



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
TOR3676

PAGE
1

ADDRESS CORRESPONDENCE TO ATTENTION OF:
FRANK WHITTAKER
304-558-2316

RFQ COPY
TYPE NAME/ADDRESS HERE

VENDOR

DIVISION OF TOURISM

90 MACCORKLE AVE SW
CHARLESTON, WV
25303 304-558-2200

SHIP TO

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
05/28/2009				

BID OPENING DATE: **07/29/2009** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		915-03		
<p>ADVERTISING SERVICES</p> <p>REQUEST FOR PROPOSAL (RFP)</p> <p>THE WEST VIRGINIA PURCHASING DIVISION, FOR THE AGENCY THE WEST VIRGINIA DIVISION OF TOURISM, IS SOLICITING PROPOSALS FOR ADVERTISING AND PUBLIC RELATION SERVICES PER THE ATTACHED SPECIFICATIONS.</p> <p>ALL TECHNICAL QUESTIONS MUST BE SUBMITTED IN WRITING TO FRANK WHITTAKER IN THE WEST VIRGINIA PURCHASING DIVISION VIA FAX AT 304-558-4115 OR VIA EMAIL AT FRANK.M.WHITTAKER@WV.GOV. DEADLINE FOR TECHNICAL QUESTIONS IS 06/11/09 AT 3:00 PM. ALL TECHNICAL QUESTIONS WILL BE ADDRESSED BY ADDENDUM AFTER THE DEADLINE.</p> <p>A MANDATORY PRE-BID MEETING WILL BE HELD 07/08/09 AT 1:30 PM IN THE DIVISION OF TOURISM CONFERENCE ROOM LOCATED AT 90 MACCORKLE AVENUE S.W. SOUTH CHARLESTON WV 25303. FAILURE TO ATTEND THE MANDATORY PRE-BID MEETING WILL RESULT IN BID DISQUALIFICATION. AN INDIVIDUAL MAY NOT REPRESENT MORE THAN ONE FIRM AT THE PRE-BID MEETING.</p> <p>EXHIBIT 3</p> <p>LIFE OF CONTRACT: THIS CONTRACT BECOMES EFFECTIVE ON AND EXTENDS FOR A PERIOD OF ONE (1</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, 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."

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



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<p>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> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICE SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>OPEN MARKET CLAUSE: THE DIRECTOR OF PURCHASING MAY AUTHORIZE A SPENDING UNIT TO PURCHASE ON THE OPEN MARKET, WITHOUT THE FILING OF A REQUISITION OR COST ESTIMATE, ITEMS SPECIFIED ON THIS CONTRACT FOR IMMEDIATE DELIVERY IN EMERGENCIES DUE TO UNFORESEEN CAUSES (INCLUDING BUT NOT LIMITED TO DELAYS IN TRANSPORTATION OR AN UNANTICIPATED INCREASE IN THE VOLUME OF WORK.)</p>						

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<p>QUANTITIES: QUANTITIES LISTED IN THE REQUISITION ARE APPROXIMATIONS ONLY, BASED ON ESTIMATES SUPPLIED BY THE STATE SPENDING UNIT. IT IS UNDERSTOOD AND AGREED THAT THE CONTRACT SHALL COVER THE QUANTITIES ACTUALLY ORDERED FOR DELIVERY DURING THE TERM OF THE CONTRACT, WHETHER MORE OR LESS THAN THE QUANTITIES SHOWN.</p> <p>ORDERING PROCEDURE: SPENDING UNIT(S) SHALL ISSUE A</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>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. 05/26/2009</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</p>						

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<p>THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED: SEALED BID</p> <p>BUYER: 44</p> <p>RFQ. NO.: TOR3676</p> <p>BID OPENING DATE: 07/29/09</p> <p>BID OPENING TIME: 1:30 PM</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:</p> <p>-----</p> <p>CONTACT PERSON (PLEASE PRINT CLEARLY):</p> <p>-----</p> <p>***** THIS IS THE END OF RFQ TOR3676 ***** TOTAL: _____</p>						

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REQUEST FOR PROPOSAL

Division of Tourism TOR 3676

PART 1 GENERAL INFORMATION, TERMS AND CONDITIONS

1.1 Purpose:

The Acquisition and Contract Administration Section of the Purchasing Division, hereinafter referred to as "State", is soliciting proposals for the Department of Commerce, Division of Tourism, hereinafter referred to as "Agency", to provide Advertising & Public Relations Services. This solicitation serves as notice, pursuant to West Virginia Code §5A-3-10b, of the commodity or service being sought and is to be considered the opportunity for vendors to indicate their interest in bidding on such commodity or service.

