

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

TABLE OF CONTENTS

- 1. Table of Contents**
- 2. Section 1: General Information and Instructions**
- 3. Section 2: Instructions to Vendors Submitting Bids**
- 4. Section 3: General Terms and Conditions**
- 5. Section 4: Project Specifications**
- 6. Section 5: Vendor Proposal**
- 7. Section 6: Evaluation and Award**
- 8. Certification and Signature Page**

SECTION 1: GENERAL INFORMATION

1.1 Introduction:

The WV Office of Shared Administration (OSA) Office of Purchasing is issuing this solicitation as a request for proposal (RFP) for the West Virginia Department of Health's (DH) Rural Health Transformation Program (hereinafter referred to as "RHTP") to design, develop, implement, and operationalize a Statewide Data Spine as part of the Connected Care Grid initiative, serving as the foundational data infrastructure to integrate, standardize, and enable secure exchange of multi-source data across clinical, claims, community, workforce, and public health systems to support the RHTP.

RFP is a procurement method in which Vendors submit proposals in response to the request for proposal. It requires an award to the highest scoring Vendor, rather than the lowest cost Vendor, based upon a technical evaluation of the Vendor's technical proposal and a cost evaluation. This is referred to as a best value procurement. Through their proposals, Vendors offer a solution to the objectives, problem, or need specified in the RFP, and define how they intend to meet (or exceed) the RFP requirements.

The WV RHTP is supported by Centers for Medicare and Medicaid Services (CMS), a Center of the U.S. Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$199,476,098.72 with 100% funded by CMS/HHS. The contents in this RFP are those of the State of WV and do not necessarily represent the official views of, nor an endorsement, by CMS/HHS, or the U.S. Government.

NOTE: The West Virginia DHHR has developed an Equal Employment Opportunity Policy EEOP Utilization Report, and it is available at:

<http://www.wvdhhr.org/pdfs/H1.5%20Utilization%20Report%20and%20EEO%20policy.pdf>

NOTE: The contract awarded as a result of this solicitation may be funded in whole or in part with Federal Funds and thus this solicitation and its resulting awarded contract are subject to the requirements of the attached Federal Funds Addendum.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

SECTION 2: INSTRUCTIONS TO VENDORS SUBMITTING BIDS

VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to OSA Purchasing. Questions must be submitted in writing. All questions **must be submitted on or before the date listed below and to the address listed below to be considered.** A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Submitted emails should have the solicitation number in the subject line.

Question Submission Deadline: June 25, 2026, 1:00 p.m. EDT

Submit Questions to: Office of Shared Administration, One Davis Square,
West, Rm 107,

Charleston, WV 25301

Fax: (304) 558-2892

Email: catherine.e.stephenson@wv.gov

Bid Delivery Address and Fax Number: Office of Shared Administration, One Davis Square, West, Rm 107, Charleston, WV 25301 Fax: 304-558-2892

BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when the bid is time stamped by the official OSA Purchasing time clock (in the case of hand delivery or via delivery by mail).

Email bids are not accepted.

Online submissions are not accepted.

Bid Opening Date and Time: July 7, 2026, 10:30 a.m. EDT

Bid Opening Location: **Office of Shared Administration, One Davis Square, West, Rm 107, Charleston, WV 25301**

Instructions begin on the next page.

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

(OSA Exempt Procurements Only)

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

2A. PREBID MEETING: The item identified below shall apply to this Solicitation.

☐ A pre-bid meeting will not be held prior to bid opening.

☐ A MANDATORY PRE-BID meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf. The required attribution of attendance to a single vendor should be addressed during the pre-bid but may occur at any time deemed appropriate by the OSA Office of Purchasing.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at

the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

3. BID SUBMISSION:

All bids must be signed and delivered by the Vendor to the Agency on or before the date and time of the bid opening. Any bid received by the Agency staff is considered to be in the possession of the Agency and will not be returned for any reason.

3A. BID SUBMISSION

A bid that is not submitted electronically through wvOASIS should contain the information listed below on the face of the envelope or the bid may be rejected by the Agency.

SEALED BID:

BUYER:

SOLICITATION NO.:

BID OPENING DATE:

BID OPENING TIME:

FAX NUMBER:

4. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official addendum issued by the Agency. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

5. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

6. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

☐ This Solicitation is based upon a standardized commodity established under West Virginia Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

7. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions,

Revised 03/4/2024

clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

8. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

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

10. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

10A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, if reciprocal preference is requested by a West Virginia resident vendor, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: <http://www.state.wv.us/admin/purchase/vrc/Venpref.pdf>.

11. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

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

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

14. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part.

15. 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 §5-22-1 et seq., 5G-1-1 et seq. and the Freedom of Information Act in West Virginia Code §§ 29B-1-1 et seq.

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

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

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

SECTION 3: GENERAL TERMS AND CONDITIONS

Terms and conditions begin on the next page.

**GENERAL TERMS AND CONDITIONS:
(OSA Exempt Procurements Only)**

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Agency and approved as to form by the Attorney General's office, if required, constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in 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" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

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

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the OSA Office of Purchasing.

2.5. "OSA Office of Purchasing" means the WV Department of Human Services, Department of Health, Department of Health Facilities, Office of Shared Administration Office of Purchasing.

2.6. "Award Document" means the document signed by the Agency that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services.

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

2.9. "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 _____ and the initial contract term extends until _____.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor. Any request for renewal should be delivered 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. Unless otherwise specified below, renewal of this Contract is limited to successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of _____ months available in all renewal years combined. Automatic renewal of this Contract is prohibited.

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

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

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

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that maintenance, monitoring, or warranty services will be provided for _____ year(s) thereafter.

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

☐ **Other:** See attached.

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

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

☐ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the 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, Agency, OSA, Office of Purchasing, and Attorney General’s office.

6. EMERGENCY PURCHASES: The Purchasing Director may authorize the Agency to 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. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

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

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract value. 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 received by the Agency prior to Contract award.

☐ **Protest Bond:** A party who submits a protest must contemporaneously submit a protest bond payable to this state in the amount of five percent (5%) of the lowest cost proposal. The bond shall be forfeit if the hearing officer determines that the protest was filed for a frivolous or improper purpose, but the bond is returnable if it is determined that the protest was filed for a legitimate purpose.

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

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

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancellation, policy reduction, or change in insurers. The apparent successful Vendor

Revised 03/4/2024

shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section.

Vendor must maintain:

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

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

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

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

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

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

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

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

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9. WORKERS' COMPENSATION INSURANCE: 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: 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. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

☐ Liquidated Damages Contained in the Specifications.

☐ Liquidated Damages Are Not Included in this Contract.

11. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State 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. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

13. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

14. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer or P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

15. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

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

17. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect

beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

18. CANCELLATION: The State 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 Contract upon 30 days written notice to the Vendor.

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

20. 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.

21. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances. Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances.

22. 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.

23. 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.

24. 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.

25. 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 OSA Office of Purchasing 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.

26. 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.

27. 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.

28. 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.

29. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the 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.state.wv.us/admin/purchase/privacy/default.html>

30. 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 §§ 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.

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

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

31. LICENSING: Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the OSA, Office of Purchasing Director and the Agency to verify that the Vendor is licensed and in good standing with the above entities. Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section.

32. ANTITRUST: In submitting a bid to, signing a contract with, or accepting an Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

33. 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.

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: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services,

materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

36. PURCHASING AFFIDAVIT: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State, Vendors are required to sign, notarize, and submit the Purchasing Affidavit to the OSA, Office of Purchasing affirming under oath that it is not in default on any monetary obligation owed to the state or a political subdivision of the state.

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 and/or the OSA, Office of Purchasing with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the OSA, Office of Purchasing 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 OSA, Office of Purchasing.

39. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based 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 OSA, Purchasing Division 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 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 OSA, Office of Purchasing 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 OSA, Office of Purchasing 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: 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. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

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

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

(Name, Title)

(Printed Name and Title)

(Address)

(Phone Number) / (Fax Number)

(E-mail address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, 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.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

(Company)

(Authorized Signature) (Representative Name, Title)

(Printed Name and Title of Authorized Representative)

(Date)

(Phone Number) (Fax Number)

Revised 03/4/2024

ADDENDUM ACKNOWLEDGEMENT FORM

SOLICITATION NO.:

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification. Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- | | |
|---|--|
| <input 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.

Company

Authorized Signature

Date

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

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

SECTION 4: PROJECT SPECIFICATIONS

4.1 Background and Current Operating Environment:

The State of West Virginia (the State) has been awarded approximately \$200 million through the Rural Health Transformation Program (RHTP), established under Section 71401 of Public Law 119-21, the One Big Beautiful Bill Act, signed into law by President Trump on July 4, 2025. These funds, which flow down from the Centers for Medicare and Medicaid Services (CMS), will be used to reduce chronic disease burden, increase workforce participation, and improve measurable outcomes in our rural communities by increasing healthcare technology to ultimately improve both quality and access to healthcare. Furthermore, this initiative supports Health and Human Services Secretary Robert F. Kennedy Jr's, "Making America Healthy Again" and Governor Morrissey's "Four Pillars of a Healthy West Virginia," goals by using technology to better connect health data, coordinate care networks, and better address the drivers of poor health outcomes.

Crucially, the Data Spine will transition West Virginia from a reactive "sick care" tracking system to a proactive wellness model. By integrating environmental, nutritional, and metabolic data, the platform will empower the State to identify root causes of chronic illness, support the reduction of pharmaceutical dependency, and monitor the real-world outcomes of lifestyle-based preventative health measures.

The Data Spine will operate within the broader Connected Care Grid and is expected to integrate data sources including, but not limited to, clinical data, Medicaid claims and encounter data, workforce and licensure data, EMS, transportation data, telehealth, remote patient monitoring platforms, and community service's data systems into a unified, Statewide data environment. Current capabilities include a Statewide clinical exchange backbone through the State's Health Information Exchange (HIE), the West Virginia Health Information Network (WVHIN), and the Department of Health's Enterprise Data System (EDS); however, gaps remain in multi-sector data governance, onboarding infrastructure, and unified analytics capabilities. Through this RFP, the State seeks to transition from fragmented, reactive data collection systems to a proactive, integrated, and analytics-driven ecosystem that enables real-time insights, program oversight, and coordinated care delivery across all RHTP initiatives.

4.2 Project Goals and Mandatory Requirements:

The objective of this procurement is to create and maintain a useful, objective, and comprehensive solution that can be used to promote better care, better health, and lower costs for West Virginians. Furthermore, this procurement will assist RHTP in implementing performance measures, enhancing program accountability, and meeting State and Federal requirements. RHTP also envisions the Data Spine utilizing existing State data solutions and services to fulfill the desired to be environment.

The Vendor will be responsible for delivering a solution that supports data ingestion, standardization, interoperability, analytics, and reporting capabilities aligned with RHTP program requirements. Vendor should describe its approach and methodology to provide the service or solving the problem described by meeting the goals/objectives identified below. Vendor's response should include any information about how the proposed approach is superior, or inferior, to other possible approaches.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.1 Goals and Objectives – The project goals and objectives are listed below.

4.2.1.1 Establish a unified, Statewide data infrastructure that aggregates and integrates multi-source data (including clinical, claims, community, workforce, and EMS data) into a standardized and governed environment.

4.2.1.2 Promote the utilization of the State's current data assets in the delivery of the data spine.

4.2.1.3 Enable real-time analytics, predictive modeling, and performance measurement to support identification of at-risk populations, monitoring of program outcomes, and advancement of value-based care initiatives across the RHTP.

4.2.1.4 Support interoperability and secure data exchange across providers, payers, and State systems through standardized application programming interfaces (APIs), identity management, and integration services to facilitate coordinated, data-driven care delivery.

4.2.1.5 Seamlessly collect data from disparate Systems of Record (SOR)—including clinical, pharmacy, claims, remote monitoring, Social Determinates of Health (SDOH), financial, and workforce data—and aggregate that data into a unified System of Truth (SOT) through cleansing, cross-referencing, cataloging, and de-identification to reduce development burdens on source systems.

4.2.1.6 Provide real-time analytics, and an analytics workbench to identify community intervention best practices. Deliver data in standard consumable formats, including narratable dashboards, automated Federal (CMS) and State report generation.

4.2.1.7 Share trends, gaps, and actionable inferences across systems to improve intervention strategies via a consistent "Common Information Model" that minimizes the integration burden for consumer systems (e.g., Electronic Health Records [EHRs], Health Information Exchanges [HIEs], Pharmacy systems).

4.2.1.8 Ensure simplicity in operations and maintenance through managed service options while securing protected health information (PHI) to the highest standards.

4.2.1.9 Track, correlate, and report on the efficacy of non-pharmacological, nutritional, and lifestyle-based interventions (such as 'Food as Medicine' prescriptions) alongside clinical and pharmaceutical metrics to prove the return on investment of holistic health initiatives.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.1.10 Implementation Plan The intent of the requirements set forth in this section is to understand and assess the Vendor's methodology, readiness, and capacity to deliver a successful implementation. The Vendor's response should address, at a minimum, the following elements:

4.2.1.10.1 Overall Project Management Strategy and Implementation Timeline - The Vendor should describe their project management framework, governance structure, communication approach, and high-level implementation timeline, including anticipated milestones and sequencing.

