



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
CPR11018

PAGE
1

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

**RFQ COPY
 TYPE NAME/ADDRESS HERE**

VENDOR

SHIP TO

**CONSOLIDATED PUBLIC RETIREMENT BOARD
 BUILDING 5, ROOM 1000
 1900 KANAWHA BOULEVARD, EAST
 CHARLESTON, WV
 25305-0720 558-3570**

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
03/23/2011				

BID OPENING DATE: **04/26/2011** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	LS		946-20		
<p>ANNUAL FINANCIAL STATEMENT AUDIT FOR CPRB</p> <p>REQUEST FOR PROPOSAL (RFP) OPEN END CONTRACT</p> <p>THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY, THE WEST VIRGINIA CONSOLIDATED PUBLIC RETIREMENT BOARD (CPRB) IS SOLICITING PROPOSALS TO PROVIDE THE AGENCY WITH AUDITING SERVICES TO PERFORM THE ANNUAL FINANCIAL STATEMENT AUDIT OF THE CONSOLIDATED PUBLIC RETIREMENT BOARD PER THE ATTACHED SPECIFICATIONS.</p> <p>TECHNICAL QUESTIONS CONCERNING THIS RFP MUST BE SUBMITTED IN WRITING TO KRISTA FERRELL IN THE WEST VIRGINIA STATE PURCHASING DIVISION. PLEASE SEE SECTION 1.5 OF THE ATTACHED SPECIFICATIONS FOR MORE INFORMATION.</p> <p>LIFE OF CONTRACT: THIS CONTRACT SHALL BE EFFECTIVE UPON AWARD AND A SHALL EXTEND FOR A PERIOD OF ONE (1) YEAR. PLEASE SEE SECTION 5.5 OF THE ATTACHED SPECIFICATIONS FOR MORE INFORMATION.</p> <p>EXHIBIT 10</p> <p>REQUISITION NO.:</p> <p>ADDENDUM ACKNOWLEDGEMENT</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
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. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. 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.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the *West Virginia Code*.
7. Vendor preference will be granted upon written request in accordance with the *West Virginia Code*.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **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.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at www.state.wv.us/admin/purchase/vrc/hipaa.htm and 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.
14. **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>.
15. **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, and the West Virginia Insurance Commission. 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.
16. **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 material, 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.

INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. 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. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. 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
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).



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
CPR11018

PAGE
2

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

**RFQ COPY
 TYPE NAME/ADDRESS HERE**

VENDOR

SHIP TO

**CONSOLIDATED PUBLIC RETIREMENT BOARD
 BUILDING 5, ROOM 1000
 1900 KANAWHA BOULEVARD, EAST
 CHARLESTON, WV
 25305-0720 558-3570**

DATE PRINTED 03/23/2011	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
-----------------------------------	---------------	----------	--------	---------------

BID OPENING DATE: **04/26/2011** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.</p> <p>ADDENDUM NO.'S:</p> <p>NO. 1</p> <p>NO. 2</p> <p>NO. 3</p> <p>NO. 4</p> <p>NO. 5</p> <p>I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.</p> <p>VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.</p> <p>..... SIGNATURE</p> <p>..... COMPANY</p> <p>..... DATE</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Request for Quotation

RFQ NUMBER
CPR11018

PAGE
3

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

**RFQ COPY
 TYPE NAME/ADDRESS HERE**

VENDOR

SHIP TO

**CONSOLIDATED PUBLIC RETIREMENT BOARD
 BUILDING 5, ROOM 1000
 1900 KANAWHA BOULEVARD, EAST
 CHARLESTON, WV
 25305-0720 558-3570**

DATE PRINTED	TERMS OF SALE	SHIP VIA	FOB	FREIGHT TERMS
03/23/2011				

BID OPENING DATE: **04/26/2011** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>NOTE: THIS ADDENDUM ACKNOWLEDGEMENT SHOULD BE SUBMITTED WITH THE BID.</p> <p>REV. 09/21/2009</p> <p style="text-align: center;">NOTICE</p> <p>A SIGNED PROPOSAL 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> <hr/> <p>THE PROPOSAL SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE PROPOSAL MAY NOT BE CONSIDERED:</p> <p>SEALED PROPOSAL:</p> <p>BUYER: KRISTA FERRELL-FILE 21</p> <p>RFQ. NO.: CPR11018</p> <p>TECHNICAL PROPOSAL OPENING DATE: 04/26/2011</p> <p>TECHNICAL PROPOSAL OPENING TIME: 1:30 PM</p>						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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



State of West Virginia
 Department of Administration
 Purchasing Division
 2019 Washington Street East
 Post Office Box 50130
 Charleston, WV 25305-0130

Request for Quotation

RFQ NUMBER
CPR11018

PAGE
4

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

**RFQ COPY
 TYPE NAME/ADDRESS HERE**

VENDOR

SHIP TO

**CONSOLIDATED PUBLIC RETIREMENT BOARD
 BUILDING 5, ROOM 1000
 1900 KANAWHA BOULEVARD, EAST
 CHARLESTON, WV
 25305-0720 558-3570**

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
03/23/2011				

BID OPENING DATE: **04/26/2011** BID OPENING TIME **01:30PM**

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:						

CONTACT PERSON (PLEASE PRINT CLEARLY):						

***** THIS IS THE END OF RFQ CPR11018 ***** TOTAL: _____						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE _____ TELEPHONE _____ DATE _____