1.2 Project:

The mission or purpose of the project is to secure the services of a professional, full-service marketing and communications agency to provide advertising, marketing, promotion, research and public relations services, both online and offline and such related technical support as is specified in the attached pages.

1.3 RFP Format:

This RFP has four parts. "Part 1" contains general information, terms and conditions; "Part 2" describes the background and working environment of the project; "Part 3" is a statement of the specifications for the services requested pursuant to this RFP, contractual requirements, and special terms and conditions; and "Part 4" explains the required format of the Bidder's response to the RFP, the evaluation criteria the State will use in evaluating the proposals received and how the evaluation will be conducted.

1.4 Inquiries:

Additional information inquiries regarding specifications of this RFP must be submitted in writing to the State Buyer with the exception of questions regarding the 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:

Frank Whittaker, Senior Buyer
Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130
Fax: (304) 558-4115

The vendor, or anyone on the vendor's behalf, is not permitted to make any contact whatsoever with any member of the evaluation committee. Violation may result in rejection of the bid. The State Buyer named above is the sole contact for any

and all inquiries after this RFP has been released.

1.5 Vendor Registration:

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

1.6 Oral Statements and Commitments:

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 Request for Proposal specifications file by an official written addendum are binding.

1.7 Economy of Preparation:

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

1.8 Labeling of RFP Sections:

The sections within this RFP contain instructions governing how the Vendor's proposal is to be arranged, submitted and to identify the material to be included therein.

1.8.1 Mandatory Requirements.

Any specification or statement containing the word "must", "shall", or "will" are mandatory. Section 3 contains mandatory deliverables required upon contract execution. By signing and submitting a response to this RFP, the vendor agrees to all mandatory deliverables described herein. Section 4 describes RFP response requirements, which may be mandatory. The vendor is required to meet all mandatory requirements in order to be eligible for consideration and to continue in the evaluation process. Failure to meet or agree to mandatory items shall result in disqualification of the Vendor's proposal and the evaluation process will be terminated for that vendor. Decisions regarding compliance with any mandatory requirement shall be at the sole discretion of the State.

1.8.2 Contract Terms and Conditions:

This Request for Proposals contains all the contractual terms and conditions under which the State of West Virginia will enter into a contract.

1.8.3 Informational Sections:

All non-mandatory information specifications do not require a response from the Vendor. They are intended to aid the vendor in structuring an effective proposal capable of meeting the needs of the issuing agency.

1.9 Proposal Format and Submission:

1.9.1 Each proposal should be formatted as per the outline in Part 4 of this RFP. No other arrangement or distribution of the proposal information may be made by the bidder. Failure on the part of the bidder to respond to specific requirements detailed in

the RFP may be the basis for disqualification of the proposal. The State reserves the right to waive any informality in the proposal format and minor irregularities.

1.9.2 State law requires that the original technical and cost proposal be submitted to the Purchasing Division. All proposals must be submitted to the Purchasing Division **prior** to the date and time stipulated in the RFP as the opening date. All bids will be dated and time stamped to verify official time and date of receipt.

1.9.3 Vendors mailing proposals should allow sufficient time for mail delivery to ensure timely arrival. In accordance with West Virginia Code §5A-3-11, the Purchasing Division cannot waive or excuse late receipt of a proposal which is delayed and late for any reason. Any proposal received after the bid opening date and time will be immediately disqualified in accordance with State law and the administrative rules and regulations.

Vendors responding to this RFP shall submit:

One original technical and cost
plus nine (9) convenience copies to:

Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130

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

Buyer: Frank Whittaker
Req#: TOR 3676
Opening Date: 07/29/09
Opening Time: 1:30 pm

1.9.4. Best Value Purchasing Standard Format

All Requests for Proposals should follow the standard format defined by the Purchasing Division. This format addresses required areas and enables the agency to modify the background and scope of work to meet its needs.

