



State of West Virginia
Agency Request for Proposals
Consulting

Proc Folder: 1817932			Reason for Modification:	
Doc Description: PCI (Payment Card Industry) Consulting				
Proc Type: Agency Master Agreement				
Date Issued	Solicitation Closes	Solicitation No	Version	Phase
2025-10-20	2025-11-06 11:00	ARFP 1300 STO2600000001	1	Final

BID RECEIVING LOCATION

WEST VIRGINIA STATE TREASURERS OFFICE
322 70TH ST SE

CHARLESTON WV 25304
US

VENDOR

Vendor Customer Code:

Vendor Name :

Address :

Street :

City :

State : **Country :** **Zip :**

Principal Contact :

Vendor Contact Phone: **Extension:**

FOR INFORMATION CONTACT THE BUYER

Kevin L Bowling
304-558-5000
lee.bowling@wvsto.gov

Vendor Signature X	FEIN#	DATE
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All offers subject to all terms and conditions contained in this solicitation

SCHEDULE OF EVENTS		
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<u>Line</u>	<u>Event</u>	<u>Event Date</u>
1	Question Submission Deadline	2025-10-28

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ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

WV State Treasurer's Office (STO) Exempt Procurement

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 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 individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying 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, phone number, 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 (5) 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 STO Purchasing Division designated buyer. Questions must be submitted in writing and be submitted on or before the date listed below and to the address listed below to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written questions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding. Submitted emails should have the solicitation number in the subject line.

Questions Submission Deadline: _____ **By:** _____

Submit questions to Buyer: _____

State Treasurer's Office – Purchasing Division, 322 70th Street SE, Charleston, WV 25304

Fax: (304) 340-1518 / Buyer Email: _____

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the STO Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted on or before the date and time of the bid opening listed in Section 7 below. Vendors can submit bids electronically through wvOASIS, in paper form delivered to the STO Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the STO Purchasing Division at the number listed below. For non-complex purchases, the STO may also allow for bids to be submitted via email. Notwithstanding the foregoing, the STO Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS.

Bids submitted in paper, facsimile, or email form must contain a signature. Bids submitted in wvOASIS are deemed to be electronically signed, however, additional information may be requested and/or signed based on directions in the Solicitation. Any bid received by the STO Purchasing Division staff is considered to be in the possession of the STO Purchasing Division and will not be returned for any reason.

For Request for Proposal ("RFP") Responses Only: Submission of a response to a Request for Proposal is not currently permitted in wvOASIS. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified below, plus _____ convenience copies of the technical proposal to the STO Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.

Bid Delivery Address and Fax Number:

WV State Treasurer's Office
Attn: Purchasing Division
322 70th Street SE, Charleston, WV 25304
Fax: (304) 340-1518

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope, or fax cover sheet as applicable, or the bid may be rejected by the STO. Note: information in *italics* is for information purposes only to assist in responding.

SEALED BID:

BUYER:

SOLICITATION NO.:

BID OPENING DATE:

BID OPENING TIME:

FAX NUMBER: 304-340-1518 (use if submitting bid response via facsimile)

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 confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official STO Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date: _____ **Time:** _____

Bid Opening Location: WV State Treasurer's Office, Purchasing Division
322 70th Street SE, Charleston WV 25304

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official addendum issued by the STO. 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.

10. ALTERNATE MODEL OR BRAND: Any model, brand, or specification listed in this Solicitation 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 STO 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.

☐ This solicitation is based upon a standardized commodity established by the WV State Treasurer's Office under its exemption authority. Vendors are expected to bid the standardized commodity identified, or upon bid a comparable product that meets or exceeds the standard for consideration.

11. 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.

12. COMMUNICATION LIMITATIONS: Communication with anyone other than the designated buyer or STO Purchasing Division staff regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the STO Purchasing Division, is strictly prohibited without prior STO Purchasing Division approval.