TITLE _____ FEIN _____ ADDRESS CHANGES TO BE NOTED ABOVE

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

Rev. 11/01/10

REQUEST FOR PROPOSAL

(Consolidated Public Retirement Board RFP # CPRB11018)

TABLE OF CONTENTS

- Section 1:** General Information
Section 2: Project Specifications
Section 3: Vendor Proposal
Section 4: Evaluation and Award
Section 5: Contract Terms and Conditions

SECTION ONE: GENERAL INFORMATION

- 1.1 Purpose: The Purchasing Division, hereinafter referred to as the "State," is soliciting proposals pursuant to **West Virginia Code §5A-310b** for the Department of Administration, Consolidated Public Retirement Board (CPRB), hereinafter referred to as the "Agency," to provide for a qualified Certified Public Accounting (CPA) firm to provide annual financial statement audits.
- 1.2 By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this RFP.

A Request for Proposal (RFP) is generally used for the procurement of services in situations where price is not the sole determining factor and the award will be based on a combination of cost and technical factors (Best Value). Through its proposal, the bidder offers a solution to the objectives, problem, or need specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements.

- 1.2.1 Compliance with Laws and Regulations: The Vendor shall procure all necessary permits and licenses to comply with all applicable Federal, State, or municipal laws, 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 shall be borne by the Vendor. 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.

- 1.3 Schedule of Events:

Vendor's Written Questions Submission Deadline-04/06/2011 at the close of business
Mandatory Pre-bid Conference NOT APPLICABLE
Addendum IssuedApprox. Week of 04/11/2011-04/15/2011
Bid Opening Date.....04/26/2011 at 1:30 pm

- 1.4 **Mandatory Pre-bid Conference:** Not Applicable
- 1.5 **Inquiries:** 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 1.3. All inquiries of specification clarification must be addressed to:
- Krista S. Ferrell, Buyer Supervisor
Purchasing Division
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305-0130
Phone: (304) 558-2596
Fax: (304) 558-4115
Email: Krista.s.ferrell@wv.gov
- No contact between the Vendor and the Agency is permitted without the express written consent of the State Buyer.** 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.
- 1.6 **Verbal Communication:** Any verbal communication between the Vendor and any State personnel is **not** binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the RFP specifications by an official written addendum by Purchasing is binding.
- 1.7 **Addenda:** If it becomes necessary to revise any part of this RFP, an official written addendum will be issued by the Purchasing Division.

SECTION TWO: PROJECT SPECIFICATIONS

- 2.1 **Location:** Agency is located at 4101 MacCorkle Avenue SE, Charleston, West Virginia 25304. This location contains the general accounting unit for the agency including the financial statement preparers and accounts payable unit personnel.
- 2.2 **Background and Current Operating Environment:** The CPRB is responsible for administering all of the state's qualified retirement plans:
- Teachers Defined Benefit Retirement System (TRS)
 - Public Employees Retirement System (PERS)
 - Department of Public Safety Death, Disability Retirement System (DPS – Plan A)
 - State Police Retirement System (DPS - Plan B)
 - Judges Retirement System (JRS)
 - Deputy Sheriffs Retirement System (DSRS)
 - Teachers Defined Contribution Retirement System (TDC)
 - Consolidated Public Retirement Board Expense Fund (Administrative Fund)
 - Emergency Medical Services Retirement System (EMS)
 - Municipal Police Officers and Firefighters Retirement System (MPFRS)

CPRB is currently administering benefits for approximately 78,500 active participants and 53,000 retirees. CPRB is a trust and agency fund in the primary government of the State of West Virginia. It is a separately audited entity and is included in the State's Comprehensive Annual Financial Report.

There will be office space available on the premises for the audit. Fax and modem capabilities will be available on-site as well as internet connectivity. No agency computers will be available to the auditors. The agency contacts for the audit will be Terasa Miller, Acting Executive Director, Mark S. Miller, Chief Financial Officer, and Lori Cottrill, Accounting Manager.

Prior year financial reports are available at <http://www.wvretirement.com/Publications.html>

2.3 **Qualifications and Experience:** Vendors will provide in **Attachment A: Vendor Response Sheet** information regarding their firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

2.4 **Project and Goals:** The project goals and objectives are:

2.4.1 Goal 1 - CPRB is seeking a professional accounting and auditing firm to perform the annual audit of the Agency in accordance with Governmental Auditing Standards(GAS).

2.4.1.1 The resulting audit should meet all federal, state and industry standards.

2.4.1.2 It is preferred that the firm performing the audit have at least five years experience in performing GAAS audits.

2.4.1.3 The firm should have sufficient controls in place to ensure that a quality audit product is produced that meets all requirements.

2.4.1.4 It is preferred that a least 60% of the work on the audit be performed by someone who is at a supervisor level or higher within the firm.

2.4.1.5 It is preferred that the audit team includes an actuary.

2.5 **Mandatory Requirements**

The following mandatory requirements must be met by the Vendor as a part of the submitted proposal. Failure on the part of the Vendor to meet any of the mandatory specifications shall result in the disqualification of the proposal. The terms "must", "will", "shall", "minimum", "maximum", or "is/are required" identify a mandatory item or factor. Decisions regarding compliance with any mandatory requirements shall be at the sole discretion of the State.

