

Return by
1:30 PM on 11/19/2010

Req. No.
STO611

REQUEST FOR QUOTATIONS

THIS IS NOT AN ORDER

Date
10/20/2010

Acct. No.
1324-2011-1300-99-025

To Be Delivered To:
WV State Treasurer's Office/Attn: A Kincaid
1900 Kanawha Blvd E, Bldg 1 Suite E-145
Charleston, WV 25305

<p>Vendor ♦</p> <p>Address ♦</p> <p>email:</p> <p>web:</p> <p>Telephone Number ♦ ()</p>	<p>SUMMARY OF QUOTATIONS</p>
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Delivery Requirements	FEIN	Terms	Delivery Date	F.O.B.
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Item Number	Quantity	Description	Unit Price	Amount
		<p>The WV State Treasurer's Office is seeking bids from qualified entities to provide Auction Services.</p> <p>The intent of this project/solicitation is to comply with the provisions of the WV Unclaimed Property Act as set forth in WV Code 36-8-1, et. seq., effective as of July 1, 1997.</p> <p>The term, upon approved executed contract award, will be for one year. The contract may, upon mutual written consent, be renewed for up to two, one-year terms.</p> <p>See attached for the full Solicitation detail and other terms and conditions.</p> <p>In lieu of entering costs on this quote sheet, the Bid Schedule form is to be used to document fees and appropriately signed.</p>		

TOTAL \$

GENERAL TERMS AND CONDITIONS: The General Terms and Conditions for Request for Quotation (RFQ) and Request for Proposal (RFP) located on the Purchasing Division's website at <http://www.state.wv.us/admin/purchase/vrc/RFQTandC.pdf>, ("Terms and Conditions") are hereby made a part of this agreement and are specifically incorporated herein by reference. By signing this agreement, Vendor certifies that it has reviewed the Terms and Conditions, fully understands them, and agrees to be bound by their provisions.

Vendor - Authorized Representative

Signature of Authorized Representative

**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).

**OFFICE OF THE STATE TREASURER
STATE OF WEST VIRGINIA**

**REQUEST FOR QUOTATION
RFQ STO 611**

PROFESSIONAL AUCTION SERVICES

SCHEDULE OF EVENTS

Event:

RFQ Release Date: October 20, 2010

Pre-bid conference (non-mandatory): November 1, 2010 at 1:00 p.m.

Deadline for Vendor Questions: November 5, 2010 5 p.m.

Release of Addendum, if applicable: November 12, 2010

Bid Opening Date & Time: November 19, 2010 1:30 p.m.

POINT OF CONTACT

All inquiries and submissions must be sent to:

Alberta Kincaid
Director of Administration
1900 Kanawha Blvd., East
Building 1, Room E-145
Charleston, WV 25305
E-mail: STOpurchasing@wvsto.com

Telephone: (304) 558-5000 x0723

Fax: (304) 340-1518

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Attached Exhibits

A – Bid Schedule Form

B – Sample Excel spreadsheet

C – WV-96

D – Purchasing Affidavit

E – General Terms & Conditions (this is in addition to the RFQ/RFP General Terms/Conditions)

F – STO Confidentiality and Nondisclosure agreement

G – Vendor Preference Certificate

1. GENERAL INFORMATION

1.1. Purpose

This Request for Quotations (“RFQ”), issued by the West Virginia State Treasurer’s Office (“STO”) is to solicit bids for Professional Auction Services (the “Services”) for the sale of tangible unclaimed property reported to the STO by financial institutions; from safe deposit boxes; or other safekeeping repositories. This project is intended to carry out the provisions of the West Virginia Unclaimed Property Act (the “Act”), set forth in West Virginia Code ' 36-8-1, et. seq., effective as of July 1, 1997, and corresponding legislative rules, promulgated at 112 CSR 5. Additional information regarding unclaimed property is available on the STO website, <http://www.wvsto.com>. Entities offering to provide or being solicited to provide the services contemplated in this RFQ will be referred to as “Vendor.”

Professional Auction Services, as described in this RFQ (“Services”), are to conduct an auction to be held on January 8, 2011 or at another date mutually agreed upon by the parties. The auction site will be at the Building 7 training room located at the State Capitol Complex or another site agreed to by the parties. The purpose of the auction is to sell, in accordance with state law, abandoned or unclaimed properties which are stored by the STO’s Unclaimed Property Division.

The STO anticipates a minimum of 650 lots to be sold. The previous auction included 448 lots, selling for a total of \$86,570.

