



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
 LBS12025

PAGE
 1

ADDRESS CORRESPONDENCE TO ATTENTION OF
 ROBERTA WAGNER
 304-558-0067

RFQ COPY

TYPE NAME/ADDRESS HERE

VENDOR

SHIP TO

HEALTH AND HUMAN RESOURCES
 BPH - LABORATORY SERVICES
 167-ELEVENTH AVENUE
 SOUTH CHARLESTON, WV
 25303 304-558-3530

DATE PRINTED 07/03/2011	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
BID OPENING DATE: 08/04/2011		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	3	EA	493-11			
<p>LABORATORY BENCH STYLE GAS CHROMATOGRAPHY (GC) -</p> <p>ELECTRODE CAPTURE DETECTOR (ECD)'S FOR THE ANALYSIS OF ORGANOHALIDE PESTICIDES AND COMMERCIAL POLYCHLORINATED BIPHENYL PRODUCTS IN DRINKING WATER, CHLORINATED ACIDS IN DRINKING WATER 1, 2-DIBROMOMETHANE (EDB) AND 1,2-DIBROMO-3-CHLORO-PROPANE (DBCP) IN DRINKING EATER PER THE ATTACHED SPECIFICATIONS AND REQUIREMENTS.</p> <p>CANCELLATION: THE DIRECTOR OF PURCHASING RESERVES THE RIGHT TO CANCEL THIS CONTRACT IMMEDIATELY UPON WRITTEN NOTICE TO THE VENDOR IF THE COMMODITIES AND/OR SERVICES SUPPLIED ARE OF AN INFERIOR QUALITY OR DO NOT CONFORM TO THE SPECIFICATIONS OF THE BID AND CONTRACT HEREIN.</p> <p>BANKRUPTCY: IN THE EVENT THE VENDOR/CONTRACTOR FILES FOR BANKRUPTCY PROTECTION, THE STATE MAY DEEM THE CONTRACT NULL AND VOID, AND TERMINATE SUCH CONTRACT WITHOUT FURTHER ORDER.</p> <p>THE TERMS AND CONDITIONS CONTAINED IN THIS CONTRACT SHALL SUPERSEDE ANY AND ALL SUBSEQUENT TERMS AND CONDITIONS WHICH MAY APPEAR ON ANY ATTACHED PRINTED DOCUMENTS SUCH AS PRICE LISTS, ORDER FORMS, SALES AGREEMENTS OR MAINTENANCE AGREEMENTS, INCLUDING ANY ELECTRONIC MEDIUM SUCH AS CD-ROM.</p> <p>REV. 05/26/2009</p> <p>INQUIRIES:</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).



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DATE PRINTED 07/05/2011	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
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BID OPENING DATE: 08/04/2011 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>WRITTEN QUESTIONS SHALL BE ACCEPTED THROUGH CLOSE OF BUSINESS ON 7/19/2011. QUESTIONS MAY BE SENT VIA USPS, FAX, COURIER OR E-MAIL. IN ORDER TO ASSURE NO VENDOR RECEIVES AN UNFAIR ADVANTAGE, NO SUBSTANTIVE QUESTIONS WILL BE ANSWERED ORALLY. IF POSSIBLE E-MAIL QUESTIONS ARE PREFERRED. ADDRESS INQUIRIES TO:</p> <p>ROBERTA WAGNER DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25311</p> <p>FAX: 304-558-4115 E-MAIL: ROBERTA.A.WAGNER@WV.GOV</p> <p>THE MODEL/BRAND/SPECIFICATIONS NAMED HEREIN ESTABLISH THE ACCEPTABLE LEVEL OF QUALITY ONLY AND ARE NOT INTENDED TO REFLECT A PREFERENCE OR FAVOR ANY PARTICULAR BRAND OR VENDOR. VENDORS WHO ARE BIDDING ALTERNATES SHOULD SO STATE AND INCLUDE PERTINENT LITERATURE AND SPECIFICATIONS. FAILURE TO PROVIDE INFORMATION FOR ANY ALTERNATES MAY BE GROUNDS FOR REJECTION OF THE BID. THE STATE RESERVES THE RIGHT TO WAIVE MINOR IRREGULARITIES IN BIDS OR SPECIFICATION IN ACCORDANCE WITH SECTION 148-1-4(F) OF THE WEST VIRGINIA LEGISLATIVE RULES AND REGULATIONS.</p> <p>VENDOR PREFERENCE CERTIFICATE</p> <p>THIS TEAM EXHIBIT HAS BEEN REPLACED BY THE ONLINE VERSION WHICH IS AVAILABLE HERE:</p>						