2.5.1 **Mandatory Requirement 1 - Required Reports:** Following the completion of each audit of the fiscal year's financial statements, the auditor shall issue reports on the fair presentation of the financial statements in conformity with generally accepted accounting principles and in accordance with Government Auditing Standards that will include all CPRB Plans and funds. The firm shall be required to give to the Director of the Financial Accounting and Reporting Section (FARS) of the Department of Administration, 2101 Washington Street East, Building 17, 3rd floor, Charleston, WV 25305, under the authority of Section 5A-2-23 of the State Code an immediate, written report of all irregularities and illegal acts of which the firm becomes aware. Additionally, a copy of all such reports will be given to the Executive Director of CPRB, the Chief Financial Officer of CPRB, and to the Accounting Manager of CPRB. The firm must inform the Executive Director of CPRB, the Chief Financial Officer of CPRB, and the Accounting Manager of CPRB in writing of each of the following:

1. The auditor's responsibility under generally accepted auditing standards.
2. Significant accounting policies.
3. Management judgments, accounting estimates and projections.

4. Significant audit adjustments and significant revisions of past and current estimates and projections.
5. Other information in documents containing audited financial statements and/or estimates and projections.
6. Disagreements with management.
7. Consultation with other accountants and actuaries.
8. Major issues discussed with management prior to retention.
9. Difficulties encountered in performing the audit.

The auditor shall also be responsible for performing certain limited procedures involving required supplementary information required by the Governmental Accounting Standards Board as mandated by generally accepted auditing standards.

2.5.2 Mandatory Requirement 2 - Management Communication: CPRB's financial statements are to be included in the financial statements of the State of West Virginia. The auditor will be required to provide special assistance to the State's auditors, and the Financial Accounting and Reporting Section of the West Virginia Department of Administration.

2.5.3 Mandatory Requirement 3 - Working Paper Retention and Access: All working papers and reports must be retained, at the auditor's expense, for a minimum of five (5) years, unless the firm is notified in writing by CPRB of the need to extend the retention period. The firm will be required to make working papers available, upon request, to the following parties or their designees:

- Executive Director of CPRB
- Chief Financial Officer of CPRB
- Accounting Manager of CPRB
- Director
Financial Accounting and Reporting Section
Department of Administration
State of West Virginia

In addition, the firm must respond to the reasonable inquiries of successor auditors and allow them to review working papers relating to matters of continuing significance.

2.5.4 Mandatory Requirement 4 – Additional Audit Procedures - The successful vendor will need to cooperate with the Financial Accounting and Reporting Section (FARS) and perform procedures related to the State's net pension obligation necessary for its inclusion in the State of West Virginia Comprehensive Annual Financial Report. This additional work will be billed separately as it is part of the required reporting for the State's audit and is not a part of the CPRB audit. However, **the cost of this work must be included in the all inclusive fee for this audit.**

2.5.5 Mandatory Requirement 5 - Report Preparation: Final report preparation, editing, and printing shall be the responsibility of the auditor. The firm must deliver 50 copies of the bound final audit report for CPRB to 4101 MacCorkle Avenue SE, Charleston, West Virginia 25304 by the delivery date specified in Attachment D. The firm must also provide a PDF format file of the complete audit report to CPRB for use on its website.

2.5.6 Mandatory Requirement 6 – Delivery Dates: **The dates in the Schedule of Delivery Dates for Reports are required delivery deadlines.** Failure to deliver the required reports by the dates specified will result in liquidated damages as described in section 5.10 and will be considered ground for immediate termination of this contract at the discretion of CPRB as described in section

5.11. If renewal of this contract for services in subsequent years occurs, the contract change order will contain the delivery dates for the renewal period as specified in Attachment D.

2.5.7 **Mandatory Requirement 7 - Independence:** Governmental auditing standards as required by the governmental accounting office define independence in the second general standard for governmental auditing as follows:

“In all matters related to the audit work, the audit organization and the individual auditors, whether government or public, should be free from personal and external impairments to independence, should be organizationally independent, and should maintain an independent attitude and appearance.”

The auditors must be independent in accordance with this standard.

2.5.8 **Mandatory Requirement 8 - License to Practice in West Virginia:** The firm and all assigned key professional personnel and all associated and subcontracted firms must be licensed to practice in West Virginia. In addition, the firm and all associated and subcontracted firms are in good standing with the Unemployment Compensation Division of the State of West Virginia.

2.5.9 **Mandatory Requirement 9 - Quality Control:** The fourth general standard as set forth in governmental auditing standards is promulgated by the United States Governmental Accounting Office states that “each audit organization conducting audits in accordance with these standards should have an appropriate internal control system in place and undergo an external quality control review.”

The firm and all associated and sub-contracted firms must have in place an internal quality control system to provide reasonable assurance that an adequate quality standard will be maintained during the engagement. The auditors must provide a copy of their most recent external control review as part of the bid proposal.

2.5.10 **Mandatory Requirement 10 – Reporting for USDHHS -** The Auditor shall also provide to the Agency, for submission to the US Department of Health and Human Services by October 30 of the following fiscal year, an Annual Report prepared by them as the independent auditor, documenting the total annual contribution to PERS required under this Agreement, as well as all annual employer contributions otherwise required to be made to PERS under State law. The Annual Report shall be in the format set forth in Attachment E, Addendum B.

2.5.11 **Mandatory Requirement 11 – Additional Services -** The auditor will be available to provide additional accounting and auditing consulting services as needed at the hourly rates specified in the Cost Proposal, Attachment C.