Any specification or statement containing the word “must”, “shall”, or “will” is mandatory. By signing and submitting a response to this RFQ, the Vendor agrees to all mandatory deliverables described herein.

1.2. Point of Contact or General Inquiry

All inquiries and submissions must be sent to:

WV State Treasurer’s Office
Attn: Alberta Kincaid, Director of Administration
1900 Kanawha Boulevard, East
Building 1, Room E-145
Charleston, WV 25305
E-mail: STOpurchasing@wvsto.com
Telephone: (304) 558-5000 x0723
FAX: (304) 340-1518
Web site: www.wvsto.com.

The Point of Contact is the **sole** contact in WV State Government after the release of this RFQ. **Vendors shall not make direct or indirect contact with any other personnel of the STO during the course of the procurement process (from the RFQ release until award of contract/purchase order) to discuss or request information about any aspect of the procurement including the RFQ or its associated evaluation process, except as authorized in this RFQ. Violation of this clause will result in bid disqualification.**

A copy of this RFQ will be available on the STO main web site - (www.wvsto.com/dept/Admin/Purchasing). Any addenda to this RFQ will be posted at this web site, as well as e-mailed or faxed to any vendor to whom the STO has sent a copy of the RFQ. It is the vendor’s responsibility to check the web site to make sure to review or obtain any addenda prior to finalizing the response. If the vendor does not utilize or have internet access to the STO website, they may contact the individual named above and request information to be mailed by US Mail or request a packet to be picked up by the vendor.

1.3 Pre-bid Conference

A non-mandatory pre-bid conference will be held the date named in the Events section, above, at the WVSTO Records Management Center, located at 7300 MacCorkle Ave SE, Charleston, WV 25304. The purpose of this conference is to allow potential Vendors an opportunity to view the types of items available for auction, and to present questions and obtain clarification relative to

any facet of this solicitation. Any changes or required clarifications to the specifications resulting from this conference will be issued in a written addendum to the solicitation.

2. BACKGROUND

2.1. General Information

- 2.1.1. The State Treasurer's Office (STO) currently receives the contents of safe deposit boxes each year. Many of the contents are papers with no apparent market value, while other items have marginal to significant market value.
- 2.1.2. The STO inventories the items, separating the contents having market value from the papers with no apparent market value. The owner information along with the inventory for the respective safe deposit box is entered onto the STO in-house computer system. An advertisement is placed with the name and last known address of the listed owner in a paper in the state. If the owner is not reunited with his/her safe deposit box, the contents become eligible for auction.
- 2.1.3. Generally, items that are received fall into the category listings below. The listing is not intended to be all inclusive, but to present a sample of the types of items that would typically be available for sale at an auction.
 - 2.1.3.1. Jewelry: Bracelets, earrings, necklaces, pendants, and rings. Some of the jewelry is marked with the gold content while some of the items are costume jewelry.
 - 2.1.3.2. Coins: Collectible coins, coins with silver content, bullion coins, gold coins, foreign coins, commemorative coins, mint sets, proof sets. The conditions of these coins have a large variance.
 - 2.1.3.3. Currency: Foreign currency, silver certificates, confederate money, large notes. The condition of the currency has a large variance.
 - 2.1.3.4. Stamps: Foreign stamps, postmarked stamps, unpostmarked stamps, sheets. The condition of these stamps has a large variance.
 - 2.1.3.5. Watches: Pocket watches, watch fobs, wrist watches, ladies watches. The condition of these watches has a large variance.
 - 2.1.3.6. Other: There are often other items such as tableware, collectable cards, jewelry boxes, and books that are offered for sale.
- 2.1.4. Although an attempt has been made to provide accurate and up-to-date information, the State of West Virginia does not warrant or represent that the background information provided herein reflects all existing conditions related to this Request for Quotation.

3. SCOPE OF WORK

3.1. Requirements

This section describes the mandatory services and deliverables required upon contract execution. Any specification or statement containing the word “must”, “shall”, or “will” is mandatory. Vendor shall:

- 3.1.1. Possess a valid West Virginia Auctioneer license and must comply with the requirements of West Virginia Code 19-2C-1 et seq., and rules promulgated pursuant thereto.
- 3.1.2. Provide all auctioneers, clerks, cashiers, and other staff needed to conduct a professional auction in accordance with services stated herein.
- 3.1.3. Furnish the name and address of one or more backup licensed West Virginia Auctioneers in the event of illness or any circumstances that might prohibit the successful Auctioneer from conducting the auction. The backup Auctioneer must affirm and be willing to perform in accordance with any purchase order/contract issued pursuant to this RFQ, which includes the amount and all other terms and conditions. The backup Auctioneer may be an employee of the Vendor; otherwise, vendor must subcontract with the backup Auctioneer.
- 3.1.4. Furnish all material, labor, equipment and supplies necessary to perform the services required herein, unless otherwise specified herein or agreed to in writing by the parties.
- 3.1.5. Accept responsibility and provide adequate security for all STO items in their possession.
- 3.1.6. Divide each safe deposit box into one or more lots. Each lot will be comprised only of items from one safe deposit box.
- 3.1.7. Determine which items appear to be of sufficient value to require further grading or appraising. For cash which appears to be valued at face value, Vendor will return the cash to the WVSTO for deposit.
- 3.1.8. Obtain grading or appraising for those items requiring grading or appraising.
- 3.1.9. Set minimum bids for those items which have been graded or appraised.
- 3.1.10. Using a Microsoft Excel spreadsheet template provided by the WVSTO, enter appraisal values, graded values, and auction proceeds for each item/lot. Provide the completed spreadsheet to the WVSTO.
- 3.1.11. Provide the following for advertising purposes:

- a. Advertise the scheduled auction at least three (3) weeks prior to the auction in the leading newspapers in the following cities/towns of West Virginia: Charleston, Clarksburg, Parkersburg, Elkins, and Morgantown. Advertise in the leading newspapers the cities/towns of New Cumberland, Maryland and Winchester, Virginia. A copy of each advertisement to be placed shall be provided to the STO for review prior to release to any news media outlet.
- b. Produce 2,500 fliers or mailers and send them to in-state and/or out-of-state potential buyers. Vendor is responsible for all costs of production and mailing these fliers/mailers. Samples of previously produced fliers/mailers are to be provided to the STO, preferably with the bid response.
- c. Assist the STO in producing an Auction Catalog of items being auctioned. Catalog will include at a minimum: lot number, safekeeping item number provided by the STO and a brief description of each item. Vendor is responsible for production costs. A copy of an Auction Catalog previously produced is to be provided to the STO, preferably with the bid response.

3.1.12. Provide digital imaging technology presentation capability to allow audience members to view the item being auctioned on four (4) or more TV monitors or other devices in the auction area.

3.1.13. Have in place a computerized auction program capable of:

- 3.1.13.1. Listing all items to be auctioned (identifying items by lot number and safekeeping ID number);
- 3.1.13.2. Identifying sale item, amount and purchaser; and
- 3.1.13.3. Printing a receipt for the purchaser with the details of sale, as provided more specifically below.
- 3.1.13.4. Importing and exporting a spreadsheet in Microsoft Excel format with appraised values and graded values, and another with auction proceeds of items, based upon an Excel template to be provided by the STO. A sample template is attached to this RFQ as Exhibit B.

3.1.14. Pre-register potential buyers and provide the STO with a listing of the name, address and phone number of all potential buyers.

3.1.15. Provide any pre-auction showing, for at least two hours preceding the auction, on the day of the auction. Vendor must provide sufficient staff to ensure security of items.

- 3.1.16. Provide each buyer or purchaser with a receipt that includes: the date of the sale; a description of the item or lot; the price paid for the item or lot purchased; and the name, license number and permanent address of the auctioneer. The auctioneer shall retain a copy of issued receipts for his or her records for a minimum of six (6) months.
- 3.1.17. Accept responsibility for all money generated from the sale. Vendor shall remit the total amount of the sales to the STO by ACH or by certified check within ten banking days from the date of auction along with a detailed list of auction items, containing lot numbers, safekeeping identification numbers, a brief description of the items, buyer's numbers and auction prices for each item sold. At the same time, Vendor shall submit an invoice for its fees to the STO for payment. Vendor will also provide a list of registered buyers as specified in 3.1.14.
- 3.1.18. Behave in a professional manner and dress professionally before, during and after the auction. This includes the Auctioneer(s) and his/her employees, staff and anyone else acting on behalf of or in concert with the Vendor.