4.2.1.10.2 Environment Setup - The Vendor should describe the environments that will be established to support development and implementation, including:

4.2.1.10.2.1 Production environment

4.2.1.10.2.2 Test environment

4.2.1.10.2.3 Development environment

The Vendor should also outline their general approach to environment refreshes, deployment processes, and data handling practices.

4.2.1.10.3 Initial System Population and Onboarding Strategy - The Vendor should describe their approach for populating the platform with initial core data and additional source data.

4.2.1.10.4 Change Request Management Process - The Vendor should describe their general approach to managing change requests during implementation, including intake, review, prioritization, and communication.

4.2.1.10.5 Roles and Responsibilities of Vendor and Agency Teams - The Vendor should outline the anticipated roles and responsibilities of both Vendor and Agency staff throughout implementation, including project management, technical resources, subject matter experts, and training personnel.

4.2.1.10.6 Risk Mitigation Strategies and Contingency Planning - The Vendor should describe their approach to identifying risks, mitigating potential issues, and maintaining continuity of implementation activities.

4.2.1.10.7 Training, Support, and Knowledge Transfer During Implementation - The Vendor should describe their training approach, training materials, role-specific training plans, and knowledge transfer activities to ensure all user groups are prepared for go-live.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.1.10.8 Alignment with the Finalized Project Plan - The finalized Project Plans and Schedule developed during initial planning sessions must align with the approach described in this section. Any deviations must be documented, justified and approved by the State.

4.2.2 Mandatory Project Requirements – The following mandatory requirements relate to the goals and objectives and must be met by the Vendor as a part of its submitted proposal. The Vendor should describe how it will comply with the mandatory requirements. Failure to comply with mandatory requirements will lead to disqualification. The mandatory project requirements are listed below.

4.2.2.1 Vendor must provide a solution capable of ingesting, integrating, and harmonizing data from multiple sources, including clinical, claims, and community-based systems, into a unified data environment.

4.2.2.2 Vendor must deliver interoperability capabilities, including standardized APIs and support for national data exchange standards to enable secure, real-time data sharing across stakeholders.

4.2.2.3 Vendor must support analytics and reporting capabilities, including dashboards and outcome tracking, to enable program oversight, performance monitoring, and public reporting aligned with RHTP requirements.

4.2.2.4 Vendor must provide platform support for multiple integration methods including APIs (REST, SOAP, Custom), Managed File Transfer (SFTP, FTPS, HTTPS), and direct Database transfers across a diverse set of RHT program data.

4.2.2.5 Vendor must provide robust tooling for data modeling, profiling, quality enforcement, enrichment, master data management, and data masking/de-identification to produce high-quality feeds.

4.2.2.6 Vendor must supply an analytics workbench supporting structured and unstructured data, AI/ML modeling, and generative AI functionality to automatically interpret dashboards and generate human-readable text narratives.

4.2.2.7 Solution must include Robotic Process Automation (RPA)-capable tooling from ingestion to visualization, featuring pre-built CMS and State report templates with automated generation capabilities. Any generative AI-driven reporting or dashboard narrative tools must include verifiable data citations and require a designated State ‘human-in-the-loop’ review and electronic sign-off prior to publication or Federal submission.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.8 Vendor must deliver connectors and protocols to support common Point of Care systems (HIEs, EHRs, Pharmacy Systems, Case Management Systems) and tailor "Actionable Inferences" based on destination systems.

4.2.2.9 Vendor's solution must secure data to the highest requirements, maintaining compliance with NIST 800.53 Rev 5 Moderate, HITRUST, and ARC-AMPE standards.

4.2.2.10 Vendor should reuse, up to the extent possible, the existing data use agreement between departments to speed up the data spine delivery.

4.2.2.11 Vendor must guarantee absolute transparency for all predictive modeling and AI/ML scoring algorithms utilized in the platform. 'Black box' algorithms are strictly prohibited; the Vendor must document the clinical logic, datasets, and variables used in risk scoring, ensuring no systemic bias against nutritional, preventative, or functional medicine pathways.

4.2.2.12 The Vendor must maintain robust cybersecurity and internal controls to protect Protected Health Information (PHI) in full compliance with HIPAA and other relevant privacy and security regulations. At minimum, the Vendor will have proven security architecture, data governance protocols, and an active, recognized healthcare security certification (e.g., HITRUST, SOC 2 Type 2).

4.2.2.13 Property Rights - Vendor must agree to all terms in the below sub sections 1-4 regarding ownership of Deliverables, Work Product, Vendor Property licensing, and survival/change-of-control obligations. Vendor responses indicating exceptions, modifications, or alternative terms will be considered non-responsive.

4.2.2.13.1 Deliverables - Unless otherwise set forth in this Contract or in a future Amendment, all right, title, and interest in all Deliverables furnished to RHTP shall transfer to RHTP automatically upon delivery in accordance with the terms and conditions of this Agreement. Transfer of ownership does not preclude or reduce RHTP's review and acceptance periods, and if none are specified, RHTP shall have a reasonable period for acceptance. Vendors shall not assert or permit any lien, security interest, or other encumbrance against any Deliverable.

4.2.2.13.2 Vendor Property - RHTP acknowledges that Vendor retains all right, title, and interest in its pre-existing proprietary intellectual property and related know-how ("Vendor Property"). Vendor Property includes discoveries, concepts, ideas, processes, methods, formulas, techniques, tools, solutions, programs, data, documentation, and related improvements developed by Vendor independently of this Contract and without breach of Vendor's confidentiality obligations to RHTP. If Vendor Property is included in or embodied within any Deliverable, RHTP is granted a perpetual, irrevocable, nonexclusive, worldwide, royalty-free license to use, execute, reproduce, display, perform, distribute internally, and prepare internal derivative works of such Vendor Property solely in conjunction with the

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

Deliverable. Vendor shall ensure that no Vendor Property included in any Deliverable is subject to third-party claims or encumbrances.

Vendor shall label intellectual property delivered under this Contract to indicate whether it is (1) a Deliverable developed under the Contract, or (2) Vendor Property or third-party property provided under a limited license.

4.2.2.14 Data Storage, Business Continuity, and Disaster Recovery Requirements

4.2.2.14.1 Data Storage - The Vendor must process, store and support all Vendor Solution data – including backups, logs, and metadata – exclusively within data centers physically located in the continental United States of America (U.S.) in accordance with "NIST 800.53 Rev 5 Moderate, HITRUST, ARC-AMPE (Strict U.S. only data residency for storage, processing, and support)." No data may be transmitted, processed, or stored outside U.S. borders, including U.S. Territories, at any time, including but not limited to during disaster recovery, failover, or support operations. After award, the Vendor must provide documentation verifying U.S.-based data residency and maintain compliance with applicable Federal and State data protection laws and regulations.

4.2.2.14.2 Business Continuity and Disaster Recovery (BCP/DR) - The Vendor must maintain a documented Business Continuity Plan and Disaster Recovery plan for the Vendor Solution environment. Requirements include:

4.2.2.14.2.1 Plan Documentation - Vendor shall provide copies of its BCP and DR plans to RHTP within 60 calendar days of contract execution and upon request thereafter.

4.2.2.14.2.2 NIST Alignment - Plans must be aligned with the most current version of NIST SP 800-34 (Contingency Planning Guide for Federal Information Systems) or successor publications, throughout the contract term.

4.2.2.14.2.3 Annual Testing - Vendor must conduct annual BCP/DR testing (tabletop or live failover exercises) and provide a summary report of results, corrective actions, and remediation timelines to RHTP within 30 calendar days of test completion.

4.2.2.14.2.4 U.S. Data Residency - All BCP/DR activities, including backups, failover, and recovery operations, must comply with Section 4.2.2.14.1 data residency requirements (U.S.-based only).

4.2.2.14.2.5 Continuous Improvement - Vendor must update its BCP/DR plans within 60 calendar days of lessons learned from testing, incidents, or material changes to the hosting environment.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.14.2.6 Certification - Vendor must annually certify to RHTP that its BCP/DR plans remain current, tested, and compliant with Federal and State requirements.

4.2.2.15 Data Assistance

4.2.2.15.1 Within one hundred and twenty (120) calendar days of the end of the final term of this Contract, or upon notice of termination of the Contract, whichever is shorter, and without respect to either the cause or time of such termination, the Vendor will take all necessary measures to facilitate a seamless transition to a successor, to the extent required by the State. The Vendor will, at any time during the one hundred and twenty (120) calendar days preceding termination, provide such information about the System as will be required by the State and/or the successor for purposes of planning the transition. In addition, the Vendor will immediately provide historical records to the State in a form acceptable to the State for the preceding years during which the Vendor was under contract with the State, and any other information necessary for a seamless transition.

The Vendor agrees, after receipt of a notice of termination, and except as otherwise directed by the State, the Vendor will:

4.2.2.15.1.1 Stop work under the Contract on the date, and to the extent, specified in the notice.

4.2.2.15.1.2 Immediately deliver copies of all subcontracts and all third-party contracts executed in connection with the performance of the Services.

4.2.2.15.1.3 Place no further orders or subcontracts for Services, except as may be necessary for completion of such portion of the work under the Contract that is not terminated as specified in writing by the State.

4.2.2.15.1.4 Assign, to the extent applicable or as the State may require, all subcontracts and all third-party contracts executed in connection with the performance of the Services to the State or a successor provider, as the State may require.

4.2.2.15.1.5 Perform, as the State may require, such knowledge transfer and other services as are required to allow the Services to continue without interruption or adverse effect and to facilitate orderly migration and transfer of the services to the successor.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.15.1.6 Promptly supply all materials necessary for continued operation of systems, including:

4.2.2.15.1.6.1 Computer programs

4.2.2.15.1.6.2 Data files

4.2.2.15.1.6.3 User and operations manuals

4.2.2.15.1.6.4 System and program documentation

4.2.2.15.1.6.5 Training programs related to the operation and maintenance of the system [42 CFR 434.10 (b) & SMM 2082.2]

4.2.2.15.1.7 Take such action as may be necessary, or as the State may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Vendor and in which the State has or may acquire an interest and to transfer that property to the State or a successor.

4.2.2.15.2 Vendor acknowledges that, if it were to breach, or threaten to breach, its obligation to provide the State with the foregoing assistance, the State would be immediately and irreparably harmed and monetary compensation would not be measurable or adequate. In such circumstances, the State shall be entitled to obtain such injunctive, declaratory or other equitable relief as the State deems necessary to prevent such breach or threatened breach, without the requirement of posting any bond, and Vendor waives any right it may have to allege or plead or prove that the State is not entitled to injunctive, declaratory or other equitable relief. If the court should find that Vendor has breached (or attempted or threatened to breach) any such obligations, Vendor agrees that without any additional findings of irreparable injury or other conditions to injunctive or any equitable relief, Vendor will not oppose the entry of an order compelling its performance and restraining Vendor from any further breaches (or attempted or threatened breaches).

4.2.2.16 General Project Requirements

4.2.2.16.1 Initial Planning Sessions - Vendor must host an initial planning session(s) with RHTP within 10 business days after the project start date, with the goal to finalize the Project Plan and Schedule.

4.2.2.16.2 Alignment with Implementation Plan - The Vendor's finalized Project Plan and Schedule must adhere to the Implementation Plan proposed in Section 4.2.1.10, subject to RHTP review and approval.

4.2.2.16.3 Deviations from Implementation Plan - Any deviation from the proposed Implementation Plan must be documented, justified, and approved by RHTP.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.16.4 Implementation Period Fees and Milestone-Based Payments - The Vendor shall not assess, invoice, or otherwise charge RHTP for any fees, including but not limited to annual licensing, subscription, hosting, maintenance, or support fees, during the Implementation Period. Payment for implementation services shall be tied to the successful completion of mutually agreed-upon implementation milestones established during the initial planning sessions and incorporated into the approved Project Plan.

No milestone payment shall be due until RHTP has verified and approved completion of the corresponding milestone. Final implementation payment shall be made only upon RHTP's formal written Acceptance of the fully implemented Vendor Solution, as defined in Section "Acceptance Criteria." No recurring or annual fees shall begin or accrue until the system has been fully implemented, operational, and accepted by RHTP.

4.2.2.16.4.1 Milestone Definition and Approval - All implementation milestones must be jointly developed during the initial planning sessions and incorporated into the Vendor's Project Plan. Each milestone must include:

4.2.2.16.4.1.1 A clear description of required deliverables

4.2.2.16.4.1.2 Objective acceptance criteria

4.2.2.16.4.1.3 Documentation requirements

4.2.2.16.4.1.4 A proposed payment amount tied to that milestone

Milestones are not valid until formally approved in writing by RHTP.

4.2.2.16.4.2 No Unilateral Changes - The Vendor may not add, remove, modify, subdivide, or consolidate milestones without RHTP's prior written approval. Any attempt to alter milestone definitions or payment amounts without approval is void and unenforceable.

4.2.2.16.4.3 Verification Before Payments - No milestone payment shall be due until RHTP verifies that all deliverables and acceptance criteria associated with that milestone have been fully met. Verification shall be documented in writing by RHTP.

4.2.2.16.4.4 No Partial or Conditional Payments - RHTP will not issue partial payments for partially completed milestones. Milestone payments are all-or-nothing and contingent upon full completion and RHTP approval.