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. Other registrations, including but are not limited to business registration requirements of the WV Secretary of State, WV State Tax Department, and any other state or local entities, will also be required prior to receiving a contract/purchase order.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. WAIVER OF MINOR IRREGULARITIES: The STO Purchasing Director reserves the right to waive minor irregularities in bids or specifications.

16. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the STO Purchasing Division staff immediately upon bid opening. The STO will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires, and therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or removed access restrictions to allow the STO to print or electronically save documents provided that those documents are viewable by the STO prior to obtaining the password or removing the access restriction.

17. NON-RESPONSIBLE: The STO Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible when the STO Deputy Treasurer of Purchasing determines that the vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance.

18. ACCEPTANCE / REJECTION: The State Treasurer's Office may accept or reject any bid in whole, or in part.

19. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., 5G-1- 1 et seq. and the Freedom of Information Act in West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the STO Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The STO Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

20. WITH THE BID REQUIREMENTS: In instances where the specifications require documentation or other information with the bid response, and a vendor fails to provide it with the bid, the STO Purchasing Division Director reserves the right to request those items after the bid opening and prior to the contract award pursuant to the authority to waive minor irregularities in bids or specifications. This authority does not apply to instances where state law mandates receipt with the bid.

21. EMAIL NOTIFICATION OF AWARD: The STO Purchasing Division will attempt to provide bidders with email notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the STO Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or request the information from the STO Purchasing Division.

22. ISRAEL BOYCOTT CERTIFICATION: Vendor's act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel.

ADDENDUM ACKNOWLEDGEMENT FORM

SOLICITATION NO.:

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)

- | | |
|---|--|
| ☐ Addendum No. 1 | ☐ Addendum No. 6 |
| ☐ Addendum No. 2 | ☐ Addendum No. 7 |
| ☐ Addendum No. 3 | ☐ Addendum No. 8 |
| ☐ Addendum No. 4 | ☐ Addendum No. 9 |
| ☐ Addendum No. 5 | ☐ 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 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 acknowledgement should be submitted with the bid to expedite document processing.

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SECTION ONE: GENERAL INFORMATION

- 1.1. Purpose: The West Virginia State Treasurer's Office, hereafter referred to as the "STO", is soliciting proposals from qualified vendors to provide Payment Card Industry ("PCI") Consulting Services.
- 1.2. By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this Request for Proposal ("RFP").

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

- 1.3. Schedule of Events:

Vendor's Written Questions Submission Deadline 10/28/2025
Addendum Issued..... TBD
Bid Opening Date..... 11/06/2025

- 1.4. Attachments

Attachment A: Vendor Response
Attachment B: Mandatory Specification Checklist
Attachment C: Cost Sheet

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SECTION TWO: INSTRUCTIONS TO VENDORS SUBMITTING BIDS

Instructions are attached

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SECTION THREE: GENERAL TERMS AND CONDITIONS

Terms and conditions are attached

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SECTION FOUR: PROJECT SPECIFICATIONS

- 4.1. **Location:** Agency is located at 1900 Kanawha Boulevard, Charleston, West Virginia 25305. Certain operations are located at 322 70th Street SE, Charleston, West Virginia 25304
- 4.2. **Background and Current Operating Environment:** The West Virginia State Treasurer's Office (STO) has a payment processing infrastructure that is subject to Payment Card Industry ("PCI") requirements. Additionally, the STO manages the merchant services contract for the State and provides a gateway for approximately eighty (80) West Virginia agencies/spending units which have a variety of methods for collecting payments, including various online and point-of-sale methods. The STO estimates that seventy (70) agencies/spending units process less than 10,000 transactions per year with several processing less than 100 transactions per year. However, there are a few agencies/spending units that process approximately 100,000 transactions per year. The STO also provides a gateway for merchant services to local governments as a service provider. Currently, the STO manages services for approximately one hundred ten (110) local governments, however this number is expected to increase over the next year. Note: the STO does not store, transmit, or process cardholder data.