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07/05/2011				

BID OPENING DATE: 08/04/2011 BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
<p>HTTP://WWW.STATE.WV.US/ADMIN/PURCHASE/VRC/VENPREF.PDF</p> <p>NOTICE</p> <p>A SIGNED BID MUST BE SUBMITTED TO:</p> <p>DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST CHARLESTON, WV 25305-0130</p> <p>PLEASE NOTE: A CONVENIENCE COPY WOULD BE APPRECIATED.</p> <p>THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:</p> <p>SEALED BID</p> <p>BUYER:-----RW/FILE 22-----</p> <p>RFQ. NO.:-----LBS12025-----</p> <p>BID OPENING DATE:-----8/4/2011-----</p> <p>BID OPENING TIME:-----1:30 PM-----</p> <p>PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:</p> <p>-----</p>						

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CONTACT PERSON (PLEASE PRINT CLEARLY):						

***** THIS IS THE END OF RFQ LBS12025 ***** TOTAL:						

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Gas Chromatography (GC) – Electrode Capture Detector (ECD)

The State of West Virginia, Department of Health and Human Resources (DHHR), Bureau for Public Health (BPH), Office of Laboratory Services (OLS), Environmental Chemistry Section is seeking to purchase three (3) laboratory bench style Gas Chromatography (GC) - Electrode Capture Detector (ECD) for the analysis of Organohalide Pesticides and commercial Polychlorinated Biphenyl products in drinking water, chlorinated acids in drinking water 1,2- Dibromomethane (EDB) and 1,2-Dibromo-3-Chloro-Propane (DBCP) in drinking water per the following specifications and requirements.

The GC-ECD instruments with Autosamplers are needed to analyze for pesticides, herbicides and synthetic organic compounds in drinking water to fulfill requirements of the US EPA regulations for compliance monitoring of public water systems. Compliance monitoring testing is a requirement of a State's Principal State Laboratory mandated, under federal code of regulations at 40 CFR 142.10(b)(4) for the state to maintain Primacy over its Drinking Water Program. The instruments will also serve the purpose of protecting public health by providing testing capabilities to private well owners.

Vendor must provide technical specifications and documentation that contains specific language depicting that the primary and confirmation analytical columns provided meets the requirements herein if bidding on "equivalent bonded, fused silica column".

SPECIFICATIONS AND REQUIREMENTS:

Vendor must provide three (3) laboratory bench style GC-ECD instrument systems with autosamplers. Vendor must also provide a computer, monitor, laser printer and any incidentals for each GC-ECD instrument. The first GC-ECD must be able to fulfill the requirements of the US EPA method 505 revision 2.1 for organohalide pesticides and commercial polychlorinated biphenyl products in drinking water, the second GC-ECD must be able to fulfill the requirements of the US EPA method 504.1 revision 1.1 for chlorinated acids in drinking water and the third GC-ECD must be able to fulfill the requirements of the US EPA method 515.4 revision for 1,2- Dibromomethane (EDB) and 1,2-Dibromo-3-Chloro-Propane (DBCP) in drinking water and must meet all of the following mandatory specifications.

GC SPECIFICATIONS:

1. GC must include two split/splitless injection ports suitable for use with capillary columns
2. GC must include two temperature controlled injector ports
3. GC must include two temperature controlled detectors
4. GC must include a temperature controlled oven
5. GC must include two Linearized Micro-Electron Capture Detectors
6. GC must include a system controller and software.
7. GC must operate on 110-120 V AC
8. GC software must be compatible with and operate the autosampler provided by the vendor.

GC for the analysis of US EPA Method 505 Revision 2.1 analytes

1. GC must include a primary column for the parameters delineated in EPA 505 revision 2.1. This is a DB-1, 30 Meter X 0.32mm ID X 1.0 μm film, fused silica capillary with chemically bonded (100% Dimethyl Polysiloxane) or equivalent bonded, fused silica column.
2. GC must include a *confirmation column for the parameters delineated in EPA 505 revision 2.1. This is a OV-17, 25 Meter X 0.32mm ID X 1.5 μm film, fused silica capillary with chemically bonded (50% Phenyl / 50% Methyl Siloxane) or equivalent bonded, fused silica column.

*Confirmation column must be made of a different stationary phase than the primary column.

GC for the analysis of US EPA Method 504.1 Revision 1.1 analytes

1. GC must include a primary column for the parameters delineated in EPA 504.1 revision 1.1. This is a DB-1, 30 Meter X 0.25mm ID X 1.0 μm film, fused silica capillary with chemically bonded (100% Dimethyl Polysiloxane) or equivalent bonded, fused silica column.
2. GC must include a *confirmation column for the parameters delineated in EPA 504.1 revision 1.1. This is a DB-624, 30 Meter X 0.32mm ID X 1.8 μm film, fused silica capillary with chemically bonded (6% Cyanopropylphenyl / 94% Dimethyl Polysiloxane) or equivalent bonded, fused silica column.

