



Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

State of West Virginia  
 Solicitation Response

Proc Folder : 240137

Solicitation Description : EQUIPMENT LEASE/RENTAL WITH OPERATOR

Proc Type : Agency Master Agreement

Date issued	Solicitation Closes	Solicitation Response	Version
	2016-08-31 13:00:00	SR 0803 ESR0831160000000885	1

VENDOR
000000112846 SPAN 1 LLC

Solicitation Number: ARFQ 0803 DOT1700000001

Total Bid : \$0.00

Response Date: 2016-08-31

Response Time: 08:22:14

Comments:

**FOR INFORMATION CONTACT THE BUYER**  
 Angela Moorman  
 (304) 558-9427  
 angle.j.moorman@wv.gov

Signature on File

FEIN #

DATE

All offers subject to all terms and conditions contained in this solicitation

Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	EQUIPMENT LEASE/RENTAL WITH OPERATOR	0.00000	EA	\$1.000000	\$0.00

Comm Code	Manufacturer	Specification	Model #
72141702			

Extended Description :	EQUIPMENT LEASE/RENTAL WITH OPERATOR PER THE ATTACHED EXHIBIT B
------------------------	---

**Comments:** Please see attached documents



State of West Virginia  
Request For Quotation

Procurement Folder : 240137

Document Description : EQUIPMENT LEASE/RENTAL WITH OPERATOR

Procurement Type : Agency Master Agreement

Date Issued	Solicitation Closes	Solicitation No	Version	Phase
2016-08-23	2016-08-31 13:00:00	ARFQ 0803 DOT1700000001	2	Final

SUBMIT RESPONSES TO:	VENDOR:
FINANCE & ADMINISTRATION DIVISION OF HIGHWAYS BLDG 5, RM A-220 1900 KANAWHA BLVD E CHARLESTON WV 25302 US	Vendor Name, Address and Telephone  Span 1, LLC P.O. Box 1276 Scott Depot, WV 25560 (304) 757-5722

FOR INFORMATION CONTACT THE

Angela Moorman  
(304) 558-9427  
angie.j.moorman@wv.gov

Signature X

FEIN # 204598863

DATE 8/31/16

All offers subject to all terms and conditions contained in this solicitation

INVOICE TO		SHIP TO	
VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER		STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER	
No City	WV99999	No City	WV 99999
US		US	

Line	Commodity Line Description	Qty	Unit Issue	Unit Price	Total Price
1	EQUIPMENT LEASE/RENTAL WITH OPERATOR	0.00000	EA		

Commodity Code	Manufacturer	Model #	Specification
72141702			

**Extended Description**  
EQUIPMENT LEASE/RENTAL WITH OPERATOR PER THE ATTACHED EXHIBIT B

<b>DOT1700000001</b>	<b>Document Phase</b> Final	<b>Document Description</b> EQUIPMENT LEASE/RENTAL WITH OPERATOR	<b>Page 3</b> of 3
----------------------	--------------------------------	--	-----------------------

**ADDITIONAL TERMS AND CONDITIONS**

See attached document(s) for additional Terms and Conditions

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

**SPECIFICATIONS**

1. **PURPOSE AND SCOPE:** The West Virginia Division of Highways is soliciting bids to establish an open-end contract to provide equipment for lease/rental from individuals and organizations, WITH Operator, for use at WV Division of Highways' locations throughout the State of WV.
  
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
  - 2.1 **“Contract Item” or “Contract Items”** means the list of items identified for lease/rental in Section III, Subsection 3.2 below.
  - 2.2 **“Pricing Pages”** means the schedule of prices contained in wvOASIS or attached hereto as Exhibit B used to evaluate the Solicitation responses.
  - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services.
  - 2.4 **“WVDOH”** used throughout this Solicitation means the West Virginia Division of Highways.
  - 2.5 **“Lease/Rental”** or any version of this language used throughout this Solicitation means an agreement wherein the WVDOH leases/rents the equipment, WITH Operator, set forth for periods of time not to exceed ninety days unless otherwise clearly specified in the Delivery Order.
  - 2.6 **“Contractor”, “Vendor” or “Equipment Owner”** used throughout this Solicitation and in any cited sections of the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, most recent edition, as modified by all subsequent annual Supplemental Specifications, are interchangeable.
  - 2.7 **“Standard Specs”** used throughout this Solicitation means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, most recent edition, as modified by all subsequent annual Supplemental Specifications.

