



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

# Solicitation

NUMBER
FLC13037

PAGE
1

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

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HEALTH AND HUMAN RESOURCES  
 OIG - OHFLAC  
 408 LEON SULLIVAN WAY  
 CHARLESTON, WV  
 25301-1713 304-558-2026

DATE PRINTED
06/28/2012

BID OPENING DATE: 07/19/2012 BID OPENING TIME 1:30PM

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	YR	948-55	OPEN-END BLANKET CONTRACT THIS IS A RE-BID OF FLC90100, FLC12113, & FLC12078 CONTRACTOR TO PERFORM NURSES AIDE TRAINING THE OFFICE OF HEALTH FACILITY LICENSURE AND CERTIFICATION IS SEEKING A VENDOR TO PERFORM TESTING AND TRAINING SERVICES FOR (1) NURSING ASSISTANT TRAINING AND COMPETENCY EVALUATION PROGRAM (NATCEP), (2) EDUCATE-THE-EDUCATOR, (3) FOR APPROVED MEDICATION ADMINISTRATION PERSONNEL (AMAP) AND (4) NURSING ASSISTANT REFRESHER COURSE, PER THE ATTACHED SPECIFICATIONS. ***** THIS IS THE END OF RFQ FLC13037 ***** TOTAL:		

SIGNATURE	TELEPHONE	DATE
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE

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

## Office of Health Facility Licensure and Certification

### PART 1 GENERAL INFORMATION

- 1.1 **Purpose:** The Department of Health and Human Resources, Office of Inspector General, Office of Health Facility Licensure and Certification (OHFLAC), hereinafter referred to as "Agency", to provide testing services for Nursing Assistant Program.
- 1.2 **Project:** To obtain the services of an experienced vendor to develop, produce and provide services related to the administering of written/verbal competency and skill performance evaluation, and testing for Nursing Assistants (NA) and the Approved Medication Administration Personnel (AMAP) candidates in the State of West Virginia in accordance with federal regulation (42 CFR §483:156) the State guidelines (Criteria), and Legislative Rule 64 CSR §60.
- 1.3 **Location:** Agency is located at 408 Leon Sullivan Way, Charleston, WV 25301-1713.

### PART 2 MANDATORY REQUIREMENTS

- 2.1 Vendor shall have at least five (5) years of experience in developing and administering the Nursing Assistant Testing as per the federal and state regulations.
- 2.2 Vendor shall not receive any funding from the WVDHHR for this service. Vendor should collect evaluation/testing fees from all Participants as per contract fee schedule.
- 2.3 Vendor shall coordinate and consult with the Director of the Office of Health Facility Licensure and Certification (OHFLAC) or his/her designee, in the performance and production of the services.
- 2.4 Vendor shall keep OHFLAC informed of the progress and development of the evaluations and the scheduling thereof. Any and all costs of obtaining OHFLAC approvals, coordination of services, and providing monthly reports must be included in the participant fees for the services provided.
- 2.5 The numbers of sites and evaluators and the locations of sites are subject to the approval of the State. The State retains sole authority to determine the reasonableness of commuting distances, the location of test sites and the adequacy of the number of test sites.
- 2.6 Vendor shall be solely responsible for the complete performance of the services specified herein. Vendor should coordinate all scheduling, questions and scoring with OHFLAC for approval.
- 2.7 Vendor shall provide evidence of five (5) or more years of experience that verifies their Qualifications/Services and establishes their ability to meet the requirements and services identified in Project A, B, C and D of this bid.
- 2.8 Vendor shall provide the candidate the option to take the written **nurse aide exam** via a computer, or paper and pencil and orally. The vendor shall also provide the AMAP candidate the option to take the written **approved medication assistive personnel exam** via computer or by paper, the examination shall be proctored by an approved AMAP- RN.
- 2.9 Vendor shall provide evidence of their internal Quality Assurance/Quality Control procedures for administering, test preparation and scoring of the Nursing Assistant and the Unlicensed Medication Personnel, etc., Project A-18.
- 2.10 Vendor shall provide key employee's resumes listing their qualifications and the task(s) that the individual shall perform for the vendor with this bid.

- 2.10.1 Vendor shall provide to the Agency for approval the evaluators and instructors resumes, licenses, certifications and all of other documents prior to providing the services.
- 2.10.2 Vendor shall provide written opinions from the WV Ethics Commission on those individuals who are working for the vendor and working as a state employee. (Conflict of Interest) prior to providing the services.
- 2.11 Vendor shall offer unimpeded services to all applicants on an as needed basis, and not cancel the course or services because of low participation.
- 2.12 Statement of Qualifications/Services should have a cover, table of contents, and divider sheets. Submit **four (4) copies/binders** for review.
- Cover letter
  - Background/Experience
  - Organization Chart with Individual Resumes (List key employee's only)
  - Project A: Nursing Assistant Training & Competency Evaluation Program (NATCEP)
  - Project B: Educate-the-Educator Curriculum & Workshop
  - Project C: Examination for Approved Medication Administration Personnel (AMAP)
  - Project D: Nursing Assistant Refresher Course Curriculum & Workshop
  - Fee Schedule
  - Project Attachments(s)

Separate each section of the qualifications by using a divider sheet with an integral tab for ready reference. Identify the tabs in accordance with the bid, and the Table of Contents.

**2.12.1 PAGE SIZE, BINDING, DIVIDERS, AND TABS:**

Qualifications should be printed on letter-size (8-1/2" x 11") paper and assembled in a hard back binder.

Separate and identify each project/criteria response in this bid by use of a divider sheet with an integral tab for ready reference.

**2.12.2 TABLE OF CONTENTS:**

- a. Submittals should include a "Table of Contents" and give page numbers for each part of the qualifications.

**2.9.3 PAGINATION:** Number all pages sequentially using Arabic numerals (1, 2, 3, etc.)

- 3.0 At least six (6) weeks after awarding of the contract, the vendor shall begin to administer written computer-based or paper, and oral evaluations.

### **PART 3 SCOPE OF WORK**

Vendor shall be responsible for all administrative actions and performance related to the following project/deliverables:

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**PROJECT A: WV Nursing Assistant Training & Competency Evaluation Program (NATCEP)**

Vendor shall provide Registered Nurses to perform the services related to administering a written competency and skill performance evaluation examination for eligible candidates in Medicare and Medicaid long-term care nursing facilities in West Virginia in accordance with the federal regulation (42 CFR §483:156) and state guidelines (**Criteria**).

The Nursing Assistant Competency Evaluation shall determine the minimal competencies of the individual to provide safe care to residents in a long-term care facility. The evaluation items shall reflect the content identified in the "Minimum Curriculum Requirements" within the **CRITERIA FOR APPROVAL OF EDUCATIONAL PROGRAMS AND COMPETENCY EVALUATION FOR NURSING ASSISTANTS EMPLOYED IN CERTIFIED NURSING FACILITIES IN WEST VIRGINIA** (hereafter referred to as the **Criteria**).