Currently, the STO is attesting as a Merchant Level 3 and as Service Provider via a Report on Compliance (ROC) completed by Qualified Security Assessor (QSA). PCI compliance for the STO is managed by an internal PCI Compliance Group (which includes a PCI Internal Security Assessor (ISA)). The STO is currently compliant with PCI DSS both as a merchant and as a service provider, Version 4.0 r1, which was filed January 2025.

The intent of this solicitation is to contain two components for consideration: (1) ongoing independent assessment and resulting ROC for the STO, and (2) ongoing ad hoc consultations for other state agencies/spending units and local governments.

Please note: Issuance of a contract by the STO may also be extended for use by other State Agencies, Agencies of Local/County Government, Educational Entities or other quasi-Governmental Entities. It shall be the responsibility of other entities to determine if their rules and statutes permit them to use this contract. Issues of interpretation and eligibility determination of contract use shall be solely the authority of the entity. Vendor and entity shall work directly with each other to establish an ordering and payment process if services are requested through the contract.

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

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- 4.3.1 Vendor should provide an overview and history of its organization, including parent and/or subsidiary companies and the number of employees. Provide the address of the office location(s) that will service the STO.
- 4.3.2 References: Vendor should provide at least three references, if available, to which similar services were provided (See Exhibit A). All or none of these clients may be contacted by one or more members of the Evaluation Committee to determine the ability of the Vendor and the level of satisfaction with the Vendor. Furthermore, the STO reserves the right to contact any person or entity it believes prudent to inquire about the Vendor. List should include the following information for each reference:
 - a. Entity name and contract manager with current contact information.
 - b. Start and End dates of services provided.
 - c. List of services provided in comparison to those sought through this RFP.
- 4.3.3 Explain any current or anticipated litigation, or other legal proceeding or government investigation, to which Vendor is a party.
- 4.3.4 Vendor should provide a resume for each individual that will be directly involved as support staff for the STO account. Include their experience in working with public entities and describe their anticipated roles with regard to STO account as well as how many years in this industry and how many years with the company.

4.4. Project and Goals: The project goals and objectives are:

- 4.4.1. The STO is requesting proposals to obtain a Report on Compliance (ROC) for the STO both as a Level 3 Merchant and as a Service Provider. Vendor should describe how it will perform the assessment and what deliverables will be provided including the completed ROCs and appropriate recommendations for enhancement of the STO compliance efforts related to the STO payment processing infrastructure.
- 4.4.2. The STO desires to make available to agencies/spending units, PCI compliance consultation services to provide agencies/spending units with the knowledge and understanding regarding possible PCI compliance requirements. Vendor should describe how it will provide these consultation services, in an ad hoc manner, as requested and needed by agencies/spending units. The intent is to make PCI consulting services readily available to the agencies/spending units, for various possible reasons. While some may be seeking compliance verification, or assistance with compliance efforts, we anticipate some agencies/spending units may simply be attempting to determine what (if any) PCI compliance requirements may be applicable to them. Some of these engagements will be more about discovery than validation or remediation.

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- 4.4.3. Vendor should describe how it will ensure that PCI consultations for the agencies/spending units are always done in the context of their relationship with the STO, and its technological methodology of utilizing the STO payment infrastructure.
- 4.4.4. Vendor should describe the degree to which its PCI consulting services is truly an 'in house' resource, which operates as a distinct entity, with dedicated resources and long-term commitment of the vendor, to operate within the PCI consulting space. Please provide a general description of the PCI services unit, including size, time in existence, and breadth of operations and engagements.
- 4.4.5. Vendor should describe the timeliness of engagement fulfillment and provide a 'best estimate' of the anticipated, typical amount of time between the start of an engagement, and the initial request for the engagement for both the one-time engagement and potential agency/spending unit engagements.