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

**3. GENERAL REQUIREMENTS:**

- 3.1. Specifications:** The following sections of the Standard Specs, shall apply to the administration of this contract: sections 101, 102.4, 102.5, 102.6, except the second sentence of the first paragraph is deleted; 102.7, except numerals IV and V are deleted; 102.12, 102.13, 107, 108.8, 108.9, 109, 110 and all other related sections of the Standard Specs.

A complete hard copy of the Standard Specs may be obtained from:

West Virginia Division of Highways  
Contract Administration  
Building 5, Room 722  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305  
(Phone) 304-558-2885

A complete electronic copy of the Standard Specs may be obtained by sourcing:  
<http://www.transportation.wv.gov/highways/Contractadmin/specifications/2010StandSpec/Pages/default.aspx>

- 3.2 Contract Items and Mandatory Requirements:** Vendor shall provide Agency with the Contract Items listed below as a lease/rental Contract Item, WITH Operator, on an open-end and continuing basis. Contract Items must meet or exceed the mandatory requirements as shown below.
- 3.2.1 Equipment Offered, WITH Operator, for Lease/Rental:** The Vendor shall lease/rent equipment, WITH Operator, to the WVDOH per the day, week and/or month per Section 3.2.3.
- 3.2.1.1** The Pricing Page, Exhibit B shall provide a description of each piece of equipment that the WVDOH is requesting. Vendor should provide the proposed piece of equipment by listing the Manufacturer's Name, Model Number and Serial Number, where applicable, as instructed in Section 4.2 of these specifications for each piece of equipment proposed.
- 3.2.1.2** All successful Vendors shall furnish proof of a WV General Contractor's License per Section 8, Required Documents, of the "General Terms and Conditions" prior to a contract being awarded to that Vendor.
- 3.2.2 Mobilization:** To meet the immediate needs of the WVDOH, when a Vendor is required to deliver/operate needed equipment, Vendors shall deliver/operate needed equipment upon notice by the WVDOH, per

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

Section 6.1 of these specifications, assembled and ready to operate to any location or locations as designated by the WVDOH on a Delivery Order. This may include weekends and/or holidays. Pricing for mobilization shall be bid per mile. Mobilization bid in any form other than cost per mile shall be grounds to disqualify the Vendor's bid. Vendor shall bid the cost of delivery of the equipment for the first mile and the cost for any additional miles after the first mile. **Delivery/Mobilization fees shall be calculated and paid one-way only by the WVDOH from the Vendor's storage location to the WVDOH project site.** When the Vendor has multiple projects or the equipment is traveling from WVDOH location or project to project, additional miles only will be paid from project to project or from the Vendor's storage location to the project, whichever is less mileage. The WVDOH will provide the location for delivery of the leased/rented equipment to the Vendor on a Delivery Order.

The WVDOH will calculate the in-state delivery route mileage from the equipment owner's location of the equipment to the WVDOH job site utilizing the WVDOH Straight Line Diagrams. These Diagrams for WV Primary Routes and WV Secondary Routes are available in each WVDOH's District Office and the Central Office located in Charleston, WV. The WVDOH will determine the route to be taken due to bridge and/or road restrictions.

Out-of-state delivery route mileage will be calculated by the WVDOH utilizing "Google Maps" or a similar source for routing from the equipment owner's location of the equipment to the WV State line at which time, the Straight Line Diagrams will be sourced to the WVDOH job site.

**3.2.3 Lease/Rental Period:** Quoted rates for leased/rented equipment, WITH Operator, shall be for lease/rental days, weeks and/or months.

A lease/rental day is a day of agency possession of equipment during which it is not down for four hours or more during the normal work period. NOTE: Days on which a piece of equipment is down for normal maintenance or repair for four hours or more during the normal work period shall be considered a day of downtime and shall not be considered a day of equipment lease/rental.

A lease/rental week is seven lease/rented days, including Saturdays, Sundays and Holidays.

A lease/rental month is thirty lease/rented days, including Saturdays, Sundays and Holidays.



**REQUEST FOR QUOTATION**  
**Equipment Lease/Rental WITH Operator**

---

The date of official receipt of leased/rented equipment by the WVDOH shall be considered the first day of lease/rental. The day immediately preceding the date on which leased/rented equipment is officially returned to the owner shall be considered the last day of lease.

A day or days used by the Vendor solely for the purpose of travel to the site, set-up or breakdown of the equipment shall not be considered as a lease/rental day.

**3.2.4 Maintenance, Down Time and Risk of Loss:**

**3.2.4.1 Maintenance:** The Vendor shall provide fuel, oil and other lubricants necessary for the operation, maintenance and use of the equipment leased/rented from this contract. The Vendor shall be responsible for performance of regular, routine, preventive maintenance, according to the Manufacturer recommendations of equipment and parts/supplies associated with regular, routine, preventive maintenance activities.