1.9.4.1 *Evaluation Criteria:* All evaluation criteria must be clearly defined in the specifications section and based on a 100 point total score. Based on a 100 point total, cost shall represent a minimum of 30 of the 100 total points in the criteria.

1.9.4.2 *Proposal Format and Content:* Proposals shall be requested and received in two distinct parts: Technical and Cost. The cost portion shall be sealed in a separate envelope and will not be opened initially.

1.9.4.3 *Technical Bid Opening:* The Purchasing Division will open only the technical proposals on the date and time specified in the Request for Proposal. The Purchasing Division representative will read aloud the names of those who responded to the solicitation. The Purchasing Division Buyer will confirm that the original packages contain a separately sealed cost proposal prior to providing the courtesy copies to the agency to begin the evaluation process.

1.9.4.4 *Technical Evaluation*: The pre-selected, approved evaluation committee will review the technical proposals, deduct appropriate points for deficiencies and make a final written consensus recommendation to the Purchasing Division Buyer. If the Buyer approves the committee's recommendation, the technical evaluation will be forwarded to an internal review committee within the Purchasing Division.

1.9.4.5 *Cost Bid Opening*: Upon approval of the technical evaluation from the internal review committee, the Purchasing Division shall schedule a time and date to publicly open and read aloud the cost proposals. The agency and the vendors shall be notified of this date.

1.9.4.6 *Cost Evaluation and Resident Vendor Preference*: The evaluation committee will review the cost proposals, assign appropriate points and make a final consensus recommendation to the Purchasing Division. In accordance with West Virginia Code §5A-3-37, the Purchasing Division will make the determination of the Resident Vendor Preference, if applicable. Resident Vendor Preference 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. A certificate of application is used to request this preference. A West Virginia vendor may be eligible for two 2.5% preferences in the evaluation process.

1.9.4.7 *Contract Approval and Award*: After the cost proposals have been opened, the evaluation committee completes its review and prepares the final evaluation making its recommendation for contract award based on the highest scoring vendor. The final evaluation is submitted to the Purchasing Division buyer. Once approved by the buyer, the final evaluation must be reviewed and approved by the Purchasing Division internal review committee. The contract is prepared and signed in the Purchasing Division, forwarded to the Attorney General's Office for approval as to form, encumbered and mailed to the appropriate parties.

1.10 **Rejection of Proposals:**

The State shall select the best value solution according to the evaluation criteria. However, the State reserves the right to accept or reject any or all proposals, in part or in whole at its discretion. The State reserves the right to withdraw this RFP at any time and for any reason. Submission of, or receipt by the State of proposals confers no rights upon the bidder nor obligates the State in any manner.

A contract based on this RFP and the Vendor's proposal, may or may not be awarded. Any contract resulting in an award from this RFP is not valid until properly approved and executed by the Purchasing Division and approved as to form by the Attorney General.

1.11 **Incurring Costs:**

The State and any of its employees or officers shall not be held liable for any expenses incurred by any bidder responding to this RFP for expenses to prepare, deliver the proposal, or to attend any mandatory pre-bid meeting or oral presentations.

1.12 **Addenda:**

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

1.13 **Independent Price Determination:**

A proposal will not be considered for award if the price in the proposal was not arrived at independently without collusion, consultation, communication or agreement as to any matter relating to prices with any competitor unless the proposal is submitted as a joint venture.

1.14 **Price Quotations:**

The price(s) quoted in the bidder's proposal will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided for adjustment in the original contract.

1.15 **Public Record:**

1.15.1 *Submissions are Public Record.*

All documents submitted to the State Purchasing Division related to purchase orders or contracts are considered public records. All bids, proposals or offers submitted by bidders shall become public information and are available for inspection during normal official business hours in the Purchasing Division Records and Distribution center after the bid opening.

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 duplications fees paid in advance. Duplication fees shall apply to all requests for copies of any document. Currently the fees are \$0.50/page, or a minimum of \$10.00 per request which ever is greater.