4.2.2.16.4.5 No Recurring Fees Before Final Acceptance - Regardless of milestone progress, annual, recurring, subscription, hosting, maintenance, or

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

support fees will not begin or accrue until RHTP issues formal written Acceptance of the fully implemented Vendor Solution.

4.2.2.16.4.6 Milestone Failure and Remediation - If the Vendor fails to meet a milestone, RHTP may issue a Notice of Deficiency. The Vendor must remediate all deficiencies at no additional cost and resubmit the milestone for RHTP verification. RHTP may repeat any testing or review necessary to confirm remediation.

4.2.2.16.5 Liquidated Damages for Implementation Delays - RHTP reserves the right to assess liquidated damages if the Vendor fails to meet any mutually agreed-upon implementation milestone by the approved milestone due date. In such cases, the Agency may assess liquidated damages in the amount of \$5,000.00 per calendar day until the milestone is completed and verified by the Agency. For delays in achieving final system Acceptance, the Agency may assess liquidated damages at a rate of \$10,000.00 per calendar day. Total liquidated damages shall not exceed ten percent (10%) of the total implementation costs.

4.2.2.17 Vendor Staffing:

4.2.2.17.1 The awarded Vendor will provide staffing resources to successfully complete the implementation tasks, including system configuration, customization, testing, training, and go-live support tasks to meet RHTP requirements. The Vendor's internal policies and procedures for hiring must comply with:

4.2.2.17.1.1 WV Office of Technology Policies
(<https://technology.wv.gov/policy-governance/ot-policies>)

4.2.2.17.1.2 Agency Office of Shared Administration – Office of Management Information Services (OMIS) Policy #0529:
Vendor/Contractor Employee Background Check Policy

4.2.2.17.1.3 OMIS Procedure #OP-35: Vendor/Contractor Employee Background Check Procedure, and Appendix A.

4.2.2.18 Privacy:

4.2.2.18.1 The Vendor must comply with all relevant State and Federal Data Privacy Laws, Regulations, and Policies.

4.2.2.18.2 The Vendor Solution must maintain an internal audit log of all user access and activity, including logins, data additions, edits, deletions, and exports. Audit logs may be used for compliance monitoring or investigation of suspected breaches.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.18.3 If a data breach is discovered or suspected, the Vendor shall immediately follow the process outlined in the most recent version of the Office of Management Information Services Incident Reporting and Response Procedures.

(https://www.wvdhhr.org/mis/policies/Incident_Reporting_and_Response.pdf)

Upon any discovered or suspected data breach involving PHI, Vendor shall be responsible for compliance with relevant Federal regulations and laws

4.2.2.18.4 The Vendor shall ensure that data maintained on behalf of the Vendor Solution is not used, released, or sold without specific authorization of RHTP, regardless of whether the data has been de-identified or included with a limited data set.

4.2.2.18.5 The Vendor must certify that it is not currently under investigation by any State or Federal authority for a breach of data security.

4.2.2.18.6 The Vendor must disclose whether it has been involved in any breach of data security and provide details relating to the causes of the breach and the mitigating actions taken in response to the breach.

4.2.2.18.7 The Vendor must disclose details of any previous or current investigation by any State or Federal authority, including investigations that did not result in formal sanctions related to privacy or security of patient information. The details must include the resulting corrective action plan or details of the final resolution, including the assessment of any fines or other sanctions against the Vendor.

4.2.2.18.7.1 RHTP reserves the right to request supporting documentation or conduct independent verification. Failure to disclose relevant investigations may result in disqualification, contract termination, or other remedies.

4.2.2.18.8 The Vendor must certify that its employees have never been convicted of, charged with, or are under investigation for, violation of any criminal law, or violation of any civil law governing health care fraud, abuse, or waste.

4.2.2.18.9 The Vendor must certify that it does not employ any individuals who have been excluded or debarred by the Federal or any State government from participating in any Federal or State programs or contracts.

4.2.2.18.10 The Vendor shall not use Vendor Solution data for analytics, AI/ML training, model development, or any secondary purpose without explicit written approval from RHTP.

4.2.2.19 Security and Audit Compliance:

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.19.1 Federal Security Compliance Requirements - The Vendor must ensure the Vendor Solution complies with applicable Federal cybersecurity standards, including:

4.2.2.19.1.1 FIPS 140-2/3 Validated Cryptography - All cryptographic modules used for data at rest and in transit must be validated under NIST's Cryptographic Module Validation Program (CMVP).

4.2.2.19.1.2 Transport Layer Security (TLS) - All data exchanges must use TLS in accordance with the most current version of NIST SP 800-52 (Guidelines for the Selection, Configuration, and Use of TLS Implementations). At minimum, the Vendor Solution must support TLS 1.2 and TLS 1.3 at contract award. Vendors must demonstrate the ability to implement newer TLS versions or configurations within 12 months of publication by NIST or CDC. All TLS implementations must use cryptographic modules validated to FIPS 140-2 or FIPS 140-3 under NIST's CMVP and must employ only approved cipher suites.

4.2.2.19.1.3 Ongoing Compliance - Vendors must maintain compliance with evolving Federal cybersecurity standards throughout the contract term and report any changes to FedRAMP authorization, FIPS validation, or TLS support within 30 calendar days.

4.2.2.19.2 SOC 2 Type II Audit Report

4.2.2.19.2.1 The awarded Vendor shall provide a current SOC 2 Type II audit report within 60 calendar days of contract execution. The report must cover a review period ending no more than 12 months prior to submission and demonstrate compliance with the Trust Services Criteria for Security, Availability, Confidentiality, and Privacy.

4.2.2.19.2.2 The Vendor shall provide an updated SOC 2 Type II audit report annually within 30 calendar days of the contract anniversary date for the duration of the contract term. RHTP reserves the right to review and approve the sufficiency of the report and may request additional documentation or clarification in the event of material changes to the Vendor's hosting environment or security posture.

4.2.2.19.2.3 ISO/IEC 27001 certification may be submitted as supplemental evidence of organizational security maturity but does not substitute for the SOC 2 Type II requirement or RHTP's U.S. data residency policy.

4.2.2.19.3 Penetration Testing and Vulnerability Management - The Vendor must perform third-party penetration testing of the hosted Vendor Solution

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

environment on an annual basis, in compliance with NIST 800-53 standards. A detailed report of findings and remediation actions shall be submitted to RHTP within 30 calendar days of test completion. The Vendor shall maintain a documented vulnerability management program and address all critical or high-risk findings within 30 calendar days, unless otherwise approved by RHTP.

4.2.2.19.4 Secure Software Development Lifecycle (SSDLC) Practices - The Vendor must adhere to secure software development lifecycle (SSDLC) practices to ensure the Vendor Solution is developed, maintained, and operated in accordance with Federal cybersecurity standards. Requirements include:

4.2.2.19.4.1 Documented SSDLC Process - The Vendor shall maintain and provide documentation of secure development lifecycle practices, aligned with NIST SP 800-218 (Secure Software Development Framework) or equivalent.

4.2.2.19.4.2 Static and Dynamic Application Security Testing (SAST/DAST) - The Vendor must perform SAST scans integrated into the development pipeline for every code commit or build and DAST scans at least quarterly and following any major release or production update. The Vendor must provide remediation plans for all identified vulnerabilities, with critical and high-risk findings resolved within 30 calendar days, unless otherwise approved by RHTP.

4.2.2.19.4.3 Vulnerability Management Integration - Findings from SAST/DAST must be incorporated into the Vendor's vulnerability management program, with remediation timelines consistent with Section 4.2.2.14.2.3.

4.2.2.19.4.4 Third-Party Component Security - The Vendor must track and document all third-party libraries and modules, ensuring they are updated and free of known critical vulnerabilities.

4.2.2.19.4.5 Continuous Monitoring - The Vendor must implement continuous monitoring practices consistent with FedRAMP and NIST guidance, including automated code scanning and penetration testing at least annually.

4.2.2.19.5 Cloud Provider Attestations - If the Vendor utilizes a third-party cloud service provider, the Vendor shall provide:

4.2.2.19.5.1 Documentation confirming that the cloud provider maintains FedRAMP Moderate or High authorization; SOC 2 Type II may be submitted only as supplemental evidence.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.19.5.2 Evidence that all Vendor Solution data is stored and processed exclusively within U.S.-based data centers, in compliance with Federal government and West Virginia cybersecurity and data residency requirements.

4.2.2.19.5.3 Support for compliance with applicable Executive Branch and Office of Management Information Services (OMIS) Security Policies.

4.2.2.19.6 Vendor Attestation Form

4.2.2.19.6.1 The awarded Vendor shall complete and submit a Vendor Attestation Form within 30 calendar days of contract execution, certifying compliance with the following:

4.2.2.19.6.1.1 U.S.-based data residency and transmission restrictions

4.2.2.19.6.1.2 SOC Type II audit submission timelines

4.2.2.19.6.1.3 Penetration testing and vulnerability remediation protocols

4.2.2.19.6.1.4 Cloud provider compliance

4.2.2.19.6.1.5 All applicable State and Federal cybersecurity policies and standards

4.2.2.19.6.1.6 All applicable State and Federal information security and privacy requirements

RHTP reserves the right to request updated attestations annually or upon material changes to the Vendor's operations or hosting environment.

4.2.2.19.7 Incident Response (IR) Policy and Plan Requirements - The Vendor must maintain and provide documentation of its own incident response (IR) policy and plan, in addition to following RHTP's incident response procedures in Section 4.2.2.18.3. Requirements include:

4.2.2.19.7.1 NIST Alignment - The Vendor's IR policy and plan must be aligned with the most current version of NIST SP 800-61 (Computer Security Incident Handling Guide) or successor publications.

4.2.2.19.7.2 Ongoing Updates - The Vendor must update its IR policy and plan within 6 months of any NIST revision or Federal mandate affecting incident response practices.

4.2.2.19.7.3 Integration with Agency Plan - The Vendor must demonstrate how its IR plan complements and integrates with Agency's incident response procedures, ensuring coordinated detection, reporting, containment, eradication, and recovery.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.19.7.4 Testing and Exercises - The Vendor must conduct annual incident response exercises (e.g., tabletop or simulated breach scenarios) and provide summary reports of findings and corrective actions to the Agency within 30 calendar days.

4.2.2.19.7.5 Availability - The Vendor must make its IR policy and plan available to the Agency upon request and certify compliance annually.

4.2.2.19.7.6 Continuous Improvement - The Vendor must incorporate lessons learned from incidents and exercises into its IR plan within 60 calendar days of identification.

4.2.2.19.8 Audit and Attestation Requirements - RHTP reserves the right to audit or request attestation regarding any security controls required under this contract. The Vendor shall:

4.2.2.19.8.1 Provide Evidence at No Cost - Supply system documentation, policies, configurations, testing results, audit reports, or other evidence necessary to verify compliance at RHTP's request, without additional cost.

4.2.2.19.8.2 Timely Response - Provide requested evidence within 30 calendar days of RHTP's request, unless otherwise approved in writing.

4.2.2.19.8.3 Independent Verification - Permit RHTP or its designated third-party auditor to conduct independent verification of security controls, including site visits or technical assessments, with reasonable notice.

4.2.2.19.8.4 Ongoing Attestation - Complete and submit updated attestation forms annually, or upon material changes to the Vendor's hosting environment, security posture, or compliance status.

4.2.2.19.8.5 Future Standards Alignment - Ensure that audits and attestations remain aligned with the most current versions of applicable Federal and State cybersecurity standards (e.g., NIST, FedRAMP, FIPS, OMIS policies).

4.2.2.19.8.6 Remediation Obligation - Address any deficiencies identified during audits or attestations within 60 calendar days, or as otherwise approved by RHTP, and provide written confirmation of remediation.

4.2.2.20 Acceptance Criteria:

4.2.2.20.1 General Acceptance Requirement - The Agency will issue written Acceptance of the Vendor Solution only after verifying that all functional,

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

technical, security, interoperability, and performance requirements defined in this Solicitation have been fully met. No portion of the system shall be considered Accepted until all Acceptance activities are completed and approved in writing by the Agency.

4.2.2.20.2 Acceptance Testing - The Vendor must support and participate in Agency-led Acceptance Testing, which includes but is not limited to:

- 4.2.2.20.2.1** Functional testing of all modules and workflows
- 4.2.2.20.2.2** Data migration validation
- 4.2.2.20.2.3** Interface and interoperability testing
- 4.2.2.20.2.4** Performance and load testing
- 4.2.2.20.2.5** Security and access control verification
- 4.2.2.20.2.6** User acceptance testing (UAT) with Agency-designated staff

All defects identified during Acceptance Testing must be remediated by the Vendor at no additional cost to the Agency.

4.2.2.20.3 Acceptance Criteria - The Vendor Solution will be deemed acceptable only when all the following conditions have been met:

- 4.2.2.20.3.1** All system functionality is fully implemented as described in the Vendor's approved Implementation Plan and the requirements of this Solicitation.
- 4.2.2.20.3.2** All required interfaces are operational, exchanging data accurately and consistently with Agency-designated systems.
- 4.2.2.20.3.3** All defects classified as Critical or High severity are resolved, and no Medium or Low defects materially impact system operation or Agency workflows.
- 4.2.2.20.3.4** All documentation is delivered, including system architecture, configuration guides, user manuals, training materials, and administrative procedures.
- 4.2.2.20.3.5** All security controls are implemented and validated, including authentication, authorization, audit logging, and compliance with Agency security standards.
- 4.2.2.20.3.6** The system operates in the Agency's production environment without material errors for a mutually agreed-upon stabilization period (e.g., 30 days).