3.2. Bid Quotation Submission Requirements

- 3.2.1. All bids and any exhibits, attachments, etc., received become the property of the STO and will not be returned to the bidder. The Purchasing Administrator/Director of Administration (PA/DA) reserves the right to accept or reject bids in whole or in part and to waive any minor deviations in the specifications.
- 3.2.2. The State of West Virginia and the STO reserve the right to use any information received, from any source, in order to evaluate the bids and make the award.
- 3.2.3. Award shall be made in the best interest of the STO and the State of West Virginia, to the lowest responsive and responsible bidder
- 3.2.4. Vendor and any subcontractor or partner are governed by the West Virginia Code and any other applicable laws, rules, and policies for all bids and any resulting contract/purchase order,
- 3.2.5. The State of West Virginia and STO shall not be responsible or liable for any costs or expenses incurred in the preparation and presentation of bids.
- 3.2.6. All bids are to remain valid for ninety (90) days from the bid opening date. This period is automatically extended for the period of any proceeding related to the award of the contract/purchase order.
- 3.2.7. By submitting a bid, Vendor certifies the bid is made without collusion or fraud, Vendor has not offered or received any kickbacks or inducements of any type in

connection with the bid, and Vendor has not given or promised any STO employee any payment, loan, advance, money or services.

- 3.2.8. The STO may, at its option, contact Vendors through the PA/DA for clarification at any time during the evaluation process. Nothing may be submitted after the bid opening to alter the content of a bid in any way. All clarification responses, as well as all bids, will be available for review after completion of the evaluation.

3.3. Vendor Registration

Vendors are not required to be registered with the State of West Virginia in order to submit a bid. However, the successful bidder will be required to complete and file a Vendor Registration & Disclosure Statement (Form WV-1) with the West Virginia Purchasing Division, and to submit the annual registration fee prior to issuance of any contract/purchase order pursuant to this RFQ.

3.4. Proof of Coverage and Authorization to Do Business

Apparent Successful Bidder shall provide proof of being in good standing with West Virginia Bureau of Employment Programs and the West Virginia Insurance Commission, as well as being authorized to do business in West Virginia. A copy of the bidder's current Certificate of Insurance regarding workers compensation, will be considered proof of good standing. Any bidder who does not currently have employees within West Virginia must be in compliance with the West Virginia Bureau of Employment Programs and Insurance Commission prior to the commencement of the contract. All work performed shall comply with all applicable laws, rules, regulations, etc. Successful bidder must also complete and sign the Purchasing Affidavit, Exhibit D, upon notice of Intent to Award.

3.5. Questions, Addenda and Communications

- 3.5.1. Questions and Clarifications: Questions regarding this RFQ or requests for clarification, etc., shall be submitted in writing no later than the date and time specified to the PA/DA as outlined in the Events section of this RFQ.
- 3.5.2. Addenda: Responses to questions or requests for clarification will be included in an Addendum that will be released as stated in §1.2 of this RFQ. The STO reserves the right to further modify this RFQ including any Exhibits in Addenda to this RFQ as it considers appropriate.

3.6. Bid Submission

Bids must be submitted in writing, via U.S. Mail or other delivery source. Regardless of the submission format, all bids must be received by the PA/DA prior to the bid opening date and time. Bids received after the bid opening date and time will immediately be disqualified.

3.6.1. The original bid must be signed by a person authorized to bind the Vendor. The written bid shall be submitted to the PA/DA specified in Section 1.2 of this RFQ no later than the date and time specified in this RFQ.

3.6.2. The outside of the bid package should be clearly marked as follows:

Attn: Alberta Kincaid

Director of Administration

RFQ: STO#611

Bid Opening: November 19, 2010 at 1:30 p.m.

3.6.3. Only one (1) bid per bid package will be accepted.

3.6.4. The STO is not responsible for delivery of a bid, whether delivery is by hand, by mail, by overnight service, etc. Vendor is responsible for getting its bid delivered in a readable format, whether electronic or in written form, by the date and time stated in this RFQ.

4. Terms and Conditions

4.1. General

All applicable State of West Virginia contractual requirements shall be incorporated into and contract/purchase order executed as a result of this RFQ. The WV-96 – if applicable - (Exhibit C), the Purchasing Affidavit (Exhibit D), and the STO's Confidentiality and Nondisclosure Agreement (Exhibit F) must be executed by the successful bidder. Further, the standard General Terms and Conditions (Exhibit E) are made a part of any contract with the STO. Required terms and conditions of the State are generally not subject to negotiation. Vendors desiring that the STO consider any additional terms and conditions shall offer them in writing at the end of their bid in the Miscellaneous Section. The Vendor Preference Certificate (Exhibit G) is hereby provided for those bidders who may qualify for consideration due to residency status; this form must be returned with bid response to be eligible.

4.2. Special Terms and Conditions

4.2.1. Joint Bidders and Subcontracting: In the event that a joint bid or a primary Vendor bid, specifically identifying the Primary Vendor, is submitted, in whole or in part, the fact must be fully disclosed. The contract/purchase order shall be awarded to one entity only, that entity being solely responsible for performance under the contract/purchase order, assignment of work and payment to joint proposers and subcontractors. The entity named in the contract/purchase order shall be the sole point of contact for the STO in connection with that purchase order. Any subcontracting entity shall be subject to the same terms and conditions as Vendor. All entities and personnel, including their roles, must be named in the bid. Vendor shall be fully responsible for the performance of any subcontractor. Any changes in entities from those submitting the bid or disclosed in the bid must be approved in advance by the STO.

- 4.2.2. Public Record: All documents, boxes, etc., and any contents thereof submitted to the STO in response to this RFQ shall become a matter of public record.

The only exceptions to the disclosure of information are listed in the West Virginia Freedom of Information Act, pursuant to West Virginia Code §29B-1-1 et. seq. The STO shall make a reasonable effort not to disclose information that is exempt from the disclosure requirements of the Act. However, the STO does not guarantee nondisclosure of any information to the public.

- 4.2.3. Addenda: Questions regarding this RFQ, or requests for clarification, must be submitted in writing no later than the date and time specified in the Schedule of Events. Responses to questions or requests for clarification will be included in an Addendum that will be released as stated in the Schedule of Events. The STO reserves the right to further modify this RFQ, including any Exhibits and Addenda to this RFQ, as it considers appropriate. Addenda will be posted on its main webpage site at <http://www.wvsto.com/DEPT/ADMIN/PURCHASING/Pages/Proposals.aspx> . This site should be checked frequently prior to finalizing a quote for submission.

- 4.2.4. Conflict: 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 WVSTO.

- 4.2.5. Miscellaneous: Vendors desiring to offer alternative terms and conditions to this RFQ may do so and indicate such information in a section marked "Miscellaneous" of the bid. However, the provisions of the WV-96 (Exhibit C) and any requirements of the STO as attached to this RFQ and as otherwise specified by the STO, are generally not negotiable. The STO is not required to consider any offered matters, and proposals may not be conditioned upon STO acceptance of matters that alter requirements or mandatory specifications of this RFP. Other materials may be provided in the "Miscellaneous" section pursuant to this RFQ.

- 4.2.6. Payment: Payment for services will be made in arrears only, following receipt of a legitimate and uncontested invoice from Vendor and following receipt of the gross amount of sales, as required in §2.2.18 of this RFQ.

- 4.2.7. Breach: Failure to perform according to this RFQ, the bid, and/or a resulting contract/purchase order shall be cause for the vendor to be found in default. In that event, any and all procurement costs may be charged against the vendor and offset against, but not limited to, any charges accruing to the date of cancellation. Any contract/purchase order issued pursuant to this RFQ may not be assigned except with the prior written consent of the STO. The STO reserves the right to cancel any agreement or purchase order, with or without cause, upon issuance of a 30-day written notice to the Vendor.

- 4.2.8. Legislative appropriation: Performance under a purchase order awarded pursuant to this RFQ is contingent upon continued legislative authorization. In the event legislative authorization and/or appropriation is withdrawn or otherwise unavailable for these services, the contract/purchase order awarded pursuant to the RFQ shall be null and void and of no effect after June 30 of that year.
- 4.2.9. Insurance: Vendor must agree to carry liability insurance in the amount of \$1,000,000 for on-site auctions. At the time the contract is awarded the Vendor must provide a certificate of insurance naming the STO as a Holder, Vendor must also agree to provide a minimum 30-day notice of cancellation.
- 4.2.10. Indemnification: Vendor shall indemnify and hold the STO harmless for any and all losses, costs, claims, causes or action, suits judgments, injuries, liabilities, penalties, damages and expenses including, without limitation, attorney's fees and litigation expenses (each a "Loss" and, collectively, "Losses") suffered, incurred or sustained by the STO or to which the STO becomes subject to the extent resulting from, arising out of or relating to the contract/purchase order and the RFQ, including a breach or nonperformance by Vendor or its duties, obligations, representations, warranties or covenants under the contract/purchase order and the RFQ, and including, without limitation, any gross negligence or willful misconduct of Vendor or its officers, employees, agents, representatives, subcontractors, delegates or affiliates, except to the extent the Losses are directly and solely caused by gross negligence or willful misconduct of the STO or its officers, employees, agents or representatives. This right of indemnification inures solely to the STO and shall not be assigned to or assumed by any other person or entity.
- 4.2.11. Amendment: If changes to the original Agreement become necessary, a contract amendment and an approved contract change order will be negotiated by the STO and the Vendor to address the needed changes, including, but not limited to, changes in the terms and conditions or costs of work included under the Agreement. An "approved contract change order" is defined as one approved and signed by an authorized STO employee (Deputy Treasurer of Administration, Assistant Treasurer or Treasurer) and approved as to form by Counsel for the STO, and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision and/or the scope of the work. Such changes may be necessitated by new and amended federal and state regulations, rules or other such requirements. Other instances necessitating a formal change order include a vendor name change, vendor mailing address and/or vendor's remittance address.
- 4.2.12. Severability: In the event that any provision of this RFQ or any resulting Agreement is deemed illegal or unenforceable, it will be considered stricken from the RFQ or Agreement and the remaining provisions of this RFQ or resulting Agreement will remain in full force and effect.
- 4.2.13. Contract Provisions: A contract based on this RFQ and the Vendor's bid, may or may not be awarded. Any contract resulting in an award from this RFQ is not valid until properly approved and executed by the STO. After the successful

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

- 4.2.14. Taxes: Vendor, including its agents and assigns, is solely responsible for and shall pay all federal, state or local income taxes that become lawfully owed by Vendor, its agents and assignees as a result of any Agreement pursuant to this RFQ, and shall hold harmless, defend and indemnify the STO, its officers and the State of West Virginia in regard thereto.
- 4.2.15. No Waiver: A party's failure to enforce its rights with respect to any single or continuing breach of this RFQ or any ensuing Agreement will not act as a waiver of the right of that party to later enforce any such rights or enforce any other or subsequent breach.
- 4.2.16. Choice of Law: This RFQ and any ensuing Agreement will be governed by and construed under the laws of the State of West Virginia.
- 4.2.17. Term and Renewal: This Agreement may, upon mutual consent, be renewed for additional one-year periods, or until such reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period shall not exceed twelve (12) months. All renewals are subject to the STO obtaining all required governmental approvals, or until terminated according to the specific terms of this Agreement, whichever shall first occur.

Exhibit A

BID SCHEDULE FORM
RFQ # STO611

Vendor Name: _____

WV Auctioneer License No. _____

Address: _____

City: _____ State: _____ Zip: _____

Date Bid Prepared: ____/____/____

Vendor Signature: _____

Vendor FEIN: _____

Vendor E-mail Address: _____

Contact Person Name: _____ Phone: _____

Addenda to this RFQ we have received and reviewed (list): No(s): _____

I. TRANSMITTAL INFORMATION

By submission of this Bid Form for RFQ# STO611, the Vendor hereby covenants and agrees:

1. to be bound by the terms and conditions of this bid, as well as the terms and conditions, any addenda thereto, of any purchase order/contract that may be issued thereto;
2. that the person signing and/or submitting this Bid Form is authorized to bind the Vendor to this bid;
3. that this bid shall remain valid for a period of ninety (90) days after the bid opening date ;
4. the Vendor specified in this quotation/bid shall provide Services meeting all of the requirements in the RFQ; and
5. the Vendor does not owe the State of West Virginia, or any agency, board, or commission of the State of West Virginia, any amount of money, with the exceptions of any sum being contested and the matter has not become final or any

sum being paid under a plan or agreement (Exhibit D, Purchasing Affidavit) must be signed and returned with this Bid Form.

Note: Any exception to the terms and conditions of RFQ# STO611 and any addenda thereto must be submitted with the bid response. This bid is not considered by the STO as contingent upon the STO's acceptance of any offered exception or proposed revision, and STO assumes no obligation to accept or negotiate terms and conditions or contract with a Vendor.

II. BID

Bid a flat fee.

List the dollar figure that you will charge for providing the services and materials described in the RFQ.

Flat Fee	\$ _____
-----------------	----------

1. Backup Auctioneer, as required in section 3.1.3 of the RFQ:

Name and address of one or more backup licensed West Virginia Auctioneer(s):

Name: _____

Address: _____

Phone: _____ License No.: _____

2. References

List three (3) references for which you have provided similar auction services within the past twelve (12) months.

(1) Client Name: _____

Contact: _____ Title: _____

Address: _____

City: _____ State: _____ ZIP: _____

Phone: _____ Auction Conducted: ____ / ____ / ____

Auction Location: _____

Total Sales: _____

(2) Client Name: _____
Contact: _____ Title: _____
Address: _____
City: _____ State: _____ ZIP: _____
Phone: _____ Auction Conducted: ____ / ____ / ____
Auction Location: _____
Total Sales: _____

(3) Client Name: _____
Contact: _____ Title: _____
Address: _____
City: _____ State: _____ ZIP: _____
Phone: _____ Auction Conducted: ____ / ____ / ____
Auction Location: _____
Total Sales: _____

3. Samples

Please provide samples of:

- (a) Fliers or mailers as required in §2.2.11.
- (b) Auction Catalog as required in §2.2.11.

III. SPECIAL REQUIREMENTS FOR SITE

Attach an explanation of any special site requirements.

IV. MISCELLANEOUS

Provide here any other relevant information to be considered.

V. Bids must be submitted to the address listed below by the required date and time.
Failure of the bidder to deliver the quotation on time will result in disqualification.

Alberta Kincaid
Director of Administration
1900 Kanawha Blvd., East
Building 1, Room E-145
Charleston, WV 25305
E-mail: STOpurchasing@wvsto.com

Telephone: (304) 558-5000 x0723
Fax: (304) 340-1518

Exhibit B

Sample Appraisal Spreadsheet

APPRAISAL_ID	SAFEKEEP_ID	DESCRIPTION	CODE	APPRAISAL_VALUE	COUNT
30	27775	small glass jar with screw on decor	Misc. Items		1
30	27494	Showbiz Pizza Place Token	Misc. Items		1
30	27496	Quartz like stone	Misc. Items		1
30	27547	token silver in color containing a	Misc. Items		1
30	26086	(9) stamps consisting of. (1) Fran	Stamps		9
30	26938	0.25 Cent United States Savings Sta	US Savings Stamp Albums		1

Sample Proceeds Spreadsheet

AUCTION_ID	LOT_ID	AUCTION_LOT_NO	PROCEEDS
3	1	LOT 1	0
3	2	LOT 2	0
3	3	LOT 3	0
3	4	LOT 4	0
3	5	LOT 5	0
3	6	LOT 6	0
3	7	LOT 7	0
3	8	LOT 8	0
3	9	LOT 9	0
3	10	LOT 10	0

AGREEMENT ADDENDUM

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.
7. **RECOUPMENT** - Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.
18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.
19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY**: -Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

ACCEPTED BY:
STATE OF WEST VIRGINIA _____

VENDOR

Spending Unit: _____

Company Name: _____

Signed: _____

Signed: _____

Title: _____

Title: _____

Date: _____

Date: _____

RFQ No. ST0611

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 _____

**GENERAL TERMS & CONDITIONS
PURCHASE ORDER/CONTRACT**

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of this order.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the *Legislative Rules* of the Purchasing Division shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; (b) be merchantable and fit for the purpose intended; and/or (c) be free from defect in material and workmanship.
8. **CANCELLATION:** The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in this Order.
10. **LATE PAYMENTS:** Payments may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the *West Virginia Code*.
11. **TAXES:** The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, 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.
15. **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>.
16. **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 agency 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.
17. **ANTITRUST:** In accepting this purchase order or signing this contract with any agency for the State of West Virginia, the vendor agrees to 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 vendor. Vendor certifies that this purchase order or contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law. Vendor further certifies that this purchase order or contract is in all respects fair and without collusion or fraud.

West Virginia State Treasurer's Office
CONFIDENTIALITY & NON-DISCLOSURE AGREEMENT
 For Third Parties Under Agreements That Provide Access to STO Data

WHEREAS, _____, (hereinafter "Third Party"), is party to a separate contract, arrangement or agreement with the West Virginia State Treasurer's Office ("STO") through which it may have access to files, websites, databases, records and other sources that may include information of the STO that is considered privileged, confidential and proprietary; and

WHEREAS, the STO has required, as a condition precedent, that the Third Party, its employees, agents, contractors and other such personnel, must keep all information obtained by or through its agreement with the STO confidential and shall not disclose the same to any other party;

NOW, THEREFORE, THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT ("Agreement"), WITNESSETH: That for and in consideration of the mutual benefit of the parties hereto, the undersigned do hereby acknowledge and agree as follows:

1. Pursuant to its separate agreement with the STO, certain matters may be disclosed to the Third Party by the STO that both parties agree should remain confidential or proprietary.
2. "Confidential or Proprietary Information" includes:
 - a. any information residing on the STO information resource systems;
 - b. all data, materials, products, technology, computer programs, specifications, manuals, business plans, records, software, financial information and other information disclosed or submitted, orally, in writing, graphically, machine recognizable or by any other media, by the STO that is stamped "confidential," "proprietary" or with a similar legend;
 - c. documents and working papers obtained or compiled by the Unclaimed Property Division in the course of conducting an examination that are deemed confidential and are not public records pursuant to the provisions of *W. Va. Code § 36-8-20(d)*;
 - d. any data or information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPA");
 - e. financial records or documents of any financial institution or any customer of the financial institution, including records of transactions conducted by means of a customer bank communication terminal or other electronic device, that are deemed confidential pursuant to the provisions of the *Maxwell Governmental Access to Financial Records Act, W. Va. Code § 31A-2A-1, et seq.*; and
 - f. any information that the STO designates as confidential or proprietary information.
3. "Confidential or Proprietary Information" does not include any data, information or device that is:
 - a. in the possession of the Third Party from another source without restrictions on use or disclosure;
 - b. independently developed by the Third Party;
 - c. available without breach of this Agreement; or