1.15.3 *Risk of Disclosure.*

The only exemptions to disclosure of information are listed in West Virginia Code §29B-1-4. Primarily, only trade secrets, as submitted by a bidder, are exempt to public disclosure. 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:** (Dates to be set upon mutually agreed upon (TBA) after submission and approval of the RFP by Purchasing. Events not required may be deleted.)

Release of the RFP.....	05/29/09
Vendor's Written Questions Submission Deadline.	06/11/09
Response to Questions.....	06/19/09
Mandatory Pre-bid Conference	07/08/09
Addendum Issued	TBA

Bid Opening Date07/29/09
 Oral PresentationTBA

1.17 **Mandatory Pre-bid Conference:** (Agency Option)

A mandatory pre-bid conference shall be conducted on the date specified above at 1:30 PM. Said conference will be held at the Division of Tourism Conference Room located at 90 MacCorkle Ave. S.W. South Charleston, WV 25303. **All interested bidders are required to be present at this meeting. Failure to attend the mandatory pre-bid conference shall automatically result in disqualification. No one person can represent more than one vendor.**

1.18 **Purchasing Affidavit:**

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

1.19 **General Terms and Conditions:**

By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this RFP.

1.19.1 *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.

1.19.2 *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 or to pursue any other remedies available under this contract or by law.

1.19.3 *Certifications Related to Lobbying:*

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

Federal contract, grant, loan or cooperative agreement.

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

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

1.19.4 Vendor Relationship:

The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the parties to this contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents.

Vendor shall be responsible for selecting, supervising and compensating any and all individuals employed pursuant to the terms of this RFP 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.

1.19.5 Indemnification:

The Vendor agrees to indemnify, defend and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person or firm performing or supplying services, materials or supplies in connection with the performance of the contract; (2) Any claims

or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use or disposition of any data used under the contract in a manner not authorized by the contract, or by Federal or State statutes or regulations; and (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.

1.19.6 Contract Provisions:

After the successful Vendor is selected, a formal contract document will be executed between the State and the Vendor. In addition, the RFP and the Vendor's response will be included as part of the contract by reference. The order of precedence is the contract, the RFP and the Vendor's proposal in response to the RFP.

1.19.7 Governing Law:

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

1.19.8 Compliance with Laws and Regulations:

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

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

1.19.9 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.

1.19.10 Term of Contract & Renewals:

This contract will be effective (TBA) 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 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.

1.19.11 Non-Appropriation of Funds:

If the Agency is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this contract by the West Virginia Legislature, the Agency may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The Agency shall give the vendor written notice of such non-allocation of funds as soon as possible after the Agency receives notice. No penalty shall accrue to the Agency in the event this provision is exercised.

1.19.12 Contract Termination:

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

The contract may also be terminated by the State with thirty (30) days prior notice.

1.19.13 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 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 to 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.

1.19.14 *Invoices, Progress Payments, & Retainage:* (Agency Option if appropriate.)
The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract. Progress payments may be made at the option of the Agency on the basis of percentage of work completed if so defined in the final contract. Any provision for progress payments must also include language for a minimum 10% retainage until the final deliverable is accepted.

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

1.19.15 *Liquidated Damages:* N/A.

1.19.16 *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.

PART 2 OPERATING ENVIRONMENT

2.1 **Location:**
Agency is located at 90 MacCorkle Ave. S.W. South Charleston, WV 25303

2.2 **Background:**

The Division of Tourism, an agency within the West Virginia Department of Commerce, is made up of approximately 70 employees. We have several sections within the agency that includes Administration, Advertising/Marketing, the Customer Service Center, 8

Welcome Centers, the Film Office and our Matching Advertising Partnership Program (MAPP). Our mission is to partner with the private sector tourism industry to cultivate a world-class travel and tourism industry through the creation of jobs, stimulation of investment, expansion of current tourism businesses and promoting a positive state image that improves the way of life for all West Virginians.