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.20.3.7 The Vendor has met all contractual deliverables, including reporting, project management, and communication requirements.

4.2.2.20.4 Formal Acceptance - Upon successful completion of all Acceptance activities, the Agency will issue a written Notice of Acceptance. Only upon issuance of this Notice may the Vendor invoice for implementation-related fees. No annual, recurring, subscription, hosting, or maintenance fees may begin prior to Acceptance.

4.2.2.20.5 Rejection and Retesting - If the system fails to meet any Acceptance Criteria, the Agency will issue a Notice of Rejection identifying deficiencies. The Vendor must correct all deficiencies at no additional cost and resubmit the system for Acceptance Testing. The Agency reserves the right to repeat any portion of testing necessary to validate corrections.

4.2.2.20.6 Prorated Annual Fees Post-Implementation - Upon the Agency's formal written Acceptance of the fully implemented Vendor Solution, the Vendor may invoice only for the prorated portion of the annual licensing, subscription, hosting, maintenance, or support fees corresponding to the remainder of the current contract year. Under no circumstances may the Vendor invoice for a full annual fee for a partial contract year. Prorated fees shall be calculated based on the number of days remaining in the contract year following the date of Acceptance.

4.2.2.20.7 Annual Fee Billing Limits and Advance Billing Requirements - Following completion of the prorated billing period described in Section 4.2.2.20.6, the Vendor may invoice the Agency for no more than 12 months of annual licensing, subscription, hosting, maintenance, or support fees for any given billing period. Under no circumstances shall the Vendor invoice the Agency for multiple years of annual fees on a single lump-sum invoice. Annual fees shall be billed only in advance for the upcoming 12-month period, or, at the Vendor's option and subject to Agency approval, in quarterly installments billed in advance for the upcoming quarter. The Vendor shall not invoice for any period beyond the next 12 months, nor for any period that has not yet commenced.

4.2.2.21 Maintenance, Support, and Ongoing Optimization

4.2.2.21.1 General Requirement - The Vendor shall provide annual maintenance, support, and ongoing optimization services for all implemented components of the Vendor Solution, including software, databases, interfaces, integrations, and hosting infrastructure. These services must ensure continued stability, performance, security, and alignment with Agency program needs throughout the contract term.

4.2.2.21.2 Help Desk and Support Services - The Vendor must provide help desk support available during standard business hours (Monday–Friday, 8:00 AM–5:00 PM local time), with documented escalation procedures. Support services must

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

include troubleshooting, user assistance, and coordination of issue resolution across all system components.

4.2.2.21.3 Bug Fixes, Security Patches, and Vulnerability Remediation - The Vendor must deliver bug fixes, security patches, and vulnerability remediation within industry-standard timeframes, with critical vulnerabilities addressed promptly. All fixes must be tested, validated, and deployed in a manner that minimizes disruption to Agency operations.

4.2.2.21.4 System Monitoring and Proactive Issue Resolution - The Vendor must perform continuous system performance monitoring and proactive issue resolution for all hosted or managed environments. Monitoring must include system health, performance metrics, error detection, and early identification of potential service disruptions.

4.2.2.21.5 Version Upgrades and Compatibility Assurance - The Vendor must provide version upgrades, enhancements, and compatibility assurance for all Vendor-supplied components. Upgrades must ensure continued compliance with Agency requirements, interoperability expectations, and evolving technical standards relevant to the Data Spine.

4.2.2.21.6 Documentation Updates - The Vendor must provide updated documentation reflecting any changes made during the maintenance period, including configuration updates, workflow changes, interface modifications, and enhancements to system functionality.

4.2.2.21.7 Ongoing Optimization, Enhancement, and Continuous Improvement - The Vendor must provide ongoing optimization, enhancement, and continuous improvement services to ensure the Vendor Solution continues to meet Agency needs as usage grows, program requirements evolve, and new operational needs are identified. Optimization activities must include, at minimum:

4.2.2.21.7.1 Performance Optimization -Regular performance tuning, load optimization, and capacity adjustments based on real-world usage patterns, system analytics, and Agency feedback.

4.2.2.21.7.2 Workflow and Usability Improvements - Refinement of workflows, user interfaces, and system interactions to improve efficiency for Agency staff.

4.2.2.21.7.3 Enhancement of Existing Features - Identification and implementation of enhancements to existing system components, including improvements to workflows, reporting, dashboards, integrations, and administrative tools.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.2.21.7.4 Development of New Features or Components - The Vendor must collaborate with the Agency to identify, design, and develop new features, modules, integrations, workflows, reporting capabilities, or other system components that support evolving program needs or expansion of the Data Spine. Enhancements may include, but are not limited to:

4.2.2.21.7.4.1 Additional reporting or analytics capabilities

4.2.2.21.7.4.2 Expanded integrations with external systems

4.2.2.21.7.4.3 New user roles or administrative functions

All proposed enhancements must include documented requirements, timelines, and cost estimates (if applicable) and must be approved by the Agency prior to development.

4.2.2.21.7.5 Continuous Monitoring and Improvement

Recommendations - Regular review of system performance, user feedback, operational trends, and analytics to identify opportunities for improvement. The Vendor must provide written recommendations to the Agency at least annually, or more frequently upon request.

4.2.2.21.7.6 Scalability and Future-Readiness - Assessment and optimization of system capacity, architecture, and configuration to ensure the Vendor Solution remains scalable, secure, and capable of supporting future program growth.

4.2.2.21.7.7 Enhancement Requests and Hourly Development Services

The Vendor shall provide additional development, configuration, or enhancement services beyond routine maintenance and optimization at an hourly rate established in the Vendor's Cost Proposal. Such services may include, but are not limited to, the development of new features, modules, integrations, workflows, reporting capabilities, or other system components identified by the Agency as necessary to support evolving program needs.

All enhancement work must be authorized through a separate, Agency approved Statement of Work (SOW) prior to initiation. Each SOW must include:

4.2.2.21.7.7.1 A description of the requested enhancement or new functionality

4.2.2.21.7.7.2 Detailed requirements and acceptance criteria

4.2.2.21.7.7.3 Estimated hours and associated costs

4.2.2.21.7.7.4 Proposed timelines and milestones

4.2.2.21.7.7.5 Any dependencies or impacts on existing system components

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

No enhancement, development activity, or billable work under this subsection may begin until the Agency has issued written approval of the SOW. The Vendor shall not invoice for any enhancement work that has not been explicitly authorized in writing by the Agency.

4.2.2.22 Project Manager: The awarded Vendor will provide a project manager, and the Agency will engage a project manager during the system implementation phase.

4.2.2.23 Project Milestones - The Vendor must complete the milestones outlined in the table below. Payments are strictly tied to outcomes. Disbursements will be issued only upon successful User Acceptance Testing (UAT) and formal written sign-off by the State of West Virginia for each milestone, rather than mere technical deployment by the Vendor. Delayed milestones will trigger liquidated damages as specified in Section 3.

Milestone	Time Frame	Description	Budget Percentage
Milestone 1	90 Calendar Days	Successful completion of the foundational project management planning, delivery of tiered user training, and execution of multi-stage system testing, culminating in full MECL/MECT alignment to secure Federal CMS certification readiness.	10%
		Design and finalize the Data Spine architecture, including data governance framework, and integration approach.	
		Implement core data integration and analytics capabilities, including onboarding of priority data sources and deployment of initial reporting dashboards to support program measurement and oversight.	
Milestone 2	6 Months	Establish complete data collection capabilities (API, MFT, DB) and successfully aggregate multi-source data into the unified System of Truth utilizing data profiling and master data management tooling.	20%
Milestone 3	9 Months	Deploy the analytics workbench and point-of-care decision support connectors (EHR, Pharmacy, HIE), ensuring tailored, actionable inferences can be delivered securely.	20%
Milestone 4	10 Months	Launch automated reporting capabilities, including pre-built CMS/State templates and generative AI-driven dashboard narratives, fully vetted against NIST 800.53 Rev 5 and HITRUST requirements.	30%
Milestone 5	12 Months	Provided support of the system for postproduction operations including but not limited to bug fixing, feature completions, addressing user feedback, help desk operations, security and maintenance operations, operating manuals, and standard operating procedure documentation.	20%

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.3 Definitions:

4.2.3.1 Core Data Integration, Source Integration, and Analytics Capabilities:

To establish immediate, comprehensive program measurement and oversight for the Rural Health Transformation Program (RHTP), the Connected Care Grid (CCG) Data Spine will prioritize the immediate integration of existing, mature State data assets as part of its core deployment. Vendors are encouraged to leverage core external system integrations already available within the State's existing Data Warehouse and Decision Support System (DW/DSS) environment. By uniting these clinical, claims, administrative, and educational assets into a single, cohesive ingestion layer, the State will secure a rapid, risk-reduced launch of the Data Spine.

The core deployment will immediately ingest and synthesize data from the following pre-existing, priority data solutions:

4.2.3.1.1 Medicaid Management Information System (MMIS): Integrates historical and real-time fee-for-service claims, utilization data, and baseline cost metrics.

4.2.3.1.2 Public Employees Insurance Agency (PEIA): Captures comprehensive health plan and claims data for State employees, extending risk-pool tracking and clinical profiling to rural public sector workers.

4.2.3.1.3 West Virginia Health Information Network (WVHIN): Feeds real-time clinical data, including Admission, Discharge, and Transfer (ADT) messages and longitudinal clinical encounters.

4.2.3.1.4 West Virginia Health Statistics Center (HSC): Connects vital healthcare workforce pipeline datasets, enabling tracking of rural clinical rotations, residency slots, and placement metrics.

4.2.4 Additional Data Source Integration Requirements: The selected Vendor will be required to design, establish, and maintain secure, automated ingestion feeds across a highly diverse ecosystem of public, private, clinical, and administrative data sources to populate the Connected Care Grid (CCG) Data Spine (**as referenced in Table 1**). This integration landscape spans clinical networks (including West Virginia Health Information Network (WVHIN) ADT and clinical feeds), multi-payer claims and encounter registries (such as Medicaid/MCO, Medicare, PEIA, and commercial insurers), State-level educational and workforce databases (Workforce WV, WV HEPC Health Sciences, and professional licensure boards), and public health registries (WV Department of Health Vital Statistics, the WV Perinatal Partnership, and CDC PLACES). Bidding Vendors must detail their technical architecture for executing secure API, database, and batch integration with these heterogeneous platforms, ensuring seamless, cross-agency data aggregation and strict adherence to Federal and State privacy guidelines. In addition to these data sources, future source solutions / entities will be integrated as the RHTP initiative and programs evolve.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.2.5 Metrics for Ingestion: The selected Vendor will be required to design, deploy, and maintain a highly secure, automated data ingestion pipeline within the Connected Care Grid (CCG) Data Spine to aggregate the core program metric registry (**as referenced in Table 2**). This comprehensive registry—spanning clinical outcomes, virtual care utilization, healthcare workforce expansion, and upstream drivers of health—must be ingested and reconciled from a fragmented Statewide network of Medicaid databases, clinical EHRs, and community platforms. Bidding Vendors must demonstrate how their platform will ingest and normalize these diverse, non-conformant data streams into standard HL7 FHIR US Core Profiles under strict HIPAA and 42 CFR Part 2 compliance to establish the State's single, actionable source of truth for the Rural Health Transformation Program (RHTP).

