

ATTACHMENT 1 – WVSTO REQUEST FOR QUOTATIONS (RFQ) INFORMATION

A. VENDOR INSTRUCTIONS

1. General Information

- 1.1 Contact – The Purchasing Agent of the West Virginia State Treasurer’s Office (STO) is the sole contact in the STO after the release of the Request for Quotations (RFQ) until issuance of a purchase order.
- 1.2 Quiet Period
 - 1.2.1 A quiet period will commence upon issuance of the RFQ and end upon issuance of a purchase order.
 - 1.2.2 Vendors shall not make direct or indirect contact with personnel or consultants of the STO during the quiet period to discuss or request information about any aspect of the procurement including the RFQ or its associated evaluation process, except as authorized in the RFQ. Violation of this clause will result in Bid disqualification.
- 1.3 Verbal Statements – Any verbal representations made or assumed to be made during any oral discussions held between a Vendor’s representative and any STO personnel are not binding. Only matters contained in the RFQ and in written addenda to the RFQ are binding on the STO.
- 1.4 Governing Law – All Bids, any resulting purchase order, the Vendor and any subcontractor or partner are governed by and shall comply with the West Virginia Code and any other applicable laws, rules, regulations and policies.
- 1.5 No Rights Granted – Bid submission or receipt of a Bid by the STO confer no rights upon the Vendor, nor create any obligation on the STO.
- 1.6 RFQ Withdrawal, Cancellation or Modification – The STO may withdraw, cancel or modify an RFQ at any time.
- 1.7 Bid Withdrawal or Modification – Bids may be withdrawn or modified only prior to Bid opening date and time upon submission of a written request to the Purchasing Agent, signed by an authorized representative of the Vendor. A modification shall be worded or sealed so as not to reveal the proposed costs.
- 1.8 Bid Cannot Be Changed After Bid Opening Date and Time – Bids cannot be supplemented, modified, amended or withdrawn after the Bid opening.
- 1.9 Firm Offers – Bids are firm offers and shall remain firm for a period of no less than ninety (90) days from the date of the Bid opening. This period is automatically

extended for the time taken to resolve any protest or other issues related to award of the purchase order for the RFQ.

- 1.10 Conditional Bids Not Permitted – Bids may not be conditioned upon STO acceptance of matters that alter the STO-WV-96 or any requirements or mandatory specifications of the RFQ. Bids may not be conditioned on negotiation or acceptance of alternative terms and conditions.
- 1.11 Joint Bids Prohibited; Subcontracting
 - 1.11.1 Joint Bids are not permitted.
 - 1.11.2 Subcontracting is only permissible with the prior written authorization of the STO. If required or requested by the STO, Vendor shall list any subcontractor it desires to use, along with a description of the goods and/or services to be provided by the subcontractor, a contact person and contact information for the subcontractor and references for the subcontractor.
 - 1.11.3 The purchase order shall be awarded to the Vendor submitting the Bid. The Vendor awarded the purchase order shall be the sole point of contact with regard to the purchase order and shall be solely responsible for all matters provided pursuant to the purchase order, including, without limitation, any tangible or intangible items provided by a subcontractor or other party.
 - 1.11.4 After the purchase order is issued, the Vendor must obtain prior written approval for any changes pertaining to subcontractors.
- 1.12 Bid Opening – On the scheduled date and time of opening of the Bids received, the names of Vendors submitting a response will be read aloud and documented. Vendors may elect to attend the opening of the Bids, but are not required to do so.
- 1.13 Terms and Conditions – The requirements and prohibitions of the RFP/RFQ TERMS AND CONDITIONS and the STO-WV-96 (Agreement Addendum) and any other requirements of the STO are not subject to negotiation.
- 1.14 Bid Miscellaneous Section – Vendors desiring to offer alternative goods, services, terms and conditions for the purchase order between the parties pursuant to the RFQ may do so in an attachment to the Bid labeled “Miscellaneous.” However, the STO is under no obligation to consider or negotiate any terms and conditions or alternative terms and conditions contained in a Vendor’s Bid. Bids may not be conditioned on negotiation or acceptance of alternative terms and conditions.
- 1.15 Bids Property of STO – All documents, packages, boxes, etc., and any contents thereof submitted to the STO in response to the RFQ shall become the property of the STO, and will not be returned. In addition, all documents, boxes, etc., and

any contents thereof submitted to the STO in response to the RFQ shall become a matter of public record and open for inspection, generally after the Notice of Intent to Award is issued, the documents scanned, and the images stored.