**3.2.4.2 Down Time:** All such equipment inoperable by reason of the necessity of replacement of parts or repair of damage for a period of time greater than four hours shall be considered by the WVDOH as "down" and no payment shall be made by the WVDOH for the use of such equipment for such periods unless such "down time" is due to the negligence or lack of reasonable care by the WVDOH.

**3.2.4.3 Risk of Loss, Damage, Destruction or Theft:** The Vendor shall be responsible for maintenance of such equipment, for all loss to such equipment, destruction of or damage to such equipment and shall repair or replace any such equipment lost or destroyed. "Down time" will be referred to as described in Section 3.2.4.2 of these specifications.

After the equipment is delivered to the WVDOH job site or WVDOH location identified on the Delivery Order by the Vendor, the WVDOH shall then be responsible for any loss of such equipment or any part of the equipment during the time that the equipment is not in use or is not required to be attended to by the Vendor's operators. The WVDOH shall be responsible for the security of such equipment as limited to ordinary care.

NOTE: Operators furnished by the Vendor per this contract, while under the direction of the WVDOH, shall remain the employees of

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

and under the control of the Vendor and shall not be considered as agents of the WVDOH.

**4. CONTRACT AWARD:**

- 4.1 Contract Award:** The Contract is intended to provide Agencies with a lease/rental price, WITH Operator, on all Contract Items. A Contract shall be awarded to all responsible Vendors that provide the Contract Items for lease/rental, WITH Operator, which meet all required specifications of this contract.
- 4.2 Pricing Pages and Information Attachment form:** Vendors may bid any or all items on the Pricing Pages, Exhibit B.

Vendors should submit their proposed pricing for each item bid, including Operator, as daily, weekly and/or monthly pricing along with the delivery fee on the Pricing Pages. Proposed pricing submitted in any other form other than what is requested on the Pricing Pages shall be grounds to disqualify the Vendor's bid for the piece of equipment or the bid in its entirety.

Vendors should submit a description of the proposed equipment for each item bid on the Pricing Page. This information should include the Manufacturer's Name, Model Number and Serial Number, where applicable.

Multiple pieces of equipment can be proposed/identified on one Pricing Page whether pricing is the same or varying prices.

The Information Attachment Form should identify the Vendor's base location and any other potential base locations where the equipment bid may be delivered by the Vendor. The Vendor should provide the 911 address or the most recent physical street address, city and state for each base location.

Counties serviced by the Vendor should be identified on the Information Attachment Form. If specific counties are not identified on the Information Attachment Form, it will be expected that the Vendor can service all counties in the State of WV.

Failure to provide this information on the Pricing Pages and the Information Attachment Form for each item bid may result in disqualification of award to the Vendor for that particular item or the bid in its entirety.

The Pricing Pages, Exhibit B contain a list of the Contract Items. At this time, there is no estimated lease/rental volume available for any item. No future use of the Contract or any individual item is guaranteed or implied.

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

Vendor should electronically enter the information into the Pricing Pages through wvOASIS, if available, or as an electronic document. In most cases, the Vendor can request an electronic copy of the Pricing Pages for bid purposes by sending an email request to the following address: [angie.j.moorman@wv.gov](mailto:angie.j.moorman@wv.gov).

- 4.3 Contract award transition:** Upon the award of this contract, whether the effective date or the completed and encumbered date or an established date by the WVDOH, the WVDOH Maintenance Division will announce the effective date of use of this contract to the Districts and the Vendors. Upon the announced effective date of use by the WVDOH Maintenance Division to the Districts and Vendors, any Delivery Order issued toward the 2016 Equipment Lease/Rental WITH Operator Contracts shall remain in effect and should not be cancelled until that Delivery Order is filled; however, after ten (10) working days of the Districts' and Vendors' notice, any Delivery Order that has not been completely filled by the Vendors from the 2016 Equipment Lease/Rental WITH Operator Contracts shall NOT be completed, but a cancellation notice will be sent to that Vendor from the issuing District for cancellation of the balance of that Delivery Order only. No Delivery Order from the 2016 Equipment Lease/Rental WITH Operator Contracts should be held open by the District or the Vendor longer ten (10) working days after the notice to the Districts and the Vendors of the effective date of use of the new contracts.

This directive is issued to assist the Districts and the Vendors when fulfilling open Delivery Orders only. It is NOT issued to cause harm or to take contracts from one Vendor to give to another Vendor, but to establish a transition process from one contract into another contract.