The Vendor shall provide the candidate the option to take the written nurse aide exam via a computer or paper and pencil and orally.

The Vendor shall offer unimpeded services to all applicants on an as needed basis, and not cancel the service because of low participation.

Vendor shall perform the following tasks or requirements:

**JOB ANALYSIS**

Vendor shall use a job analysis which identifies the essential knowledge base and the required tasks of NA's in long-term care nursing facilities to develop the evaluation items described below.

**1. POOL OF WRITTEN EVALUATION ITEMS**

Vendor shall provide to OHFLAC a pool of six hundred to eight hundred (600-800) questions for the written competency evaluation based upon the job analysis and consistent with the content identified in the Criteria, including among other things, basic: NA skills, personal care skills; cognitive, behavioral and social care, basic restorative services, resident's rights, abuse and neglect. A minimum of one monthly evaluation shall be conducted to accommodate the surrounding approved facilities. Candidates are pre-registered two (2) weeks in advance. Candidates shall be notified no later than one (1) week prior to the scheduled evaluation.

**2. DISTRIBUTION OF EVALUATION INFORMATION**

Vendor shall prepare and distribute preliminary information regarding the evaluation and application instructions to potential candidates through certified nursing facilities and NATCEP providers. All published information shall be printed in easy to understand language. The application information shall include how to prepare for the evaluation, a fee schedule, evaluation content areas, what to expect on the day of the test, security procedures, registration information and sample questions.

**3. NOMINATION OF SKILLS COMPETENCY EVALUATORS**

Vendor shall submit to OHFLAC candidates for skills competency evaluators who shall be employed by the vendor. Vendor shall provide resumes of individuals who meet the qualifications listed in the **CRITERIA** and 42 CFR §483.154(c) (4) (ii) of the federal regulations and are approved by OHFLAC's Nursing Assistant Program. **NOTE:** The skills demonstration part of the evaluation must be (ii) administrated and evaluated by a registered nurse with at least one year's experience in providing care for the elderly or the chronically ill of any age.

#### 4. PREPARATION OF SKILLS COMPETENCY EVALUATORS

Vendor shall train the vendor-approved competency evaluators to conduct skills competency evaluations. The preparation of the evaluator shall emphasize observation techniques and judgment in rating to maintain reliability between competency evaluators.

Vendor shall provide the raters seven (7) hours of orientation training sessions which include: identification required for admission, the form to be used, data to be collected, instruction to candidates and permitted comments, observational techniques for rating, and practice. Any changes to the already established process require re-training of all employees. The training session records for all employees shall be available for review by the Agency's representative, upon request.

Vendor shall use item writers with experience in the area of nursing and resident care in long-term care facilities for the purpose of generating evaluation questions in accordance to federal regulation §483.154 and the Criteria. The questions shall include items which require recall, application and analysis of information related to safe care of residents in long-term care facilities.

All written material shall be composed at least at a fifth (5<sup>th</sup>) grade reading level comprehension. However, the evaluation shall be designed to assess literacy skills necessary for a Nursing Assistant.

From the pool of written evaluation items, the vendor shall provide test questions related to the content identified in the CRITERIA in the unit of Personal Care Skills not previously used in competency tests.

#### 5. DEVELOPMENT OF POOL OF SKILLS PERFORMANCE EVALUATION ITEMS

Vendor shall provide to OHFLAC a pool of twenty (20) to forty (40) skills based on the job analysis and the "minimum curriculum" in the Criteria and federal regulations (483.154 and 483.152(b)(3).

Vendor shall provide a task analysis of each skill with each step provided a numerical value and time required according to the importance of the step. The task analysis steps are to be arranged in a concise format for examination.

#### 6. APPROVAL BY OHFLAC

Vendor shall seek approval from OHFLAC for the items in the pool of written questions and for the skills in the pool of skills for appropriateness to the CRITERIA and federal regulations (§483.152, §483.54).

#### 7. FINAL WRITTEN EVALUATION INSTRUMENTS

From the pool of knowledge-based items, the vendor shall provide an established process for developing equated forms of the written evaluation which are designed to meet the federal requirements. A narrative describing the process is required. The pool reflects the curriculum content in the CRITERIA and federal regulation (§483.152(b), which are reliable, valid, job-related, secure and legally defensible.

Each written competency evaluation shall consist of at least fifty (50) items and not more than one hundred (100) items to be changed on a monthly basis to maintain validity of the test. The evaluation shall be designed to be fifty (50) minutes in length with two (2) hours of time allotted for completion. The written evaluation shall consist of four multiple choice items.

The evaluation instrument shall contain the means for direct answering of the items on a separate answer sheet.

#### **8. EQUATING EVALUATION FORMS**

Vendor shall develop equated written evaluation to assure passing score comparability. Vendor shall describe the item analysis procedure for equating the written evaluation forms.

#### **9. ORAL VERSION**

Vendor shall develop an oral version of all written knowledge-based evaluation. The oral version shall be administered by a proctor (human reader or recorded voice). The oral version shall also include a written section which determines the ability to read job related information flow sheet.

Vendor shall provide information regarding how the administration of the oral evaluation shall be handled, and how the test validity shall be maintained.

#### **10. INDIVIDUAL SKILLS PERFORMANCE INSTRUMENTS**

The vendor shall establish a means of composing sets of skill checklists for individual skills performance evaluation designed to be completed within fifty (50) minutes. Each individual instrument shall be composed of five (5) tasks and shall be equated in level of difficulty and time required for completion. Hand washing shall be included in every skill. Performance on verbal communication, safety, infection control body mechanics and residents' rights shall be measured though their inclusion as a routine component of the skill. Each step shall have a numerical value and vendor shall describe how the skill scoring shall be handled.

#### **11. MINIMUM PASSING SCORE**

Vendor shall provide information regarding the basis of the scoring and shall accept the appropriate minimum passing score set by OHFLAC.

#### **12. TASK ANALYSIS AND DISTRIBUTION OF CHECKLISTS**

For each skill approved by OHFLAC, the vendor shall distribute a task checklist which delineates steps and identifies critical elements to Nursing Assistant educational programs. These check lists of tasks are for distribution to the candidates through individual programs for the skills performance evaluation to provide equity and fairness in the opportunity for precise preparation. A minimum of five (5) task check lists with steps describing how to complete the task is required.

#### **13. ESTABLISH SITES AND SCHEDULE EVALUATION**

Vendor shall establish secure evaluation sites for the written, oral, and the skills competency evaluations in eight regional sites throughout West Virginia. The prospective sites are Wheeling, Parkersburg, Fairmont, Elkins, Huntington, Charleston, Martinsburg and Beckley areas of the State of WV.