PART 3 PROCUREMENT SPECIFICATIONS AND DELIVERABLES

3.1 General Requirements:

3.1.1. The successful vendor shall be capable of providing media, creative, public relations services, research analysis, and technical assistance in developing and implementing comprehensive marketing, both offline and online marketing, advertising, and public relations campaigns for an estimated \$3.0 million dollar budget annually. Offline marketing may include television, radio, print, newspaper and billboards. Online marketing may include search engine optimization, online advertising and sponsorships, lead generation, multimedia asset creation, social marketing and Web 2.0 features such as consumer generated content, podcasts and feeds to syndicate content to popular personal electronics devices, such as cell phones and PDAs.

3.1.2. The successful vendor shall have sufficient financial stability to pledge and place commitments with advertising media (print, broadcast and internet) without hesitation on behalf of the agency. The Vendor should be commonly recognized throughout the industry as a Vendor with a solid financial foundation to meet its commitments on behalf of itself and its clients.

3.1.3. The successful vendor shall have experienced personnel in the areas of media, creative, marketing, public relations, marketing and research, in order to provide a quality product on time as scheduled.

3.1.4. The successful vendor will assist in planning and implementation of an advertising and promotional campaign that demonstrates effectiveness by producing measurable results and returns the best value on investment.

3.1.5. The successful vendor shall demonstrate excellence in creative/marketing/ media/ branding, public relations and marketing.

3.1.6 The successful vendor must have at least one fulltime person assigned to this account who has experience in tourism marketing and large budgets in excess of \$1 million.

3.1.7 The successful vendor must have at least two years experience in marketing and strategic analysis, media planning, media placement, creative services, production, public relations, research analysis, cooperative endeavors and sales promotion.

3.2 Additional Contract Requirements :

3.2.1 Upon request of the Agency, the Vendor shall have responsibility as Vendor to the Agency to develop advertising, promotion and publicity materials including, but not limited to, television and radio ads, print ads, web site and collateral material. The Vendor shall also have the responsibility to engage in public relations, research, and other related activities. In addition to working with Tourism personnel in development of the above, Vendor will also have responsibility of working directly with Agency of Natural Resources personnel including State Parks and Wildlife.

3.2.2 Should the Agency wish to use any forms of advertising, materials, or services not herein provided for, the Vendor will, at the request of the Agency, assist the Agency in their construction and preparation. The cost for such assistance shall be in accordance with the costs as stipulated in the cost section of the contract. The Agency reserves the right to direct media placement and use of production services outside the Vendor, with the stipulation that no other marketing and communications agency be used during the term of this contract.

3.2.3 The Agency shall receive the benefit of all media cash discounts, frequency discounts, or special adjustments allowed to the Vendor placed for and on behalf of the Agency. The Vendor shall make available to the Agency proof of payment of all invoices, including broadcast affidavits, and proof of payment of all invoices or materials for the Agency account. Such proof shall be made available to Agency for audit once per month.

3.2.4 The Agency shall determine the proper time schedule in which all advertising and promotions are to take place. The Agency shall approve all work to be written, developed, or otherwise performed by the Vendor before any costs are incurred by the Vendor.

3.2.5 Total expenditures for the Agency's advertising and promotions program shall not exceed the amount set by the Agency unless such change is requested and by mutual consent is agreed upon.

3.2.6 If, as ordered by the Agency, the Agent places any advertising outside the United States, the charge for same is to be determined by special agreement.

3.2.7 All contracts, papers, correspondence, copy, books, accounts, and other information in the Agent's care relating to the business of the Agency shall be open to inspection and examination by an authorized representative of the Agency at all reasonable times, as well as expenses incurred by the Agent.

3.2.8 All layouts, sketches, artwork, and copy, including but not limited to advertising copy, film, typesetting, photocopies, story boards, and computer data storage disks used in the advertisements or other materials developed or placed by the Agent for the Agency, shall become the exclusive property of the Agency.

3.2.9 The West Virginia State code strictly prohibits the payment of any invoice prior to the service being rendered. By acceptance of a contract as a result of this RFP process, the successful Agent agrees to payment in arrears only.

3.2.10 At the request of the Agency, the Agent will supply pass-through billing services at no additional charge or commission.