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- d. produced or disclosed pursuant to applicable law, rule, regulation or court order.
4. The Third Party agrees to be bound by the confidentiality provisions of the *West Virginia State Treasurer's Office Information Security Policy*, insofar and insofar only as they apply to third party recipients of Confidential or Proprietary Information. The terms and conditions of this Agreement are in addition to the requirements of said policy.
5. The Third Party shall not disclose or use any Confidential or Proprietary Information in a manner that violates this Agreement, the *West Virginia State Treasurer's Office Information Security Policy* or any applicable state or federal law without the express written consent of the STO.
6. The Third Party shall hold in strict confidence anything that is considered Confidential or Proprietary Information within the meaning of this Agreement.
7. The Third Party shall not disclose Confidential or Proprietary Information to any person not specifically authorized to receive, have or view such information by the STO.
8. Confidential or Proprietary Information or data kept, maintained or accessed by the Third Party through the STO may not be transmitted to any other party by electronic or other means for uses not authorized by the STO or its agreement with the Third Party, or to any other contractor or allied agency, without prior written approval of the STO, unless otherwise required by law.
9. Reports or data containing Confidential or Proprietary Information may not be revealed or sold to any other party.
10. The Third Party shall not use any Confidential or Proprietary Information as a basis upon which to develop or have another entity develop any product or service without the express written consent of the STO.
11. The Third Party shall report, in writing, any unauthorized use or disclosure of the Confidential or Proprietary Information of which it becomes aware.
12. This Agreement applies to the Third Party and all of its employees, agents, contractors and other such personnel who may have access to the Confidential or Proprietary Information of the STO.
13. To protect the Confidential or Proprietary Information of the STO from unauthorized disclosure, the Third Party agrees:
 - a. That it will limit the persons, employees, agents or others to whom the Confidential or Proprietary Information is disclosed to those reasonably required to accomplish the purposes stated in this Agreement or those included in any other agreement between the Third Party and the STO; and
 - b. To provide appropriate notification and training of its employees, agents, contractors and other such personnel to whom the Confidential or Proprietary Information is or will be disclosed; and

- c. To ensure its employees, agents, contractors and other such personnel to whom it provides any Confidential or Proprietary Information it receives from the STO read and understand the restrictions and conditions of this Agreement and the *West Virginia State Treasurer's Office Information Security Policy* and agree to be bound by the same.
- 14. The Third Party acknowledges that disclosure or unauthorized use of any Confidential or Proprietary Information will cause irreparable harm and loss to the STO and may violate various laws of the State of West Virginia and the United States.
- 15. The STO may take whatever steps it considers appropriate to protect its Confidential or Proprietary Information. In the event the Third Party discloses or uses any Confidential or Proprietary Information without authorization from the STO or if the Third Party permits Confidential or Proprietary Information to be disclosed or used, without authorization from the STO, the STO may declare a breach of contract on the part of the Third Party and may immediately terminate any applicable agreement or arrangement, in which case the STO shall not incur any penalty or be considered in breach of or in default of said agreement or arrangement.
- 16. The Third Party agrees to indemnify and hold harmless the STO for any damages claimed by any other party arising as a result of a breach of confidentiality or disclosure of Confidential or Proprietary Information by the Third Party or any of its employees, agents, contractors or other such personnel, and shall be liable to the STO for any damages incurred by the STO, including but not limited to, judgments, sanctions, penalties, attorneys' fees or costs, arising out of such claims.
- 17. Upon the termination of any agreement with the STO, the Third Party agrees, if feasible, to return or destroy all protected Confidential or Proprietary Information it received from, created by or received on behalf of the STO that it maintains in any form, and further agrees that it will not retain any copies of Confidential or Proprietary Information. In the event return or destruction is not feasible, the Third Party shall extend the protections of this Agreement to the Confidential or Proprietary Information and limit further uses and disclosures to the purposes that make return or destruction of the Confidential or Proprietary Information infeasible.

WITNESS the following signatures:

WEST VIRGINIA
STATE TREASURER'S OFFICE

Third Party

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Rev. 09/08

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.