The evaluations shall be scheduled at a minimum of one per month.

#### **14. FINAL FORM AND DOCUMENTATION**

Vendor shall prepare the evaluations in final form with supporting material and evaluation date

schedules and shall deliver such to the Agency prior to providing the services.

#### 15. REGISTRATION OF ELIGIBLE CANDIDATES

Vendor shall be required to verify "test eligible" candidates with the Nursing Assistant Program by accessing the on-line nursing assistant verification lookup and the National Sex Offenders Public Registry prior to issuance of the competency exam.

#### 16. CASHIERING

Vendor shall collect all evaluation and scoring fees from the candidates or sponsor for services to be performed by the vendor.

Vendor shall pay the fee for preparing the competency evaluators.

#### 17. ADMINISTRATION OF THE EVALUATION

At least six (6) weeks after the awarding of the contract, the vendor shall begin to administer oral evaluations, for those candidates who so request, and written evaluations to all other candidates. Vendor must describe how the skills portion of the examination shall be conducted, which staff member shall make the final scoring pass/fail decision. Vendor shall administer skills performance evaluations and a descriptive quality assurance plan must be developed to maintain the integrity of this process.

#### 18. QUALITY ASSURANCE

- a. Vendor shall provide and manage a comprehensive and vigorous plan to ensure security and integrity in the examining process at all times. Vendor shall submit the formal plan it intends to implement to assure security and integrity throughout the examination process. The vendor shall describe and provide examples of the performance data it shall collect from its evaluation program and demonstrate how it shall use the feedback to improve its testing program.
- b. The vendor shall develop and manage a system of quality assurance with respect to the processing and disposition of candidate applications.
- c. The vendor shall control the security of an examination before administration and examination results after administration, including printing, shipping, or otherwise conveying information regarding testing and test scores.
- d. The vendor must comply with Center for Medicare and Medicaid Services (CMS) requirements and the Health Insurance Portability and Accountability Act (HIPAA) involving protection of personal identifiable information.
- e. The vendor shall provide a system for controlling the security of each examination during administration for both written (nurse aide and unlicensed medication personal) and skills, including, but not limited to: candidate identification, seating arrangements, distributing examination materials, and monitoring of the examination.
- f. The vendor shall provide an internal procedure for investigation and correcting alleged or determined breach of security, including missing examinations, candidate cheating, candidate use of fraudulent ID credentials, actions on questionable score validity and other identified irregularities, including, but not limited to, correction of deficiencies of its own system.
- g. The vendor shall report identified quality assurance issues to the Agency within two (2) business days of discovery. The vendor shall include in its report measures the vendor

shall take or has taken to resolve the issues. Reportable issues included, but are not limited to, equipment problems, employee performance issues, examination site conditions, examination administration irregularities and scoring irregularities.

#### 19. SCORING

For paper exams, the vendor shall score the written evaluation answers entered in the evaluation booklets.

Vendor shall score skills performance competency evaluations from a numerical value assigned to each step of the test.

#### 20. DISTRIBUTION AND TRANSFER OF TEST RESULTS

Vendor shall distribute the test results, for all candidates with a school composite comparing programs and indicating areas of strength and weakness in both the written exam and the skills portion to authorizing Agency within ten (10) working days of the test.

Vendor shall submit to authorizing Agency the testing results, encrypted in the following format:

- a. The unique elements in the report shall include: the applicant's first, middle and last name and/or maiden name, social security number, NATCEP training program's name and assigned program number, test date, written test score; whether the applicant passed or failed the written and the skills portion of the test; final test score for both written and skills; and the number of test occurrences.
- b. See Project C, "Distribution and Transfer of Test Results" for additional details.

Within ten (10) working days of the test, vendor shall notify each candidate of the result of the evaluation with areas of strength and weakness for both the written and skills portion of the tests identified and, if necessary, with registration information for subsequent evaluation site and schedule.

Within ten (10) working days of the test, vendor shall notify each NATCEP program provider of the scoring for all its graduates indicating areas of strength and weakness and information for subsequent evaluation site and schedule.

Monthly, or on an "as needed basis", the vendor shall provide to the Agency, a Performance Report of the NATCEP program providers with a competency evaluation failure rate of 40% or more and/or a pattern of frequent failure.

Monthly reports shall be posted on the vendor's secure website accessible to State personnel, or submitted to the Agency electronically, by the 10th calendar day of the next month which shall include but not be limited to:

- a. Number of candidates completing each type of exam (written examination and skills evaluation, written examination only, oral examination only, skills evaluation only); the number and percent of those failing or passing each type; the number and percent of repeat testers for each type and the number and percent failing or passing each type of the exam; and the number that have failed any type for the third or more time. The



figures shall be reported according to training program. Calendar year, fiscal year, and year-to-date figures must also be calculated.

- b. Number of candidates tested at each site, by date tested, and the number that passed and failed either component of competency evaluation. The report shall also include the RN evaluator for each site. Calendar year, fiscal year and year-to-date figures must also be calculated.
- c. The vendor shall provide for the W.V. state-approved training programs reports of their own candidates' pass/fail data. At a minimum, the reports shall include:
  - i. A comparison report of training program results to statewide results.
  - ii. A pass/fail report that includes candidates' names, date training completed, examination dates, pass/fail status, and if failed, only the name of the skill failed. The report shall include diagnostic information that identifies the areas of the written or oral exam that the candidate did not pass.
- d. The vendor shall post on a secure website or use another method mutually agreeable with the Agency, preliminary test results of candidates who pass the competency evaluation and who fail any portion of the competency evaluation. The web search results shall only display that candidate's test results once the unique ID#, created by the vendor, has been entered.

## 21. REPEAT EXAMINATIONS

If a candidate does not pass a written or oral competency or a skills performance evaluation, and if the candidate again meets the eligibility requirements as stated in the CRITERIA and federal regulations, that candidate should be considered eligible to register for the next monthly evaluation, if applicable, at the regional site which the candidate has designated.

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### **PROJECT B: Educate-the-Educator Curriculum & Workshop**

Vendor shall provide Educate-the-Educator curriculum and conduct workshops that are a twenty-four (24) hours long interactive instructional program to prepare the participant through instruction in educational theory and teaching methods and strategies for adult learners in a NATCEP program in accordance with CFR §483.152 (a)(5)(ii).

Educate-the-Educator workshop is typically a three (3) day workshop for registered professional nurses to teach the Nursing Assistant Training and Competency Evaluation Programs (NATCEP's) to satisfy the requirements set forth in the federal and state guidelines.