4.5. Mandatory Requirements

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

- 4.5.1. Vendor must provide a Report on Compliance (ROC) for the STO both as a Level 3 Merchant and as a Service Provider. Vendor must also provide ongoing ad hoc consultations for other state agencies/spending units and local governments, performed by the same consulting team or PCI services unit, of the vendor.
- 4.5.2. Vendor must continuously have an 'in house' PCI consulting group, which will be responsible for both STO assessments and the ongoing ad hoc consultations for other state agencies/spending units and local governments. Outsourcing or contracting to third parties of either the one-time assessment, or the ongoing consultations will not be acceptable.
- 4.5.3. All services, performed for the STO and any state agency/spending unit and local government shall be done by individuals with current Qualified Security Assessor (QSA) certifications, with a minimum of one year's experience as a QSA.
- 4.5.4. Vendor shall complete and provide appropriate reporting and findings for the STO assessment and each potential state agency/spending unit and local government engagement.

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SECTION FIVE: VENDOR PROPOSAL

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

**** NOTE ** Vendors proposals should not exceed 30 pages excluding any requested exhibits or attachments.**

- 5.2. Incurring Cost:** Neither the State nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.

- 5.3. Proposal Format:** Vendors should provide responses in the format listed below:

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

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

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

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

Attachment B: Complete **Attachment B: Mandatory Specification Checklist**. By signing and dating this attachment, the Vendor acknowledges that they meet or exceed each of these specifications as outlined in 4.5 of Section Four: Project Specifications. The State reserves the right to require documentation detailing how each is met at its discretion.

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

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

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

Vendor is to provide ONE (1) original Technical and ONE (1) original Cost proposal.

Vendor is to provide seven (7) convenience copies of both Technical and Cost.

Vendor is requested to provide an exact copy of the Technical response on a diskette, CD-ROM, DVD or USB flash drive in Adobe PDF or Microsoft Word with its proposal or immediately upon request by the designated buyer/contact person named within the solicitation document.

All proposals must be submitted to the STO Purchasing Division **prior** to the date and time stipulated in the RFP as the opening date. All bids will be dated and time stamped to verify official time and date of receipt. Bids not received prior to the proposal opening date and time as required shall be immediately disqualified. All submissions must be in accordance with the provisions listed below and in Section Two: Instructions to Bidders Submitting Bids above.

5.5. Technical Bid Opening: The STO Purchasing Division will open and announce only the technical proposals received prior to the date and time specified in the Request for Proposal. The technical proposals shall then be provided to the Agency evaluation committee.

5.6. Cost Bid Opening: The STO Purchasing Division shall schedule a date and time to publicly open and announce cost proposals when the STO Purchasing Division has approved the technical recommendation of the evaluation committee. All cost bids for qualifying proposals will be opened. Cost bids for non-qualifying proposals will also be opened but shall not be considered. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award.

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SECTION SIX: EVALUATION AND AWARD

- 6.1 **Evaluation Process:** Proposals will be evaluated by a committee of three (3) or more individuals against the established criteria with points deducted for deficiencies. The Vendor who demonstrates that they meet all of the mandatory specifications required; and has appropriately presented within their written response and/or during the oral demonstration (if applicable) their understanding in meeting the goals and objectives of the project; and attains the highest overall point score of all Vendors shall be awarded the contract. The STO reserves the right to contact any Vendor to clarify or elaborate on the proposal. No new or additional matter may be discussed. The selection of the successful Vendor will be made by the consensus of the evaluation committee.
- 6.2 **Evaluation Criteria:** All evaluation criteria is defined in the specifications section and based on a 100-point total score. Cost shall represent a minimum of 30 of the 100 total points.

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

• Qualifications and experience	10 Points Possible
• Project and Goals	60 Points Possible
• Cost	<u>30 Points Possible</u>
Total	100 Points Possible

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

$$\frac{\text{Lowest price of all proposal}}{\text{Price of Proposal being evaluated}} \times 30 = \text{Price Score}$$

- 6.2.1 Technical Evaluation: The Agency evaluation committee will review the technical proposals, deduct points where appropriate, and make a final written recommendation to the Purchasing Division.
- 6.2.2 Minimum Acceptable Score: Vendors must score a minimum of 70% (49 points) of the total technical points possible. All Vendors not attaining the minimum acceptable score (MAS) shall be considered as non-qualifying. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Cost bids for non-qualifying proposals will also be opened but shall not be considered. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award.