SECTION THREE: VENDOR PROPOSAL

- 3.1 **Economy of Preparation:** Proposals should be prepared simply and economically providing a straightforward, concise description of the Vendor's abilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of the content.
- 3.2 **Incurring Cost:** Neither the State nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.
- 3.3 **Proposal Format:** Vendors should provide responses in the format listed below:

Title Page: State the RFP subject, number, Vendor's name, business address, telephone number, fax number, name of contact person, e-mail address, and Vendor signature and date.

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

Attachment A: Within the attached response sheet (**Attachment A: Vendor Response Sheet**), provide the following: firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

Also, describe the approach and methodology proposed for this project. This should include how each of the goals and objectives listed is to be met.

Attachment B: Complete **Attachment B: Mandatory Specification Checklist**. By signing and dating this attachment, the Vendor acknowledges that they meet or exceed each of these specifications as outlined in 2.5 of Section Two: Project Specifications. The State reserves the right to require documentation detailing how each is met at its discretion.

Attachment C: Complete **Attachment C: Cost Sheet** included in this RFP and submit in a separate sealed envelope. Cost should be clearly marked.

Oral Presentations: If established by the Agency in the Schedule of Events (Section 1.3), all Vendors participating in this RFP will be required to provide an oral presentation, based on the criteria set in Section 2.6. During oral presentations, Vendors may not alter or add to their submitted proposal, but only to clarify information.

3.4 **Proposal Submission:** Proposals must be received in **two distinct parts**: technical and cost.

- **Technical proposals** must not contain any cost information relating to the project.
- **Cost proposal** shall be sealed in a separate envelope and will not be opened initially.

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.

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

Vendors responding to this RFP shall submit:

One original technical and cost proposal plus 10 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) for both the technical and the cost should be clearly marked:

Vendor: _____
Buyer: _____
Req #: _____
Opening Date: _____
Opening Time: 1:30 p.m.

- 3.5 **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.
- 3.6 **Resident Vendor Preference:** In accordance with *West Virginia Code* §5A-3-37, Vendors may make application for Resident Vendor Preference. Said application must be made on the attached Resident Vendor Certification form at the time of proposal submission.
- 3.7 **Technical Bid Opening:** The Purchasing Division will open and announce only the technical proposals received prior to the date and time specified in the Request for Proposal. The technical proposals shall then be provided to the Agency evaluation committee.
- 3.8 **Cost Bid Opening:** The Purchasing Division shall schedule a date and time to publicly open and announce cost proposals once the Agency evaluation committee has completed the technical evaluation and it has been approved by the Purchasing Division.

SECTION FOUR: EVALUATION AND AWARD

- 4.1 **Evaluation Process:** Proposals will be evaluated by a committee of three (3) or more individuals against the established criteria with points deducted for deficiencies. The Vendor who demonstrates that they meet all of the mandatory specifications required; and has appropriately presented within their written response and/or during the oral demonstration (if applicable) their understanding in meeting the goals and objectives of the project; and attains the highest overall 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.
- 4.2 **Evaluation Criteria:** All evaluation criteria is defined in the specifications section and based on a 100 point total score. Cost shall represent a minimum of 30 of the 100 total points.

The following are the evaluation factors and maximum points possible for technical point scores:

- Expertise and Experience 40 Points Possible

The firm's past experience and performance on comparable engagements including:

- (1) The quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel, to be available for technical consultation.
- (2) The organization size, structure and location of branch officers of the firm that are to be utilized in the performance of the contract.

(3) The firm's past experience with comparable governmental and pension clients.
 Approach 30
 Points Possible

- (1) Adequacy of proposal staffing plan for various segments of the engagement.
- (2) Adequacy of staffing to ensure the completion of the report within the timeline established in Schedule B.
- (3) Adequacy of overall audit approach and internal control structure
- (4) Adequate use of technology

• Cost

30 Points Possible

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:

Lowest price of all proposals

X 30 = Price Score

Price of Proposal being evaluated

4.2.1 Technical Evaluation: The Agency evaluation committee will review the technical proposals, deduct points where appropriate, and make a final written recommendation to the Purchasing Division.

4.2.2 Minimum Acceptable Score: Vendors must score a minimum of 70% (49 points) of the total technical points possible. All Vendors not attaining the minimum acceptable score (MAS) shall be disqualified and removed from further consideration.

4.2.3 Cost Evaluation: The Agency evaluation committee will review the cost proposals, assign appropriate points, and make a final recommendation to the Purchasing Division.

4.3 **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.

4.4 **Rejection of Proposals**: The State reserves the right to accept or reject any or all proposals, in part or in whole at its discretion. The State further reserves the right to withdraw this RFP at any time and for any reason. Submission of or receipt of proposals by the State confers no rights upon the bidder nor obligates the State in any manner.

4.5 **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.

SECTION FIVE: CONTRACT TERMS AND CONDITIONS

- 5.1 **Contract Provisions:** The RFP and the Vendor's response will be incorporated into the contract by reference. The order of precedence shall be the contract, the RFP and any addendum, and the vendor's proposal in response to the RFP.
- 5.2 **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 Vendors 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.
- 5.2.1 **Risk of Disclosure:** The only exemptions to disclosure of information are listed in **West Virginia Code §29B-1-4**. Any information considered a trade secret must be separated from the Vendor submission and clearly labeled as such. Primarily, only trade secrets, as submitted by a bidder, are exempt from 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.
- 5.2.2 **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 50 cents per page, or a minimum of \$10.00 per request, whichever is greater.
- 5.3 **Conflict of Interest:** Vendor affirms that neither it nor its representatives have any interest nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.
- 5.4 **Vendor Relationship:** The relationship of the Vendor and the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by 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 subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose 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, licensing fees, *et cetera* 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.