One of the three days shall be devoted to policy and procedure and/or guidelines related to the NATCEP program. This single day may or may not be opened to other professionals in the industry who might be interested in obtaining additional information regarding NATCEP federal and state guidelines. Attendance may be permitted for the one day policy and procedure or guidelines instruction for RN instructors who have already obtained a vocational teaching certificate and are exempt from the educate –the-educator requirements.

Vendor shall use instruction in educational theory, learning theory and teaching methods and

strategies considered effective with the adult learner.

Vendor shall provide participants with educational theory and practice to prepare them for the role of program coordinator, or program instructor in long-term care Nursing Assistant Programs in accordance with the Federal Omnibus Reconciliation Act of 1987. Vendor shall offer unimpeded services to all applicants on an as needed basis, and not cancel the course because of low participation.

Vendor shall perform the following tasks or requirements:

#### 1. TRAINING COURSE FOR PRIMARY INSTRUCTORS AND COORDINATOR

A training course for primary instructors must be a minimum of 16 hours in length and cover the following areas:

- Principles of adult learning and training techniques;
- Formulating training objectives, including behavioral objectives which state measurable performance criteria for competency evaluation;
- Designing the curriculum to provide a logical organization of the material;
- Developing lesson plans;
- Choosing appropriate teaching strategies and methodologies;
- Developing learning materials;
- Providing a mechanism for evaluating trainee learning;
- Effectively supervising trainees' clinical experience;
- Defining criteria for successful achievement of training program objectives;
- Developing a record keeping system, and
- Step-by-Step instructions on how to seek calendar approval and how to use the excel workbook and required documents from OHFLAC- Nursing Assistant Program.

#### 2. INSTRUCTIONAL MATERIAL

The program shall include the current approved curriculum, education criteria, and federal and state regulation for Nursing Assistants in the State of West Virginia.

Vendor shall provide a course outline, curriculum, training material, handouts, etc., for review and approval to OHFLAC prior to the providing the services.

Policy changes, related to the program shall be provided to the vendor in a written format by OHFLAC on an "as needed" basis.

No future changes shall be made to the vendor's course outline or material without prior approval by OHFLAC.

#### 3. CERTIFICATE OF COMPLETION

Vendor shall provide the participant with a certificate indicating participation and completion of the workshop.

The vendor is required to seek approval from the West Virginia Board of Examiners for Registered Professional Nurses to provide twenty-four (24) continuing education credits to the registered professional nurse for this course vendor shall provide the licenses, certifications and all other documentation to the OHFLAC, prior to providing the services.

#### 4. RESULTS

Vendor shall provide to OHFLAC a list of workshop participants twice a year (June, January), in a format viewable by OHFLAC compliant with federal and state guidelines.

This all-inclusive list shall include dates and locations of the workshop, first and last name of the participant, West Virginia Registered Nurse license number, and continuing education contact hours.

If the applicant does not qualify to be a NATCEP instructor, then the certificate shall read: "Non-NATCEP Instructor". Each certificate shall be issued according to the candidate's enrollment status. Example: (NATCEP-Instructor, or Non-NATCEP-Instructor, Administrator, etc.).

#### 5. PROPOSED SITE SCHEDULE

Vendor shall provide a proposed schedule with locations for conducting workshops with no less than four (4) workshops annually. This session can be conducted anywhere in the state, at the vendor discretion. Vendor shall seek approval of the workshop location from OHFLAC prior to providing the services.

#### 6. SCHEDULING RESPONSIBILITIES

Vendor shall be responsible for all arrangements and costs for the workshops including scheduling of sites, instructors, and providing all instructional material.

Vendor shall provide detailed information and registration forms to the eligible participants.

#### 7. COLLECTION OF FEES

Vendor shall collect all fees from the workshop participants. WVDHHR does not provide any financial support to the vendor. Vendor can only collect fees for training received by the participant or his/her sponsor.

#### 8. INSTRUCTOR CREDENTIALS

The instructor of the training course for the Educate the Educator sessions shall have a minimum of five years' experience in presenting this instruction in educational and learning theory and teaching methods and strategies which are considered effective for the adult learner.

For days, one (1) and two (2) of this session, an RN is preferred. If an RN is unavailable, a master's level educator with experience in teaching adult learners with five (5) or more years of experience is required.

The third day of the session, or the day devoted to policy and procedure and/or guidelines related to the NATCEP program, an RN is required. The registered nurse (RN) shall have a minimum of two (2) years of experience as a registered nurse, with at least one (1) of those years of which must be in the provision of long-term care facility services. Instructors must have completed a course in teaching adults or have experience in teaching adults and have a valid WV professional RN licenses that is in good standing.

Vendor shall provide the credentials of all workshop instructors for approval prior to providing the services. The applicants' resumes shall list the task(s) that they shall be performing for the vendor

and conflict of interest free.

**PROJECT C: Examination for Approved Medication Administration Personnel (AMAP)**

The Approved Medication Administration Personnel (AMAP) evaluation shall determine the minimal competencies of the individual to provide safe outcomes to residents in approved facilities under the supervision of a registered professional nurse. The AMAP administers medication according to Legislative Rule 64 CSR §60. The evaluation items shall reflect the content identified in the curriculum of the Provider Manual, Medication Administration by Unlicensed Personnel.

The vendor shall provide the candidate the option to take the written exam via a computer or paper and pencil and offer unimpeded services to all applicants on an "as needed" basis.

Vendor shall perform the following tasks or requirements:

**1. REGISTRATION OF ELIGIBLE CANDIDATES**

Only those candidates that have completed a thirty to forty( 30-40) hour training course administered by an approved AMAP-RN, have a valid CPR and First Aid Certificate, and Criminal Background Check are eligible to test. This information will be submitted to the vendor, by the RN to assist in validating the applicant's eligibility status.

**2. DISTRIBUTION OF EVALUATION INFORMATION**

Vendor shall prepare and distribute preliminary information regarding the examination process to the approved registered nurses and facilities. Upon request, the Vendor shall send applications to potential candidates through the AMAP approved registered professional nurse program. All published information shall be printed in easy to understand language and free of typographical errors. The application information shall include how to prepare for the evaluation, how the test shall be administered, a fee schedule, evaluation content areas, what to expect on the first day of the test, security procedures and the approval of the candidate to test. A certificate of completion is to be issued to each successful candidate.

**3. AMAP- REGISTERED NURSE (AMAP- RN)**

State law requires that the RN attend an orientation training program given by the Agency that prepares the RN for instructing an AMAP training course. Upon completion of this course, the RN will be registered with the Department and be able to instruct unlicensed personnel to administer medications. In accordance to State law, all RNs who supervise AMAP's must be approved by the agency.

For the written computer or paper and pencil type test: Vendor shall verify approval of all registered professional nurses (instructor) and facilities with OHFLAC prior to the issuance of both types of competency evaluation material. The AMAP competency exam does not have a skill performance component.