**5. ORDERING, INVOICING AND PAYMENT:**

- 5.1 Ordering:** Vendor shall accept orders through wvOASIS, regular mail, facsimile, e-mail, or any other written forms of communication. Vendor may, but is not required to, accept on-line orders through a secure internet ordering portal/website. If Vendor has the ability to accept on-line orders, it should include in its response a brief description of how Agencies may utilize the on-line ordering system. Vendor shall ensure that its on-line ordering system is properly secured prior to processing Agency orders on-line.

At the time of need, the selection method to determine the low-bid Vendor per project, the WVDOH will calculate the cost of leasing/renting the equipment, WITH Operator, plus the cost of delivery of said equipment from the Vendor's base location to the WVDOH job site and vendor preference, if applicable, and award the Delivery Order to the equipment owner at the least overall cost. The WVDOH shall record the Vendor's equipment serial number on the Delivery Order.

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

An example: Lease/Rental of an Aerial Bucket Truck, WITH Operator, for three days, at \$100.00/day with 10 mile delivery at \$1.00/1<sup>st</sup> mile and \$.50/each additional mile. To calculate lease/rental: \$100.00/day x 3 days = \$300.00 for lease/rental of the equipment only. To calculate mobilization: \$1.00/1<sup>st</sup> mile plus \$.50/each additional mile x 9 miles = \$5.50 for mobilization of equipment only. Add \$300.00 for equipment and \$5.50 for mobilization for a total of \$305.50 lease/rental for three days.

Proximity of equipment to the WVDOH job site shall be a factor in determination of each Delivery Order. As explained in the preceding paragraphs, the Delivery Order will be issued to the lowest bidder; however, it is understood between the WVDOH and all Vendors whose bids are accepted, in the event that the low bidder for any given job is unable to perform, the Delivery Order will be cancelled and given to the next lowest bidder. In the event that no bidder can be found to perform the duties and obligations under this contract, then the Delivery Order may be cancelled and the lease/rental for the needed equipment may be bid on the open market.

**5.2 Invoicing:**

- 5.2.1** Invoicing shall be at a minimum of no less than one lease/rental day. Equipment lease/rented for one lease/rental day shall equal four or more hours as described in Section 3.2.3 of this contract.
- 5.2.2** Equipment leased/rented for one lease/rental week shall be invoiced at the weekly lease/rental rate or the number of lease/rental days times the daily lease/rental rate, whichever is less.
- 5.2.3** Equipment leased/rented for more than one lease/rental week, but less than one lease/rental month shall be invoiced at the monthly lease/rental rate or the number of lease/rental weeks times the weekly lease/rental rate including any period less than a multiple of seven days, whichever is less.
- 5.2.4** Equipment leased/rented for one lease/rental month or more shall be invoiced at the monthly rate. In the event that the lease/rental period is not a multiple of thirty lease/rental days, each day in excess of the multiple shall be evaluated as one-thirtieth of a lease/rental month.
- 5.2.5** An invoice submitted to the WVDOH shall include the following:
  - a) The beginning date and the date on which invoice period ends.
  - b) The number of lease/rental days in the invoicing period.
  - c) The number of equipment downtime days in the invoicing period.

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

- d) The make, model and serial number of the leased equipment being invoiced as identified on the Vendor's contract.
- e) The total owed to the Vendor and the method of calculation.

NOTE 1: The WVDOH will supply the equipment owner with the downtime days in any calendar month within ten days following the end of the calendar month or within two days following termination of a lease/rental, whichever is appropriate. The owner may obtain this information sooner by calling the WVDOH District that is leasing/renting the equipment.

NOTE 2: The period of need for leased/rented equipment as specified on the Delivery Order is only an estimate of need and shall not be used for invoicing purposes. Payment shall only be made for actual leased/rented days.

- 5.3 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. 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.

**6. DELIVERY AND RETURN:**

- 6.1 Delivery Time:** Vendor shall deliver standard orders within 24 hours after orders are received. Vendor shall deliver emergency orders within an agreed upon acceptable timeframe by the Vendor and the WVDOH after orders are received. Vendor shall ship all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met.
- 6.1.1 Acceptance, Beginning of Lease/Rental Period:** Upon delivery of each item of equipment by the Vendor to the location described in the Delivery Order, the WVDOH shall test and inspect the equipment. If such item of equipment is found to be in good order, the WVDOH shall accept such item of equipment and acknowledge the same in whatever form reasonably required by the Vendor. Such item of equipment shall be deemed to have been delivered to and accepted by the WVDOH on the date specified in such acknowledgement and the term of the Delivery Order and this contract shall be deemed to begin on that date.
- 6.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could

**REQUEST FOR QUOTATION**  
**Equipment Lease/Rental WITH Operator**

---

cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party.