*Confirmation column must be made of a different stationary phase than the primary column.

GC for the analysis of US EPA Method 515.4 Revision 1.0 analytes

1. GC must include a primary column for the parameters delineated in EPA 515.4 revision 1.0. This is a RTX-1701, 180 μm I.D., fused silica capillary with chemically bonded (14% cyanopropylphenyl / 86% methylpolysiloxane) or equivalent bonded, fused silica column.
2. GC must include a *confirmation column for the parameters delineated in EPA 515.4 revision 1.0. This is a DB-5, 180 μm I.D., fused silica capillary with chemically bonded (5% phenyl / 95% methylpolysiloxane) or equivalent bonded, fused silica column.

*Confirmation column must be made of a different stationary phase than the primary column.

AUTOSAMPLER SPECIFICATIONS:

1. Autosampler will be required for both injection ports
2. Autosampler must include a syringe kit.
3. Autosampler must be capable of injecting at a minimum 1 μL of liquid.
4. Autosampler must include a 50+ sample tray.

5. Autosampler must include at a minimum two solvent reservoirs.
6. Autosampler must include at a minimum two waste reservoirs.
7. Autosampler must have the ability to add an internal standard.

INSTALLATION REQUIREMENTS:

1. Vendor must install the GC-ECD instruments at the Office of Laboratory Services, Environmental Chemistry Laboratory located at 4710 Chimney Drive Suite G, Charleston, West Virginia, 25302.
2. Installation must be completed within 90 days of delivery date.
3. Successful vendor is required to provide a certificate of Workers' Compensation.
4. Successful vendor shall furnish proof of commercial general liability insurance prior to issuance of contract. Unless otherwise specified in the bid documents, the minimum amount of insurance coverage required is \$250,000.

TRAINING REQUIREMENTS:

1. Vendor must provide, upon completion of installation, 2 days on-site training for the Environmental Chemistry Laboratory Personnel on the operation and user maintenance requirements of the GC-ECD.
2. All costs incurred by the Vendor including travel, lodging, and living expenses necessary to provide this basic training must be included in the bid price.

WARRANTY REQUIREMENTS:

1. Vendor must include in the total price of the equipment at least a one-year factory warranty covering all system components of the integrated GC-ECDs with autosamplers.
2. The warranty covering all system components of the integrated GC-ECDs with autosampler and GC operating software must include telephone support during vendor's normal business hours, on-site service/maintenance including labor, travel time and expenses with a 72-hour on-site response time at no extra cost to maintain the specifications listed in the bid and the Vendor's product specifications. (Vendor should include a copy of the warranty.)
3. Vendor must include a one year extended warranty covering all systems components of the integrated GC-ECDs with autosampler and GC operating software after the initial one year warranty expires.

DELIVERY REQUIREMENTS:

1. The GC-ECDs with Autosamplers and their components must be shipped for "inside delivery" by a freight delivery company and must be delivered within 90 days of receipt of order.

2. The GC-ECDs with Autosamplers and their components must be shipped "F.O.B. Destination" unless otherwise stated in the quote by Vendor. Any shipping and handling requirements must be stated in Vendor's quote.

RFQ COST SHEET

Bidders shall provide a cost for the following:

<u>Item #:</u>	<u>Quantity:</u>	<u>Description:</u>	<u>Unit Cost</u>	<u>Total Cost</u>
1.	1 each	Gas Chromatography Electrode Capture Detector GC-ECD with Autosampler For organohalide pesticides and commercial Polychlorinated biphenyl products in Drinking water	\$ _____	\$ _____
2.	1 each	Gas Chromatography Electrode Capture Detector GC-ECD with Autosampler for Chlorinated acids in drinking water	\$ _____	\$ _____
3.	1 each	Gas Chromatography Electrode Capture Detector GC-ECD with Autosampler for 1,2-Dibromomethane (EDB) and 1,2-Dibromo-3-Chloro-Propane (DBCP) in Drinking water	\$ _____	\$ _____
4.	1 each	On-Site User Training (at installation of equipment)	\$ _____	\$ _____
5.	1 each	Freight/Shipping Charge	\$ _____	\$ _____
6.	1 each	Extended Warranty	\$ _____	\$ _____
Grand Total			\$ _____	

The award will be made to the vendor with the lowest overall total cost of the equipment with all software included, training/installation and shipping charges which meet all requested specifications and requirements. Payment will be made in arrears.

Vendor Signature

Date

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.

ATTACHMENT
P.O.# LBS12025

This agreement constitutes the entire agreement between the parties, and there are no other terms and conditions applicable to the licenses granted hereunder.

Agreed

Signature Date

Signature Date

Title

Title

Company Name

Agency/Division

WV-96
Rev. 10/07

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. LBS 12025

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 _____