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

SECTION SEVEN: VENDOR PROTESTS

7.1 Types of Protests

7.1.1 Protests of Requirements, Specifications or Terms

By issuing the RFP, the STO intends to encourage competition among eligible Vendors. Any protest, complaint or problem with the RFP, including any requirement, specification or term contained in the RFP or any combination thereof, must be filed in writing with the Director of Purchasing no later than three (3) working days prior to the Proposal Opening Date specified in the RFP. Protests received after that date will not be considered.

7.1.2 Protests of Award

After selection of the apparent successful Vendor, the Director of Purchasing will send a written Notice to each Vendor regarding the award. Each Vendor will have until the date specified in the notice to file a written protest as to the award. Protests received after that date will not be considered.

7.2 Written Letter of Protest

The written letter of protest must contain the name and address of the protesting Vendor, the RFP number, a statement explaining why the protest has been filed, the relief sought, and any other information that may assist the Director of Purchasing in reaching a decision on the matter. The Director of Purchasing must receive the letter of protest by the appropriate deadline to be considered.

7.3 Review of Protest and Issuing Decision

The STO will review the letter of protest and issue a written decision. The STO may contact the protestor or any other entity he or she considers necessary to reach a decision. Opening of the proposals, evaluation of the proposals or award of the purchase order may be delayed, as considered appropriate by the STO.

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Attachment A: Vendor Response Sheet

Section 4

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

Vendor Response:

Section 4.3, Subsection 4.3.1: Vendor should provide an overview and history of its organization, including parent and/or subsidiary companies and the number of employees. Provide the address of the office location(s) that will service the STO.

Vendor Response:

Section 4.3, Subsection 4.3.2: References: Vendor should provide at least three references, if available, to which similar services were provided (See Exhibit A). All or none of these clients may be contacted by one or more members of the Evaluation Committee to determine the ability of the Vendor and the level of satisfaction with the Vendor. Furthermore, the STO reserves the right to contact any person or entity it believes prudent in order to inquire about the Vendor. List should include the following information for each reference:

- a. Entity name and contract manager with current contact information.
- b. Start and End dates of services provided.
- c. List of services provided in comparison to those sought through this RFP.

Vendor Response:

Section 4.3, Subsection 4.3.3: Explain any current or anticipated litigation, or other legal proceeding or government investigation, to which Vendor is a party.

Vendor Response:

Section 4.3, Subsection 4.3.4: Vendor should provide a resume for each individual that will be directly involved as support staff for the STO account. Include their experience in working with public entities and describe their anticipated roles with regard to STO account as well as how many years in this industry and how many years with the company.

Vendor Response:

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List project goals and objectives contained in Section 4.4, Subsection 4.4.1, et. al:

Section 4.4, Subsection 4.4.1: The STO is requesting proposals to obtain a Report on Compliance (ROC) for the STO both as a Level 3 Merchant and as a Service Provider. Vendor should describe how it will perform the assessment and what deliverables will be provided including the completed ROC and appropriate recommendations for enhancement of the STO compliance efforts related to the STO payment processing infrastructure.

Vendor Response:

Section 4.4, Subsection 4.4.2: The STO desires to make available to agencies/spending units, PCI compliance consultation services to provide agencies/spending units with the knowledge and understanding regarding possible PCI compliance requirements. Vendor should describe how it will provide these consultation services, in an ad hoc manner, as requested and needed by agencies/spending units. The intent is to make PCI consulting services readily available to the agencies/spending units, for various possible reasons. While some may be seeking compliance verification, or assistance with compliance efforts, we anticipate some agencies/spending units may simply be attempting to determine what (if any) PCI compliance requirements may be applicable to them. Some of these engagements will be more about discovery than validation or remediation.