**4. VALIDITY OF TESTS**

Vendor shall have a quality assurance plan to assure the validity of the tests for the unlicensed personnel.

#### 5. DEVELOPMENT OF POOL OF WRITTEN EVALUATION ITEMS

Vendor shall prepare a pool of seven hundred to one thousand (700-1000) questions for the written competency evaluation based on the content identified in the curriculum of the **PROVIDER MANUAL**, including all areas in Part One "Preparation" and Part Two "Medication Administration." OHFLAC shall approve the questions.

The questions shall be written for a high school graduate level of comprehension.

The questions shall include items which require the participant's recall, application and analysis of information related to the safe administration of medication to residents.

Vendor shall have a process of editing and reviewing item composition for stereotypical, discriminatory or inappropriate language and a description of how this component shall be met must be explained in the bid.

Vendor shall provide from the pool of written evaluation items test questions related to the content identified in the **PROVIDER MANUAL**.

#### 6. ITEM WRITER QUALIFICATIONS

Individuals preparing the questions for the evaluation must have two (2) years of immediate experience in the area of medication administration, knowledge of medication, medication terminology, medication abbreviations, vital signs, storage and disposal of medication, and documentation of medication orders and administration.

#### 7. APPROVAL BY OHFLAC

Vendor must obtain OHFLAC's approval for the items in the pool of written questions for appropriateness to the **PROVIDER MANUAL**.

#### 8. FINAL WRITTEN EVALUATION INSTRUMENTS

From the pool of knowledge based items, the vendor shall have an established process for developing equated forms of the written evaluation which are designed to meet the state requirements for §16-50-1 et seq., Medication Administration by Unlicensed Personnel, which reflect the curriculum content in the **PROVIDER MANUAL** and which are reliable, valid, job related, secure and legally defensible.

Each written competency evaluation shall consist of a minimum fifty (50) items and not more than one hundred (100) items to be changed on a monthly basis to maintain validity of the test. The evaluation shall be designed to be fifty (50) minutes in length with two (2) hours of time allotted for completion. The written evaluation shall consist of eighty (80) questions, with four (4) multiple-choice items.

The evaluation instrument shall contain the means for direct answering of the items on a separate answer sheet.

**9. MINIMUM PASSING SCORE**

Vendor shall provide information regarding the basis of the scoring and shall propose the appropriate minimum passing score set by OHFLAC.

**10. EVALUATION PREPARATION**

Vendor shall provide written instructions for processing the tests to the approved registered professional nurse (approved AMAP RN).

**11. FINAL FORM AND DOCUMENTATION**

Vendor shall prepare the evaluations in final form with supporting material and shall deliver such to OHFLAC prior to providing the services. Vendor shall be prepared to meet with OHFLAC no later than four (4) weeks after award of the contract to discuss all final documents or publications.

**12. CERTIFICATE OF COMPLETION**

Vendor shall provide each participant with a certificate of completions. The certificate is to include a unique identification number, the first, middle initial, last name and maiden name, date of completion, RN Instructor's name, and facility name.

**13. REGISTRATION OF ELIGIBLE UNLICENSED PERSONNEL**

Vendor shall register and maintain a record of all eligible unlicensed personnel through an approved facility AMAP- RN. This information shall be distributed electronically to OHFLAC on a monthly basis in a compatible format.

Vendor shall screen the candidates for eligibility as specified in the **PROVIDER MANUAL**.

**14. DISTRIBUTION OF TEST MATERIALS**

Vendor shall have tests available at the request of approved facilities and approved AMAP RNs. Vendor shall prepare and distribute the test materials with specific instructions, including the allowable time frames for return.

**15. SCORING**

Vendor shall have written basis or methodology for scoring.

**16. DISTRIBUTION AND TRANSFER OF TEST RESULTS**

Vendor shall submit to authorizing Agency the test results, encrypted in the following format:

- a. The Vendor shall create a historical record for each examination candidate at the beginning of the application process that tracks the candidate from registration and scheduling, through testing and reporting to the Agency. Each candidate's record shall contain a minimum of two unique identification numbers, to include last four digits of social

security number and an alternate identification number. The candidate's social security numbers will appear only on files specified by the state. Identifier numbers, such as last four digits of social security numbers will appear on all reports and records as requested by the Agency, including score reports, and other data and reports. The numbers shall be used to track individuals.

- b. The Vendor shall develop and maintain a unique, unduplicated identification number for each candidate who tests using the ID number, range and length provided by the Agency. The Vendor shall provide that number to the Agency and candidate and identify it as an alternate identification number. The alternate identifier shall be distinguishable from any social security number. The alternate identifier shall be linked to the candidate's social security number and other identifying information, such as name and date of birth, necessary to uniquely identify an individual.
- c. Once established in the vendor's records, the unique candidate identification numbers shall permanently follow the candidate in both the vendor's records and the state's records, and any future testing services rendered to the individual relevant to this bid, must contain the same identifier numbers.
- d. Vendor shall distribute the test results to the Agency in a viewable format, and in compliance with the federal and state regulations. An example of exported information would include: an identification number; applicant's first, middle, last name, and/or maiden name; birth date (mm/dd/yyyy); date the test was scored; the test results, and number of test occurrences; provider name the AMAP attended; the approved RN-AMAP's first and last name, title and WV RN license number.

#### 17. FEE COLLECTION

Vendor shall collect all evaluation and scoring fees from the candidates for all services performed.

#### **PROJECT D: NURSING ASSISTANT REFRESHER COURSE**

Vendor shall provide curriculum for the refresher course and conduct interactive workshops that are sixteen (16) hours or greater in length. The workshops shall prepare each participant for instruction in educational theory. This session must contain behaviorally stated objectives for each unit of instruction. Each objective must state performance criteria which are measureable and which shall serve as the basis for competency evaluations.

This course is an alternative for the NA's who have lost their registry status due to the lack of, or inability, to fulfill federal requirements by working for monetary compensation every twenty-four (24) months since placement on the registry, or for those who were issued disciplinary action related to an alleged allegation (alternative sanction).

This training session shall also allow time for practice in the skills lab setting.

#### **1. REGISTRATION OF ELIGIBLE CANDIDATES**

Vendor shall be required to verify that all potential candidates are eligible for this course, by checking the National Sex Offenders Public Registry and the OHFLAC website at:  
<http://www.wvdhhr.org/ohflac/NA/NALookup.aspx> prior to granting admission to the refresher

sessions. Before a candidate can be admitted to the refresher course, the candidate must present all of the following items listed below:

- 1) A copy of the letter addressed to the candidate issued by the Nurse Aide Registry indicating that the eligible candidate is required to take the refresher course, or the Vendor must be able to validate the candidate's eligibility status listed on the Nurse Aide Registry's website reflecting the following message: – *"This nurse aide is eligible for the Refresher Course Program and the CEP until (date),*
- 2) His/her original Social Security card and,
- 3) A photo identification card or driver's license.