3.2.11 Any agency within the West Virginia Department of Commerce (Commerce) may access marketing services through this contract. Learn more about other Commerce agencies at: www.wvcommerce.org Baseline research on consumer perceptions of West Virginia for business and recreation is available at this URL, along with a branding video outlining the "opportunity for a better life" positioning Commerce currently is using to promote the state.

3.2.12 Commerce has an internal marketing and communications staff that will use this contract to access the Vendor's services on behalf of other Commerce agencies, or its clients. As a result, Commerce Communications (Communications) serves as the prime contractor for the remaining Commerce agencies using this contract.

3.2.13 The Secretary of Commerce is the primary client of all work performed on behalf of Commerce and its agencies. The Secretary is accountable to the Governor's Office for review and approval of key marketing campaigns promoting the state.

3.2.14 The successful vendor will be required to travel at the agency's request.

3.3 **Scope of Work:**

The successful Vendor shall have the ability to provide:

3.3.1. Advice, counsel, and recommendations with respect to media selection, public relations, branding strategy, copy, multi-media presentations, and market positioning.

3.3.2. Complete analysis of advertising research provided by and through the Agency.

3.3.3. Development of promotional materials to be used in advertising, marketing, and public relations activities for the Agency.

3.3.4. Vendor relationship for the Agency to develop, produce, and place advertising materials in various advertising media, including: national and regional publications, television and radio broadcasts, outdoor advertising and the Internet.

3.3.5. Development of a comprehensive public relations campaign.

3.3.6. Vendor relationship for the Agency to develop and cultivate value-added cooperative and corporate sponsorship opportunities.

3.3.7. Any such professional service necessary to develop and maintain a

successful marketing, advertising and public relations campaign.

3.3.8. Provide job estimates for all project work, for approval prior to commencement of work. Estimates should detail hours and total costs for all personnel involved, out-sourced services, materials, etc.

3.3.9. Provide mechanism for indexing, storage and retrieval of historical and current video footage collection that is currently housed at Motion Masters, Charleston, WV.

3.3.10. Handle all details of payment of media by furnishing billing, accounting, and substantiation for all media placed.

3.3.11. Provide accounting of all expenditures upon request.

3.3.12. Travel to locations around the state to meet with attractions and other industry stakeholders as needed.

3.4 **Special Terms and Conditions:**

3.4.1 *Bid and Performance Bonds:* N/A

3.4.2 *Insurance Requirements:* \$1,000,000 General Liability and \$1,000,000 professional liability.

3.4.3 *License Requirements:* N/A

3.4.4 *Litigation Bond:* N/A

PART 4 PROPOSAL FORMAT AND RESPONSE REQUIREMENTS

4.1 **Vendor's Proposal Format:**

The proposal should be formatted in the same order, providing the information listed below:

Title page - Should state the RFP Subject and number, the name of the Vendor, Vendor's business address, telephone number, name of authorized contact person to speak on behalf of the Vendor, dated and signed.

Table of Contents - Clearly identify the material by section and page number.

Section I – Qualifications Criteria:

The vendor should describe in full detail the capabilities and experience in marketing (both online and offline) and strategic analysis, media planning, media placement, creative services, production, public relations, research analysis, cooperative endeavors, and sales promotion. The vendor should include an organizational chart

of the marketing and communications agency, listing name, title and number of full-time staff currently employed, as well as the names and credentials of agency principals, plus names and resumes for all individuals identified for Agency advertising account and creative teams, as well as public relations team. The account team roster should note the percentage of time that each staff member will be working on the account. Resumes should include any special qualifications, degrees, awards or professional memberships held. Vendor should include names, addresses, phone numbers and capabilities of all related sub-contracted services.

Vendors should provide a list of annual gross billings for the last two years, a list of all accounts gained and lost in the last 12 months, and a list of memberships in any local, national, or international advertising, marketing or public relations associations. Vendor should list experience, during the past two years, with at least one consumer-targeted campaign using domestic broadcast, print media and collateral; vendor should provide name(s) and phone number(s) of client contact(s) for verification of billings and account start date(s); experience in the area of tourism is preferred, but not required. Please provide contact names, telephone and fax numbers of two additional clients who may be contacted by the Agency as references, for which similar services have been provided as referenced in this request for proposal.

Vendors should include bank affiliations and credit references, a statement of whether the Vendor has ever filed for protection under federal bankruptcy laws, and a statement as to whether the Vendor is in arrears for federal, state, and/or local taxes of any type.

Vendors should provide a statement regarding physical location of the marketing and communications agency, concerning response time within 24 hours and/or the possibility of opening a Charleston, West Virginia, office.

Section II - Strategic/Creative Assignment

Please provide a strategic and creative approach to market the following:

West Virginia Tourism
West Virginia State Parks
West Virginia Wildlife

Presume the total advertising budgets, including media placement, production, promotional programs, direct mail, agency commission, etc., are: \$3,000,000 for Tourism; State Parks total budget is \$200,000 for media placement, production and direct mail; and Wildlife total budget is \$100,000 for media placement and production. Each plan should demonstrate synergistic efforts as well as the most effective use of the budget.

Also included in Tourism's budget should be a complete and separate cooperative advertising plan, allowing members of the tourism industry of

West Virginia to buy into specified media opportunities with varied participation by the Agency. The vendor should as part of this plan include advertising opportunities in television, radio, consumer and travel trade magazines, newspaper, and marketing. Corporate sponsorship and sales promotion recommendations should also be included in this plan.

While you may present as many creative ideas as you wish, you should also present a recommended campaign that meets each budget. This assignment is designed to demonstrate your agency's analytical, strategic, and creative capabilities. It is NOT designed to assess finished art and production values. Concepts for television spots, if part of your presentation, should be presented in storyboard format, not finished spots, or any other video form. Print ads and collateral should be presented in comp form.

Your plan should include, but not be limited to, the following elements:

1. Target Markets Present a profile of the target markets.
2. Strategies How do you propose to package and sell West Virginia Tourism, State Parks and Wildlife?
3. Media Outline the media mix you recommend for each campaign.
4. Schedule Provide a broad outline of each campaign schedule.
5. Budget Include a specific budget on how you propose to spend the \$3,000,000 million budget for Tourism, including \$200,000 for State Parks and \$100,000 for Wildlife.
6. Creative What kinds of creative executions do you propose?
7. Marketing Mix How do you propose to create a fully integrated plan including elements such as promotions, cooperative advertising, corporate sponsorship and marketing.
8. Public Relations Outline a public relations strategy that is complimented by the advertising campaign – for Tourism only.
9. Results How do you propose to evaluate each campaign? What results do you project?

- | | |
|---|--|
| 10. Research | Explain how you plan to analyze tourism research. |
| 11. Cost Effectiveness: | Present any ideas that would stretch each budget and increase the effectiveness of the campaigns. |
| 12. Campaign Extension and Amplification: | Suggest ideas for how Tourism campaigns can be extended to or leveraged by other Commerce divisions, where appropriate – such as marketing West Virginia for business and relocation, in addition to Travel. (See 3.2.11, additional Contract requirements.) |
| 13. Logo Design: | Suggest ideas for a Tourism logo using the existing tag "wild and wonderful". |
| 14. Best Practice: | Discuss vendor's capability for ongoing research and development to deliver Best Practice solutions for marketing West Virginia during the term of the contract. |

Section III - Oral Presentation

Vendors will have a **maximum** of one hour for oral presentations of their strategic/creative programs and to answer questions.

Strategic/creative assignments and cost information should be submitted as outlined under "Proposal Format and Submission" of this Request for Proposal.

All strategic and creative elements included in your proposal and presented orally to the evaluation committee should be developed and executed by **current employees** of the Vendor. The agency strongly prefers that you not use outside consultants and freelancers in your oral presentation.

The account person whom you have proposed as the primary contact with the Agency should play a role in presenting to the evaluation committee.

Section IV - Cost

See Section 4.5

4.2 Evaluation Process:

4.2.1 Method of Evaluation:

The proposals will be evaluated by a committee of five (5) or more individuals in accordance with the criteria stated. The Vendor who meets all the mandatory

specifications and attains the highest point score of all vendors shall be awarded the contract. The selection of the successful vendor will be made by a consensus of the evaluation committee.