- 6.3 Delivery Payment/Risk of Loss:** Standard order delivery or emergency delivery shall be as per Section 5.1 of these specifications. Vendor shall include the cost of standard order delivery charges in its bid pricing/discount as directed in Section 3.2.2 of these specifications and is not permitted to charge the Agency separately for such delivery.
- 6.4 Return of Equipment:** Upon the completion of the project, the WVDOH will return the leased/rented equipment, at its expense to the Vendor at the original location at which such equipment was delivered to the WVDOH. The equipment must be washed and clean upon return to the vendor.
- 6.5 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, such as the Vendor delivering a piece of equipment that was not bid for lease/rent on this contract, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the lease/rental price, at the Agency's discretion.
- 6.6 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

**7. VENDOR DEFAULT:**

- 7.1** The following shall be considered a vendor default under this Contract.
- 7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2** Failure to comply with other specifications and requirements contained herein.

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

- 7.1.3 Failure to comply with any laws, rules and ordinances applicable to the Contract Services provided under this contract.
- 7.1.4 Failure to remedy deficient performance upon request.
- 7.2 The following remedies shall be available to Agency upon default:
  - 7.2.1 Immediate cancellation of the Contract.
  - 7.2.2 Immediate cancellation of one or more Delivery Orders issued under this Contract.
  - 7.2.3 Any other remedies available in law or equity.

**8. MISCELLANEOUS:**

- 8.1 **No Substitutions:** Vendor shall supply only Contract Items submitted in response to the Solicitation unless a Contract modification is approved in accordance with the provisions contained in this Contract.
- 8.2 **Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 8.3 **Inspection of Equipment:** The Vendor shall have the right, during normal working hours, to the extent of the WVDOH's authority, to enter upon the premises where the said equipment is located for the purpose of inspecting the lease/rented equipment.
- 8.4 **Damage beyond the control of the WVDOH:** The WVDOH shall not be liable for damage to or loss of any leased/rented equipment resulting from lightning, Acts of God, riots, strikes or other causes beyond the WVDOH's control.
- 8.5 **Insurance:** The Vendor shall be responsible for insurance coverage per Section 3.2.4.3 of these specifications. However, if any said piece of equipment or any part thereof, shall be lost, destroyed or stolen by reason of the negligence of or lack of ordinary care on the part of the WVDOH, the WVDOH is insured by the Board of Risk and Insurance Management and insurance coverage will be provided by that agency only for long term, over thirty consecutive days of equipment lease/rental whereby, the WVDOH will, at its option, either replace or pay to the Vendor the fair market value of any of the said equipment or any part thereof
- 8.6 **Liens:** The WVDOH shall not directly or indirectly create, incur, assume or suffer

REQUEST FOR QUOTATION  
Equipment Lease/Rental WITH Operator

---

to exist any mortgage, pledge, lien, charge and encumbrance or claim on or with respect to the lease/rented equipment, except with respect to the respective rights of the Vendor and the WVDOH.

- 8.7 Reports:** Vendor shall provide quarterly reports and annual summaries to the Agency showing the Agency's items leased/rented, quantities of items leased/rented and total dollar value of the items leased/rented. Vendor shall also provide reports, upon request, showing the items leased/rented during the term of this Contract, the quantity leased/rented for each of those items and the total value of lease/rental for each of those items. Failure to supply such reports may be grounds for cancellation of this Contract.
- 8.8 Contract Manager:** During its performance of this Contract, the Vendor must designate and maintain a primary Contract Manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract Manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract Manager and his or her contact information below:

**Contract Manager: Aaron Randolph**  
**Telephone Number: (304) 546-4773**  
**Fax Number: (304) 757-1029**  
**Email Address: aaron@span-1.com**



## GENERAL TERMS AND CONDITIONS:

**1. CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Agency and approved as to form by legal counsel for the Agency, if required, constitutes acceptance of this Contract made by and between the Agency and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

**2. DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

**2.1. "Agency"** means the West Virginia Department of Transportation, Division of Highways. This Contract is entered into by the Agency pursuant to the provisions of West Virginia Code § 17-4-19 and §17-2A-8.

