.5
- g. Describe any significant problems encountered by the firm in other ERP system projects, explain issues and problem resolution and how those problems may be avoided in this project.
- h. Describe your firm's approach and methodology for retaining a stable

consulting staff throughout the contract duration for this project. Include processes currently in place for motivating staff and ensuring technical competence in a changing technological environment.

- i. Disclose any legal or organizational relationships your company has with consultants of ERP software. Describe the nature of the relationship. Also, identify any business partner or alliance relationships you have with consultants of ERP software. Describe the nature of the partnership or alliance.
- j. Disclose any agreements or relationships with software or hardware consultants that may present a conflict of interest to your company and potentially affect your ability to objectively advise the State on hardware or software selection.
- k. Provide any information on any industry accepted best practices that your company has adopted or attained certifications in such as ISO 9001 or the Software Engineering Institute's (SEI) Capability Maturity Model (CMM).
- l. Provide the firm's most recent audited financial statement and DUNS number.
- m. Provide a list of subcontractors which may be utilized in this engagement.

3.7.2 Qualifications

- a. Describe how long the firm has been performing the services required by this Expression of interest and include the number of years in business overall.
- b. Describe the firm's organizational structure including number of employees, client base and location of offices.
- c. Provide a statement regarding the firm's ability to complete work associated with this Expression of Interest and whether the firm plans to subcontract work. If subcontracting is anticipated, please provide a list of services proposed for subcontracting.

3.7.3 Experience

- a. Describe the Consultant's experience in assisting governments in the development of the solicitation document, preparation of responses to inquiries during the bid process, assisting in the evaluation of solicitation responses, assisting in conducting interviews and ERP system demonstrations; assisting in negotiating a contract with the selected ERP vendor.
- b. Describe the Consultant's experience with multiple ERP software systems and multiple software implementers in government applications.
- c. Describe experience with making decisions about hosting software, including risks, benefits and cost analysis.

- d. Provide a list of references for all ERP related projects completed by the firm. Include the business name, scope of services provided, contact person, address and phone number, e-mail address, date of contract award, original contract duration, actual completion date, original pricing structure for contract services, total project cost. Describe the functions/modules implemented, the firm's role and the subsequent outcome. Address how the experience gained from this engagement can be applied to the Requirements Definition phase of the State's ERP project.
- e. Provide a list of employees proposed for this project including employee name, title, and time with the firm, education, employment history, and detail for specific ERP experience.
- f. Provide no less than 3 but no more than 5 references for similar projects completed by the firm. Include the business name, description of services provided, project dates, contact name, address, and phone number, e-mail address, length of contract and total amount.

3.8 Oral Interviews

- 3.8.1 In accordance with the provisions of *WV Code §5G*, an evaluation committee consisting of 3 to 5 voting members representing the Governor, Auditor, Treasurer shall evaluate the statements of qualifications and performance data and other material submitted by the interested firms and select three firms which in their opinion are the best qualified to perform the desired service. Interviews with each firm selected shall be conducted and the committee shall conduct discussions regarding anticipated concepts and the proposed methods of approach to the assignment.
- 3.8.2 The date and time of interviews will be determined following receipt of proposals. Interviews will be held in Charleston, WV with the exact location to be provided upon notification that the firm has been short listed. **The oral interview team shall be limited to no more than 5 people and must include the proposed on-site project manager.**
- 3.8.3 Firms contacted for interviews shall be given no more than 4 hours to discuss qualifications, experience and anticipated concepts and methods of approach and to answer questions that may be posed by members of the evaluation committee.
- 3.8.4 Upon the conclusion of interviews, in accordance with the provisions of *WV Code §5G*, the evaluation committee will rank the three firms interviewed.

3.9 **Special Terms and Conditions:**

3.9.1 *Bid and Performance Bonds:* None required.