Vendor Response:

Section 4.4, Subsection 4.4.3: Vendor should describe how it will ensure that PCI consultations for the agencies/spending units are always done in the context of their relationship with the STO, and its technological methodology of utilizing the STO payment infrastructure.

Vendor Response:

Section 4.4, Subsection 4.4.4: Vendor should describe the degree to which its PCI consulting services is truly an 'in house' resource, which operates as a distinct entity, with dedicated resources and long-term commitment of the vendor, to operate within the PCI consulting space. Please provide a general description of the PCI services unit, including size, time in existence, and breadth of operations and engagements.

Vendor Response:

Section 4.4, Subsection 4.4.5: Vendor should describe the timeliness of engagement fulfillment and provide a 'best estimate' of the anticipated, typical amount of time between the start of an engagement, and the initial request for the engagement for both the one-time engagement and potential agency/spending unit engagements.

Vendor Response:

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Attachment B: Mandatory Specification Checklist

List mandatory specifications contained in Section 4, Subsection 4.5:

Section 4, Subsection 4.5.1: Vendor must provide a one-time assessment of the efforts of the PCI Internal Compliance Group, and the ongoing ad hoc consultations, for other agencies/spending units, by the same consulting team or PCI services unit, of the vendor.

Vendor Response:

Section 4, Subsection 4.5.2: Vendor must continuously have an 'in house' PCI consulting group, which will be responsible for both the one-time STO assessment, and the ongoing ad hoc consultations for other agencies/spending units. Outsourcing or contracting to third parties of either the one-time assessment, or the ongoing consultations will not be acceptable.

Vendor Response:

Section 4, Subsection 4.5.3: All services, including the one-time assessment and the potential agency consultations shall be done by individuals with current Qualified Security Assessor (QSA) certifications, with a minimum of one year's experience as a QSA.

Vendor Response:

Section 4, Subsection 4.5.4: Vendor shall complete and provide reporting and findings for the one-time engagement and each potential agency/spending unit engagement.

Vendor Response:

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Attachment C: Cost Sheet

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

All services shall be calculated and billed at an hourly rate. There will be two rates. One rate will be for offsite services (no requirement for QSA to be onsite), the other will be for onsite work (QSA at customer location(s)). There will be no billing or payments for anything other than the hourly charges.

Please provide the offsite and onsite rates; if Vendor does not intend to designate a fee for a specific item, mark it as "zero" cost. Areas that are not marked "zero" and do not include a fee, will be priced as "zero." Shaded areas shall not be completed.

Vendor understands that all services will be provided and billed for based upon actual hours and delivery order issued by the STO or other Agency/Spending Unit.

The hours provided are general estimates only and shall only be used for evaluation purposes. The STO makes no guarantee to the actual quantity of services that will be required by the STO or any other agency/spending unit.

Year 1	Vendor Hourly Fee	STO Hours	Agency/Spending Unit Hours	Total
1. Offsite Services	\$	400	60	\$
2. Onsite Services	\$	60	40	\$
3. Total				\$

GENERAL TERMS AND CONDITIONS

West Virginia State Treasurer's Office - Exempt Procurement

1. **CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Treasurer, or his designee, and approved as to form by the Agency's Counsel constitutes acceptance of this Contract made by and between the West Virginia State Treasurer's Office ("STO") and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in the 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"** means the West Virginia State Treasurer's Office ("STO"/"WVSTO"), and any of its boards or financial programs identified in the Solicitation seeking to procure goods or services under this Contract.
 - 2.2. **"Bid" or "Proposal"** means the vendors submitted response to this solicitation
 - 2.3. **"Contract"** means the binding agreement that is entered into between the STO and the Vendor to provide the goods or services requested in the Solicitation.
 - 2.4. **"Director"** means the Executive Director of STO Purchasing Division
 - 2.5. **"Award Document"** means the document issued by the STO that identifies the Vendor as the contract holder.
 - 2.6. **"Solicitation"** means the official notice of an opportunity to supply the STO with goods or services that is published by the STO Purchasing Division.
 - 2.7. **"Exempt"** means the solicitation/purchase is exempt from the requirements of the West Virginia Department of Administration - Purchasing Division.
 - 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 Contract**