**2.2. "Bid" or "Proposal"** means the vendors submitted response to this solicitation.

**2.3. "Contract"** means the binding agreement that is entered into between the Agency and the Vendor to provide the goods or services requested in the Solicitation. The Contract shall be comprised of the (i) Solicitation and any other document required by the Solicitation (ii) Bid or Proposal (iii) Award Document and (iv) General Terms and Conditions; Instruction to Vendors Submitting Bids, collectively referred to as the "Contract Documents".

**2.4. "Award Document"** means the document signed by the Agency, and approved as to form by legal counsel for the agency, that identifies the Vendor as the contract holder.

**2.5. "Solicitation"** means the official notice of an opportunity to supply the Agency with goods or services.

**2.6. "State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

**2.7. "Vendor" or "Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

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

**Term Contract**

**Initial Contract Term:** This Contract becomes effective on \_\_ November 16, 2016 \_\_\_\_\_ and extends for a period of \_\_\_one\_\_\_\_\_ year(s).

**Renewal Term:** This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor. Any request for renewal should be submitted in writing to the Agency thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to two successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed 24 months in total. Automatic renewal of this Contract is prohibited.

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

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

**Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and that part of the Contract more fully described in the attached specifications must be completed within \_\_\_\_\_ days. Upon completion, the vendor agrees that maintenance, monitoring, or warranty services will be provided for \_\_\_\_\_ successive one year periods or multiple periods of less than one year provided that the multiple renewal periods do not exceed \_\_\_\_\_ months in total.

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

**Other:** See attached.

**4. NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Award Document will be considered notice to proceed.

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

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

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

**Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

**One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor and Agency.

**6. PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the Agency. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the Agency in the Solicitation to do so, may result in bid disqualification.

**7. EMERGENCY PURCHASES:** The Agency may purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency and Vendor is unable to provide those goods and services on an immediate or expedited basis in the sole judgment of Agency. 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, by the Agency, shall not constitute a breach of this Contract and shall not entitle the Vendor to injunctive relief or to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

**8. REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Agency by the Vendor as specified below.

**BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

**PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of \_\_\_\_\_. The performance bond must be received by the Agency prior to Contract award.

**LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Agency prior to Contract award.

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

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

**INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award and shall list the State as a certificate holder:

**Commercial General Liability Insurance:** In the amount of \$1,000,000.00 \_\_\_\_\_ or more.

**Builders Risk Insurance:** In an amount equal to 100% of the amount of the Contract.

- 
- 
- 
- 
- 

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

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

WV General Contractor's License

- 
- 
- 
- 

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

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

**10. LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount of \_\_\_\_\_ for \_\_\_\_\_. This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

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

**12. 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.

**13. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices in arrears.

**14. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

**15. CANCELLATION:** The Agency reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Agency may also cancel any purchase or this contract for any reason or no reason upon 30 days written notice to the Vendor.

**16. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.

**17. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

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

**19. PREVAILING WAGE:** To the extent required by applicable law, Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage requirements are applicable.

**20. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

**21. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency and the Vendor.

**22. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or

remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

**23. 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 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.

**24. ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency and any other government agency or office that may be required to approve such assignments.

**25. WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

**26. STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

**27. BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the Agency may deem this Contract null and void, and terminate this Contract without notice.

**28. PRIVACY, SECURITY, AND CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in:

<http://www.transportation.wv.gov/Documents/WVDOT-Privacy-Notice.pdf>

**29. YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq. Submission of any bid, proposal, or other document to the Agency constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. Labeling any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents will not protect that document from public disclosure. All submissions are subject to public disclosure without notice.

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

**30. LICENSING:** Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Agency to verify that the Vendor is licensed and in good standing with the above entities.

**31. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting an Award Document from Agency, 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.

**32. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

**33. 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.

**34. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be

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

**35. INDEMNIFICATION:** To the fullest extent permitted by law, the Vendor agrees to defend, indemnify, and hold harmless the Agency, its officers, agents and employees from and against all suits, claims, damages, liability, losses, and expenses, including but not limited to attorney's fees and costs of investigations, arising out of, pertaining to or resulting from the performance of work for the above identified Project, including all claims, damages, losses or expenses which are attributable to bodily injury, sickness, disease or death, or to damage to or destruction of property, whether caused either wholly or in part by the negligence, actions or omissions of the Vendor, a Subcontractor or anyone directly or indirectly employed by the Vendor or Subcontractor or for anyone whose acts the Vendor or Subcontractor may be liable, except for any liability or damages due to the willful or intentional unlawful acts or the sole negligence of the Agency or its employees.

**36. 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 the award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.