## 2. GUIDELINES AND PROCEDURE

The nurse aide refresher course is a review of the curriculum covered in an approved nurse-aide training program and includes the opportunity to practice and review the skills required of a long-term care nurse to pass the state competency exam.

The course is a minimum of 16 hours, but can be longer. Applicants are eligible for the refresher course, if they are in one the following four (4) categories:

- a. Have lost their registry status within the past five (5) years because of inability to fulfill the federal requirements to retrain by working for monetary compensation every twenty-four (24) months since placement on the registry. [§483.75 (e) (7)]
- b. Failed to re-register within the allowed time frame.
- c. Have been mandated by the Agency, to re-train in certain area(s), or
- d. Have been issued a sanction by the Agency, as an alternative measure of discipline instead of a stricter penalty.

Other Restrictions:

- 1) Applicants who qualify to take the refresher course due to categories "a" or "b" under 2. Guidelines and Procedures shall:
  - a. Complete the refresher course and pass the competency exam within six months (6) after completing the refresher course.
- 2) Applicants who qualify to take the refresher course for categories "c" or "d" under 2. Guidelines and Procedures shall:
  - a. Complete the refresher course and pass the competency exam one-hundred and twenty (120) days from the issue date of the letter, or the time span listed in the letter issued by the Agency, unless otherwise stated.
- 3) All applicants have three (3) opportunities to take and pass the state approved exam. After exhausting the three (3) testing attempts, the applicant shall be required to complete a full



WV Nurse Aide Training Competency Evaluation course and successfully pass the state approved competency exam.

- 4) Applicants are not eligible to work in a nursing home until they have passed the state approved skills and written test and their eligibility status changes on the Nurse Aide Registry.

### 3. TRAINING COURSE FOR REFRESHER

Vendor shall conduct an interactive learning environment using teaching strategies which are considered effective for the adult learner.

The first day shall be devoted to educational theory and the second day shall be performance skills lab. All skills listed on the "Skills Performance Record" lists are required to be taught.

**PREPARATORY SESSION:** The preparatory sessions shall be at least sixteen (16) clock hours or longer in duration. The curriculum must contain the minimum curriculum requirement topics.

**SKILLS DEMONSTRATION:** The skills demonstration part of the evaluation shall be performed by or under the general supervision of a registered nurse in a nursing home or laboratory setting comparable to the setting in which the person shall function as a nurse aide.

**SETTING AND EQUIPMENT:** The classroom shall have appropriate equipment, be of adequate size, and not interfere with resident activities.

### 4. REFRESHER COURSE OUTLINE

- I. The Health Care Delivery System
  - A. Role of the long-term care (LTC) Nurse Aide
  - B. Ethical and Legal Considerations
    1. Abuse and Neglect
      - a) Abuse definitions
      - b) Legislative rule – 64 CSR §6
      - c) Identifying and Reporting
      - d) Investigation Process
    2. Adult Protective Services
    3. Ombudsman
    4. Resident Rights
- II. Providing a Secure Environment
  - A. Infection Control

- B. Communicable Diseases and OSHA requirements
- C. Safety and Accident Prevention
- D. Using good body mechanic

III. Communication Skills

- A. Observation, Reporting and recording
- B. Basic medical terminology
- C. Communicating with residents and families

IV. Special needs

- A. Aging process
- B. Confusion and behavior problems
- C. Alzheimer's disease
- D. Care of the dying resident

V. Providing Basic Care

- A. Moving and positioning
- B. Ambulation
- C. Personal care and hygiene
- D. Vital signs
- E. Nutrition and fluids
- F. Elimination
- G. Restorative Care

VI. Time and Stress Management

VII. Resident's Chart Review

VIII. Skills Performance Record

IX. Nurse Aide Handbook

X. Frequently Asks Questions and Answers

**5. ABUSE IN-SERVICE MATERIAL**

Topics related to the abuse in-service are a requirement, and must be taught exactly as outlined and as written by the Agency or federal regulations.

**6. SKILLS PERFORMANCE RECORD (WVNATCEP-7)**

The "Skills Performance Record" lists the minimum tasks/skills required to be taught and learned in the NATCEP. Vendor shall allow the student's the opportunity to practice their skills and do return demonstration in the description for performance of skills – WVNATCEP-7-outlined. For, WVNATCEP-7A "Description for Performance of Skills," is a step-by-step reference to the skills performance guide.

At completion of the refresher workshop, the vendor shall provide each nurse aide with a photocopy of the WVNATCEP-7, which is a complete list of skills performed by the nurse aide

while employed in WV's long-term care nursing home setting. If the skill is not listed on the WVNATCEP-7, the nurse aide cannot perform it in the nursing home setting in WV.

#### 7. INSTRUCTIONAL MATERIAL

Vendor shall develop interactive curriculum which shall prepare the participant through instruction in educational theory and skills demonstration.

The course shall include the review of the required curriculum, education criteria, and federal and state regulations for Nursing Assistants in the State of West Virginia.

Vendor shall provide a draft course outline, lesson plans, textbook title, edition and the year of publication used during this training session.

The core curriculum shall be fully developed by the vendor and presented for review and approval to OHFLAC, prior to providing the services.

#### 8. INSTRUCTOR QUALIFICATIONS

The registered nurse (RN) must have a minimum of two (2) years of experience as a registered nurse, with at least one (1) of those years of which must be in the provision of long-term care facility services. Instructors must have completed a course in teaching adults or have experience in teaching adults, hold a vocational certificate from West Virginia Department of Education, or meet the qualified conditions for exemption listed below, and have a valid WV professional RN licenses that is in good standing.

The RN's work experience must total 2080 clock hours in a certified nursing facility, or a certified distinct part of the hospital.

Vendor shall submit for approval to the Agency the candidates who meet the qualifications listed in the CRITERIA and 42 CFR §483.152 (a) (5) of the federal regulations prior to providing the services.

##### **Qualifying conditions for exemption, the applicant must:**

Hold a vocational certificate from West Virginia Department of Education; or have as least one year of experience as an instructor in nursing in a college or university nursing program accredited by the West Virginia Board of Nursing and has had clinical teaching experience of at least six (6) months in a long-term care setting.

#### 9. CERTIFICATE OF COMPLETION

Vendor shall provide the participants with a completion certificate when the applicant successfully completes the required session. The certificate shall include the type of certificate issued, total hours attended, the applicant's first, middle and last name with nurse aide registration or identification number (if applicable), location of training site, date(s) attended, NATCEP RN-instructor's name, and title.