Table 1: Data Spine Source Entities

Data Source	Core / Additional Data
MMIS	Core
Public Employees Insurance Agency (PEIA)	Core
West Virginia Health Information Network (WVHIN)	Core
West Virginia Health Statistics Center (HSC) / West Virginia Dept of Health Vital Statistics	Core
Medicaid MCOs	Additional
Medicare	Additional
Commercial Payers	Additional
Professional Clinical Licensure Boards	Additional
Higher Education Facilities/Universities	Additional
Emergency Management Services (EMS) Agencies	Additional
US Bureau of Labor Statistics	Additional
West Virginia Jobs Investment Trust (JIT)	Additional
Other State Enterprise Solutions	Additional
Initiative / Program Partners Not Defined Above	Additional
Other RHTP Source Solutions/Entities	As Needed

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

Table 2: RHTP Initial Reporting Metrics

ID	Data Metric
1	Rate of K-12 students with access to behavioral health services for target service areas
2	# of providers offering virtual care in target service areas
3	Rate of individuals receiving RPM within target populations and service areas
4	Utilization rate of virtual care with participating programs in target service areas for eligible visits
5	Average virtual first response time for immediate provider consult
6	Avoidable Emergency Department (ED) visit rate / volume
7	Average outpatient wait time for visits or consults
8	# of telehealth access points in target areas with low broadband access
9	Rate of preventable hospitalizations among recipients of RHT-funded RPM
10	Utilization rate of Non-Emergency Medical Transportation (NEMT) rides for eligible participants
11	Rate of requested and on-time health trips (arrival within 15 minutes of scheduled time)
12	Appointment no-show rate among target populations in target service areas
13	Patient satisfaction with healthcare access
14	# of licensed clinicians per 10,000 rural residents
15	# of WV students enrolled in rural health training tracks from participating counties
16	# of in-State training slots available by healthcare role
17	In-State and rural placement rate for WV-trained healthcare workers
18	% of RHT-funded clinicians and healthcare workforce retained by year (Workforce Retention)
19	# of rural residents and fellows
20	% of individuals at institutional level of care in community-based settings
21	% of rural lives covered by payers implementing new standard VBC payment models
22	% of eligible providers in new standard VBC payment models with at least one payer

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

23	% of participating providers achieving improvements in core quality indicators
24	ED visit/inpatient admissions rate for members in new VBC payment models
25	# and % of attributed members in VBC payment models achieving shared savings or total cost of care improvement
26	% of discharges in which patients receive a follow-up (in-person or virtual) within 30 days of discharge
27	All-cause readmission rate among providers participating in VBC payment models
28	% of total rural lives attached to new standard VBC payment models
29	Standard payment model definition and State support implementation status
30	% of providers scoring at median or better in quality and RVU productivity
31	Administrative cost reduction rate across participating provider entities
32	Total cost of care growth rate
33	# of individuals supported back into the workforce via participating programs
34	# of employers offering additional onsite care that promotes chronic condition management
35	6-month job retention rate among program recipients
36	Labor force participation rate in WV
37	Rate of employees who leave due to health conditions
38	% of individuals citing health as a barrier to employment
39	% of patients receiving nutrition or lifestyle counseling from a provider or dietician
40	Neonatal Abstinence Syndrome (NAS) birth rates
41	Access and adherence rate for nutrition and exercise prescriptions
42	# of patients receiving food-as-medicine and activity prescriptions
43	Adult obesity prevalence in rural WV
44	# of rural counties participating in a local health challenge
45	Ratio of matching dollars to RHT-funded dollars in expenses of local health challenges
46	Severe maternal morbidity and infant mortality rate among populations receiving interventions

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

47	% of eligible patients enrolled in at least one validated prevention/wellness program via insurance
48	Tobacco cessation rate for target populations using funded solutions
49	% of diabetes patients with HbA1c > 9% (and general improved control of diabetes)
50	% of target population with blood pressure adequately controlled (<130/80 mm Hg)
51	30-day all-cause readmission after a heart failure hospitalization (and general CVD control)
52	Abstinence rate and relapse/usage rate among SUD patients using funded solutions
53	Asthma control rate for populations receiving relevant funded solutions
54	Avoidable ED/inpatient rates for diabetes, COPD, asthma, and congestive heart failure cohorts
55	Weight loss achieved for target populations using funded solutions
56	# of individuals benefiting from funded solutions on a monthly basis
57	Ratio of private/philanthropic capital to public RHT investment
58	# of healthcare start-ups supported by Accelerator adopted via incubation pilots
59	# of incubated portfolio companies demonstrating clinical and cost outcomes
60	Additional program specific metrics to be determined.

4.2.6 Protest Bond: A party who submits a protest must contemporaneously submit a protest bond payable to this state in the amount of five percent (5%) of the lowest cost proposal. The bond shall be forfeit if the hearing officer determines that the protest was filed for a frivolous or improper purpose, but the bond is returnable if it is determined that the protest was filed for a legitimate purpose.

4.2.7 Future System Changes

4.2.7.1 System Modification: After the first year, subject to a renewed life of contract, Vendor shall undertake system modifications only upon change directive approved by the agency at the hourly rate bid.

4.2.7.2 Other Data Source Integrations: After the first year, subject to a renewed life of contract, Vendor shall undertake other data source integrations only upon change directive approved by the agency at the hourly rate bid.

4.3 Qualifications and Experience: Vendor should provide information and documentation regarding its qualifications and experience in providing services or solving problems like those requested in this RFP. Information and documentation should include, but is not limited to, copies of any staff certifications or degrees applicable to this project, proposed staffing plans, descriptions of past projects completed (descriptions should include the location of the project, project manager

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

name and contact information, type of project, and what the project goals and objectives were and how they were met.), references for prior projects, and any other information that Vendor deems relevant to the items identified as desirable or mandatory below.

4.3.1 Qualification and Experience Information: Vendor should describe in its proposal how it meets the desirable qualification and experience requirements listed below.

4.3.1.1 Demonstrated experience implementing large-scale, multi-source data integration platforms within healthcare or public sector environments.

4.3.1.2 Experience supporting interoperability across clinical, claims, and community-based systems.

4.3.1.3 Experience delivering analytics, reporting, and performance measurement solutions for population health or value-based care programs.

4.3.1.4 Experience utilizing advanced analytics workbenches, Artificial Intelligence/Machine Learning (AI/ML) models, and Generative AI to interpret operational healthcare data and create automated narratives.

4.3.1.5 Experience establishing integrations and "Actionable Inferences" directly into Point of Care consumer workflows such as Health Information Exchanges, EHRs, and Pharmacy Systems.

4.3.2 Mandatory Qualification/Experience Requirements – The following mandatory qualification/experience requirements must be met by the Vendor as a part of its submitted proposal. Vendor should describe how it meets the mandatory requirements. Failure to comply with mandatory requirements will lead to disqualification. The mandatory qualifications/experience requirements are listed below.

4.3.2.1 Vendor must demonstrate experience delivering data integration and analytics platforms capable of supporting multi-source healthcare data environments.

4.3.2.2 Vendor must demonstrate capability to support interoperability and secure data exchange across multiple stakeholders and systems.

4.3.2.3 Vendor must demonstrate experience implementing analytics and reporting solutions to support program performance measurement and outcome tracking.

4.3.2.4 Vendor must demonstrate experience deploying highly secure cloud platforms that are certified or fully compliant with NIST 800.53 Rev 5 Moderate and HITRUST standards.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

4.3.2.5 Vendor must demonstrate past performance building and maintaining automated Federal and State healthcare reporting systems, particularly those related to CMS Population Health.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

SECTION 5: VENDOR PROPOSAL

- 5.1 Economy of Preparation:** Proposals should be prepared simply and economically, providing a concise description of the items requested in Section 4. Emphasis should be placed on completeness and clarity of the content.
- 5.2 Incurring Cost:** Neither the State nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.
- 5.3 Proposal Format:** Vendors should provide responses in the format listed below:
- 5.3.1 Two-Part Submission:** Vendors must submit proposals in two distinct parts: technical and cost. Technical proposals must not contain any cost information relating to the project. Cost proposals must contain all cost information and must be sealed in a separate envelope from the technical proposal to facilitate a secondary cost proposal opening.
 - 5.3.2 Title Page:** State the RFP subject, number, Vendor's name, business address, telephone number, fax number, name of contact person, e-mail address, and Vendor signature and date.
 - 5.3.3 Table of Contents:** Clearly identify the material by section and page number.
 - 5.3.4 Response Reference:** Vendor's response should clearly reference how the information provided applies to the RFP request. For example, listing the RFP number and restating the RFP request as a header in the proposal would be considered a clear reference.
 - 5.3.5 Proposal Submission:** All proposals (both technical and cost) must be submitted to OSA Purchasing prior to the date and time listed in Section 2, Instructions to Vendors Submitting Bids as the bid opening date and time.

SECTION 6: EVALUATION AND AWARD

- 6.1 Evaluation Process:** Proposals will be evaluated in two parts by a committee of three or more individuals. The first evaluation will be of the technical proposal and the second is an evaluation of the cost proposal. The Vendor who demonstrates that it meets all of the mandatory specifications required, attains the minimum acceptable score, and attains the highest overall point score of all Vendors shall be awarded the contract.
- 6.2 Evaluation Criteria:** Proposals will be evaluated based on criteria set forth in the solicitation and information contained in the proposals submitted in response to the solicitation. The technical evaluation

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

will be based upon the point allocations designated below for a total of 70 of the 100 points. Cost represents 30 of the 100 total points.

Evaluation Point Allocation:

Project Goals and Proposed Approach (§ 4.2)

- Approach & Methodology to Goals/Objectives (§ 4.2.1) (20) Points Possible
- Approach & Methodology to Compliance with
Mandatory Project Requirements (§ 4.2.2) (20) Points Possible

Qualifications and experience (§ 4.3)

- Qualifications and Experience Generally (§ 4.3.1) (20) Points Possible
- Exceeding Mandatory Qualification/Experience
Requirements (§ 4.3.2) (10) Points Possible

Total Technical Score: 70 Points Possible

Total Cost Score: 30 Points Possible

Total Proposal Score: 100 Points Possible

6.3 Technical Bid Opening: At the technical bid opening, OSA Purchasing will open and announce the technical proposals received prior to the bid opening deadline. Once opened, the technical proposals will be provided to the Agency evaluation committee for technical evaluation.

6.4 Technical Evaluation: The Agency evaluation committee will review the technical proposals, assign points where appropriate, and make a final written recommendation to OSA Purchasing.

6.5 Proposal Disqualification:

6.5.1 Minimum Acceptable Score (“MAS”): Vendors must score a minimum of 70% (49 points) of the total technical points possible in order to move past the technical evaluation and have their cost proposal evaluated. All Vendor proposals not attaining the MAS will be disqualified.

6.5.2 Failure to Meet Mandatory Requirement: Vendors must meet or exceed all mandatory requirements in order to move past the technical evaluation and have their cost proposals evaluated. Proposals failing to meet one or more mandatory requirements of the RFP will be disqualified.

6.6 Cost Bid Opening: OSA Purchasing will schedule a date and time to publicly open and announce cost proposals after technical evaluation has been completed and the OSA Purchasing has approved the technical recommendation of the evaluation committee. All cost bids received

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

will be opened. Cost bids for disqualified proposals will be opened for record keeping purposes only and will not be evaluated or considered. Once opened, the cost proposals will be provided to the Agency evaluation committee for cost evaluation.

OSA Purchasing reserves the right to disqualify a proposal based upon deficiencies in the technical proposal even after the cost evaluation.

- 6.7 Cost Evaluation:** The Agency evaluation committee will review the cost proposals, assign points in accordance with the cost evaluation formula contained herein and make a final recommendation to OSA Purchasing.

Cost Evaluation Formula: Each cost proposal will have points assigned using the following formula for all Vendors not disqualified during the technical evaluation. The lowest cost of all proposals is divided by the cost of the proposal being evaluated to generate a cost score percentage. That percentage is then multiplied by the points attributable to the cost proposal determining the number of points allocated to the cost proposal being evaluated.

Step 1: Lowest Cost of All Proposals / Cost of Proposal Being Evaluated = Cost Score Percentage

Step 2: Cost Score Percentage X Points Allocated to Cost Proposal = **Total Cost Score**

Example:

Proposal 1 Cost is \$1,000,000
Proposal 2 Cost is \$1,100,000
Points Allocated to Cost Proposal is 30

Proposal 1: Step 1 – $\$1,000,000 / \$1,000,000 = \text{Cost Score Percentage of } 1 (100\%)$
Step 2 – $1 \times 30 = \text{Total Cost Score of } 30$

Proposal 2: Step 1 – $\$1,000,000 / \$1,100,000 = \text{Cost Score Percentage of } 0.909091 (90.9091\%)$
Step 2 – $0.909091 \times 30 = \text{Total Cost Score of } 27.27273$

- 6.8 Availability of Information:** Proposal submissions become public and are available for review immediately after opening pursuant to West Virginia Code §5A-3-11(h). All other information associated with the RFP, including but not limited to technical scores and reasons for disqualification, will not be available until after the contract has been awarded pursuant to West Virginia Code of State Rules §148-1-6.3. d.

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

By signing below, I certify that I have reviewed this Request for Proposal in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that, to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

(Company)

(Representative Name, Title)

(Contact Phone/Fax Number)

(Date)

REQUEST FOR PROPOSAL

WV RURAL HEALTH TRANSFORMATION PROGRAM RFP # RHT26*4

Attachment A: Cost Sheet

In addition to the following, there is an electronically fillable spreadsheet attached to the header.