**37. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

**38. REPORTS:** Vendor shall provide the Agency with the following reports identified by a checked box below:

Such reports as the Agency may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Agency via email to the Agency representative specified by Agency.

**39. BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to



sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry. After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision. The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

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

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

**41. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet

the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

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

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

**42.** It is hereby expressly covenanted, agreed and understood by and between the parties hereto, that the Vendor will immediately make payment and refund to the Agency for any and all overpayments made by said Agency to the Vendor on any estimate or estimates, advances ,if applicable ,or partial payments made on this Contract. Agency is given the right and authority to withhold any and all funds in its possession, belonging to, owed by, or which may be owed by it to the Vendor on any agreement or from any other source for the recovery of any overpayment made in connection with this contract. It is further expressly agreed that the statute of limitations will not commence to run against the Agency for such overpayments until the same is discovered and made known to the Agency.

**43.** In the event of conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities in the order listed below with the highest priority being sub-section a:

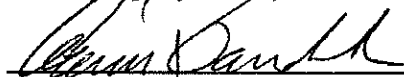
- a. General Terms and Conditions; Instructions to Vendors Submitting Bids,
- b. Solicitation and any documents required by the Solicitation,
- c. Bid or Proposal,
- d. Award Document.

**CERTIFICATION AND SIGNATURE PAGE**

By signing below, or submitting documentation through the West Virginia Vendor Self Service Portal website, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Span 1, LLC

(Full Company Name)



(Authorized Signature)

Aaron Randolph, Managing Member

(Print or Type Name and Title  
of Signatory)

(304) 757-5722

(Phone Number)

(304) 757-1029

(Fax Number)

aaron@span-1.com

(Email address)

8-31-16

(Date)

**Form pre-approved by DOH legal division on July 12, 2016.  
Attorney signature not required.**

**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: DOT1700000001**

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

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

Addendum Numbers Received:

(Check the box next to each addendum received)

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

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

Span 1, LLC

Full Company Name

  
Authorized Signature

8-31-16

Date

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

# AGENCY SOLICITATION NUMBER – ARFQ DOT1700000001

Addendum Number: 1

---

The Purpose of this addendum is to modify the solicitation identified as ("Agency Solicitation") to reflect the change(s) identified and described below.

## Applicable Addendum Category:

- Modify bid opening date and time
- Modify specification of product or service being sought
- Attachment of pre-bid sign-in sheet
- Correction of error
- Other

## Description of Modification to Solicitation:

**To answer questions posed by the Vendor.  
See attached.**

**Additional Documentation:** Documentation related to this Addendum (if any) has been included herewith as Attachment A and is specifically incorporated herein by reference.

## Terms and Conditions:

1. All provision of the Agency Solicitation and other addenda not modified herein shall remain in full force and effect.
2. Vendor should acknowledge receipt of all addenda issued for this Agency Solicitation by completing an Addendum Acknowledgement, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

Equipment Lease/Rental with Operator

Addendum #1            ARFQ DOT1700000001

To answer questions posed by the Vendor:

Question #1            The specifications mention a "day". Would this be considered a normal 8 hour day with equipment and operator?

Response #1            Contract Specification 3.2.3 describes a lease/rental day as:  
"A lease/rental day is a day of agency possession of equipment during which it is not down for four hours to more during the normal work period." A normal work period shall be identified to the low-bid Vendor chosen for a specific period and identified on the Delivery Order.

Question #2            The weekly and monthly price quote is for consecutive days, correct? Meaning 14 random days in a month would not be billed at 2 weekly rates?

Response #2            Correct.

Question #3            Is this statewide or per district?

Response #3            Statewide; however, per Contract Specification 4.2, the sixth paragraph, the Vendor may chose those counties that he wishes to service: "Counties serviced by the Vendor should be identified on the Information Attachment Form. If specific counties are not identified on the Information Attachment Form, it will be expected that the Vendor can service all counties in the State of WV."

Question #4            Once invoicing is submitted, what is the typical time before payment is received?

Response #4            Districts/counties pay the invoices via the State of West Virginia Purchase Card for most all invoices. There is no typical timeframe for payment of an invoice.



State of West Virginia  
DRUG FREE WORKPLACE CONFORMANCE AFFIDAVIT  
West Virginia Code §21-1D-5

STATE OF WEST VIRGINIA

COUNTY OF PUTNAM, TO-WIT:

I, Aaron Randolph, after being first duly sworn, depose and state as follows:

1. I am an employee of Span 1, LLC; and,  
(Company Name)
2. I do hereby attest that Span 1, LLC  
(Company Name)

maintains a valid written drug free workplace policy and that such policy is in compliance with **West Virginia Code §21-1D-5**.