Initial Contract Term: The Initial Contract Term will be for a period of _____. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signature of either the STO Administration Division Assistant Treasurer, Purchasing Division Executive Director or other authorized designee, and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the STO and the Vendor, and the Attorney General's Office, as applicable, as to form only as applicable. A request for Contract renewal should be submitted to the STO Purchasing Division 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.

Unless otherwise specified below, Renewal of this Contract is limited to _____(____) successive _____ year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Renewals must be approved by the Vendor and STO. **Automatic renewal of this Contract is prohibited.**

[] **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. **Automatic renewal of this Contract is prohibited.** Renewals must be approved by the STO and the Vendor.

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

[] **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

[] **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion, of the work covered by the preceding sentence, the vendor agrees that:

[] the contract will continue for _____ years;

[] the contract may be renewed for _____ successive _____ year renewal periods or shorter periods provided that they do not exceed the total number of months contained in

all available renewals. **Automatic renewal of this Contract is prohibited.** Renewals must be approved by the Vendor and the STO.

☐ **One Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures (electronic or written) of the STO Purchasing Division designee, and continues until the project for which the vendor providing oversight is complete.

☐ **Other:** Contract Term specified in _____.

4. **AUTHORITY TO PROCEED:** Vendor is authorized to begin performance of this Contract on the date of encumbrance listed on the front page of the Award Document/wvOASIS Award Document unless either the box for “Fixed Period Contract” or “Fixed Period Contract with Renewals” has been checked in Section 3 above. If either box has been checked, Vendor must not begin work until it receives a separate notice to proceed from the STO. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. **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/Award Document are approximations only, based on estimates supplied by the STO. 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 and Agency.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The STO Assistant Treasurer of Administration, or the Executive Director of Purchasing, or their designee, may authorize the purchase of 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 shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the STO from fulfilling its obligations under a One Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked below must be provided to the STO Purchasing Division by the Vendor as specified:

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the STO Purchasing Division. The request may be prior to or after contract award at the STO's sole discretion.

☐

☐

☐

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. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of the contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the STO with proof that the insurance mandated herein has been continued. Vendor must also provide the STO with the immediately notice of any changes in its insurance policies, including but not limited to, policy cancellation, policy reduction, or change in insurers. 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 in this section. Vendor must maintain:

☐ **Commercial General Liability Insurance** in at least an amount of:

_____ per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the foregoing, Vendor is not required to list the State/STO as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in at least an amount of: _____ per occurrence.

☐ **Cyber Liability Insurance** in an amount of: _____ per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

Notwithstanding anything contained in this section to the contrary, the STO Assistant Treasurer of Administration or Executive Director of Purchasing reserves the right to waive the requirement that the STO be named as an additional insured on one or more of the Vendor's insurance policies if he/she finds that doing so is in the STO's best interest.

9. WORKERS' COMPENSATION INSURANCE: The apparent successful Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. VENUE: All legal actions for damages brought by Vendor against the STO shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the STO's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____.

☐ Liquidated Damages Contained in the Specifications

☐ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the STO that cannot be unilaterally withdrawn, signifies that the product or service proposed by Vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in Solicitation unless otherwise indicated.

13. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the STO. A Vendor's inclusion of price adjustment provisions in its bid, without express authorization from the STO in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the STO and invoice at the lower of the contract price or the publicly advertised sale price.
14. **PAYMENT IN ARREARS:** Payment for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.
15. **PAYMENT METHODS:** The State's preferred payment methods are by electronic funds transfer and/or a State issued credit card, also known as P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards). Payments requested by physical warrant/check are available but take additional time for processing and are only processed once per week.
16. **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.
17. **ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State Treasurer's Office, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.
18. **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. If that occurs, the STO may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
19. **CANCELLATION:** The STO Assistant Treasurer of Administration, or the Executive Director of Purchasing 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 STO Assistant Treasurer of Administration or the Executive Director of Purchasing may also cancel any purchase order or Contract upon 30 days written notice to the Vendor.
20. **TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.