5.4.1 **Subcontracts/Joint Ventures:** The Vendor may, with the prior written consent of the State, enter into subcontracts for performance of work under this contract.

5.4.2 **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.

5.4.3 **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 as provided by Federal, State, and local governments.

5.5. **Term of Contract and Renewals:** This contract will be effective upon award 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 providing services pursuant to the terms of the contract.

5.6 **Non-Appropriation of Funds:** If funds are not appropriated for the Agency in any succeeding fiscal year for the continued use of the services covered by this contract, the State may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The State shall give the Vendor written notice of such non-appropriation 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.

5.7 **Changes:** If changes to the contract become necessary, a formal contract change order will be negotiated by the State, the Agency, and the Vendor.

As soon as possible, but not to surpass thirty (30) days after receipt of a written change request from the Agency, the Vendor shall determine if there is an impact on price with the change requested and provide the Agency a written Statement identifying any price impact on the contract. The Vendor shall provide a description of any price change associated with the implementation.

NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER FROM THE PURCHASING DIVISION.

5.8 **Price Quotations:** The price(s) quoted in the Vendor'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 in the original specifications.

5.9 **Invoices and Progress Payments:** The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To." 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.

- 5.10 **Liquidated Damages:** According to *West Virginia Code* §5A-3-4(8), Vendor agrees that liquidated damages shall be imposed at the rate of \$500 per day for failure to provide deliverables, or failure to meet specified deadlines included in Attachment D. This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other additional remedy which the State or Agency may have legal cause for action.
- 5.11 **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 may endanger the contract's continuation. If after such notice the Vendor fails to remedy the conditions within the established timeframe, the State shall order the Vendor 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 be terminated by the State with thirty (30) days prior notice pursuant to *West Virginia Code of State Rules* § 148-1-7.16.2.

5.12 **Special Terms and Conditions:**

5.12.1 Bid and Performance Bonds – Not Applicable

5.12.2 Insurance Requirements: - Not Applicable

5.12.3 License Requirement: - Not Applicable

5.12.4 Protest Bond: Any bidder that files a protest of an award shall at the time of filing the protest submit a protest bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater.

The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All protest bonds shall be made payable to the Purchasing Division and shall be signed by the protester and the surety. In lieu of a bond, the protester may submit a cashier's check or bank money order payable to the Purchasing Division. The money will be held in trust in the State Treasurer's office.

If it is determined that the protest has not been filed for frivolous or improper purpose, the bond shall be returned in its entirety.

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

Vendor shall have access to private and confidential data maintained by the Agency to the extent required for the 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 the 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 the Vendor.

Attachment A: Vendor Response Sheet

Provide a response regarding the following: firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.

List project goals and objectives contained in Section 2.4:

2.4.1 Goal 1 - CPRB is seeking a professional accounting and auditing firm to perform the annual audit of the Agency in accordance with Governmental Auditing Standards(GAS).

2.4.1.1 The resulting audit should meet all federal, state and industry standards.

- Please describe how the financial reports required under the terms of this proposal comply with parameters established by the State of West Virginia Department of Administration, Financial Accounting and Reporting Section (FARS). This may include but is not limited to, responding to specific requests for information, preparing closing book forms, and attending conferences, meetings, or seminars held or presented by FARS regarding their requirements for report preparation, presentation, deadlines, etc.
- It is strongly preferred that the bidder supply detailed discussion of the audit approach and a timeline for interim and year-end fieldwork.
- It is strongly preferred that the successful bidder supply a Client Preparation Assistance Package that includes information needed for fieldwork and the timeline for such information.
- Should the firm intend to include any subcontracted firms the firm should provide the same information for each subcontracted firm as for the primary firm; however, the primary firm will still be responsible for the results and deliverables of the contract.
- Vendor Response:

2.4.1.2 It is preferred that the firm performing the audit have at least five years experience in performing GAAS audits.

- It is strongly preferred for the firm to have been in business in West Virginia at least 10 years and have at least 5 years experience conducting governmental audits. It is also strongly preferred that the firm have experiencing auditing defined benefit and defined contributions pension plans.
- It is strongly preferred that the firm currently have on staff at least 10 accounting professionals with at least half of those holding a CPA certification in West Virginia or similar certification.

- In addition, it is strongly desirable for the firm to incorporate into the response a list of those specific clients and engagements, including contact information, which they have performed within the last three years that are similar in nature to CPRB, including contact names and numbers where available and appropriate. It is strongly desirable that these be ranked on the basis of staff hours for the engagement. The state of West Virginia reserves the right to contact these clients.

- Vendor Response:

2.4.1.3 The firm should have sufficient controls in place to ensure that a quality audit product is produced that meets all requirements.

- The firm should provide copies of the firm or firms internal control document as well as a copy of the most recent external quality control review. Should the written report of the most recent external quality control review disclose significant matters that would leave doubts as to the ability of the firm to maintain quality control, a written explanation should be attached to say what steps have been taken by the firm to improve their quality control procedures. The quality control review should have included a review of specific governmental engagements.
- The firm should provide with the proposal the results of any federal or state desk reviews or field reviews of its audits during the past three years.
- The firm should identify the managing partner of the office from which the engagement will be performed. The contact information for the managing partner should include the name of the managing partner, his address, his direct dial telephone number, fax number, and email address. This information is intended for use in the unlikely event that CPRB is unable to obtain satisfactory responses from the audit team and need to have direct contact with management.
- The proposal should set forth a work plan, including an explanation of the methodology to be followed, to perform the services required in this request for proposals. The work plan should include the key quality control points in the audit process.

- Vendor Response:

2.4.1.4 It is preferred that a least 60% of the work on the audit be performed by someone who is at a supervisor level or higher within the firm.

- The firm should identify the principal supervisory and management personnel to be included in the engagement including the engagement partner, reviewing partners, managers, other supervisors and specialists, as well as the estimated number of hours each will spend on the engagement. These personnel may be

changed if those personnel leave the firm, are promoted, or are assigned to another office.

- It is strongly desired that the bidder submit resumes for all persons proposed to be included on the audit team.
- It is strongly preferred that all personnel assigned to the engagement have at least one year of auditing experience in public accounting or a similar environment.

○ Vendor Response:

2.4.1.5 It is preferred that the audit team includes an actuary.

- It is strongly preferred that the auditing firms have an actuary on the engagement team. A large portion of the audit relies on the review of an accredited actuary. Proposals should state the experience and qualifications of the consulting actuary who would be performing work throughout the course of the engagement. The proposal should also estimate the review time the actuary will spend on the audit.

Vendor Response:

Attachment B: Mandatory Specification Checklist

List mandatory specifications contained in Section 2.5:

Section 2.5.1: Mandatory Requirement 1 - Required Reports

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.2: Mandatory Requirement 2 - Management Communication

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.3: Mandatory Requirement 3 - Working Paper Retention and Access

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.4: Mandatory Requirement 4 – Additional Audit Procedures

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.5: Mandatory Requirement 5 - Report Preparation

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.6: Mandatory Requirement 6 – Delivery Dates

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.7: Mandatory Requirement 7 - Independence

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.8: Mandatory Requirement 8 - License to Practice in West Virginia

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.9: Mandatory Requirement 9 - Quality Control

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.10: Mandatory Requirement 10 - Reporting to USDHHS

Vendor Response: Explain how you will meet this requirement including approach and timeline.

Section 2.5.11: Mandatory Requirement 11 – Additional Services

Vendor Response: Explain how you will meet this requirement including approach and timeline.

I certify that the proposal submitted meets or exceeds all the mandatory specifications of this Request for Proposal. Additionally, I agree to provide any additional documentation deemed necessary by the State of West Virginia to demonstrate compliance with said mandatory specifications.

(Company)

(Representative Name, Title)

(Contact Phone/Fax Number)

(Date)

Attachment C: Cost Sheet

Cost information below as detailed in the Request for Proposal and submitted in a separate sealed envelope. Cost should be clearly marked.

COST QUOTE FOR AUDIT SERVICES

<i>Classification</i>	<i>Estimated Hours</i>	<i>Hourly Rate</i>	<i>Cost</i>
Partner	_____ X	_____	_____
Manager	_____ X	_____	_____
Supervisor	_____ X	_____	_____
Seniors	_____ X	_____	_____
Staff	_____ X	_____	_____
Clerical	_____ X	_____	_____
Other(identify)	_____ X	_____	_____
Total all-inclusive fee for audit			\$ _____

COST QUOTE FOR ADDITIONAL ACCOUNTING AND AUDITING CONSULTING SERVICES

<i>Classification</i>	<i>Hourly Rate</i>
Partner	_____
Manager	_____
Supervisor	_____
Staff	_____
Clerical	_____
Other _____	_____

All hourly rates must include all travel and out-of-pocket expenses.

Attachment D

CONSOLIDATE PUBLIC RETIREMENT BOARD TIMETABLE FOR COMPLETION OF AUDIT	
Required Submission or Event	Required Completion/ Submission Date
Entrance conference	Before June 17, 2011
Client Assistance Package Provided	On or before June 24, 2011
Field work to begin	On or before August 19, 2011
Draft of CPRB reports and financial statements for review	September 2, 2011
Revised draft with all requests changed and modification of CPRB reports and financial statements for review	September 9, 2011
Draft submitted to the Financial Accounting and Reporting Section (FARS) of the Department of Administration with copies to the Executive Director and Chief Financial Officer of CPRB	September 15, 2011
Unsigned final draft with all modifications to CPRB management for final review	October 7, 2011
Final signed report for CPRB submitted to CPRB and to the Financial Accounting and Reporting Section of the Department of Administration	October 14, 2011
Presentation to CPRB Board	December 2011 Board Meeting (Date to be determined)

Attachment E – WV vs. DHHR Settlement Agreement

SETTLEMENT AGREEMENT

Plaintiffs-appellants and cross-appellees STATE OF WEST VIRGINIA, by DARRELL V. McGRAW, JR., ATTORNEY GENERAL, and ROBERT W. FERGUSON, JR., CABINET SECRETARY OF THE WEST VIRGINIA DEPARTMENT OF ADMINISTRATION (collectively, "the STATE"), and defendants-appellees and cross-appellants UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES and KATHLEEN SEBELIUS, SECRETARY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES (collectively, "HHS"), hereby agree to settlement of the STATE's appeal and HHS's cross-appeal in *State of West Virginia, et al. v. Department of Health and Human Services, et al.*, Nos. 09-2261 & 09-2327 (4th Cir.), on the following terms and conditions:

1. The STATE shall contribute to the STATE's Public Employees Retirement System ("PERS") the total sum of \$180 million, which sum includes all interest that would otherwise accrue or become payable under applicable law (but excludes any interest payable in connection with any default as specified in paragraphs 6, 7, and 8 of this Agreement). The STATE's contributions to PERS under this Agreement shall be made on a quarterly basis over a period of nine fiscal years,¹ on or before the 15th day of the month following the end of each quarter, beginning on October 15, 2011, and ending on July 15, 2020, as set forth in the schedule in Addendum A. The STATE's quarterly contributions need not be in equal amounts, provided that the total contribution for any fiscal year is at least \$20 million.

2. The STATE's contributions to PERS under this Agreement shall be in addition to the statutorily required "employer contributions" that the STATE is otherwise required to make under

¹ The fiscal year is July 1 to June 30.

STATE law.² The STATE's contributions to PERS under this Agreement shall be made from either the STATE general revenue fund or STATE special revenues made available for the purpose of this Settlement Agreement, and such contributions shall not come from any Federal funds, grant, program, or other Federal revenue source. Such contributions shall not be either direct or indirect costs or expenditures of a STATE agency other than the custodial agency (if any) transferring the funds to PERS; shall not be direct or indirect costs or expenditures within the Statewide Cost Allocation Plan; shall not be allocable to or reimbursable from any Federal grant or program; and shall not otherwise operate to the detriment of the United States. To the extent that contributions to PERS made pursuant to this Agreement operate to reduce the employers' contribution rate in subsequent years, such a reduction shall not be considered as detrimentally affecting the United States, provided that the reduction is applied equally to STATE and Federally funded contributions and otherwise complies with OMB Circular A-87 and any other Federal grant requirements.

3. The STATE shall provide documentation to HHS of each quarterly contribution to PERS under this Agreement within 30 days after the contribution is made, in accordance with the schedule in Addendum A. Such documentation shall include the date, amount, and source of funding for each quarterly contribution. Unless HHS requests, in writing, that the STATE transmit such documentation to another HHS office or address, the STATE shall transmit the documentation of its quarterly contributions to PERS no later than the dates specified in Addendum A, by electronic mail and first-class U.S. mail to the following address:

²See West Virginia Code §§ 5-10-31, 5-10-32.

³HHS shall provide the STATE with the appropriate name and e-mail address.

Director, Division of Cost Allocation
 Financial Management Services
 Program Support Center
 U.S. Department of Health and Human Services
 330 Independence Avenue SW
 Washington, DC 20201

The STATE shall also provide to HHS (at the mailing address above), by October 30 of the following fiscal year, an Annual Report prepared by an independent auditor, documenting the total annual contribution to PERS required under this Agreement, as well as all annual employer contributions otherwise required to be made to PERS under STATE law. The Annual Report shall be in the format set forth in Addendum B.

4. Upon reasonable notice, HHS has the right to conduct an audit at any time to verify the STATE's compliance with this Agreement, and the STATE shall cooperate fully and in a timely manner in providing the information necessary for such an audit.

5. The STATE may make any or all quarterly contributions to PERS in advance of their scheduled due dates without penalty. Any such accelerated contribution shall not reduce the total sum of \$180 million to be contributed by the STATE to PERS under this Agreement and shall not adjust the due date of any other quarterly contribution, unless the contribution constitutes the final contribution under this Agreement.

6. The STATE shall be in default if it fails to make and to document, as described in paragraphs 1 through 3 of this Agreement, its annual \$20 million contribution to PERS under this Agreement for any fiscal year. HHS shall give written notice of the STATE's default as specified in Addendum C and shall provide the STATE with an additional grace period of 30 days from receipt of the Notice of Default in which to cure the default. A default is cured when the STATE

has timely made the full \$20 million annual contribution to PERS required under this Agreement for the fiscal year in question and has provided the required documentation of that contribution to HHS. If the STATE fails to cure the default within the 30-day grace period, HHS may immediately commence collection from the STATE of an amount equal to 20% of the delinquent contribution (i.e., 20% of the shortfall between the total annual contribution required and the contribution actually and timely made, including any contribution made during the 30-day grace period), plus late-payment simple interest based on the U.S. Treasury Current Value of Funds rate on the date of the Notice of Default, accruing from that date until collection of the delinquent contribution and interest is fully effected. Collection shall be by administrative offset or any other process authorized by Federal law, with no further right of administrative or judicial appeal. Such collection shall relieve the STATE of any further obligation to make the delinquent contribution for the fiscal year in question and shall accordingly reduce the total contributions required by this Agreement by the amount of said delinquent contribution. Regardless of whether the STATE cures a default or HHS undertakes collection of the delinquent contribution and interest as described in this paragraph, such action shall not adjust the due date of any future quarterly contribution to PERS under this Agreement.