ATTACHMENT A PRICING PAGE ARFP RHT26*4

This table includes all fees for developing, hosting, maintenance, and support services.						
Operational and Recurring Fees						
Cost Item	Description	Year 1 Cost (\$)*	Year 2 Cost (\$)	Year 3 Cost (\$)	Year 4 Cost (\$)	Year 5 Cost (\$)
1. Core Data Integration	Successful completion of the foundational project management planning, delivery of tiered user training, and execution of multi-stage system testing, culminating in full MECL/MECT alignment to secure federal CMS certification readiness. Design and finalize the Data Spine architecture, including data governance framework, and integration approach. Implement core data integration and analytics capabilities, including onboarding of priority data sources and deployment of initial reporting dashboards to support program measurement and oversight.					
2. Additional Data Integration	Establish complete data collection capabilities (API, MFT, DB) and successfully aggregate multi-source data into the unified System of Truth utilizing data profiling and master data management tooling.					
3. Deploy Analytics Workbench	Deploy the analytics workbench and point-of-care decision support connectors (EHR, Pharmacy, HIE), ensuring tailored, actionable inferences can be delivered securely.					
4. Launch Automated Reporting	Launch automated reporting capabilities, including pre-built CMS/State templates and generative AI-driven dashboard narratives, fully vetted against NIST 800.53 Rev 5 and HITRUST requirements.					
5. Support and Operations	Provided support, including but not limited to; bug fixing, feature completions, addressing user feedback, help desk operations, security and maintenance operations, operating manuals, and standard operating procedure documentation.					
TOTAL ANNUAL FEES		\$ -	\$ -	\$ -	\$ -	\$ -

* Year 1 payment milestones found at 4.2.2.23

System Modification		4.2.7.1		
Year	Estimated Hours	Hourly Rate	Cost/Year	
Year 1	0			
Year 2	100		\$0	
Year 3	100		\$0	
Year 4	100		\$0	
Year 5	100		\$0	
Total System Modification:			\$0	

Other Data Source Integrations		4.2.7.2		
Year	Estimated Integrations	Cost Per Integration	Cost/Year	
Year 1	0			
Year 2	10		\$0	
Year 3	10		\$0	
Year 4	10		\$0	
Year 5	10		\$0	
Total Other Data Source Integrations			\$0	

Grand Total \$ -

Cost score evaluation will be based on the Grand Total which is the sum of the Total Annual Fees, Total System Modification, and Total Other Data Source Integrations cost.

WV STATE GOVERNMENT

HIPAA BUSINESS ASSOCIATE ADDENDUM

This Health Insurance Portability and Accountability Act of 1996 (hereafter, HIPAA) Business Associate Addendum ("Addendum") is made a part of the Agreement ("Agreement") by and between the State of West Virginia ("Agency"), and Business Associate ("Associate"), and is effective as of the date of execution of the Addendum.

The Associate performs certain services on behalf of or for the Agency pursuant to the underlying Agreement that requires the exchange of information including protected health information protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act"), any associated regulations and the federal regulations published at 45 CFR parts 160 and 164 (sometimes collectively referred to as "HIPAA"). The Agency is a "Covered Entity" as that term is defined in HIPAA, and the parties to the underlying Agreement are entering into this Addendum to establish the responsibilities of both parties regarding HIPAA-covered information and to bring the underlying Agreement into compliance with HIPAA.

Whereas it is desirable, in order to further the continued efficient operations of Agency to disclose to its Associate certain information which may contain confidential individually identifiable health information (hereafter, Protected Health Information or PHI); and

Whereas, it is the desire of both parties that the confidentiality of the PHI disclosed hereunder be maintained and treated in accordance with all applicable laws relating to confidentiality, including the Privacy and Security Rules, the HITECH Act and its associated regulations, and the parties do agree to at all times treat the PHI and interpret this Addendum consistent with that desire.

NOW THEREFORE: the parties agree that in consideration of the mutual promises herein, in the Agreement, and of the exchange of PHI hereunder that:

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - a. **Agency Procurement Officer** shall mean the appropriate Agency individual listed at: <http://www.state.wv.us/admin/purchase/vrc/agencyli.html>.
 - b. **Agent** shall mean those person(s) who are agent(s) of the Business Associate, in accordance with the Federal common law of agency, as referenced in 45 CFR § 160.402(c).
 - c. **Breach** shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except as excluded in the definition of Breach in 45 CFR § 164.402.
 - d. **Business Associate** shall have the meaning given to such term in 45 CFR § 160.103.
 - e. **HITECH Act** shall mean the Health Information Technology for Economic and Clinical Health Act. Public Law No. 111-05. 111th Congress (2009).

- f. **Privacy Rule** means the Standards for Privacy of Individually Identifiable Health Information found at 45 CFR Parts 160 and 164.
- g. **Protected Health Information or PHI** shall have the meaning given to such term in 45 CFR § 160.103, limited to the information created or received by Associate from or on behalf of Agency.
- h. **Security Incident** means any known successful or unsuccessful attempt by an authorized or unauthorized individual to inappropriately use, disclose, modify, access, or destroy any information or interference with system operations in an information system.
- i. **Security Rule** means the Security Standards for the Protection of Electronic Protected Health Information found at 45 CFR Parts 160 and 164.
- j. **Subcontractor** means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

2. Permitted Uses and Disclosures.

- a. **PHI Described.** This means PHI created, received, maintained or transmitted on behalf of the Agency by the Associate. This PHI is governed by this Addendum and is limited to the minimum necessary, to complete the tasks or to provide the services associated with the terms of the original Agreement, and is described in Appendix A.
- b. **Purposes.** Except as otherwise limited in this Addendum, Associate may use or disclose the PHI on behalf of, or to provide services to, Agency for the purposes necessary to complete the tasks, or provide the services, associated with, and required by the terms of the original Agreement, or as required by law, if such use or disclosure of the PHI would not violate the Privacy or Security Rules or applicable state law if done by Agency or Associate, or violate the minimum necessary and related Privacy and Security policies and procedures of the Agency. The Associate is directly liable under HIPAA for impermissible uses and disclosures of the PHI it handles on behalf of Agency.
- c. **Further Uses and Disclosures.** Except as otherwise limited in this Addendum, the Associate may disclose PHI to third parties for the purpose of its own proper management and administration, or as required by law, provided that (i) the disclosure is required by law, or (ii) the Associate has obtained from the third party reasonable assurances that the PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party by the Associate; and, (iii) an agreement to notify the Associate and Agency of any instances of which it (the third party) is aware in which the confidentiality of the information has been breached. To the extent practical, the information should be in a limited data set or the minimum necessary information pursuant to 45 CFR § 164.502, or take other measures as necessary to satisfy the Agency's obligations under 45 CFR § 164.502.

3. Obligations of Associate.

- a. **Stated Purposes Only.** The PHI may not be used by the Associate for any purpose other than as stated in this Addendum or as required or permitted by law.
- b. **Limited Disclosure.** The PHI is confidential and will not be disclosed by the Associate other than as stated in this Addendum or as required or permitted by law. Associate is prohibited from directly or indirectly receiving any remuneration in exchange for an individual's PHI unless Agency gives written approval and the individual provides a valid authorization. Associate will refrain from marketing activities that would violate HIPAA, including specifically Section 13406 of the HITECH Act. Associate will report to Agency any use or disclosure of the PHI, including any Security Incident not provided for by this Agreement of which it becomes aware.
- c. **Safeguards.** The Associate will use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of the PHI, except as provided for in this Addendum. This shall include, but not be limited to:
 - i. Limitation of the groups of its workforce and agents, to whom the PHI is disclosed to those reasonably required to accomplish the purposes stated in this Addendum, and the use and disclosure of the minimum PHI necessary or a Limited Data Set;
 - ii. Appropriate notification and training of its workforce and agents in order to protect the PHI from unauthorized use and disclosure;
 - iii. Maintenance of a comprehensive, reasonable and appropriate written PHI privacy and security program that includes administrative, technical and physical safeguards appropriate to the size, nature, scope and complexity of the Associate's operations, in compliance with the Security Rule;
 - iv. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the business associate agree to the same restrictions, conditions, and requirements that apply to the business associate with respect to such information.
- d. **Compliance With Law.** The Associate will not use or disclose the PHI in a manner in violation of existing law and specifically not in violation of laws relating to confidentiality of PHI, including but not limited to, the Privacy and Security Rules.
- e. **Mitigation.** Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the PHI by Associate in violation of the requirements of this Addendum, and report its mitigation activity back to the Agency.

f. **Support of Individual Rights.**

- i. **Access to PHI.** Associate shall make the PHI maintained by Associate or its agents or subcontractors in Designated Record Sets available to Agency for inspection and copying, and in electronic format, if requested, within ten (10) days of a request by Agency to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.524 and consistent with Section 13405 of the HITECH Act.
- ii. **Amendment of PHI.** Within ten (10) days of receipt of a request from Agency for an amendment of the PHI or a record about an individual contained in a Designated Record Set, Associate or its agents or subcontractors shall make such PHI available to Agency for amendment and incorporate any such amendment to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.526.
- iii. **Accounting Rights.** Within ten (10) days of notice of a request for an accounting of disclosures of the PHI, Associate and its agents or subcontractors shall make available to Agency the documentation required to provide an accounting of disclosures to enable Agency to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR § 164.528 and consistent with Section 13405 of the HITECH Act. Associate agrees to document disclosures of the PHI and information related to such disclosures as would be required for Agency to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. This should include a process that allows for an accounting to be collected and maintained by Associate and its agents or subcontractors for at least six (6) years from the date of disclosure, or longer if required by state law. At a minimum, such documentation shall include:
 - the date of disclosure;
 - the name of the entity or person who received the PHI, and if known, the address of the entity or person;
 - a brief description of the PHI disclosed; and
 - a brief statement of purposes of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure.
- iv. **Request for Restriction.** Under the direction of the Agency, abide by any individual's request to restrict the disclosure of PHI, consistent with the requirements of Section 13405 of the HITECH Act and 45 CFR § 164.522, when the Agency determines to do so (except as required by law) and if the disclosure is to a health plan for payment or health care operations and it pertains to a health care item or service for which the health care provider was paid in full "out-of-pocket."
- v. **Immediate Discontinuance of Use or Disclosure.** The Associate will immediately discontinue use or disclosure of Agency PHI pertaining to any individual when so requested by Agency. This includes, but is not limited to, cases in which an individual has withdrawn or modified an authorization to use or disclose PHI.

- g. **Retention of PHI.** Notwithstanding section 4.a. of this Addendum, Associate and its subcontractors or agents shall retain all PHI pursuant to state and federal law and shall continue to maintain the PHI required under Section 3.f. of this Addendum for a period of six (6) years after termination of the Agreement, or longer if required under state law.
- h. **Agent's, Subcontractor's Compliance.** The Associate shall notify the Agency of all subcontracts and agreements relating to the Agreement, where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum. Such notification shall occur within 30 (thirty) calendar days of the execution of the subcontract and shall be delivered to the Agency Procurement Officer. The Associate will ensure that any of its subcontractors, to whom it provides any of the PHI it receives hereunder, or to whom it provides any PHI which the Associate creates or receives on behalf of the Agency, agree to the restrictions and conditions which apply to the Associate hereunder. The Agency may request copies of downstream subcontracts and agreements to determine whether all restrictions, terms and conditions have been flowed down. Failure to ensure that downstream contracts, subcontracts and agreements contain the required restrictions, terms and conditions may result in termination of the Agreement.
- j. **Federal and Agency Access.** The Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI, as well as the PHI, received from, or created or received by the Associate on behalf of the Agency available to the U.S. Secretary of Health and Human Services consistent with 45 CFR § 164.504. The Associate shall also make these records available to Agency, or Agency's contractor, for periodic audit of Associate's compliance with the Privacy and Security Rules. Upon Agency's request, the Associate shall provide proof of compliance with HIPAA and HITECH data privacy/protection guidelines, certification of a secure network and other assurance relative to compliance with the Privacy and Security Rules. This section shall also apply to Associate's subcontractors, if any.
- k. **Security.** The Associate shall take all steps necessary to ensure the continuous security of all PHI and data systems containing PHI. In addition, compliance with 74 FR 19006 Guidance Specifying the Technologies and Methodologies That Render PHI Unusable, Unreadable, or Indecipherable to Unauthorized Individuals for Purposes of the Breach Notification Requirements under Section 13402 of Title XIII is required, to the extent practicable. If Associate chooses not to adopt such methodologies as defined in 74 FR 19006 to secure the PHI governed by this Addendum, it must submit such written rationale, including its Security Risk Analysis, to the Agency Procurement Officer for review prior to the execution of the Addendum. This review may take up to ten (10) days.
- l. **Notification of Breach.** During the term of this Addendum, the Associate shall notify the Agency and, unless otherwise directed by the Agency in writing, the WV Office of Technology immediately by e-mail or web form upon the discovery of any Breach of unsecured PHI; or within 24 hours by e-mail or web form of any suspected Security Incident, intrusion or unauthorized use or disclosure of PHI in violation of this Agreement and this Addendum, or potential loss of confidential data affecting this Agreement. Notification shall be provided to the Agency Procurement Officer at www.state.wv.us/admin/purchase/vrc/agencyli.htm and,

unless otherwise directed by the Agency in writing, the Office of Technology at incident@wv.gov or <https://apps.wv.gov/ot/ir/Default.aspx>.

The Associate shall immediately investigate such Security Incident, Breach, or unauthorized use or disclosure of PHI or confidential data. Within 72 hours of the discovery, the Associate shall notify the Agency Procurement Officer, and, unless otherwise directed by the Agency in writing, the Office of Technology of: (a) Date of discovery; (b) What data elements were involved and the extent of the data involved in the Breach; (c) A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed PHI or confidential data; (d) A description of where the PHI or confidential data is believed to have been improperly transmitted, sent, or utilized; (e) A description of the probable causes of the improper use or disclosure; and (f) Whether any federal or state laws requiring individual notifications of Breaches are triggered.

Agency will coordinate with Associate to determine additional specific actions that will be required of the Associate for mitigation of the Breach, which may include notification to the individual or other authorities.

All associated costs shall be borne by the Associate. This may include, but not be limited to costs associated with notifying affected individuals.