4.3 **Evaluation Criteria:** The following are the evaluation factors and maximum points possible for technical point scores:

A. Qualifications, Strategic/Creative Capabilities	60 Points Possible
B. Oral Presentation	10 Points Possible
C. Cost	<u>30 Points Possible</u>
Total	100 Points Possible

Each cost proposal cost will be scored by use of the following formula for all vendors who attained the Minimum acceptable score:

$$\frac{\text{Lowest price of all proposals}}{\text{Price of Proposal being evaluated}} \times (?)30 = \text{Price Score}$$

4.4 **Minimum Acceptable Score:**

Vendors must score a minimum of 70% of the total technical points possible. The technical points are listed above in Sections I, II and III. The minimum qualifying score on the technical portion is 49 points. All vendors not attaining the minimum acceptable score (MAS) shall be disqualified and removed from further consideration.

The State will select the successful vendor's proposal based on best value purchasing which is not necessarily the vendor with the lowest price. Cost is considered but is not the sole determining factor for award. The State does reserves the right to accept or reject any or all of the proposals, in whole or in part, without prejudice, if to do so is felt to be in the best interests of the State.

Vendor's failure to provide complete and accurate information may be considered grounds for disqualification. The State reserves the right, if necessary, to ask vendors for additional information to clarify their proposals.

4.5. **Cost Proposal Format/Bid Sheets**

Cost proposals must be submitted in a separate sealed package along with strategic/creative assignments to the Purchasing Division. The hourly rates quoted in this section will become a part of any final contract that may be awarded as a result of this Request For Proposal. If there is no charge for a particular activity, please list "N/C". All

agents must provide hourly quotes for the complete list of activities on the attached "Bid Schedule".

BID SCHEDULE

Vendors are to use this form and type in prices and percentages as applicable. All blanks must be completed. Failure to complete all sections may result in disqualification. (If you are not charging hourly rate or percentage markup insert "N/C")

A.

<u>Specific Activities Estimated</u>	<u>Estimated Hours Per Year (Note A)</u>	<u>Rate Per Hour</u>	<u>Annual Estimated Cost</u>
Account/Client Services/Strategic Planning/Research Analysis	1,440 x	\$ _____/hr.	\$ _____
Media Planning and Buying	1,440 x	\$ _____/hr.	\$ _____
Print Production	600 x	\$ _____/hr.	\$ _____
Art Direction	600 x	\$ _____/hr.	\$ _____
Copy Writing	450 x	\$ _____/hr.	\$ _____
Broadcast Production	200 x	\$ _____/hr.	\$ _____
Public Relations	200 x	\$ _____/hr.	\$ _____
Creative Direction	150 x	\$ _____/hr.	\$ _____

Note A: Estimated hours per year are 5,080 x the hourly activity **Sub Total \$ _____**

Rates are applicable for both traditional media and online applications.

Five thousand eighty hours, the RFP's estimated number of hours per year, is multiplied by the percentage of time per year for each service to determine an estimated hours per year for service. Vendor hourly rates are multiplied by the respective hours to arrive at a cost and a total cost.

B. Add-on for Sub-Contracted Purchases:

All vendors responding to this RFP must provide a percentage of add-on for purchases from sub-contractors. This percentage will be multiplied by \$300,000. Bidder's add-on for Sub-Contracted Purchases is. _____% times \$300,000 = \$ _____

C. Media Buying Add-on:

All vendors responding to this RFP must provide a percentage of add-on for media buying activities (not to exceed 5%) if the Vendor plans to charge an add-on. This percentage will be multiplied by \$3,000,000. Bidder's Add-on for Media Buying is _____% (flat rate) times \$3,000,000 = \$ _____

D. Total Cost of Proposal (See Note B): \$ _____

Note B: Costs from A, B, and C are to be added together to determine the total cost of the proposal.

SHIPPING CHARGES WILL BE REIMBURSED AT COST WITH PROPER DOCUMENTATION.

ALL TRAVEL IS TO BE INCLUDED IN THE BID SCHEDULE. NO COMPENSATION FOR TRAVEL EXPENSES WILL BE MADE TO THE SUCCESSFUL VENDOR.

State of West Virginia
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.

RFQ No. _____

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: _____