7. The terms of paragraph 6 of this Agreement shall apply to the STATE's first two uncured defaults (if any). After two uncured defaults, if the STATE defaults on an additional occasion without curing the default, HHS shall give written notice of the STATE's uncured default as specified in Addendum C and may immediately commence collection from the STATE of an amount equal to 20% of all then-delinquent contributions (plus late-payment simple interest at the Current Value of Funds rate as described in paragraph 6) and 20% of all future contributions

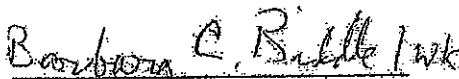
required under this Agreement. Collection shall be by administrative offset or any other process authorized by Federal law, with no further right of administrative or judicial appeal. Such collection shall be a complete satisfaction of the STATE's obligations under this Agreement.

8. The STATE shall be in default if any portion of any quarterly contribution to PERS under this Agreement comes from any type of Federal funding, whether directly or indirectly. HHS shall give written notice of the STATE's default under this paragraph as specified in Addendum C. If the STATE is unable to demonstrate, within 30 days of the Notice of Default, that Federal funds were not used for the contribution in question or that the default has been otherwise cured, HHS may immediately commence collection from the STATE, without further notice, of an amount equal to the portion of the quarterly contribution that came from Federal funds (plus late-payment simple interest at the Current Value of Funds rate, accruing from the date that the quarterly contribution was due) and 20% of all future contributions required under this Agreement. Collection shall be by administrative offset or any other process authorized by Federal law, with no further right of administrative or judicial appeal. Such collection shall be a complete satisfaction of the STATE's obligations under this Agreement.

9. The STATE's contributions to PERS of the total amount required by this Agreement (\$180 million less any credits or reductions arising from collections made by HHS pursuant to paragraphs 6, 7, and 8 of this Agreement) shall constitute full satisfaction of the disallowance, including all interest accrued, accruing, or to accrue in the future, determined in connection with Audit Disallowance No. 03-90-00453 and *West Virginia Department of Administration, Booklet No. A-93-202, Decision No. 1465* (HHS Departmental Appeals Board, February 25, 1994).

10. This Settlement Agreement shall constitute full satisfaction of any and all claims of the STATE and HHS for attorneys' fees, costs, and expenses that each party may have incurred in connection with the administrative, district court, and court of appeals proceedings arising from Audit Disallowance No. 03-90-00453 and *West Virginia Department of Administration*, Docket No. A-93-202, Decision No. 1465 (HHS Departmental Appeals Board, February 25, 1994).


11. Within 30 days of execution of this Agreement, the STATE and HHS shall file a joint motion with the U.S. Court of Appeals for the Fourth Circuit for voluntary dismissal of their respective appeal and cross-appeal in Nos. 09-2261 and 09-2327, with prejudice and with each party bearing its own costs.


 BARBARA C. BIDDLE
 Assistant Director
 202-514-2541


 CHRISTINE N. KOHL
 Attorney
 202-514-4027
 Civil Division, Appellate Staff
 U.S. Department of Justice
 950 Pennsylvania Avenue NW
 Washington, DC 20530

For: U.S. DEPARTMENT OF HEALTH
 AND HUMAN SERVICES and
 KATHLEEN SEBELIUS, SECRETARY
 OF HEALTH AND HUMAN SERVICES

Date: Jan. 5, 2011


 SILAS B. TAYLOR
 Senior Deputy Attorney General
 304-558-2021
 State Capitol Complex
 Building 1, Room E-26
 Charleston, WV 25305

For: STATE OF WEST VIRGINIA
 by DARRELL V. MCGRAW,
 JR., ATTORNEY GENERAL,
 STATE OF WEST VIRGINIA,
 and ROBERT W. FERGUSON,
 JR., CABINET SECRETARY
 OF THE WEST VIRGINIA
 DEPARTMENT OF
 ADMINISTRATION

Date: Jan. 10, 2011

ADDENDUM A
CONTRIBUTION SCHEDULE

Fiscal Year Quarter	Contribution Due	Quarterly Report Due
July 1 - September 30	October 15	November 14
October 1 - December 31	January 15	February 14
January 1 - March 31	April 15	May 15
April 1 - June 30	July 15	August 14

Annual Report Due: October 30.

Addendum C

Any Notice of Default under this Agreement shall be sent by certified mail, return receipt requested, to each of the following:

Executive Director,
WV Consolidated Public Retirement Board
4101 MacCorkle Avenue S.E.
Charleston, West Virginia 25304-1636

Managing Deputy Attorney General
Building 1, Room E-26
State Capitol Complex
1900 Kanawha Blvd., East
Charleston, WV 25305

And by electronic mail to Mike P. McKown (Director of the Budget) at
MIKE.P.MCKOWN@WV.GOV.

Actual receipt by any two of the above individuals will constitute effective delivery of the Notice of Default. It is requested that a courtesy copy also be sent by regular mail or fax to:

Secretary, WV Department of Administration
Building 1, Room E-119
State Capitol Complex
1900 Kanawha Blvd East
Charleston, WV 25305
Fax: 304-538-2999

The STATE may substitute another person or office for any of the above by written notice to PHS as provided for in the Agreement.

If applicable, sign and submit the attached Resident Vendor Preference Certificate with the proposal.

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

West Virginia Code §5A-3-10a states: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceed five percent of the total contract amount.

EXCEPTION: The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

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.

WITNESS THE FOLLOWING SIGNATURE

Vendor's Name: _____

Authorized Signature: _____ Date: _____

State of _____

County of _____, to-wit:

Taken, subscribed, and sworn to before me this ____ day of _____, 20__.

My Commission expires _____, 20__.

AFFIX SEAL HERE

NOTARY PUBLIC _____