3.9.2 *Insurance Requirements:* \$1,000,000 General Liability per Occurrence
 \$2,000,000 Aggregate
 \$1,000,000 Automobile Liability
 \$1,000,000 Professional Liability
 Workers Compensation Certificate upon award
 West Virginia Statutory requirements including
 West Virginia Code §23-4-2

3.10 **General Terms and Conditions:**

By signing and submitting the EOI, the successful firm agrees to be bound by all the terms contained in Section 3 of this EOI.

3.10.1 ***Conflict of Interest:***

Firm 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 firm further covenants that in the performance of the contract, the firm 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.

3.10.2 ***Prohibition Against Gratuities:***

Firm warrants that it has not employed any company or person other than a bona fide employee working solely for the firm 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.

3.10.3 ***Certifications Related to Lobbying:***

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

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

Firm agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

3.10.4 *Vendor Relationship:*

The relationship of the firm 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 firm as an independent contractor is solely liable for the acts and omissions of its employees and agents.

Firm shall be responsible for selecting, supervising and compensating all individuals employed pursuant to the terms of this EOI and resulting contract. Neither the firm nor any employees or contractors of the firm shall be deemed to be employees of the State for any purposes whatsoever.

The Firm 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.

The Firm shall hold harmless the State, and shall provide the State and Agency with a defense against all claims including but not limited to the foregoing payments, withholdings, contributions, taxes, social security taxes and employer income tax returns.

The firm 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.

3.10.5 *Indemnification:*

The firm 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 firm, 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 firm, its officers, employees or subcontractors to observe State and Federal laws, including but not limited to labor and wage laws.

3.10.6 Contract Provisions:

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

3.10.7 Governing Law:

This contract shall be governed by the laws of the State of West Virginia. The firm further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws (Federal, State or Local Government) regulations.

3.10.8 Compliance with Laws and Regulations:

The firm 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 firm 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.

3.10.9 Subcontracts/Joint Ventures:

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

3.10.10 Term of Contract:

This contract will be effective (date set upon award) and shall extend until the scope of work is complete or for one (1) consecutive twelve (12) month period. The contract may be renewed upon mutual consent for two (2) consecutive years one (1) year periods or until such reasonable time as may be necessary to obtain a new contract or to complete work.

3.10.11 *Non-Appropriation of Funds:*

If the Agency is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this contract by the West Virginia Legislature, the Agency may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The Agency shall give the firm 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.

3.10.12 *Contract Termination:*

The State may terminate any contract resulting from this EOI immediately at any time the firm fails to carry out its responsibilities or to make substantial progress under the terms of this EOI and resulting contract. The State shall provide the firm with advance notice of performance conditions, which are endangering the contract's continuation. If after such notice the firm fails to remedy the conditions contained in the notice, within the time contained in the notice, the State shall issue the firm an order to cease and desist 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.

3.10.13 *Changes:*

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

3.10.14 *Invoices, Progress Payments, & Retainage:*

The Firm shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract. Progress payments may be made at the option of the Agency based on percentage of work completed if so defined in the final contract.

If progress payments are permitted, firm is required to identify points in the work plan at which compensation would be appropriate. Progress reports must be submitted to Agency with the invoice detailing progress completed or any deliverables identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the firm's report. Invoices may not be

submitted more than once monthly and State law forbids payment of invoices prior to receipt of services.

3.10.15 **Liquidated Damages:** Time is of the essence; Liquidated damages will be negotiated with the selected firm.

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

Firm 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 the firm. The firm shall maintain such records a minimum of five (5) years and make available all records to Agency personnel at firm's location during normal business hours upon written request by Agency within 10 days after receipt of the request.

Firm shall have access to private and confidential data maintained by Agency to the extent required for firm to carry out the duties and responsibilities defined in this contract. Firm 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 firm, subcontractors, or individuals permitted access by the firm.

3.10.17 **Work Product Ownership:** All work products resulting from this contract shall be solely owned by the State.

PART 4 EVALUATION & AWARD

4.1 Evaluation and Award Process:

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

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

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

b) The evaluation criteria and assigned point values are as follows:

Experience & Qualifications in ERP System Engineering Consulting	40
Methodology	20
Oral Interview	<u>40</u>
Total	100

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: _____