If the Associate enters into a subcontract relating to the Agreement where the subcontractor or agent receives PHI as described in section 2.a. of this Addendum, all such subcontracts or downstream agreements shall contain the same incident notification requirements as contained herein, with reporting directly to the Agency Procurement Officer. Failure to include such requirement in any subcontract or agreement may result in the Agency's termination of the Agreement.

- m. **Assistance in Litigation or Administrative Proceedings.** The Associate shall make itself and any subcontractors, workforce or agents assisting Associate in the performance of its obligations under this Agreement, available to the Agency at no cost to the Agency to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Agency, its officers or employees based upon claimed violations of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inaction or actions by the Associate, except where Associate or its subcontractor, workforce or agent is named as an adverse party.

4. Addendum Administration.

- a. **Term.** This Addendum shall terminate on termination of the underlying Agreement or on the date the Agency terminates for cause as authorized in paragraph (c) of this Section, whichever is sooner.
- b. **Duties at Termination.** Upon any termination of the underlying Agreement, the Associate shall return or destroy, at the Agency's option, all PHI received from, or created or received by the Associate on behalf of the Agency that the Associate still maintains in any form and retain no copies of such PHI or, if such return or destruction is not feasible, the Associate shall extend the protections of this Addendum to the PHI and limit further uses and disclosures to the purposes that make the return or destruction of the PHI infeasible. This shall also apply to all agents and subcontractors of Associate. The duty of the Associate and its agents

and subcontractors to assist the Agency with any HIPAA required accounting of disclosures survives the termination of the underlying Agreement.

- c. **Termination for Cause.** Associate authorizes termination of this Agreement by Agency, if Agency determines Associate has violated a material term of the Agreement. Agency may, at its sole discretion, allow Associate a reasonable period of time to cure the material breach before termination.
- d. **Judicial or Administrative Proceedings.** The Agency may terminate this Agreement if the Associate is found guilty of a criminal violation of HIPAA. The Agency may terminate this Agreement if a finding or stipulation that the Associate has violated any standard or requirement of HIPAA/HITECH, or other security or privacy laws is made in any administrative or civil proceeding in which the Associate is a party or has been joined. Associate shall be subject to prosecution by the Department of Justice for violations of HIPAA/HITECH and shall be responsible for any and all costs associated with prosecution.
- e. **Survival.** The respective rights and obligations of Associate under this Addendum shall survive the termination of the underlying Agreement.

5. General Provisions/Ownership of PHI.

- a. **Retention of Ownership.** Ownership of the PHI resides with the Agency and is to be returned on demand or destroyed at the Agency's option, at any time, and subject to the restrictions found within section 4.b. above.
- b. **Secondary PHI.** Any data or PHI generated from the PHI disclosed hereunder which would permit identification of an individual must be held confidential and is also the property of Agency.
- c. **Electronic Transmission.** Except as permitted by law or this Addendum, the PHI or any data generated from the PHI which would permit identification of an individual must not be transmitted to another party by electronic or other means for additional uses or disclosures not authorized by this Addendum or to another contractor, or allied agency, or affiliate without prior written approval of Agency.
- d. **No Sales.** Reports or data containing the PHI may not be sold without Agency's or the affected individual's written consent.
- e. **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Agency, Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- f. **Interpretation.** The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict or appear inconsistent with any provisions in this Addendum. The interpretation of this Addendum shall be made under the laws of the state of West Virginia.
- g. **Amendment.** The parties agree that to the extent necessary to comply with applicable law they will agree to further amend this Addendum.
- h. **Additional Terms and Conditions.** Additional discretionary terms may be included in the release order or change order process.

AGREED:

Name of Agency: _____

Name of Associate: _____

Signature: _____

Signature: _____


Title: _____

Title: _____

Date: _____

Date: _____

Form - WVBAA-012004
Amended 06.26.2013

APPROVED AS TO FORM THIS 26th
DAY OF Jan 20 13

BY Patrick Morrissey
Attorney General

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. PHI not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Associate: _____

Name of Agency: _____Rural Health Transformation Program_____

Describe the PHI (do not include any actual PHI). If not applicable, please indicate the same.

Criminal Information,
Date of Birth,
Disability Information,
Gender,
Place of birth

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

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

ALL CONTRACTS: Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

EXCEPTION: The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

DEFINITIONS:

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

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

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

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

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: _____

Authorized Signature: _____ Date: _____

State of _____

County of _____, to-wit:

Taken, subscribed, and sworn to before me this ____ day of _____, 20____.

My Commission expires _____, 20____.

AFFIX SEAL HERE

NOTARY PUBLIC _____

Software as a Service Addendum

1. Definitions:

Acceptable alternative data center location means a country that is identified as providing equivalent or stronger data protection than the United States, in terms of both regulation and enforcement. DLA Piper's Privacy Heatmap shall be utilized for this analysis and may be found at <https://www.dlapiperdataprotection.com/index.html?t=world-map&c=US&c2=IN>.

Authorized Persons means the service provider's employees, contractors, subcontractors or other agents who have responsibility in protecting or have access to the public jurisdiction's personal data and non-public data to enable the service provider to perform the services required.

Data Breach means the unauthorized access and acquisition of unencrypted and unredacted personal data that compromises the security or confidentiality of a public jurisdiction's personal information and that causes the service provider or public jurisdiction to reasonably believe that the data breach has caused or will cause identity theft or other fraud.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Non-Public Data means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the public jurisdiction because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

Personal Data means data that includes information relating to a person that identifies the person by first name or first initial, and last name, and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, state identification card); financial account information, including account number, credit or debit card numbers; or protected health information (PHI).

Protected Health Information (PHI) means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI excludes education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv) and employment records held by a covered entity in its role as employer.

Public Jurisdiction means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

Public Jurisdiction Data means all data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

Public Jurisdiction Identified Contact means the person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

Restricted data means personal data and non-public data.

Security Incident means the actual unauthorized access to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a data breach.

Service Provider means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

Software-as-a-Service (SaaS) means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection and Privacy: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

- a) The service provider shall implement and maintain appropriate administrative, technical and physical security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. In Appendix A,

the public jurisdiction shall indicate whether restricted information will be processed by the service provider. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind. The service provider shall ensure that all such measures, including the manner in which personal data and non-public data are collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Addendum and shall survive termination of the underlying contract.

- b) The service provider represents and warrants that its collection, access, use, storage, disposal and disclosure of personal data and non-public data do and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations, policies and directives.
- c) The service provider shall support third-party multi-factor authentication integration with the public jurisdiction third-party identity provider to safeguard personal data and non-public data.
- d) If, in the course of its engagement by the public jurisdiction, the service provider has access to or will collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, the service provider shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at the service provider's sole cost and expense. All data obtained by the service provider in the performance of this contract shall become and remain the property of the public jurisdiction.
- e) All personal data shall be encrypted at rest and in transit with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data.
- f) Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit, in accordance with recognized industry practice. The public jurisdiction shall identify data it deems as non-public data to the service provider.
- g) At no time shall any data or process – that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees — be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.
- h) The service provider shall not use or disclose any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- i) Data Location. For non-public data and personal data, the service provider shall provide its data center services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its

U.S. data centers. With agreement from the public jurisdiction, this term may be met by the service provider providing its services from an acceptable alternative data center location, which agreement shall be stated in Appendix A. The Service Provider may also request permission to utilize an acceptable alternative data center location during a procurement's question and answer period by submitting a question to that effect. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support.

4. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any confirmed security incident or data breach.

- a) Incident Response: The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as defined by law or contained in the contract. Discussing security incidents with the public jurisdiction shall be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes defined by law or contained in the contract.
- b) Security Incident Reporting Requirements: The service provider shall report a confirmed Security Incident as soon as practicable, but no later than twenty-four (24) hours after the service provider becomes aware of it, to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>, and (3) the public jurisdiction point of contact for general contract oversight/administration. The following information shall be shared with the public jurisdiction: (1) incident phase (detection and analysis; containment, eradication and recovery; or post-incident activity), (2) projected business impact, and, (3) attack source information.
- c) Breach Reporting Requirements: Upon the discovery of a data breach or unauthorized access to non-public data, the service provider shall immediately report to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>, and the public jurisdiction point of contact for general contract oversight/administration.

5. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

- a) Immediately after being awarded a contract, the service provider shall provide the public jurisdiction with the name and contact information for an employee of service provider who shall serve as the public jurisdiction's primary security contact and shall be available to assist the public jurisdiction twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a data breach. The service provider may provide this information in Appendix A.

- b) Immediately following the service provider's notification to the public jurisdiction of a data breach, the parties shall coordinate cooperate with each other to investigate the data breach. The service provider agrees to fully cooperate with the public jurisdiction in the public jurisdiction's handling of the matter, including, without limitation, at the public jurisdiction's request, making available all relevant records, logs, files, data reporting and other materials required to comply with applicable law and regulation.
- c) Within 72 hours of the discovery, the service provider shall notify the parties listed in 4(c) above, to the extent known: (1) date of discovery; (2) list of data elements and the number of individual records; (3) description of the unauthorized persons known or reasonably believed to have improperly used or disclosed the personal data; (4) description of where the personal data is believed to have been improperly transmitted, sent, or utilized; and, (5) description of the probable causes of the improper use or disclosure.
- d) The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and prevent any further data breach at the service provider's expense in accordance with applicable privacy rights, laws and regulations and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.
- e) If a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state or federal law; (3) a credit monitoring service (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach (or other similar publication if the named publication has not issued an updated average per record per cost in the last 5 years at the time of the data breach); and (5) complete all corrective actions as reasonably determined by service provider based on root cause. The service provider agrees that it shall not inform any third party of any data breach without first obtaining the public jurisdiction's prior written consent, other than to inform a complainant that the matter has been forwarded to the public jurisdiction's legal counsel and/or engage a third party with appropriate expertise and confidentiality protections for any reason connected to the data breach. Except with respect to where the service provider has an independent legal obligation to report a data breach, the service provider agrees that the public jurisdiction shall have the sole right to determine: (1) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others, as required by law or regulation, or otherwise in the public jurisdiction's discretion; and (2) the contents of such notice, whether any

type of remediation may be offered to affected persons, and the nature and extent of any such remediation. The service provider retains the right to report activity to law enforcement.

6. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which in any way might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

7. Termination and Suspension of Service:

- a) In the event of a termination of the contract, the service provider shall implement an orderly return of public jurisdiction data within the time period and format specified in the contract (or in the absence of a specified time and format, a mutually agreeable time and format) and after the data has been successfully returned, securely and permanently dispose of public jurisdiction data.
- b) During any period of service suspension, the service provider shall not take any action to intentionally erase any public jurisdiction data.
- c) In the event the contract does not specify a time or format for return of the public jurisdiction's data and an agreement has not been reached, in the event of termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any public jurisdiction data for a period of:
 - 10 days after the effective date of termination, if the termination is in accordance with the contract period
 - 30 days after the effective date of termination, if the termination is for convenience
 - 60 days after the effective date of termination, if the termination is for cause

After such period, the service provider shall have no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

- d) The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the Contract.
- e) The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the public jurisdiction.

8. Background Checks: The service provider shall conduct criminal background checks in compliance with W.Va. Code §15-2D-3 and not utilize any staff to fulfill the obligations

of the contract, including subcontractors, who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the public jurisdiction's information among the service provider's employees and agents.

9. Oversight of Authorized Persons: During the term of each authorized person's employment or engagement by service provider, service provider shall at all times cause such persons to abide strictly by service provider's obligations under this Agreement and service provider's standard policies and procedures. The service provider further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of personal data by any of service provider's officers, partners, principals, employees, agents or contractors.

10. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction in CSV format agreed to by both the service provider and the public jurisdiction. Reports shall include user access (successful and failed attempts), user access IP address, user access history and security logs for all public jurisdiction files and accounts related to this contract.

11. Data Protection Self-Assessment: The service provider shall perform a Cloud Security Alliance STAR Self-Assessment by completing and submitting the "Consensus Assessments Initiative Questionnaire" to the Public Jurisdiction Identified Contact. The service provider shall submit its self-assessment to the public jurisdiction prior to contract award and, upon request, annually thereafter, on the anniversary of the date of contract execution. Any deficiencies identified in the assessment will entitle the public jurisdiction to disqualify the bid or terminate the contract for cause.

12. Data Center Audit: The service provider shall perform an audit of its data center(s) at least annually at its expense and provide a redacted version of the audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 audit report or approved equivalent sets the minimum level of a third-party audit. Any deficiencies identified in the report or approved equivalent will entitle the public jurisdiction to disqualify the bid or terminate the contract for cause.

13. Change Control and Advance Notice: The service provider shall give 30 days, advance notice (to the public jurisdiction of any upgrades (e.g., major upgrades, minor upgrades, system changes) that may impact service availability and performance. A major upgrade is a replacement of hardware, software or firmware with a newer or better version in order to bring the system up to date or to improve its characteristics.

14. Security:

- a) At a minimum, the service provider's safeguards for the protection of data shall include: (1) securing business facilities, data centers, paper files, servers, back-up

systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (2) implementing network, device application, database and platform security; 3) securing information transmission, storage and disposal; (4) implementing authentication and access controls within media, applications, operating systems and equipment; (5) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (6) providing appropriate privacy and information security training to service provider's employees.