1.16 West Virginia Freedom of Information Act

1.16.1 By submitting a Bid, Vendor consents to copying the Bid by the STO or others and warrants copying will not violate the rights of any third party. The only exceptions to disclosure of information are listed in the West Virginia Freedom of Information Act, pursuant to West Virginia Code §29B-1-1 et seq. (WV FOIA.) The STO will make a reasonable effort not to disclose information that is exempt from the disclosure requirements of the WV FOIA and that has been clearly labeled “proprietary information and not for public disclosure.” The STO will make the determination of whether or not the information is exempt from disclosure under the WV FOIA.

1.16.2 In addition, the STO will comply with court orders issued by courts of competent jurisdiction and will not guarantee nondisclosure of any information to the public.

1.17 Right to Accept or Reject Bids – The STO reserves the right to accept or reject Bids in whole or in part and to waive any minor deviations in the specifications or Bids at any time. The STO's sole discretion shall determine what constitutes a minor deviation. The STO reserves the right to reject a Bid of any Vendor in default of any other prior or current purchase order and for misrepresentation. The STO reserves the right to reject all Bids upon determining that acceptance would not be in the best interests of the STO.

1.18 Use of Information – The STO reserves the right to use any information received, from any source, in order to evaluate the Bids and make the award, as well as use any and all information, ideas, or adaptations of information or ideas in any Bid at any time.

1.19 Bonds – In the event any bonds are required to be posted, bonds may be provided in the form of a bond of a surety company authorized to do business in West Virginia, a cashier’s check or a certified check.

1.20 Best Interest of the STO and State – Awards shall be made in the best interest of the STO and the State of West Virginia.

1.21 Bid Costs – The State of West Virginia and the STO shall not be responsible or liable for any costs or expenses incurred in the preparation, submission and presentation of Bids or in attending any oral presentations.

1.22 Cost

1.22.1 All costs, whether one-time or recurring, including, without limitation, travel, shipping and handling costs, must be included in the amount proposed on the Bid Form.

1.22.2 The amounts or rates and method of payment specified in the purchase order will remain fixed for the life of the purchase order, as amended from time to time, unless the Vendor specifically requested price revisions and specific provisions in the purchase order authorize adjustment.

1.23 No Collusion or Fraud – By submitting a Bid, Vendor certifies the Bid is made without collusion or fraud, Vendor has not offered or received any kickbacks or inducements of any type in connection with the Bid, and Vendor has not given or promised any STO employee, member of any board or agency within the STO or STO consultant any payment, loan, advance, money, services or anything of more than nominal value.

1.24 Compliance – During the term of any purchase order issued pursuant to the RFQ, the Vendor, its officers, employees, agents, representatives, delegates, and affiliates, shall comply with any and all applicable laws, rules, regulations and policies. Any and all permits, approvals, consents and waivers of governmental bodies and regulatory authorities which are required with respect to and are necessary in connection with the consummation of the transactions contemplated under the RFQ shall have been obtained by the Vendor, unless otherwise agreed in writing by the STO.

1.25 Vendor Name and Authorization – The name of the Vendor submitting the Bid shall be the name of the entity with whom the STO will contract, the name of the entity on the purchase order, and the entity providing the goods and/or services, unless otherwise specified in the Bid and agreed to by the STO. Any document requiring signature by the Vendor shall be signed by a person authorized to bind the Vendor.

2. 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 www.state.wv.us/admin/purchase/VRC/wv1.pdf

3. Proof of Good Standing and Authorization to Do Business

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

4. Questions, Clarifications and Addenda

4.1 Questions and Clarifications

4.1.1 Vendors may submit written questions or requests for clarification to the Purchasing Agent by the Deadline for Vendor Questions.

4.1.2 The STO may, through the Purchasing Agent and at its option, contact Vendors for clarification at any time during the evaluation process. Nothing may be submitted after the Bid opening to alter the content of a Bid in any way. All clarification responses, as well as all Bids, will be available for review after issuance of the Notice of Intent to Award.

4.2 Addenda

4.2.1 Responses to questions or requests for clarification will be included in an addendum that will be released by the STO.

4.2.2 A copy of the RFQ and any addenda to the RFQ will be placed on the STO web site, www.wvsto.com/dept/Admin/Purchasing/Pages/default.aspx, and on the West Virginia Board of Treasury Investments website <http://www.wvbti.org/Information/RFPS> as well as emailed, faxed or mailed to any Vendor to whom the STO has sent a copy of the RFQ. It is the Vendor's responsibility to periodically check the web site to make sure it is aware of and responds to any addenda.

4.2.3 The STO reserves the right to further modify the RFQ, including any Exhibits and Addenda to the RFQ, as it considers appropriate.