The above statements are sworn to under the penalty of perjury.

Span 1, LLC  
(Company Name)

By: [Signature]

Title: Member

Date: August 30, 2016

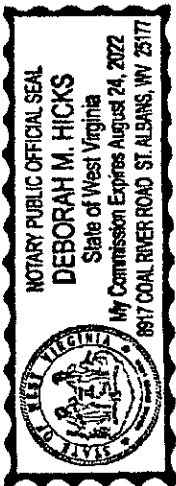
Taken, subscribed and sworn to before me this 30th day of August 2016

By Commission expires August 24, 2022

(Seal)

[Signature]  
(Notary Public)

**THIS AFFIDAVIT MUST BE SUBMITTED WITH THE BID IN ORDER TO COMPLY WITH WV CODE PROVISIONS. FAILURE TO INCLUDE THE AFFIDAVIT WITH THE BID SHALL RESULT IN DISQUALIFICATION OF THE BID.**



## Vendor Should Type Pricing Page Schedule

Please contact [angie.j.moorman@wv.gov](mailto:angie.j.moorman@wv.gov) for an Excel version

### Exhibit B

Equipment Description	WITH OPERATOR Equipment Offered for Lease/Rental		Lease/Rental Rate of Equipment Without Delivery/ WITH Operator			Equipment Delivery Fee	
	Manufacturer's Name	Model/Serial #	\$ /Day	\$ /Week	\$ /Month	1st Mile	Add. Mi.
<b>MANLIFT SP</b> 125 ft. minimum to 135 ft. maximum	JLG	1350SJP/300072240	1,240	4,700	16,500	100	3.00
<b>UNDERBRIDGE INSPECTION UNIT</b> Medium Bucket Type 41 ft. min. to 52 ft. max. horizontal reach (including operator AND driver)	Aspen Aerials	UB50, No. 7820	1,850	8,940	33,500	100	2.50
<b>UNDERBRIDGE INSPECTION UNIT</b> Medium Bucket Type 53 ft. min. to 62 ft. max. horizontal reach (including operator AND driver)	Aspen Aerials	UB60, No. 8885	1,950	9,450	35,600	100	2.50
	Aspen Aerials	A62, No. 10219	2,000	9,700	36,600	100	2.50



## Vendor Should Type Pricing Page Schedule

Please contact [angle.j.moorman@wv.gov](mailto:angle.j.moorman@wv.gov) for an Excel version

### Exhibit B

Equipment Description	WITH OPERATOR Equipment Offered for Lease/Rental		Lease/Rental Rate of Equipment Without Delivery/ WITH Operator			Equipment Delivery Fee	
	Manufacturer's Name	Model/Serial #	\$ /Day	\$ /Week	\$ /Month	1st Mile	Add. Mi.
<b>MANLIFT SP</b> 125 ft. minimum to 135 ft. maximum	JLG	1350SJP/300072240	1,240	4,700	16,500	100	3.00
<b>UNDERBRIDGE INSPECTION UNIT</b> Medium Bucket Type 41 ft. min. to 52 ft. max. horizontal reach (including operator AND driver)	Aspen Aerials	UB50, No. 7820	1,850	8,940	33,500	100	2.50
<b>UNDERBRIDGE INSPECTION UNIT</b> Medium Bucket Type 53 ft. min. to 62 ft. max. horizontal reach (including operator AND driver)	Aspen Aerials	UB60, No. 8885	1,950	9,450	35,600	100	2.50
	Aspen Aerials	A62, No. 10219	2,000	9,700	36,600	100	2.50

STATE OF WEST VIRGINIA  
Purchasing Division

# PURCHASING AFFIDAVIT

**MANDATE:** 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 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:**

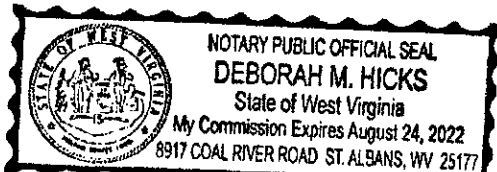
Vendor's Name: Span 1, LLC  
Authorized Signature: *[Signature]* Date: 8/30/16

State of West Virginia  
County of Putnam, to-wit:

Taken, subscribed, and sworn to before me this 30<sup>th</sup> day of August, 2016  
My Commission expires August 24, 2022

**AFFIX SEAL HERE**

**NOTARY PUBLIC** *[Signature]*



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: Span 1, LLC

Signed: \_\_\_\_\_

Date: 8/31/16

Title: Managing Member