21. 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.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. 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.

24. 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 STO and the Vendor. Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the STO Purchasing Division and/or Agency's Counsel as to form prior to the implementation of the change or commencement of work affected by the change. No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the STO Purchasing Division.

VENDOR NAME MODIFICATIONS: If a Vendor has a change of name (and/or address) after the issuance of a contract, Vendor must notify the STO and also update its business registrations with all applicable State of West Virginia entities it has previously registered. If invoices do not match the name on the Contract and applicable business registrations, they must be held until compliance is verified. Address changes may require additional supporting information before accepting.

25. 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 full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. 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 the Vendor to the STO such as price lists, order forms, invoices, sales agreements, or maintenance agreements, any clauses that may void State law, including internet websites or

other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. **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 STO, and any other government agency or office that may be required to approve such assignments.
28. **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 STO; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
29. **STATE EMPLOYEES:** STO employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
30. **BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State Treasurer's Office may deem this Contract null and void, and terminate this Contract without notice.
31. **PRIVACY, SECURITY, AND 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 STO, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the STO'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>.
32. **YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are considered public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia and the Freedom of Information Act found in West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the STO Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal or document. The STO Purchasing Division will disclose any document labeled "confidential", "proprietary", "trade secret", "private", or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by W. Va. Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

33. **LICENSING:** 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. Obligations related to political subdivisions may include, but are not limited to,

business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the STO Purchasing Division to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up to date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

- 34. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting an Award Document 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 renders the initial payment to Vendor.
- 35. VENDOR NON-CONFLICT:** Neither Vendor nor its representatives are permitted to have any interest, nor shall they 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 STO.
- 36. VENDOR RELATIONSHIP:** The relationship of the Vendor to the STO/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 STO 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.

- 37. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the STO, 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.
- 38. NO DEBT CERTIFICATION:** The State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the STO, Vendor is (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or political subdivision of the state; and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.
- 39. 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”), provided, that both the Other Government Entity and the Vendor agree, and, have such authority to do so. Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 40. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an 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 STO.
- 41. REPORTS:** Vendor shall provide the STO with the following reports identified by a checked box below:
- ☐ Such reports as the STO may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures, etc.
 - ☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by the agency. Unless otherwise provided for upon Contract award, quarterly reports should be delivered to the STO Purchasing Division via email at purchasing@wvsto.com.

42. BACKGROUND CHECK: In accordance with W.Va. Code § 15-2D-3, 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 on results addressed from a criminal background check. Service providers should contact the WV Division of Protective Services at (304) 558-9911 for more information.

43. JOINT PROPOSALS AND SUBCONTRACTING: Joint Proposals are not permitted. Subcontracting is permitted subject to STO authorization. The purchase order/contract shall be awarded to the Vendor submitting the proposal. The Vendor awarded the purchase order/contract shall be the sole point of contact with regard to the purchase order and shall be solely responsible for all matters provided pursuant to the purchase order/contract, including without limitation, any tangible or intangible items provided by a subcontractor or other party.

44. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the (WV Dept. of Administration) Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.:
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

45. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:

In accordance with W.Va. Code § 5-19-1 et seq., and W.Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic
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aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a “substantial labor surplus area”, as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

46. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2

requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

47. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the STO, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

48. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State Law.

49. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W.Va, Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title)

(Address)

(Phone Number) / (Fax Number)

(Email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the STO that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; 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; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration, or shall promptly register upon notification of any such requirement by the STO.

(Company Name)

Printed Name and Title of Authorized Signatory

Date

(Authorized Signature)

(Phone Number)

(Fax Number)

Email:
