

Request for Proposal	Marshall University Office of Purchasing One John Marshall Drive Huntington, WV 25755-4100 Direct all inquiries regarding this order to: (304) 696-2823	Proposal # MU18WTRT			
Vendor:		For information call: Buyer: Jill Burcham Phone: 304-696-2823 burcham@marshall.edu and purchasing@marshall.edu			
Sealed requests for proposals furnishing services described below will be received by the Institution. TO RECEIVE CONSIDERATION FOR AWARD, THE PROPOSAL WILL BE SUBMITTED IN THE BONFIRE PORTAL ON OR BEFORE THE DATE AND TIME SHOWN FOR THE PROPOSAL OPENING AND SEND 1 COURTESY COPY TO THE PURCHASING DEPARTMENT. The Institution reserves the right to accept or reject proposals separately or as a whole, to reject any or all proposals, to waive informalities or irregularities and to contract as the best interests of the Institution may require. PROPOSALS ARE SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS SET FORTH HEREIN.					
DATE 7/17/2017	DELIVERY REQUIREMENTS	DEPARTMENT REQUISITION NO.	PROPOSALS OPEN: 3:00 p.m. on 8/10/17	BIDDER MUST ENTER DELIVERY DATE FOR EACH ITEM BID	
Item #	Quantity	Description		Unit Price	Extended Price
		REQUEST FOR PROPOSALS Marshall University will accept proposals for the following services until <u>3:00 p.m. on 08/10/17</u> . At that time, proposals will be recorded in Room 125, Old Main Building, located on the Campus of Marshall University. MARSHALL UNIVERSITY MU WATER TREATMENT PROGRAM Marshall University Huntington, WV 25755 Questions regarding the proposal must be submitted in writing to the Office of Purchasing (purchasing@marshall.edu) before August 1, 2017. A Mandatory Pre-Proposal Conference will be held August 1, 2017 @ 10:30 a.m. in the Marshall University Sorrell Maintenance Building, 2 nd Floor Conference Room			
Total					

To the Purchasing Department,
 In compliance with the above, the undersigned offers and agrees, if this offer is accepted within _____ calendar days (30 calendar days unless a different period is inserted by the purchaser) from the bid open date, specified above, to furnish any or all items upon which prices are offered, at the price set opposite each item, delivered at the designated point(s), within the time specified.

Bidder guarantees shipment from _____
 within _____ days
 After receipt of order at address shown

Bidder's name Vendor _____
 Signed By _____
 Typed Name _____
 Title _____
 Street Address _____
 City/State/Zip _____
 Date _____ Phone _____
 Fein _____
 Email _____

FOB

Terms

BOG 43

A. Introduction

The water treatment program will include boiler systems, cooling towers, hot water loops, chilled water loops and Glycol loops. In addition, the water treatment program will include all chemical products, any required equipment, and professional consulting service to improve program safety, reduce risk, reduce fuel and electrical consumption; improve repair and maintenance costs, provide training for maintenance on implementation and control of the program, provide professional service, monitor program results and communicate recommendations to University personnel.

The successful Vendor shall furnish all necessary facilities, personnel, and any equipment for the performance of the work under contract.

Contract term shall be “Award Date” to June 30, 2018 with four (4) optional yearly renewals.

B. Mandatory Pre-Proposal Conference

There will be a mandatory pre-proposal conference at 10:30 a.m. on August 1, 2017 in the 2nd floor conference room of the Sorrell Maintenance Building (SMB), located at the eastern end of campus, between Cam Henderson Center and Marshall University Stadium.

C. Submitting Your Proposal

Proposals and other required documents will be submitted into the Bonfire portal by the date and time indicated in the RFP. Proposals received after the scheduled date and time will not be considered. Cost proposals shall be submitted into the Bonfire bid table. A sealed courtesy copy shall be mailed or delivered to the Office of Purchasing, Marshall University, Room 125 Old Main Building, One John Marshall Drive, Huntington, West Virginia 25755.

D. Criteria for Evaluation

The University will evaluate the RFP based on the Vendor's technical and cost proposals, as detailed herein. Marshall University reserves the right, at its sole discretion, to amend or withdraw this RFP, in whole or in part, at any time, without notice or cause.

The University will use the following measurable criteria to evaluate proposals. The maximum point value for each requirement are as follows.

Vendor Qualifications	65
<input type="checkbox"/> Vendor’s Experience <input type="checkbox"/> Representatives Experience <input type="checkbox"/> References <input type="checkbox"/> Service Level & Response Time <input type="checkbox"/> Chemical Handling & Storage <input type="checkbox"/> Monitoring & Testing <input type="checkbox"/> Training	
Health & Safety	
<input type="checkbox"/> MSDS sheets <input type="checkbox"/> Troubleshooting <input type="checkbox"/> Reporting <input type="checkbox"/> Program Administration	
Proposal Response - Overall	
Cost	35

E. *Proposal Response*

1. **Qualifications**

The vendor shall be primarily engaged in selling water treatment chemicals and services for boiler and cooling systems. Company must have been in business for a minimum of 3 years and should be focused on the development of new technologies.

Please enclose a copy of your firm's annual report or equivalent (include a list of all U.S. and foreign patents relating to water treatment).

2. **Vendor Representatives**

The successful vendor shall appoint two members of its company to represent the company in dealings with Marshall University. Representatives must be safety trained and certified in chemical handling associated with water treatment. *List name, phone number, years of experience in water treatment industry, and years with the vendor for each appointed representative Provide documentation to certify representatives training completion date, and follow-up on-going training.*

Provide the name and title of the individual and number of experience years in water chemistry who will supervise Marshall University's water treatment program and the number of personnel who will supervise the contract

Field service engineers are available any time to assist the University in the event of a system failure, control problem, or testing inconsistency.

Provide on-call field service representatives who can be contacted by any of the Marshall University maintenance staff. Representatives shall respond immediately to these calls, either by providing information resolving the problem, or by making a physical visit to the site. Cell phone and beeper numbers for assigned field engineers and alternates familiar with the systems will be maintained in the Physical Plant Operations office.

University shall provide one person to go with vendor.

3. **Experience**

Provide specific examples of similar size projects within the previous five (5) years, including references and contact information.

Provide a reference list of customer accounts that were terminated with your company in the past five (5) years. Include contact information for these accounts.

4. **References**

Vendor shall submit a list of at least three customers handled by the representatives named above. These references should have systems similar in complexity and size to Marshall University. MU reserve the right to contact or visit customers so listed and to disqualify vendors not performing satisfactory service.

Include the customer's name, address, contact name, phone number and email address

5. **Training**

Training of maintenance personnel shall be provided at no cost to the University whenever it is required. Several Water Treatment Seminars have been taught on campus.

Samples of training materials must be included. Please provide a one-two page summary of the training your firm can provide to our maintenance staff.

6. Operator Manuals

Prepare and update detailed Operator Manuals for each location and system where water treatment products and support is provided. Marshall Universities' manuals are kept in the Maintenance Library located in the Assistant Directors office.

7. Reporting

Vendor shall provide to owner bi-weekly reports due 3 days after inspections.

Vendor shall provide bi-weekly service visits to the MU campus and will submit printed service reports to university management and maintenance personnel as required. These reports will review the condition of each system, detail the water analysis, prescribe necessary changes and adjustments, and note current installed chemical inventories.

Vendor shall provide a written statement of the condition of all equipment made available for inspection

The vendor must present a yearly review of the treatment program and a final review ninety, (90) days prior to the expiration of the contract. Vendor's representative shall meet at these times with the designated representatives of the University to discuss all treatment programs, their effectiveness, and future objective.

Provide an example of reports

8. Chemical Storage, Drum Handling and Disposal

To reduce the University's risk associated with drum handling, all product deliveries shall be made to the point of feed. Plastic and mild steel drums of any size are not acceptable. 5-gallon pails are not acceptable for biocides. To eliminate chemical handling by site personnel, all products must be capable of being fed neat (without dilution or contact) by our operators.

Chemical transport equipment must comply with DOT requirements for transporting hazardous material.

Provide copies of your firms training program for chemical delivery personnel as well as photos of storage and handling equipment. Please indicate where similar systems are locally located.

9. Control Systems

Have the capability and experience to provide and install automated control systems that allow remote monitoring and adjusting of cooling and boiler systems. These systems also provide automatic call-outs to our home office and to the assigned representative when a system goes out-of-limits or a failure occurs.

Provide example of how you will meet this requirement and current systems in place

10. MSDS Sheets

Material Safety Data Sheet shall accompany all first time orders and the vendor shall operate an in house 24-hour, 7 day per week emergency phone number for emergency information regarding chemical spills and/or accidents involving your products.

Provide a two-page summary of your Material Safety Data Sheet program; include your emergency phone number and a sample copy of your firm's Material Safety Data Sheet for a Biocide you might use at our site.

11. Delivery and Inventory

Deliveries of Water Treatment supplies must be between the hours of 8:00 A.M. and 5:00 P.M. Monday through Friday. Vendor agrees to make delivery within _____ business days after receipt of any valid order and delivery within _____ hours for emergency orders. Routine service calls must be made between the same hours as those specified. *Insert the number of days for orders and hours for emergency orders*

Must offer just-in-time delivery of products and replacement of feed pump and control system parts within one working day of receiving an order or being notified of a part or component failure.

Inventory of all replacement parts, probes, etc. and replacement metering and control equipment used on the Marshall campus maintained in the successful bidder's facility. Bidder must react the same day when a feed or control component failure is reported and normally proper operation is restored within 24 hours.

12. Agreement Addendum (WV96 form)

Terms and conditions for your company's products and services will include our WV96 agreement addendum. If your company intends to modify our Terms and Conditions, these modifications must be included in your response. If no modifications or comments are included in your response, we will conclude that your firm will accept the WV96 agreement addendum.

13. Vendor Conduct

If the conduct of any employee of the Vendor is adjudged a nuisance to the Owner or considered detrimental to the work, the Vendor shall order such employee or party removed immediately from the grounds.

14. Protection of Property and Personnel

The Vendor shall take proper and adequate measures for the protection of all property and personnel while in the performance of work included in this proposal. Vendor shall be held responsible for the protection of all walks, drives, grounds, and building and glass surfaces. Any damage will be repaired at the expense of the Vendor.

15. Guarantee

The Vendor shall guarantee the material and workmanship against defect due to faulty workmanship or negligence for a period of twelve (12) months following the final acceptance of the work. Where items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. The Vendor shall replace such defective materials, equipment, or workmanship without cost to the Owner within the stipulated guarantee period.

16. Inspections by University

Items or services may be tested and/or inspected for compliance with specifications. Items not in conformance with specifications may be rejected and returned at vendor's expense. Failure to meet program goals may result in termination of contract with 30 days notice.

17. Chemicals

Chemicals used for water treatment must comply with all EPA, NC and DOT requirements, including packaging and labeling. The submitting vendor shall include MSD sheets and product bulletins/fact sheets with initial proposal for review.

A complete line of corrosion inhibitors, deposit control agents, and biocides appropriate to the requirements of the MU HVAC systems have been developed for use at Marshall University.

F. Forms

Submit with Bid

Purchasing Affidavit - <http://www.state.wv.us/admin/purchase/vrc/pAffidavit.pdf>

Vendor Preference Certificate - <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>

WV96 Agreement Addendum - <http://www.state.wv.us/admin/purchase/vrc/wv96.pdf>

Successful Bidder

W9 Form - <https://www.irs.gov/pub/irs-pdf/fw9.pdf>

Updated WV96 Agreement Addendum - <http://www.state.wv.us/admin/purchase/vrc/wv96.pdf>

Drug Free Workplace Affidavit - <http://www.state.wv.us/admin/purchase/vrc/DrugFreeAff.pdf>

G. RFP Supplemental Package

The attached package is to provide additional instructions relative to submitting a proposal to Marshall University, as applicable.

H. Specifications

1. Cooling Towers

The open evaporative cooling systems at Marshall University range from the small 50-ton unit located at Jenkins Hall to the considerably larger dual 400 ton units located at the John Drinko Library. A close approximation of recirculation rates can be obtained by multiplying tonnage by a factor of three and it has been determined to standardize on a 10° F Δt (Δt = temperature drop across the tower).

Once we establish optimum cycles of concentration, we can then mathematically combine these nine (9) cooling towers into one theoretical unit for establishing the system water balances that determine treatment costs. All systems use Huntington city water and four cycles of concentration will be used to calculate costs for bid purposes.

Tonnage

John Drinko Library	800 tons
Smith Hall	750 tons
Fine Arts	350 tons
Science Hall	240 tons
Biotech	1500 tons
Student Center	150 tons
Applied Engineering	1000 tons
Jenkins Hall	50 tons
	<hr/>
Total Tonnage	4,840 tons

Assumptions: No drift. Systems will operate 200 days per year on the average. Systems are of mixed metallurgy and yellow metal corrosion inhibition is required.

For biocide calculations, assume total contained volume to be 70,000 gallons.

- List: Your corrosion / deposit inhibitor name. _____
 Corrosion / deposit inhibitor cost per pound. _____
 Biocide 1 name _____
 Biocide 1 cost per pound _____
 Biocide 2 name (if two biocides are used) _____
 Biocide 2 cost per pound _____
 Misc. product 1 name & purpose (if used) _____
 Misc. product 1 cost per pound _____
 Misc. product 2 name & purpose (if used) _____
 Misc. product 2 cost per pound _____

Annualized chemical cost to treat MU condenser cooling systems =

2. Steam Boilers

Of the University's total rated horsepower (1477), only 865 horsepower is normally being used. For cost projection purposes we will assume that the 865 horsepower normally used will be operated at 80% of this rated horsepower. This reasoning is based on the fact that, in most cases, each installation has two steam boilers installed but only one normally operates while the other boiler is on standby and the operating boiler normally operates between 50 to 100 percent of rated capacity. Boiler horsepower, if not specifically listed by the manufacturer, was obtained by dividing output BTU ratings by 33,500.

Steam Boilers

Henderson Center	
Eight (8) Water Tube Boilers @ 79 HP ea.	632 hp.
Biotech	
Three (3) Water Tube Boilers @135 HP ea.	405 hp.
Old Main	
Three (3) Water tube Boiler @ 30 HP ea.	90 hp.
Science Hall	
Two (2) Fire Tube Boiler @ 50 ea.	100 hp.
Two (2) Sectional Boiler	250 hp.
	1477 hp.
Total Horsepower	

Assumptions:

- Boilers average 50 % condensate return.
- All boilers could run up to 360 days per year.
- All boilers operate on unsoftened make-up.
- Boilers do not have deaerators.
- Boilers have automated blowdown control capability. Total of 8 boilers.
- Boilers will be operated at six cycles of concentration.

List your boiler program products and the price per pound of each product on the pricing page for the following:

Boiler program product 1	
Product 1 cost per pound.	
Boiler program product 2	
Product 2 cost per pound	
Boiler program product 3	
Product 3 cost per pound	
Boiler program product 4	
Product 4 cost per pound	

Annualized chemical cost to treat MU boiler systems =

3. Hot & Chilled Closed Loops

The University has approximately 41 closed loops utilizing chemically treated water and four loops using inhibited ethylene glycol. Presently, the volume of all loops is in the process of being obtained and documented. Computer calculation of pipe volumes and associated equipment (expansion tanks, air handler and heating coils, condenser heat exchangers, etc.) are being performed when physical data is available and chemical volume determination methods are being used when physical data is not available.

Please list your closed loop treatment products for both hot and cold loops and their cost per pound. Then list the product use concentration and the active test that is performed to monitor inhibitor concentrations. Also list your cost per gallon for 100% inhibited ethylene and Propylene glycol and the product manufacturer. (DOW-INTERSTATE, etc.) and whether or not you have the ability to charge systems using bulk delivery vehicles.

List:

Henderson Center	2 Heat loops
Gullickson	1 Heat Loop
Prichard	1 Loop chill/hot
Science Hall	2 Heat Loops
	2 Chilled Loops
John Morrow	1 Heat Loop
Smith Hall	1 Heat Loop
	1 Chilled Loop
Smith Hall Chilled Water loop also feeds Morrow	
Corbly Hall	1 Heat Loop
	1 Chilled loop
Welcome Center	1 Heat Loop
Fine Arts	1 Heat Loop
	1 Chilled Loop
Student Center	1 Heat Loop
	1 Chilled Loop
Jenkins Hall	1 Heat Loop
	1 Chilled Loop
Applied Engineering	1 Heat Loop
	1 Chilled Loop
RCBI	1 Heat Loop (East/West)
	1 Chilled Loop (West)
Biotech	1 Chilled Loop
	1 Heat Loop

	26 Total

Hot Loop Product Name	_____
Hot Loop Product Cost per Pound	_____
Hot Loop Product Use Concentration	_____
Hot Loop Product Active Test	_____
Chilled Loop Product Name	_____
Chilled Loop Product Cost per Pound	_____

Chilled Loop Product Use Concentration _____
Chilled Loop Product Active Test _____

Finally, show the cost per 1000 gallons of contained volume to treat the following:

Hot Closed Loop Cost per 1000 gallons

Chilled Closed Loop Cost per 1000 gallons

4. Glycol Loops

Indoor Practice	1 Loop
Drinko	1 Loop
Welcome Center	1 Loop
Harris Hall	1 Loop
Biotech	1 Loop
Applied Engineering	2 Loops
Shewey Building	1 Loop

	8 Loops

Cost per Gallon of Inhibited Ethylene Glycol _____
Manufacturer of Inhibited Ethylene Glycol _____
Cost per Gallon of Inhibited Propylene Glycol _____
Manufacturer of Inhibited Propylene Glycol _____

(Circle one)

MU *can or cannot* bulk install glycol into closed systems using our personnel and (circle one) *our equipment common carrier equipment*

Vender will be responsible for drum removal and disposal.

All shipping costs will be included.

Pumps, controllers and all related equipment shall be at market value.

I. PRICING

The program price must be F.O.B. Destination, freight prepaid. The price quoted will include all charges for transportation, packaging, pallets, containers, etc., necessary to complete delivery on a F.O.B. destination basis. Pricing shall be submitted into the Bonfire bid table online and will be unsealed at a later date and time.

Table 1 - BONFIRE BID TABLE

	Cooling Towers	Name/Purpose	Unit Price		
1-1	Corrosion - Deposit Inhibitor - per pound				
1-2	Biocide 1 - per pound				
1-3	Biocide 2 - per pound				
1-4	Misc. Product 1 - per pound				
1-5	Misc. Product 2 - per pound				
1-6	Treat Condenser Cooling Systems - annual				
	Steam Boilers	Name	Unit Price		
2-1	Boiler program product 1 - per pound				
2-2	Boiler program product 2 - per pound				
2-3	Boiler program product 3 - per pound				
2-4	Boiler program product 4 - per pound				
2-5	Treat Boiler Systems - annual				
	Hot & Chilled Closed Loops	Name	Concentration	Active Test	Unit Price
3-1	Hot Loop Product - per pound				
3-2	Chilled Loop Product - per pound				
3-3	Hot Closed Loop per 1000 Gallons				
3-4	Chilled Closed Loop per 1000 Gallons				
	Glycol Loops	Manufacturer	Unit Price		
4-1	Inhibited Ethylene Glycol per gallon				
4-2	Inhibited Propylene Glycol per gallon				
		TOTAL			
5-1	TOTAL:				

LIFE OF CONTRACT PAGE

LIFE OF CONTRACT: This contract becomes effective on TBD and extends until June 30, 2018 or until such reasonable time thereafter as is necessary to obtain a new contract. Such "reasonable time" shall not exceed twelve (12) months upon expiration of one (1) year from the effective date of this contract by giving the Director of Purchasing thirty (30) days written notice.

RENEWAL: This contract may be renewed upon mutual written consent, submitted to the Director of Purchasing thirty (30) days prior to the date of expiration. Such renewal shall be in accordance with the terms and conditions of the original contract and shall be limited to four (4) successive one (1) year periods.

CANCELLATION: The Director of Purchasing reserves the right to cancel this contract immediately upon written notice to the vendor if the commodities or services supplied are of an inferior quality or do not conform to the specifications of the bid and contract herein.

OPEN MARKET CLAUSE: The Director of Purchasing may authorize a spending unit to purchase in the open market, without the filing of a requisition or cost estimate, items specified on this contract for immediate delivery in emergencies due to unforeseen causes (including but not limited to delays in transportation or an unanticipated increase in the volume of work).

TIME: Time consumed in delivery or performance is of the essence.

ORDERING PROCEDURE: Departments shall submit a requisition for commodities covered by this contract to the Purchasing office. Purchasing will then issue a purchase order to the vendor as authorization for shipment. If the vendor accepts credit cards, purchases may also be made using the P-card up to the established transaction limit for the department.

FUNDING PARAGRAPH: Service performed under this contract shall be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for these services, this contract becomes of no effect and is null and void after June 30.

INTEREST: Should this contract include a provision for interest on late payments, the agency agrees to pay the maximum legal rate under West Virginia Law. All other references to interest charges are deleted.

CONTRACT PRICING: Unless otherwise allowed by the Director of Purchasing, price increases will be approved only at the beginning of each renewal period. All adjustments will be made in dollars, not per cent. Requests for price increases must be received in writing by the Director at least thirty (30) days in advance of the effective date. Vendors may add products throughout the term of this contract when it is in the best interest of the University. The Director at Marshall University will determine which products will be added. Price decreases will be "passed through" to Marshall University.

Submission Instructions for Suppliers

Please follow these instructions to submit via our Public Portal.

1. Prepare your submission materials:

Requested Information

Name	Type	# Files	Requirement	Instructions
Technical RFP	File Type: PDF (.pdf)	Multiple	Required	
MU18WTRT (BT-48CK)	BidTable: Excel (.xlsx)	1	Required	You will need to fill out the provided Response Template for this BidTable. The Response Template can be downloaded from the project listing on the Bonfire portal.

Requested Documents:

Please note the type and number of files allowed. The maximum upload file size is 100 MB. Please do not embed any documents within your uploaded files, as they will not be accessible or evaluated.

Requested BidTables:

The BidTable Response Templates can be obtained at <https://marshall.bonfirehub.com/opportunities/4256>.

Please note that BidTables may take a significant amount of time to prepare.

2. Upload your submission at:

<https://marshall.bonfirehub.com/opportunities/4256>

Your submission must be uploaded, submitted, and finalized prior to the Closing Time of **Aug 10, 2017 3:00 PM EDT**. We strongly recommend that you give yourself sufficient time and **at least ONE (1) day** before Closing Time to begin the uploading process and to finalize your submission.

Important Notes:

Each item of Requested Information will only be visible after the Closing Time.

Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed.

You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission.

Minimum system requirements: Internet Explorer 8/9/10+, Google Chrome, or Mozilla Firefox. Javascript must be enabled. Browser cookies must be enabled.

Need Help?

Marshall University uses a Bonfire portal for accepting and evaluating proposals digitally. Please contact Bonfire at Support@GoBonfire.com for technical questions related to your submission. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>

AGREEMENT ADDENDUM

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

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

ACCEPTED BY:
STATE OF WEST VIRGINIA

VENDOR

Spending Unit: _____

Company Name: _____

Signed: _____

Signed: _____

Title: _____

Title: _____

Date: _____

Date: _____

State of West Virginia

VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. Application is made for 2.5% 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;
- Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; **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% 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% vendor preference for the reason checked:

- Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; **or**,

4. Application is made for 5% 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% 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% 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.

7. Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code* §5A-3-59 and *West Virginia Code of State Rules*.

- Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

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) rescind the contract or purchase order; 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.

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: _____

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

ALL OTHER CONTRACTS: Under W. Va. Code §5A-3-10a, 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: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. 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.

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.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"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.

AFFIRMATION: By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (*W. Va. Code §61-5-3*) that: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

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 - PURCHASING DIVISION

**VENDOR REGISTRATION AND DISCLOSURE STATEMENT
AND SMALL, WOMEN-, AND MINORITY-OWNED BUSINESS
CERTIFICATION APPLICATION**

Before a vendor is eligible to sell goods and/or services to the State of West Virginia, the **West Virginia Code** §5A-3-12 requires all vendors to have on file with the West Virginia Purchasing Division a completed Vendor Registration and Disclosure Statement. All vendors wishing to participate in the competitive bid process and receive purchase orders from the State of West Virginia exceeding \$2,500 in aggregate across all state agencies are required to complete the Vendor Registration and Disclosure Statement (WV-1 form) and pay a **\$125.00** annual fee. Payment of the annual fee includes email notifications on bid opportunities based on the commodities and services selected upon registering in the Vendor Self-Service (VSS) portal at **wvOASIS.gov**. Please complete this form in its **ENTIRETY** and return it with a check or money order made payable to the **STATE OF WEST VIRGINIA** in the amount of **\$125.00**. Incomplete forms will not be processed and will be returned to the vendor. Please send completed form and payment to:

**Purchasing Division - Vendor Registration
2019 Washington Street East
Charleston, WV 25305-0130**

Whenever a change occurs in the information submitted, such change shall be reported immediately in the same manner as required in the original disclosure statement (**West Virginia Code** §5A-3-12). Vendors doing business with the State of West Virginia are expected to abide by the **Vendor Code of Conduct** available online at **www.state.wv.us/admin/purchase/vrc/vendorconduct.pdf**.

Privacy Notice: The Purchasing Division is required to collect certain information as stated in **West Virginia Code** §5A-3-12, other applicable sections of the **West Virginia Code**, the Vendor Registration and Disclosure Statement forms, and other documents to facilitate the state bidding and contract administration processes. This information is stored in a secure environment, but unless specifically protected under state law, any information provided may be inspected by or disclosed to the public.

Vendors are also required to 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 other state agencies or political subdivisions. Failure to do so may result in delay of or disqualification from a contract award pursuant to **West Virginia Code of State Rules** §148-1-6.1.7.

Should you need additional information relating to vendor registration, please visit **www.state.wv.us/admin/purchase/VendorReg.html**. Questions concerning this Vendor Registration and Disclosure Statement may be directed to the Purchasing Division at (304) 558-2311.

VENDOR REGISTRATION AND DISCLOSURE STATEMENT AND SMALL, WOMEN-, AND MINORITY-OWNED BUSINESS CERTIFICATION APPLICATION

PLEASE TYPE OR CLEARLY PRINT ALL INFORMATION
To Be Completed by the Vendor and Returned to the Purchasing Division

1. Legal Name of Company/Individual _____

Bidding Address _____

Ordering Address _____

Payment Address _____

City, State, Zip _____

Telephone Number _____ Fax Number _____

Principle Contact Person _____ E-mail _____

Contact's Telephone Number _____ Contact's Fax Number _____

DBA, if any _____

Bidding Address _____

Ordering Address _____

Payment Address _____

City, State, Zip _____

Telephone Number _____ Fax Number _____

Principle Contact Person _____ E-mail _____

Contact's Telephone Number _____ Contact's Fax Number _____

2. Vendor Tax Classification:

- | | |
|--|--|
| <input type="checkbox"/> Individual | <input type="checkbox"/> Government |
| <input type="checkbox"/> Sole Proprietor | <input type="checkbox"/> Medical Corporation |
| <input type="checkbox"/> Partnership | <input type="checkbox"/> Attorney Corporation |
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Non-Profit Organization |
| <input type="checkbox"/> Board Member | <input type="checkbox"/> Payroll |
| <input type="checkbox"/> Trust | <input type="checkbox"/> Employee |
| <input type="checkbox"/> Estate | |

VENDOR REGISTRATION AND DISCLOSURE STATEMENT AND SMALL, WOMEN-, AND MINORITY-OWNED BUSINESS CERTIFICATION APPLICATION

PLEASE TYPE OR CLEARLY PRINT ALL INFORMATION
To Be Completed by the Vendor and Returned to the Purchasing Division

3. Taxpayer Identification Number (TIN): If you have an Identification Number, enter it below. All partnerships, corporations, or companies with employees must have an EIN.

EIN

If you do not have a EIN, please enter Social Security number (SSN), Individual Taxpayer Identification Number (ITIN) or Adoptive Identification Number (ATIN) and check the correct below.

- (SSN , ITIN , ATIN)

4. (A) Small, Women-Owned, Minority-Owned Businesses

West Virginia Code §5A-3-59 establishes a procurement certification program in West Virginia for small, women-, and minority-owned businesses. Requirements related to the certification program are provided in the **West Virginia Code of State Rules** §148-2-1 et seq. Note that this certification provides nonresident vendors preference that is equivalent to competing resident (West Virginia) vendors that have applied for resident vendor preference, in accordance with **West Virginia Code** §5A-3-37. This certification may assist resident small, women-, and minority-owned businesses when soliciting business in other states. If you are renewing your two-year SWAM business certification status, please indicate the appropriate designation below.

Certification of Status (Check all those which apply)

- Minority-owned Business** [1] means a business concern that is at least fifty-one percent owned by one or more minority individuals or in the case of a corporation, partnership, or limited liability company or other entity, at least fifty-one percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.
- A “minority individual” means an individual who is a citizen of the United States or a noncitizen who is in full compliance with United States immigration law and who satisfies one or more of the following definitions:
 - **African American** means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.
 - **Asian American** means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands, including, but not limited to, Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.
 - **Hispanic American** means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.
 - **Native American** means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

VENDOR REGISTRATION AND DISCLOSURE STATEMENT AND SMALL, WOMEN-, AND MINORITY-OWNED BUSINESS CERTIFICATION APPLICATION

PLEASE TYPE OR CLEARLY PRINT ALL INFORMATION
To Be Completed by the Vendor and Returned to the Purchasing Division

- Small Business** [2] means a business, independently owned or operated by one or more persons who are citizens of the United States or noncitizens who are in full compliance with United States immigration law, which, together with affiliates, has two hundred fifty or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years.
- Women-owned Business** [3] means a business concern that is at least fifty-one percent owned by one or more women who are citizens of the United States or noncitizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least fifty-one percent of the equity ownership interest is owned by one or more women who are citizens of the United States or noncitizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or noncitizens who are in full compliance with United States immigration law.

(B) Other Federal Designations

Additionally, by providing the following information, I represent that this enterprise is a small business as defined by the **Code of Federal Regulations**, Title 13, Part 121, as appended - which contains detailed industry definitions and related procedures - and/or the characteristics of the enterprise's control, operation and/or ownership are accurately reflected in the information provided. *Check all that apply.*

- Disabled Small Business Ownership [4]
- Veteran Small Business Ownership [5]

5. Commodity Codes: You may register for commodity codes for the products and services that you offer, which will provide you with bid opportunity alerts and notifications should you become a paid registered vendor. To perform this function, visit the Vendor Self-Service (VSS) Portal at **wvOASIS.gov**.

6. List the name, title, city and state of residence for all owners/officers. If the vendor is an **individual**, list his or her name and city and state of residence, and, if he or she has associates or partners sharing in his or her business, list their names and city and state of residence. If the vendor is a **firm**, list the name and city and state of residence of each member, partner or associate of the firm. If the vendor is a **corporation** created under the laws of this state or authorized to do business in this state, list the names and city and state of residence of the president, vice president, secretary, treasurer and general manager, if any, of the corporation; and the names and city and state of residence of each stockholder of the corporation owning or holding at least ten percent of the capital stock thereof. Attach an additional sheet if space is needed.

Name	Position	City and State of Residence

If the vendor has only one owner/officer, list the name, position, and city and state of residence above and please initial here: _____

VENDOR REGISTRATION AND DISCLOSURE STATEMENT AND SMALL, WOMEN-, AND MINORITY-OWNED BUSINESS CERTIFICATION APPLICATION

PLEASE TYPE OR CLEARLY PRINT ALL INFORMATION
To Be Completed by the Vendor and Returned to the Purchasing Division

7. List the name and telephone number of one or more banking institutions to serve as reference for the vendor.

8. What is the latest Dun & Bradstreet number and rating on the vendor? _____

9. Is the vendor acting as an agent for some other individual, firm or corporation? If yes, attach statement of the principal authorizing such representation. No Yes

By signing below and submitting this form, the vendor certifies and acknowledges that: 1) it has obtained all licenses, certifications, and authorizations necessary to lawfully conduct business in the state of West Virginia; and 2) that the assertions made by completing this form and delivering it to the Purchasing Division are accurate and true in accordance with the applicable law and rules. As authorized agent of the vendor named herein, I do solemnly swear that the above information is true and complete, in accordance with **West Virginia Code §5A-3-12(e)**.

In the event that the vendor is applying for certification as a small, women-, or minority-owned business, the vendor's signature below further certifies that: 1) the state in which the vendor has its headquarters or principal place of business does not deny a like certification to a West Virginia based small, women-owned, or minority-owned business; 2) the state in which the vendor has its headquarters or principal place of business does not provide a preference to small, women-owned, or minority-owned firms that is unavailable to West Virginia based businesses; and, 3) that it has read and understands this form, along with the law and rules governing certification as a small, women-owned, or minority-owned business.

Authorized Agent of Vendor (Print Name)

Authorized Agent (Signature)

Title

Date

**PURCHASING DIVISION
USE ONLY**

Vendor ID: _____

Check No. : _____

Memo No. : _____

Date: _____

Entered by: _____



Request for Proposal Supplemental Package

Information Document

Best and Final Offers

The University may, but is not required, to negotiate with Bidders. If the University elects to negotiate, negotiations shall be conducted with Bidders whose bids fall in the competitive range. The competitive range includes those bids whose price and technical factors are such as to give them a reasonable chance of winning the award. Such Bidders shall be accorded fair and equal treatment with respect to any opportunity for negotiation and revision of bids. The purpose of negotiations is to seek clarification with regard to the price and/or technical aspects of bids so as to assure the University's full understanding of bids.

No Bidder shall be provided information about any other Bidder's bid, and no Bidder shall be assisted in bringing its bid up to the level of any other bid. A common deadline shall be established for receipt of best and final offers should one be necessary.

Exceptions or Restrictions

Bidders taking exception to any requirement stated in this RFB must submit a list of exceptions referencing the section and paragraph number of the exception. Include the original text as well as the proposed change. If the Bidder provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Bidder's solution, must be described in detail.

Incurring Costs

Marshall University and any of its employees or officers shall not be held liable for any expenses incurred by any bidder responding to this RFB for expenses to prepare, deliver the bid, or to attend any mandatory pre-bid meeting or oral presentations.

Independent Price Determination

A bid will not be considered for award if the price in the bid was not arrived at independently without collusion, consultation, communication or agreement as to any matter relating to prices with any competitor unless the bid is submitted as a joint venture.

Best Price Guarantee

The awarded vendor agrees to provide pricing to the University and its participating entities that are the lowest pricing available and the pricing shall remain so throughout the duration of the contract. The awarded vendor agrees to lower the cost of any product purchased following a reduction in the manufacturer or publisher's direct cost.

Inquiries

Questions relating to an RFB must be submitted in writing to the Office of Purchasing on or before the date outlined in the RFB. A written response will be issued by addendum when necessary. Verbal responses are non-binding.

Oral Statements and Commitments

Vendor must clearly understand that any verbal representation made or assumed to be made during any oral discussion concerning the RFB is not binding. Only the information issued in writing and added to the Request for Bid specifications file by an official written addendum are binding.

Pre-Bid Conference

An RFB/RFP may have a **mandatory** pre-bid conference. The conference may be on-site, telephonic or digital. 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.

Cost/Fee/Financial Price Quotations

The price(s) quoted in the bid will not be subject to any increase and will be considered firm for the life of the contract unless specific provisions have been provided for an adjustment in the original contract. Other University entities may request a quotation for services relative to this bid. Each entity is solely responsible for services requested. Vendors should note in the bid package if this option is not available. Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

Rejection of Bids

Marshall University shall select the best value solution according to the bid evaluation. However, the University reserves the right to accept or reject any or all bids, in part or in whole at its discretion. Marshall University reserves the right to withdraw an RFB at any time and for any reason. Submission of, or receipt by Marshall University of bids confers no rights upon the bidder nor obligates Marshall University in any manner. A contract based on this RFB and the Vendor's bid, may or may not be awarded. Any contract resulting in an award from this RFB is not valid until properly approved and executed by Marshall University, Office of Purchasing.

Waiver of Minor Irregularities

The Director of Purchasing reserves the right to waive minor irregularities in bids or specifications.

Assignment of Points

Points are assigned according to the specifications contained in the RFB. The points will form the basis of the evaluation.

Committee

Bids will be reviewed by a committee whose members represent various groups within the University.

Resident Vendor Preference:

In accordance with West Virginia Code §5A-3-37, the Office of Purchasing will make the determination of the Resident Vendor Preference, if applicable. Resident Vendor Preference 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 West Virginia Code. A certificate of application is used to request this preference.

Disqualification of Bidders

Any of the following causes, while not inclusive, may be considered sufficient for the disqualification and rejection of a bid:

1. Submission of a bid which is not in conformance with the requirements as stated in this solicitation.
2. Lack of bidder competency or responsibility as demonstrated by past performance.

Mandatory Requirements

Any specification or statement containing the word “must”, “shall”, or “will” are mandatory. By signing and submitting a response to an RFB, the vendor agrees to all mandatory deliverables described herein. The vendor is required to meet all mandatory requirements in order to be eligible for consideration and to continue in the evaluation process. Failure to meet or agree to mandatory items shall result in disqualification of the Vendor’s bid and the evaluation process will be terminated for that vendor. Decisions regarding compliance with any mandatory requirement shall be at the sole discretion of the University.

Public Record

Submissions are Public Record. All documents submitted to Marshall University, Office of Purchasing, related to purchase orders or contracts are considered public records. All bids or offers submitted by bidders shall become public information and are available for inspection during normal official business hours in the Office of Purchasing after the bid opening. Proposals cannot be inspected until after the award of contract.

Written Release of Information

All public information may be released with or without a Freedom of Information request; however, only a written request will be acted upon with duplication fees paid in advance. Fees shall apply to all requests for copies of any document. Currently the fees are based upon the “Marshall University Administrative Procedure Fees for Freedom of Information Act Requests” posted online at <http://www.marshall.edu/adminproc/files/ADMIN-3.pdf>.

Risk of Disclosure

The only exemptions to disclosure of information are listed in West Virginia Code §29B-1-4. Primarily, only trade secrets as submitted by a bidder are exempt to public disclosure. The submission of any information to Marshall University, Office of Purchasing by a vendor puts the risk of disclosure on the vendor. Marshall University Office of Purchasing does not guarantee non-disclosure of any information to the public.

Conflict of Interest

Vendor affirms that it, its officers or members or employees presently have no interest and shall not acquire any interest, direct or indirect, which would conflict or compromise in any manner or degree with the performance or its services hereunder. The Vendor further covenants that in the performance of the contract, the Vendor shall periodically inquire of its officers, members and employees concerning such interests. Any such interests discovered shall be promptly presented in detail to the Agency.

Prohibition against Gratuities

Vendor warrants that it has not employed any company or person other than a bona fide employee working solely for the vendor or a company regularly employed as its marketing agent to solicit or secure the contract and that it

has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of the contract.

For breach or violation of this warranty, the State shall have the right to annul this contract without liability at its discretion or to pursue any other remedies available under this contract or by law.

Certifications Related to Lobbying

Vendor certifies that no federal appropriated funds have been paid or will be paid, by or on behalf of the company or an employee thereof, to any person for purposes of influencing or attempting to influence an officer or employee of any Federal entity, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with a Federal contract, grant, loan or cooperative agreement, the Vendor shall complete and submit a disclosure form to report the lobbying.

Vendor agrees that this language of certification shall be included in the award documents for all sub-awards at all tiers, including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements, and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this contract was made and entered into.

Contract Provisions

After the successful Vendor is selected, a formal contract document will be executed between Marshall University and the Vendor. In addition, the RFB and the Vendor's response will be included as part of the contract by reference. The order of precedence is the contract, the RFB and the Vendor's bid in response to the RFB.

Contract Termination

Marshall University may terminate any contract resulting from this RFB immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFB and resulting contract. Marshall University shall provide the Vendor with advance notice of performance conditions which are endangering the contract's continuation. If after such notice the Vendor fails to remedy the conditions contained in the notice, within the time period contained in the notice, MU shall issue the Vendor an order to cease any and all work immediately. MU shall be obligated only for services rendered and accepted prior to the date of the notice of termination.

MU shall have the right to terminate the contract upon thirty (30) days written notice to Vendor.

Changes

If changes to the original contract become necessary, a formal contract change order will be negotiated by Marshall University and the Vendor to address changes to the terms and conditions, and/or costs of work included under the contract. An approved contract change order is defined as one approved by the Marshall University Office of Purchasing and approved as to form by the West Virginia Attorney General's Office (if needed,) encumbered and released to the vendor prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision or the scope of work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

As soon as possible after receipt of a written change request from Marshall University, but in no event more than thirty (30) days thereafter, the Vendor shall determine if there is an impact on price with the change requested and provide Marshall University a written statement identifying any price impact on the contract or to state that there is no impact. In the event that price will be impacted by the change, the Vendor shall provide a description of the price increase or decrease involved in implementing the requested change.

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

Emergency Purchases

The Purchasing Director 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, approved by the Purchasing Director, 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 University from fulfilling its obligations under a One Time Purchase contract.

Subsequent Forms

The terms and conditions contained in the Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the University 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.

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.

Assignment

Neither the Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the University and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, the Purchasing Office approval may or may not be required on certain agency delegated or exempt purchases.

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.

Bureau of Employment Programs Regulations

West Virginia State Code §21A-2-6(17) prohibits Marshall from contracting with any contractor not in compliance with the regulations set forth by the Bureau of Employment Programs.

Compliance with Laws and Regulations

The vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, or the equipment, or services delivered pursuant here to shall be borne by the contractor. The State of West Virginia and the University are exempt from any taxes regarding the goods and/or services and under no circumstances shall either be held liable for any obligation of the same.

Debarment and Suspension

Contractor will not be considered in bid process if debarred or suspended

Governing Law

This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws and regulations, Federal, State and Local Government.

Indemnification

The Vendor agrees to indemnify, defend and hold harmless, Marshall University and its officers and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person or firm performing or supplying services, materials or supplies in connection with the performance of the contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use or disposition of any data used under the contract in a manner not authorized by the contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees or subcontractors to observe State and Federal laws, including but not limited to labor and wage laws.

Policy Advisements

Vendor shall advise its employees that the State of West Virginia and the University require a smoke free and drug free work place and prohibit any discrimination on the basis of race, color, national origin, ancestry, sex, religion, age, physical condition, disability or political affiliation.

Record Retention (Access & Confidentiality)

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

Vendor may have access to private and confidential data maintained by Marshall University to the extent required for Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available and shall indemnify and hold harmless Marshall University against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractors or individuals permitted access by Vendor.

Subcontracts/Joint Ventures

The Vendor is solely responsible for all work performed under the contract and shall assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. Marshall University will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of Marshall University, enter into written subcontracts for performance of work under this contract; however, the vendor is totally responsible for payment of all subcontractors.

Vendor Relationship

The relationship of the Vendor to MU shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the parties to this contract. The

Vendor as an independent contractor is solely liable for the acts and omissions of its employees, representatives and agents.

Vendor shall be responsible for selecting, supervising and compensating any and all individuals employed pursuant to the terms of this RFB and resulting contract. Neither the Vendor, nor any employees or contractors of the vendor, shall be deemed to be employees of the State for any purposes 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, and licensing fees, etc. and the filing of all necessary documents, forms and returns pertinent to all of the foregoing.

Vendor shall hold harmless Marshall University and shall provide Marshall University with a defense against any and all claims including but not limited to the foregoing payments, withholdings, contributions, taxes, social security taxes and employer income tax returns.

The Vendor shall not assign, convey, transfer or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association or entity without expressed written consent of the Agency.

ORDERING AND PAYMENT INFORMATION

Purchase Order

In the event an award is made pursuant to the RFB, a purchase order, containing any agreement signed by the parties and attachments thereto, including the original RFB and applicable Addenda, and the Vendor's bid, will be issued. The purchase order constitutes the contract to which the parties are bound. A signed contract or agreement is not binding on the University until the purchase order has been issued.

Departments will issue a purchase order for payments against the contract. The spending unit may use the Purchasing card for purchases within the P-card limits.

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.

Invoices

The Vendor shall submit invoices, in arrears, to Marshall University at the address on the face of the purchase order labeled "Invoice To" pursuant to the terms of the contract.

Interest

Interest attributable to late payment will only be permitted if authorized by the West Virginia Code.

Payment Methods

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 unless the box below is checked.

Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

Progress Payments

If progress payments are permitted, Vendor is required to identify points in the work plan at which compensation would be appropriate. Progress reports must be submitted to Marshall University with the invoice detailing progress completed or any deliverables identified. Payment will be made only upon approval of acceptable progress or deliverables as documented in the Vendor's report. Invoices may not be submitted more than once monthly and State law forbids payment of invoices prior to receipt of services.

DOCUMENTS

Addenda (RFB)

If it becomes necessary to revise any part of an RFB, an official written addendum will be issued by Marshall University, Office of Purchasing, to all bidders of record. The University reserves the right to further modify the RFB, including any Exhibits and Addenda to the RFB, as it considers appropriate.

A copy of the RFB and any addenda to the RFB will be placed on the University website, and sent to vendors of record. It is the Vendor's responsibility to periodically check the web site to make sure it is aware of and responds to any addenda.

Addenda Acknowledgement

Written acknowledgement of receipt of all issued amendments, addenda or changes shall be required from all Bidders responding to this RFB and in the form required by the solicitation documents. Vendor should acknowledge receipt of all addenda issued by signing the issued Addendum Form. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Agreement Addendum

Any contract resulting from an award from this RFB and a contractor's bid must include, but is not limited to, in its terms and conditions all mandatory sections contained herein. Failure of the successful contractor to sign an Agreement Addendum (WV-96), or Software Agreement Addendum (WV96A), and if necessary, the MU Cloud Computing Contract Addendum, as part of the contract may result in disqualification. Agreement Addenda are available online at:

<http://www.state.wv.us/admin/purchase/vrc/wv96.pdf> or
<http://www.state.wv.us/admin/purchase/vrc/wv96a.pdf>
http://www.marshall.edu/purchasing/files/CC_Addendum.pdf

Drug Free Workplace

Chapter 21 - Article 1D of the West Virginia Labor Code, otherwise known as the West Virginia Alcohol and Drug-free Workplace Act, mandates that public improvement contractors should implement a drug-free workplace program requiring alcohol and drug testing. No public authority may award a public improvement contract to a contractor unless they maintain a drug-free workplace policy in compliance with section 8 of this article. The form may be accessed at:

<http://www.state.wv.us/admin/purchase/vrc/DrugFreeAff.pdf>

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.

Insurance Requirements

Liability insurance certificates are required prior to award but are not required at the time of bid.

License Requirements

The successful vendor must produce current documentation of all applicable licensures relating to RFB project.

Life of Contract

When applicable a Life of Contract page containing the effective period of the contract, renewal periods, and terms is attached to the agreement.

Proof of Good Standing and Authorization to Do Business

Vendors must in good standing with all regulatory and governmental entities and be authorized to do business in West Virginia. Upon request of the University, Vendors must be able to provide proof of good standing and authorization to do business.

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 can be found at: <http://www.state.wv.us/admin/purchase/vrc/pAffidavit.pdf>

Taxpayer ID Number and Certification (W9)

Request for Taxpayer Identification Number and Certification can be found at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>

Vendor 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.

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.

Vendor preference can be applied to the **cost portion of the bid only**.

A Resident Vendor Certification form may be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>

Vendor Registration:

Prior to any award, the apparent successful Vendor must be registered with the Purchasing Division of the Department of Administration. If the successful Vendor is not currently registered, it shall complete and file the Vendor Registration and Disclosure Statement, Form WV-1, and submit the annual registration fee of \$125.00.

Vendors do not have to be registered to submit a bid. Form WV-1 may be found

at: <http://www.state.wv.us/admin/purchase/vrc/wv1.pdf>