5. Bid Format and Contents

5.1 Bids shall be submitted on the Bid Form included with the RFQ.

5.2 Goods and/or services offered shall comply with all standards of quality, performance or use specified in the RFQ. If a Vendor offers equivalent goods and/or services, Vendor must submit descriptive literature and other proof of equivalence with the Bid Form. Upon the request of the STO, Vendor shall offer samples free of charge, freight, shipping and any other costs. If the STO elects to issue a purchase order for equivalent goods and/or services, acceptance is conditioned upon the STO inspecting and testing after receipt. The sole judgment of the STO shall determine whether or not the goods and/or services are equivalent.

6. Bid Submission

6.1 All Bids shall be submitted in writing, and must be received by the Purchasing Agent prior to the Bid opening date and time stated in the RFQ. A Bid not received prior to the Bid opening date and time as required shall be disqualified immediately.

- 6.2 The STO is not responsible for the delivery of Bids, regardless of the delivery method.
- 6.3 The original Bid must be signed by a person authorized to bind the Vendor.

B. EVALUATION

1. Generally

- 1.1 It is the intent of the STO to award a purchase order to the highest Net Annual Earnings responsible Vendor.
- 1.2 The STO will evaluate each Bid to determine whether Vendors are responsible and Bids are responsive to the RFQ. Vendors are considered responsible if they have adequate resources to timely provide the goods and/or perform the services required by the RFQ, are in good standing with all applicable licensing, regulatory and taxing authorities, and have a satisfactory performance history, as determined solely by the STO. Bids are considered responsive if they offer goods and/or services that conform to the RFQ in all material respects, as determined solely by the STO.
- 1.3 The evaluation will begin with the STO determining which Bids are responsive. Bids will then be ranked according to the amount bid.
- 1.4 The STO will then conduct whatever research it considers necessary to determine the whether the Vendor submitting the highest Net Annual Earnings Bid is responsible.
- 1.5 The highest Net Annual Earnings responsible Vendor will be recommended as the apparent successful Vendor.
- 1.6 During the course of the evaluation, the STO has the right to contact any Vendor to clarify or elaborate on the Bid. No new or additional matters may be discussed.

2. Award

- 2.1 The STO will notify all Vendors of the apparent successful Vendor by issuing a Notice of Intent to Award, subject to successful negotiation, if any.
- 2.2 Following issuance of the Notice of Intent to Award, the apparent successful Vendor will be notified and any negotiation considered prudent by the STO will be undertaken.

- 2.3 If a mutually agreed contract cannot be reached within five (5) business days from the commencement of negotiations, the STO will move to the next highest Net Annual Earnings bidding Vendor. After conducting whatever research it considers necessary to determine the next highest Net Annual Earnings bidding Vendor is the next highest Net Annual Earnings responsible bidder, the STO will undertake any negotiation considered prudent.
- 2.4 The STO may waive the five (5) business day requirement, if it believes the negotiations should be continued, but may stop negotiations at any time. A report on any failed negotiations will be included in the purchasing file.
- 2.5 Negotiations will continue until a Vendor is selected, unless the STO is of the opinion that further negotiations of any type are not warranted and no agreement can be reached.
- 2.6 If the STO does not believe negotiations will be successful, it may ask the RFQ be cancelled without penalty or cost of any type. The STO may make changes to the RFQ and reissue it.
- 2.7 Issuance of a purchase order concludes the evaluation and the RFQ process.

C. VENDOR PROTESTS

1. Types of Protests

- 1.1 Protests of Requirements, Specifications or Terms

By issuing the RFQ, the STO intends to encourage competition among eligible Vendors. The RFQ includes only those limitations the STO believes are reasonable. Any protest, complaint or problem with the RFQ, including any requirement, specification or term contained in the RFQ or any combination thereof, must be filed in writing with the Purchasing Agent no later than three (3) working days prior to the Bid Opening Date specified in the RFQ. Protests received after that date will not be considered.
- 1.2 Protests of Award

After selection of the apparent successful Vendor, the Purchasing Agent will send a written Notice of Intent to Award to each Vendor stating the name of the apparent successful Vendor and the amounts bid by all Vendors. Each Vendor will have until the date specified in the notice to file a written protest as to the award. Protests received after that date will not be considered.

2. Written Letter of Protest

The written letter of protest must contain the name and address of the protesting Vendor, the

RFQ number, a statement explaining why the protest has been filed, the relief sought, and any other information that may assist the Purchasing Agent in reaching a decision on the matter. The Purchasing Agent must receive the letter of protest by the appropriate deadline to be considered.

3. Review of Protest and Issuing Decision

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