


<b>Request for Proposal</b>	 <p align="center"><b>Marshall University Office of Purchasing One John Marshall Drive Huntington, WV 25755-4100</b></p> <p align="center">Direct all inquiries regarding this order to: (304) 696-3157</p>	<b>Proposal#</b>  MU19MEDIABUY
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<b>Vendor:</b>  <b>Phone:</b>  <b>Email:</b>  <b>FEIN/SSN:</b>  <b>Fax:</b>	<b>For information contact:</b>  <b>Buyer:</b> Tracey Brown-Dolinski <b>Phone:</b> (304) 696-3157 <b>Email:</b> <a href="mailto:browndolinsk@marshall.edu">browndolinsk@marshall.edu</a> and <a href="mailto:purchasing@marshall.edu">purchasing@marshall.edu</a>
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Sealed requests for proposals furnishing services described below will be received by the Institution. TO RECEIVE CONSIDERATION FOR AWARD, UNLESS OTHERWISE NOTED, THE PROPOSAL WILL BE SUBMITTED IN BONFIRE, SIGNED, AND RECEIVED ON OR BEFORE THE DATE AND TIME SHOWN FOR THE PROPOSAL OPENING. 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.

<b>DATE</b> 10/4/2018	<b>DELIVERY REQUIREMENTS</b>	<b>DEPARTMENT REQUISITION NO.</b> MU19MEDIABUY	<b>PROPOSALS OPEN:</b> <b>3:00 PM on October 19, 2018</b>	<b>BIDDER MUST ENTER DELIVERY DATE FOR EACH ITEM BID</b>
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Item #	Quantity	Description	Unit Price	Extended Price
		<p align="center"><u>Request for Proposals</u></p> <p align="center">Marshall University will accept proposals for the following services until 3:00 p.m. on Friday, October 19, 2018. At that time, sealed proposals will be opened and read aloud in Room 125, Old Main Building.</p> <p align="center">Media Buying and Digital Marketing Services</p>		

**Total**

To the Office of Purchasing,

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

FOB \_\_\_\_\_ After receipt of order at address shown  
 Terms \_\_\_\_\_

BOG 43  
 MU Rev. 05/15/14

Bidder's name Vendor \_\_\_\_\_

Signed By \_\_\_\_\_

Typed Name \_\_\_\_\_

Title \_\_\_\_\_

Street Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Date \_\_\_\_\_ Phone \_\_\_\_\_

Fein \_\_\_\_\_

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## I. OVERVIEW

### A. Schedule of Events

RFP Release Date:	October 4, 2018
Deadline for Vendor Questions:	October 8, 2018
Release for Addendum: (Response to Vendor Questions)	October 12, 2018
Proposals Opening Date and Time:	October 19, 2018 3:00 p.m.

The University reserves the right to amend these times and dates at their sole discretion.

Any proposals not received by the date and time specified in the RFP will be disqualified. A copy of the RFP (including all attachments) and all addenda to the RFP will be placed on the Marshall University Office of Purchasing website at [www.marshall.edu/wpmu/purchasing/resources/bids](http://www.marshall.edu/wpmu/purchasing/resources/bids)

It is the Vendor's responsibility to check this website to make sure to respond to any addenda and/or be aware of any changes.

### B. Inquiries

All inquiries and proposal submission must be sent to:  
Tracey Brown-Dolinski, Director/Chief Procurement Officer  
Marshall University Office of Purchasing  
Old Main, Room 125  
One John Marshall Drive  
Huntington, WV 25755-4100

Email: [purchasing@marshall.edu](mailto:purchasing@marshall.edu)  
Telephone: (304) 696-3157  
FAX: (304) 696-3333

Bidders shall not make direct or indirect contact with anyone outside the Office of Purchasing to discuss or request information about any aspect of the procurement including the RFP or its associated evaluation process, except as authorized in the RFP. Violation of this clause will result in proposal/bid disqualification.

For all e-mail correspondence, include MU19MEDIABUY in the subject field.

### C. Proposal Submission

All proposals must be uploaded through the Bonfire portal.

## II. GENERAL INFORMATION

### A. Operating Environment

Founded in 1837, Marshall University is one of West Virginia's first institutions of higher education and its second-largest. The university has more than 13,000 students and 1,900 faculty and staff. Our students attach high value to having faculty members actively instructing in the classroom, the availability of intensive advising, exceptional student success resources, modern facilities, a growing global community and robust extracurricular programming.

Marshall is known for its safe and beautiful campus, excellent educational value and successful graduates. To learn more about Marshall, visit [www.marshall.edu](http://www.marshall.edu).

Marshall expects to spend up to \$500,000 annually for traditional, digital and out-of-home media placements. These services will serve to create brand awareness among desired constituencies; drive inquiries, campus visits and undergraduate and graduate admissions; and raise the profile in the minds of key influencers such as parents of prospective students.

The University is currently under contract for creative with a separate vendor, who is responsible for developing advertising and marketing collateral in support of the University's brand strategy.

### B. Project

The services required of the successful bidder are:

- To create and execute an integrated media plan in support of brand, enrollment, marketing and communications goals as determined by the University. These goals will be provided to the winning agency.
- Provide established media relationships and superior negotiating skills to secure competitive pricing for all advertising initiatives.
- Provide expertise in demographic targeting –with a deep understanding of the West Virginia, regional and national markets in order to increase campus visits, drive inquiries, drive applications and increase enrollment of undergraduate and graduate students.
- Provide counsel, strategy and implementation of a digital marketing plan that targets prospective undergraduate and graduate students and key influencers. The plan must be inclusive of search engine optimization and search engine marketing initiatives.
- Provide tools necessary for campaign measurement and analysis, and create regular monthly and annual reporting and visuals detailing performance metrics and ROI for internal University stakeholders. A final, comprehensive report of campaign performance will be required no later than 30 days after the campaign closes.

- Provide trackable metrics for regular reporting including (but not limited to):
  - Impressions (e.g. views of digital banners, search ads, billboards or airport signs)
  - Conversions (e.g. clicks to our websites)
  - CTR (click-thru rates)
  - CPC (cost-per-click)
  - Performance against benchmarks and industry norms
- Work closely with the University staff on a regular strategic and tactical basis—centered around a mutual sharing of research, performance metrics and best practices.
- Participate in a weekly call with University staff to discuss the campaign’s progress and updates.
- Consistently meet established project deadlines.
- Conduct and provide, on an annual basis, research of the University’s competitors and the higher education category to understand the advertising strategies currently being leveraged in the marketplace.
- The awarded agency must be willing to travel to the University, at its own expense, when required. Anticipated frequency is 1-2x per year.

### **III. PROCUREMENT SPECIFICATION**

#### **A. Purpose and Intent**

This Request for Proposal (RFP) is issued by the Office of Purchasing (Purchasing) at Marshall University (University). The purpose of this RFP is to acquire the services of a media buying and digital marketing firm who will develop and implement a highly targeted, cost-effective paid advertising plan inclusive of sophisticated digital marketing tactics as well as traditional channels such as out of home, print, radio, and television—all of which will extend the University brand within West Virginia and other targeted regional and national markets, drive inquiries and campus visits from qualified prospective undergraduate and graduate students, increase applications and raise the profile of the institution.

The intent of this RFP is to award a contract to that responsible bidder whose proposal, conforming to this RFP, is most advantageous to the University, price and other factors considered. However, the University reserves the right to separately procure individual requirements that are the subject of the awarded contract during the contract term, when deemed by the University to be in the University’s best interest.

#### **B. General Requirements**

Firms responding to this RFP must have:

- A demonstrated record of achievement in creating successful media strategy across traditional and digital platforms;
- A minimum of five (5) years of experience in the field with organizations of similar size and scope;

- Expertise in negotiating and securing media placements;
- Demonstrated skill in targeting the University's desired populations of prospective undergraduate and graduate students within the state of West Virginia and target geographies at the regional and national levels;
- Demonstrated proficiency in developing and implementing digital marketing strategy inclusive of search engine optimization (SEO), search engine marketing (SEM) and native advertising;
- Demonstrated proficiency in developing and implementing paid social campaigns using most recent and relevant product offerings
- Competitive client roster and case studies that provide benchmarking data and indicate deep understanding and experience in the higher education market; and
- A proven ability to measure and provide detailed analysis of campaign metrics and overall performance.

The successful firm is expected to develop and execute an integrated media strategy that will effectively and efficiently deliver the University's brand message to desired constituencies, and deliver on all media plan elements in a cost-effective manner.

### **C. Statement of Qualifications**

Firms competing for this contract must provide the information requested below in the same order presented. Please restate the question as cited and respond to each item completely and clearly. Attachments that amplify responses or provide relevant illustrations are welcome.

Your proposal should also include an Executive Summary, not to exceed three pages, indicating why your firm should be selected.

- Organization support and experience: Document the years of experience and the agency's proven capabilities as a consultant to clients on media placement, inclusive of offering guidance on media buys that are both effective and sensitive to budget considerations. A minimum of five years' experience is required.
- Document your firm's unique advantages. What are your strengths? What differentiates you from other media buying and digital marketing agencies? What is your understanding and/or experience in higher education?
- Provide examples of the strong media relationships you have established and how they have directly translated into your ability to negotiate cost-effective solutions on behalf of your clients.
- Portfolio: Include a portfolio of case studies that demonstrates successful campaigns on behalf of clients. Must include three projects similar to the University's scope of work. State the main objective(s) of the campaign, target audience(s), thought process behind development and implementation of the media plan, and performance metrics.

- Portfolio should include examples of success in student recruitment, illustrating the integrated media plan elements that contributed to meeting and/or exceeding client enrollment goals.
- Demonstrate your firm's in-depth knowledge of demographic targeting, citing examples of how this knowledge has led to success in creating higher education recruitment campaigns.
- Detail how your agency will service and staff the regular call to provide the college with weekly updates.
- Key personnel and experience. Include biographical information describing professional experience, particularly in the field of higher education, and areas of focus of key personnel including all principals of the firm. Include agency organizational chart and identify personnel who would be directly dedicated to this account if awarded the business.
- Document your process for providing the University with performance data on a routine basis (e.g. via dashboards). Provide samples of the trackable metric reports used by your agency as defined in Scope of Work.
- References: Include references (minimum of three) for the agency as well as for the account manager who will be assigned to this account; references should be relevant to the scope of work required in this RFP. References must include, name, address, phone number and e-mail address.
- Client roster: Include a complete list of current clients and past clients for the last 10 years.

#### **IV. EVALUATION PROCESS**

##### **A. Criteria**

The following criteria will be used to evaluate all proposals that meet the requirements of this RFP. The criteria are not necessarily listed in order of importance:

- Cost
- Experience of the bidder
- Portfolio including three case studies similar in scope to that of this RFP.
- Demonstrated proficiency in designing and implementing integrated media campaigns in support of brand marketing, advertising support and student recruitment (at the undergraduate and graduate levels).
- Demonstrated in-depth knowledge of demographic and audience targeting by illustrating how your expertise has contributed to the design and implementation of successful integrated campaigns.
- Demonstrated examples of the strong media relationships the firm has and how these have been leveraged to negotiate cost-effective solutions for clients.
- Demonstrated expertise in campaign measurement based on examples of trackable metrics to illustrate campaign success and its availability and ease of use for client.

- Bidder's responsiveness to all specification requirements in sufficient detail for the evaluators to analyze the proposal and judge the bidder's qualifications.
- Quality of agency's capabilities in media placement for clients.
- Quality of the agency's capabilities as a digital marketing agency.
- Quality of references for the agency and for those who will be designated to the account. Experience of key personnel as well as any personnel assigned to the University's account.

**B. Pricing**

Please describe your fee structure for media buying. Is it a retainer, commission, project or combination structure? The University expects to spend up to \$500,000 for media buys this fiscal year. This total budget will need to cover all campaign elements including account management and planning, agency retainer/commissions/fees, production, paid media, assessment and any other elements related to your services. We are open to agency compensation based on commission or fee, and look forward to learning more about each respondent's point of view and philosophy regarding agency compensation best practices.



## V. 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
Proposal Package	File Type: PDF (.pdf)	Multiple	Required
Costing Page	File Type: PDF (.pdf)	Multiple	Required

#### Commodity Codes

Commodity Set	Commodity Code	Title	Description
UNSPSC	801718	Media relations services	Public relations consultation services relating to media relations and related services
UNSPSC	821019	Media placement and fulfillment	Costs directly related to the placement or fulfillment of advertising media in a particular channel. The three components of advertising costs are creative, production/development, and fulfillment/placement.
UNSPSC	82101802	Advertising production service	Includes agency resources assigned to production activities This generally includes specific media production activities

#### Requested Documents:

Please note the type and number of files allowed. The maximum upload file size is 1000 MB.

Please do not embed any documents within your uploaded files, as they will not be accessible or evaluated.

### 2. Upload your submission at:

<https://marshall.bonfirehub.com/opportunities/10854>

Your submission must be uploaded, submitted, and finalized prior to the Closing Time of **Oct 19, 2018 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 11, Microsoft Edge, 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](mailto:Support@GoBonfire.com) for technical questions related to your submission. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>



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# MARSHALL UNIVERSITY RFP SUPPLEMENTAL PACKAGE

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Informational document

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## REQUEST FOR PROPOSAL SUPPLEMENTAL PACKAGE

**I. RESPONSE**

Vendors must complete a response to all mandatory specifications in order to be considered and continue in the evaluation process. Each proposal must be formatted as per the outline provided in the RFP. The contractor must make no other arrangement or distribution of proposal information. Failure on the part of the vendor to respond to specific requirements detailed in the RFP may be the basis for disqualification of a proposal. The University reserves the right to waive any informality of this proposal format and minor irregularities.

NOTE: Nothing in the RFP may be construed to limit the University from negotiating for a change in the Services or fees during the term of the purchase order issued pursuant to the RFP.

**A. Delivery**

The University's RFP bid process requires that the original technical proposal be submitted directly to Marshall University Office of Purchasing along with the number of designated convenience copies. All copies must be submitted to the Marshall University Purchasing Office prior to the date and time stipulated in the proposal as the opening date. Including hard copies of the proposal, an electronic copy must also be submitted on a CD in Adobe format. All bids will be date and time stamped to verify official time and date receipt.

Vendors mailing proposals should allow sufficient time for mail delivery to ensure timely arrival. Marshall University Office of Purchasing cannot waive or excuse late receipt of a proposal which is delayed and late for any reason according to West Virginia State Code §5A-3-11(g). Any proposal received after the bid opening date and time will be immediately disqualified in accordance with the Marshall University Purchasing Administrative Rules and Regulations.

**B. Format:**

Packages submitted with the Technical Proposals shall consist of the original Technical Proposal, requested number of courtesy (hard) copies, which are exact copies of the original, and an exact copy on diskette, CD Rom, DVD or USB flash drive in Adobe PDF or Microsoft Word. Submissions in Adobe PDF should be searchable, rather than just scanned images.

**C. Labeling**

The outside of the proposal package should be clearly marked as follows:  
Procurement Officer / RFP# / Bid Opening date and time

Vendor is solely responsible for getting its original proposal and courtesy copies delivered in a readable format by the Proposal Opening Date and Time.

Responses should be numbered to correspond to the RFP section numbers in the Specifications section. Each section shall be tabbed for ease of reference.

**D. Separate Submission of Cost and Technical Proposals****1. Technical Proposal**

The selection procedure for RFPs requires that evaluation of the Technical Proposal to be conducted before the Cost Proposal is distributed to the Committee. Consequently, each proposal must be submitted as two separately sealed enclosures. Failure to comply may constitute disqualification of Bidder's proposal.

**2. Cost/Fee/Price Proposal (separate, sealed envelope):**

Completed Cost/Fee/Price Proposal

Vendor must list ALL fees on the Cost Proposal. Vendor may only charge those fees that are listed on the Cost Proposal.

The Cost Proposal must be submitted with your proposal in a separately sealed envelope and signed by a person authorized to bind the Vendor.

**II. RFP TERMS AND CONDITIONS****A. 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 proposals fall in the competitive range. The competitive range includes those proposals 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 proposals. The purpose of negotiations shall be to seek clarification with regard to the technical and price aspects of proposals so as to assure the University's full understanding of proposals.

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

**B. Exceptions or Restrictions**

Bidders taking exception to any requirements stated in this RFP must submit a list of exceptions referencing 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.

**C. 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 RFP for expenses to prepare, deliver the proposal, or to attend any mandatory pre-bid meeting or oral presentations.

**D. Independent Price Determination**

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

**E. Inquiries**

Vendors may submit questions relating to an RFP must be submitted in writing to the Office of Purchasing on or before the date outlined in the RFP.

A written response will be issued by addendum when necessary. Verbal responses are non-binding.

**F. Oral Presentations**

The University reserves the right to conduct individual interviews with finalists and to request best and final offers from any or all finalists. Bidders may be required to provide oral presentations to discuss their proposal and/or clarify their technical submittal.

**G. Oral Statements and Commitments**

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

**H. Pre-Proposal Conference**

An RFP may have a **mandatory** pre-proposal conference. The conference may be 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.

**I. Cost/Fee/Price Quotations**

The price(s) quoted in the bidder's proposal 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 adjustment in the original contract.

Other Marshall University entities may request a quotation for services relative to this proposal. Each entity is solely responsible for services requested. Vendors should note in the proposal package if this option is not available.

Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

**J. Rejection of Proposals**

Marshall University, Office of Purchasing shall select the best value solution according to the evaluation criteria. However, Marshall University reserves the right to accept or reject any or all proposals, in part or in whole at its discretion. Marshall University reserves the right to withdraw an RFP at any time and for any reason. Submission of, or receipt by Marshall University of proposals confers no rights upon the bidder nor obligates Marshall University in any manner.

A contract based on this RFP and the Vendor's proposal, may or may not be awarded. Any contract resulting in an award from this RFP is not valid until properly approved and executed by Marshall University, Office of Purchasing.

**K. Waiver of Minor Irregularities**

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



### **III. EVALUATION AND AWARD**

Evaluations are not based solely on price. It is the intent of the University to award a purchase order to the Vendor that will provide the best solution to meet the needs of the University. Generally evaluation information specific to the RFP will be contained in the RFP document.

During the course of the evaluation, the University has the right to contact any Vendor to clarify or elaborate on the proposal.

#### **A. Assignment of Points**

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

#### **B. Committee**

Proposals will be reviewed by a Proposal Review Committee, whose members represent various groups within the University. The Proposal Review Committee will consider all initial proposals.

#### **C. Cost Evaluation and Resident Vendor Preference:**

Upon approval of the technical evaluation from the Evaluation Committee, the Purchasing Office will schedule a time and date to publicly open and read aloud the cost proposals. The Vendors shall be notified of this date.

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 the West Virginia Code. A certificate of application is used to request this preference.

#### **D. Disqualification of Bidders**

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

1. Submission of a proposal 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.

#### **E. Presentations**

As part of the proposal evaluation process, acceptable Vendors may be requested to make a presentation to the Proposal Review Committee regarding financial commitment, services and type of operation they are prepared to provide.

#### **F. Technical Evaluation:**

An Evaluation Committee will review the technical proposals, assign appropriate points, and make a final written consensus recommendation of the highest scoring contractor to the Office of Purchasing.

#### **IV. ADDITIONAL TERMS and CONDITIONS**

The Request for Proposal contains all the contractual terms and conditions under which Marshall University will enter into a contract. By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in the RFP and RFP supplemental package.

##### **A. Mandatory Requirements**

Any specification or statement containing the word “must”, “shall”, or “will” are mandatory. By signing and submitting a response to an RFP, 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 proposal 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.

##### **B. 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, proposals or offers submitted by bidders shall become public information and are available for inspection during normal official business hours at the Office of Purchasing of MU after the bid opening.

##### **C. 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 duplications fees paid in advance. Fees shall apply to all requests for copies of any document. Currently the fees are based upon the “Administrative Procedure ADMIN-3 Freedom of Information Act Request Procedures” posted online at <http://www.marshall.edu/adminproc/files/ADMIN-3.pdf>

##### **D. 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.

##### **E. 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.

##### **F. 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.

**G. 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 this 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.

**H. Contract Approval and Award**

After the cost proposals have been opened, the contract award is based on the highest scoring vendor. Once approved by the Director of Purchasing, the contract is prepared and signed by the Office of Purchasing, encumbered and mailed to the appropriate parties.

**I. Contract Provisions**

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

**J. Contract Termination**

Marshall University may terminate any contract resulting from this RFP immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFP 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.

**K. Changes**

If changes to the original contract become necessary, a formal contract change order will be negotiated by Marshall University, Office of Purchasing, and the Vendor, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change order is defined as one approved by the Office of Purchasing of MU and approved as to form by the West Virginia Attorney General's Office (if needed,) encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the payment provision or the scope of the 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 to 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.

**L. 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.

**M. Subsequent Forms**

The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

**V. COMPLIANCE**

**A. 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.

**B. 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 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.

**C. 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.

**D. 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.

**E. 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.

**F. Debarment and Suspension**

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

**G. 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.

**H. 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.

**I. 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.

**J. 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.

**K. 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.

**L. 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 RFP 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.

## **VI. PAYMENT INFORMATION**

### **A. 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.

### **B. 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.

### **C. Interest**

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

### **D. Payment Methods**

The Vendor must accept payments by the Marshall University credit card. Vendors may charge a flat rate only for credit card payments. If the vendor cannot accept payment by credit card, it must be so noted in the proposal package.

### **E. 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.

### **F. Purchasing Card Acceptance**

The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract 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.

### **G. Purchase Order Procedure**

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.

## VII. DOCUMENTS

### A. Addenda (RFP)

If it becomes necessary to revise any part of an RFP, 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 RFP, including any Exhibits and Addenda to the RFP, as it considers appropriate.

A copy of the RFP and any addenda to the RFP 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.

### B. Addenda Acknowledgement

Written acknowledgement of receipt of all issued amendments, addenda or changes shall be required from all Bidders responding to this RFP 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.

### C. Agreement Addendum

Any contract resulting from an award from this RFP and a contractor's proposal 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 (MU-96), or Software Agreement Addendum (MU96A), as part of the contract may result in disqualification. Agreement Addenda are available online at: <http://www.marshall.edu/purchasing/files/MU-96.pdf> or <http://www.marshall.edu/purchasing/files/MU-96A.pdf>

### D. 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>

### E. 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.

### F. Insurance Requirements

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

### G. License Requirements



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

**H. 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.

**I. 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.

**J. 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>

**K. Purchase Order**

In the event an award is made pursuant to the RFP, a purchase order, containing any agreement signed by the parties and attachments thereto, including the original RFP and applicable Addenda, and the Vendor's proposal, 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.

**L. 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>

**M. 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 proposal only

A Resident Vendor Certification form may be found at:

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

**N. 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 proposal. Form WV-1 may be found at: <http://www.state.wv.us/admin/purchase/vrc/wv1.pdf>

**O. Disclosure of Interested Parties**

Pursuant to W.Va. Code 6D-1-et seq, each business entity who is awarded a contract or a series of contracts that has/have an actual or estimated value of \$1,000,000 will be required to fill out a Disclosure of Interested Parties Form.