In addition to what is listed above, the completion certificates issued for Alternative Sanction shall also list the mandatory topic(s) outlined in the official letter issued by the Agency to the applicant.

**10. PROPOSED SITE SCHEDULE**

Vendor shall provide a proposed schedule with locations for conducting workshops with no less than six (6) workshops annually. The workshop sessions shall take place in the Region 1 and Region 2 of the State. Location of the workshop site shall be at the discretion of the vendor, but, approval from OHFLAC is required and shall be issued prior to providing of the services. For a description of the regions, see the background section of this document for details.

**11. DISTRIBUTION OF CLASS PARTICIPATION RESULTS**

Vendor shall maintain a record of all pertinent information required and complete the "Refresher completion" roster form (WVNATCEP-14), and submit to the Agency within ten (10) working days after class completion. Applicants are not eligible to take the competency exam until their status listed on Nurse Aide Registry reflects that they are eligible to take the exam.

**12. INSURANCE REQUIREMENTS:**

Vendor, as an independent contractor, shall be solely liable for the acts and omissions of its employees and agents. Vendor must have Worker's compensation insurance. Vendor shall maintain and furnish proof of coverage of liability insurance for loss, damage, or injury (including death) of third parties arising from acts and omissions on the part of Vendor, its agents and employees in the following amounts:

1. For bodily injury (including death): Minimum of \$500,000,000 per person and \$1,000,000.00 per occurrence.
2. For property damage: Minimum of \$1,000,000 (one million dollars) per occurrence.
3. Professional liability: Minimum of \$1,000,000 (one million dollars) per occurrence.

The State of West Virginia shall be named the Certificate Holder.

Vendor Name:		Phone #	
Address:		Fax #	
City, State, Zip:			

\*\*\*\* Vendor can only charge applicants the same price as noted on the bid for the testing/workshop fee \*\*\*\*

SERVICE PROVIDED	FEE PAID BY INDIVIDUAL		ESTIMATED NUMBER OF INDIVIDUALS RECEIVING SERVICE		ANNUAL TOTAL
<b>PROJECT A</b>					
NURSING ASSISTANT WRITTEN EVALUATION FEE	\$	X	1450	=	\$
NURSING ASSISTANT ORAL EVALUATION FEE	\$	x	20	=	\$
NURSING ASSISTANT SKILLS PERFORMANCE EVALUATIONS FEE	\$	x	1515	=	\$
<b>PROJECT B</b>					
EDUCATE THE EDUCATOR WORKSHOP FEE	\$ _____ (3 days)	X	25	=	\$
	\$ _____ (1 day)*	x	5	=	\$
<b>PROJECT C</b>					
AMAP SCORING FEE	\$	x	890	=	\$
<b>PROJECT D:</b>					
NURSING ASSISTANT REFRESHER COURSE	\$	X	100	=	\$
<b>ANNUAL GRAND TOTAL</b>					\$

\* This single day may or may not be opened to other professionals in the industry who might be interested in obtaining additional information regarding NATCEP federal and state guidelines.

Basis of Award:

Contract shall be awarded to the lowest responsible vendor who meets the specifications.

Signature:		Date:	
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**PROJECT A**

**WEST VIRGINIA Nursing Assistant TRAINING & COMPETENCY EVALUATION PROGRAM (NATCEP)**

Public Law 100-203 (Omnibus Budget Reconciliation Act of December 1987), within Sections 4201-4214 which amended Sections 1819 and 1919 of the Social Security Act, requires the State, among other things, to review and specify approved competency evaluation programs for Nursing Assistants and establish and maintain a registry of approved Nursing Assistants.

At this time, approximately one hundred thirty (130) programs are approved to educate long-term care Nursing Assistants in West Virginia. Ninety-four (94) nursing homes are certified as nursing facilities approved for participation in Medicare and Medicaid at this time. An additional thirteen (13) distinct parts of hospitals are also certified as nursing facilities. Fifty-eight (58) nursing facilities provide training for those Nursing Assistants in their employment. Thirty-eight (38) vocational technical high school and adult programs address Nursing Assistant preparation. There are also twenty (20) NATCEPs sponsored by a variety of agencies.

Presently available data indicates that there shall be 1,500 to 2,000 candidates annually for evaluation.

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**PROJECT B:**

**WEST VIRGINIA EDUCATE-THE-EDUCATOR WORKSHOP FOR REGISTERED PROFESSIONAL NURSES.**

The purpose of this scope is to assist NATCEP instructors to meet the approval guidelines in the NATCEP Criteria and the minimum requirements of the Center for Medicare & Medicaid Services (CMS), which sets the standards and conditions of participation for the Medicare/Medicaid certification of nursing facilities. Federal regulations and the state Criteria require the Program Instructor to have completed a course in teaching adults prior to approval for this position.

The NATCEP program instructor's responsibilities include all aspects of instruction and the learning experience of the students.

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**PROJECT C:**

**WEST VIRGINIA MEDICATION ADMINISTRATION BY UNLICENSED PERSONNEL**

Legislative Rule 64 CSR §60 prescribes specific standards and procedures to provide for training, competency testing, and approval of unlicensed personnel for limited administration of medications in specified health care facilities.

Health care facilities that participate in the Approved Medication Assistive Personnel Program (AMAP) include intermediate care facilities for the mentally retarded (ICF/MR), assisted living or residential care communities, behavioral health group homes, private residences in which health care services are provided under the supervision of a registered nurse and adult family care homes that are licensed by or approved by the Agency.

At this time, there are approximately one hundred eighty (180) health care facilities approved to provide medication administration by the unlicensed personnel. There are approximately seven hundred twenty-seven (727) registered professional nurses approved to provide AMAP training.

**PROJECT D: NURSING ASSISTANT REFRESHER COURSE**

The refresher is a review of the full nurse aide training competency education program curriculum. This interactive session shall allow the applicant the opportunity to practice and perform skills used in the long-term care nursing home setting. Below is a list of the regions by county for the refresher workshops.

**State Regions outlined by county:**

Region 1		Region 2	
Hancock	Hardy	Wood	Cabell
Brooke	Hampshire	Jackson	Wayne
Ohio	Mineral	Roane	Mingo
Marshal	Morgan	Clay	Wyoming
Wetzel	Berkeley	Braxton	Logan
Marion	Jefferson	Webster	Raleigh
Monongalia	Wood	Pocahontas	Summers
Preston	Ritchie	Greenbrier	Lincoln
Barbour	Lewis	Nicholas	Fayette
Tyler	Upshur	Boone	Monroe
Pleasants	Randolph	Kanawha	Mercer
Harrison	Pendleton	Putnam	McDowell
Doddridge	Calhoun	Mason	
Tucker	Gilmer		
Grant	Wirt		

**Sample Reports and Publications:**

Project(s):	Item #:	Time frame
Due at time of bid		
Mandatory	2.10	Key employee's resumes
Due prior to the evaluator and/or instructor providing services		
Mandatory	2.10.1	Vendor shall provide to the Agency for approval the evaluators and instructors resumes, licenses, certifications and all of other documents prior to the training courses.
Mandatory	2.10.2	Vendor shall provide written opinions from the WV Ethics Commission on those individuals who are working for the vendor and working as a state employee. (Conflict of Interest) prior to providing the training courses.
B - Ed Workshop	2,5, 8	Final instructional material for workshop. Final workshop site schedule Instructor's credentials
C - AMAP	11	

		Final written evaluation instruments and documents
D - Refresher	7,8,10	Instructional material Instructors Qualifications Proposed Site schedule
B - Ed Workshop	3	CEU approval from WV RN Board
Due prior to contract award		
Part 4 General Terms and Conditions	4.19	Proof of insurance

Links to the online manuals from the OHFLAC webpage @ [www.wvdhhr.org/ohflac](http://www.wvdhhr.org/ohflac)

1. Criteria Manual - <http://www.wvdhhr.org/ohflac/NA/Forms/Criteria.pdf>
  - a. Program Change notice(s) - [http://www.wvdhhr.org/ohflac/NA/Resources/NAP\\_12-1.pdf](http://www.wvdhhr.org/ohflac/NA/Resources/NAP_12-1.pdf)
2. Criteria Manual Attachments
  - a. Educate the Educator workshop syllabus - <http://www.wvdhhr.org/ohflac/NA/Forms/Guidelines.pdf>
  - b. Performance Skill Record - <http://www.wvdhhr.org/ohflac/NA/Forms/NAECEP-7.pdf>
  - c. Performance Skills Procedures - <http://www.wvdhhr.org/ohflac/NA/Forms/Skills.pdf>
  - d. Minimum Curriculum Requirements – <http://www.wvdhhr.org/ohflac/NA/Forms/NAECEP-11.pdf>
    - i. Program Change notice(s): [http://www.wvdhhr.org/ohflac/NA/Resources/NAP\\_12-1.pdf](http://www.wvdhhr.org/ohflac/NA/Resources/NAP_12-1.pdf)
3. AMAP Provider Manual - <http://www.wvdhhr.org/ohflac/AMAP/Manual.aspx>
  - i. AMAP RN Curriculum (Book 1)
  - ii. AMAP Trainee Guidelines (Book 2)



## INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.
2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.
3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

A pre-bid meeting will not be held prior to bid opening.

A NON-MANDATORY PRE-BID meeting will be held at the following place and time:

A MANDATORY PRE-BID meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at

the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline: July 10, 2012

Submit Questions to: Roberta Wagner  
2019 Washington Street, East  
P.O. Box 50130  
Charleston, WV 25305  
Fax: 304-558-4115  
Email: roberta.a.wagner@wv.gov

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.
6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

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

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID  
BUYER: \_\_\_\_\_  
SOLICITATION NO.: \_\_\_\_\_  
BID OPENING DATE: \_\_\_\_\_  
BID OPENING TIME: \_\_\_\_\_  
FAX NUMBER: \_\_\_\_\_

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus \_\_\_\_\_ convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal or expression of interest as follows:

BID TYPE:        Technical  
                      Cost

- 7. BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

**Bid Opening Date and Time:** July 19, 2012

**Bid Opening Location:** Department of Administration, Purchasing Division  
2019 Washington Street East  
P.O. Box 50130,  
Charleston, WV 25305-0130

- 8. ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.
- 9. BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

## GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.
  
2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.
  - 2.1 **"Agency" or "Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.
  
  - 2.2 **"Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.
  
  - 2.3 **"Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.
  
  - 2.4 **"Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.
  
  - 2.5 **"Purchase Order"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.
  
  - 2.6 **"Solicitation"** means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.
  
  - 2.7 **"State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.
  
  - 2.8 **"Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

**Term for Open End, Service, and Similar Contracts**

**Initial Contract Term:** This Contract becomes effective on award \_\_\_\_\_ and extends for a period of one \_\_\_\_\_ year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to two \_\_\_\_\_ successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension:** At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

- One Time Purchase:** The term of this Contract shall run for one year from the date the Purchase Order is issued or from the date the Purchase Order is issued until all of the goods contracted for have been delivered, whichever is shorter.

4. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

**Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

- Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

- [✓] **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.
  - | | **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.
5. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.
6. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.
7. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.
- | | **BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.
  - | | **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of . The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.
  - | | **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable.

| **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

**WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

**INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

**Commercial General Liability Insurance:**  
\$1,000,000.00 or more.

**Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.

For bodily injury (including death): a minimum of \$500,000.00 per person and \$1,000,000.00 per occurrence.-The State of West Virginia must be listed as the certificate holder.

For property damage: a minimum of \$1,000,000.00 per occurrence.

Professional Liability: a minimum of \$1,000,000.00 per occurrence - The State of West Virginia must be listed as the certificate holder.

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The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

**LICENSE(S) / CERTIFICATIONS:** In addition to anything required under Section 39, entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses prior to Contract award, in a form acceptable to the Purchasing Division.

Any that are applicable throughout the specifications.

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The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

8. **LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.
9. **ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.
10. **EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.
11. **LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount one hundred dollars (\$100) per day for failure to meet deliverables & milestones . This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.
12. **ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.
13. **REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee if applicable.
14. **COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.
15. **FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not



appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

16. **PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."
17. **UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.
18. **DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.
19. **INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.
20. **PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.
21. **SMALL, WOMAN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, woman-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.
22. **TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
23. **CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.
24. **WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.
25. **TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.

26. **APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
27. **COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.
28. **PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at <http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx>. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.
29. **ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
30. **MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.** Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.
31. **WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in remain in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
32. **SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.
33. **ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be

required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.

34. **WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
35. **STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
36. **BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.
37. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at <http://www.state.wv.us/admin/purchase/vrc/hipaa.html> and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor.
38. **CONFIDENTIALITY:** The Vendor agrees that it 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/default.html>.
39. **DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the

applicability of the the various public records laws should be addressed to your own legal counsel prior to bid submission.

- 40. LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor 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. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.
- 41. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of 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.
- 42. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this 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; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.
- The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.
- 43. PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract.
- 44. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the

Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 45. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 46. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.
- 47. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 48. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.
- 49. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services may require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical

information to submit to a fingerprint-based state and federal background inquiry through the state repository.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

## CERTIFICATION AND SIGNATURE PAGE

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By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

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(Company)

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(Representative Name, Title)

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(Contact Phone/Fax Number)

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(Date)

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: FLC 13037**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |   |  |
|---|--|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.



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 exceeds 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** \_\_\_\_\_

# 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.