- b) The service provider shall execute well-defined recurring action steps that identify and monitor vulnerabilities and provide remediation or corrective measures. Where the service provider's technology or the public jurisdiction's required dependence on a third-party application to interface with the technology creates a critical or high risk, the service provider shall remediate the vulnerability as soon as possible. The service provider must ensure that applications used to interface with the service provider's technology remain operationally compatible with software updates.
- c) Upon the public jurisdiction's written request, the service provider shall provide a high-level network diagram with respect to connectivity to the public jurisdiction's network that illustrates the service provider's information technology network infrastructure.

15. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

16. Import and Export of Data: The public jurisdiction shall have the ability to securely import, export or dispose of data in standard format in piecemeal or in entirety at its discretion without interference from the service provider. This includes the ability for the public jurisdiction to import or export data to/from other service providers identified in the contract (or in the absence of an identified format, a mutually agreeable format).

17. Responsibilities: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the cloud services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the service provider.

18. Subcontractor Compliance: The service provider shall ensure that any of its subcontractors to whom it provides any of the personal data or non-public data it receives hereunder, or to whom it provides any personal data or non-public data which the service provider creates or receives on behalf of the public jurisdiction, agree to the restrictions, terms and conditions which apply to the service provider hereunder.

19. Right to Remove Individuals: The public jurisdiction shall have the right at any time to require that the service provider remove from interaction with public jurisdiction any

service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract without the public jurisdiction's consent.

20. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan executive summary upon request. Lack of a plan will entitle the public jurisdiction to terminate this contract for cause.

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall use web services exclusively to interface with the public jurisdiction's data in near real time when possible.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption consistent with validated cryptography standards as referenced in FIPS 140-2, Security Requirements for Cryptographic Modules for all personal data.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- a. Access and use the service for its business purposes;
- b. For SaaS, use underlying software as embodied or used in the service; and
- c. View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Addendum to the contrary.

AGREED:

Name of Agency:_____

Name of Vendor:_____

Signature:_____

Signature:_____

Title:_____

Title:_____

Date:_____

Date:_____

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. Required information not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Service Provider/Vendor: _____

Name of Agency: _____

Agency/public jurisdiction's required information:

1. Will restricted information be processed by the service provider?
Yes ☐
No ☐
2. If yes to #1, does the restricted information include personal data?
Yes ☐
No ☐
3. If yes to #1, does the restricted information include non-public data?
Yes ☐
No ☐
4. If yes to #1, may the service provider store public jurisdiction data in a data center in an acceptable alternative data center location, which is a country that is not the U.S.?
Yes ☐
No ☐
5. Provide name and email address for the Department privacy officer:
Name: _____
Email address: _____

Vendor/Service Provider's required information:

6. Provide name and contact information for vendor's employee who shall serve as the public jurisdiction's primary security contact:
Name: _____
Email address: _____
Phone Number: _____

FEDERAL FUNDS ADDENDUM

2 C.F.R. §§ 200.317 – 200.327

Purpose: This addendum is intended to modify the solicitation in an attempt to make the contract compliant with the requirements of 2 C.F.R. §§ 200.317 through 200.327 relating to the expenditure of certain federal funds. This solicitation will allow the State to obtain one or more contracts that satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

Instructions: Vendors who are willing to extend their contract to procurements with federal funds and the requirements that go along with doing so, should sign the attached document identified as: “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)”

Should the awarded vendor be unwilling to extend the contract to federal funds procurement, the State reserves the right to award additional contracts to vendors that can and are willing to meet federal funds procurement requirements.

Changes to Specifications: Vendors should consider this solicitation as containing two separate solicitations, one for state level procurement and one for county/local procurement.

State Level: In the first solicitation, bid responses will be evaluated with applicable preferences identified in sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” to establish a contract for both standard state procurements and state federal funds procurements.

County Level: In the second solicitation, bid responses will be evaluated with applicable preferences identified in Sections 15, 15A, and 16 of the “Instructions to Vendors Submitting Bids” omitted to establish a contract for County/Local federal funds procurement.

Award: If the two evaluations result in the same vendor being identified as the winning bidder, the two solicitations will be combined into a single contract award. If the evaluations result in a different bidder being identified as the winning bidder, multiple contracts may be awarded. The State reserves the right to award to multiple different entities should it be required to satisfy standard state procurement, state federal funds procurement, and county/local federal funds procurement requirements.

State Government Use Caution: State agencies planning to utilize this contract for procurements subject to the above identified federal regulations should first consult with the federal agency providing the applicable funding to ensure the contract is compliant.

County/Local Government Use Caution: County and Local government entities planning to utilize this contract for procurements subject to the above identified federal regulation should first consult with the federal agency providing the applicable funding to ensure the contract is compliant. For purposes of County/Local government use, the solicitation resulting in this contract was conducted in accordance with the procurement laws, rules, and procedures governing the West Virginia Department of Human Services, Office of Shared Administration, except that vendor preference has been omitted for County/Local use purposes and the contract terms contained in the document entitled “REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317)” have been added.

FEDERAL FUNDS ADDENDUM

REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

The State of West Virginia, OSA and the Vendor awarded this Contract intend that this Contract be compliant with the requirements of the Procurement Standards contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements found in 2 C.F.R. § 200.317, et seq. for procurements conducted by a Non-Federal Entity. Accordingly, the Parties agree that the following provisions are included in the Contract.

1. MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS: (2 C.F.R. § 200.321)

- a. The State confirms that it has taken all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Those affirmative steps include:
 - (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
 - (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
 - (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
 - (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.
- b. Vendor confirms that if it utilizes subcontractors, it will take the same affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

2. DOMESTIC PREFERENCES: (2 C.F.R. § 200.322)

- a. The State confirms that as appropriate and to the extent consistent with law, it has, to the greatest extent practicable under a Federal award, provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United

States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

b. Vendor confirms that will include the requirements of this Section 2. Domestic Preference in all subawards including all contracts and purchase orders for work or products under this award.

c. Definitions: For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

3. BREACH OF CONTRACT REMEDIES AND PENALTIES:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 provide for breach of contract remedies, and penalties. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

4. TERMINATION FOR CAUSE AND CONVENIENCE:

(2 C.F.R. § 200.327 and Appendix II)

(a) The provisions of West Virginia Code of State Rules § 148-1-5 govern Contract termination. A copy of that rule is attached hereto as Exhibit A and expressly incorporated herein by reference.

5. EQUAL EMPLOYMENT OPPORTUNITY:

(2 C.F.R. § 200.327 and Appendix II)

Except as otherwise provided under 41 CFR Part 60, and if this contract meets the definition of “federally assisted construction contract” in 41 CFR Part 60–1.3, this contract includes the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

6. DAVIS-BACON WAGE RATES:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this Contract includes construction, all construction work in excess of \$2,000 will be completed and paid for in compliance with the Davis–Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must:

- (a) pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- (b) pay wages not less than once a week.

A copy of the current prevailing wage determination issued by the Department of Labor is attached hereto as Exhibit B. The decision to award a contract or subcontract is conditioned upon the acceptance of the wage determination. The State will report all suspected or reported violations to the Federal awarding agency.

7. ANTI-KICKBACK ACT:
(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that it will comply with the Copeland Anti-KickBack Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). Accordingly, Vendor, Subcontractors, and anyone performing under this contract are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The State must report all suspected or reported violations to the Federal awarding agency.

8. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT
(2 C.F.R. § 200.327 and Appendix II)

Where applicable, and only for contracts awarded by the State in excess of \$100,000 that involve the employment of mechanics or laborers, Vendor agrees to comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Vendor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

9. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.

(2 C.F.R. § 200.327 and Appendix II)

If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

10. CLEAN AIR ACT

(2 C.F.R. § 200.327 and Appendix II)

Vendor agrees that if this contract exceeds \$150,000, Vendor is to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

11. DEBARMENT AND SUSPENSION

(2 C.F.R. § 200.327 and Appendix II)

The State will not award to any vendor that is listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

12. BYRD ANTI-LOBBYING AMENDMENT

(2 C.F.R. § 200.327 and Appendix II)

Vendors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

13. PROCUREMENT OF RECOVERED MATERIALS

(2 C.F.R. § 200.327 and Appendix II; 2 C.F.R. § 200.323)

Vendor agrees that it and the State must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

(2 C.F.R. § 200.327 and Appendix II; 2 CFR § 200.216)

Vendor and State agree that both are prohibited from obligating or expending funds under this Contract to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

State of West Virginia

Vendor Name:

OSA

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

W. Va. CSR § 148-1-5

West Virginia Code of State Rules
Title 148. Department of Administration
Legislative Rule (Ser. 1)
Series 1. Purchasing

W. Va. Code St. R. § 148-1-5

§ 148-1-5. Remedies.

[Currentness](#)

5.1. The Director may require that the spending unit attempt to resolve any issues that it may have with the vendor prior to pursuing a remedy contained herein. The spending unit must document any resolution efforts and provide copies of those documents to the Purchasing Division.

5.2. Contract Cancellation.

5.2.1. Cancellation. The Director may cancel a purchase or contract immediately under any one of the following conditions including, but not limited to:

5.2.1.a. The vendor agrees to the cancellation;

5.2.1.b. The vendor has obtained the contract by fraud, collusion, conspiracy, or is in conflict with any statutory or constitutional provision of the State of West Virginia;

5.2.1.c. Failure to honor any contractual term or condition or to honor standard commercial practices;

5.2.1.d. The existence of an organizational conflict of interest is identified;

5.2.1.e. Funds are not appropriated or an appropriation is discontinued by the legislature for the acquisition;

5.2.1.f. Violation of any federal, state, or local law, regulation, or ordinance, and

5.2.1.g. The contract was awarded in error.

5.2.2. The Director may cancel a purchase or contract for any reason or no reason, upon providing

the vendor with 30 days' notice of the cancellation.

5.2.3. Opportunity to Cure. In the event that a vendor fails to honor any contractual term or condition, or violates any provision of federal, state, or local law, regulation, or ordinance, the Director may request that the vendor remedy the contract breach or legal violation within a time frame the Director determines to be appropriate. If the vendor fails to remedy the contract breach or legal violation or the Director determines, at his or her sole discretion, that such a request is unlikely to yield a satisfactory result, then he or she may cancel immediately without providing the vendor an opportunity to perform a remedy.

5.2.4. Re-Award. The Director may award the cancelled contract to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) without a subsequent solicitation if the following conditions are met:

5.2.4.a. The next lowest responsible bidder (or next highest scoring bidder if best value procurement) is able to perform at the price contained in its original bid submission, and

5.2.4.b. The contract is an open-end contract, a one-time purchase contract, or a contract for work which has not yet commenced.

Award to the next lowest responsible bidder (or next highest scoring bidder if best value procurement) will not be an option if the vendor's failure has in any way increased or significantly changed the scope of the original contract. The vendor failing to honor contractual and legal obligations is responsible for any increase in cost the state incurs as a result of the re-award.

5.3. Non-Responsible. If the Director believes that a vendor may be non-responsible, the Director may request that a vendor or spending unit provide evidence that the vendor either does or does not have the capability to fully perform the contract requirements, and the integrity and reliability necessary to assure good faith performance. If the Director determines that the vendor is non-responsible, the Director shall reject that vendor's bid and shall not award the contract to that vendor. A determination of non-responsibility must be evaluated on a case-by-case basis and can only be made after the vendor in question has submitted a bid. A determination of non-responsibility will only extend to the contract for which the vendor has submitted a bid and does not operate as a bar against submitting future bids.

5.4. Suspension.

5.4.1. The Director may suspend, for a period not to exceed 1 year, the right of a vendor to bid on

procurements issued by the Purchasing Division or any state spending unit under its authority if:

5.4.1.a. The vendor has submitted a bid and then requested that its bid be withdrawn after bids have been publicly opened.

5.4.1.b. The vendor has exhibited poor performance in fulfilling his or her contractual obligations to the State. Poor performance includes, but is not limited to any of the following: violations of law, regulation, or ordinance; failure to deliver timely; failure to deliver quantities ordered; poor performance reports; or failure to deliver commodities, services, or printing at the quality level required by the contract.

5.4.1.c. The vendor has breached a contract issued by the Purchasing Division or any state spending unit under its authority and refuses to remedy that breach.

5.4.1.d. The vendor's actions have given rise to one or more of the grounds for debarment listed in [W. Va. Code § 5A-3-33d](#).

5.4.2. Vendor suspension for the reasons listed in section 5.4 above shall occur as follows:

5.4.2.a. Upon a determination by the Director that a suspension is warranted, the Director will serve a notice of suspension to the vendor.

5.4.2.b. A notice of suspension must inform the vendor:

5.4.2.b.1. Of the grounds for the suspension;

5.4.2.b.2. Of the duration of the suspension;

5.4.2.b.3. Of the right to request a hearing contesting the suspension;

5.4.2.b.4. That a request for a hearing must be served on the Director no later than 5 working days of the vendor's receipt of the notice of suspension;

5.4.2.b.5. That the vendor's failure to request a hearing no later than 5 working days of

the receipt of the notice of suspension will be deemed a waiver of the right to a hearing and result in the automatic enforcement of the suspension without further notice or an opportunity to respond; and

5.4.2.b.6. That a request for a hearing must include an explanation of why the vendor believes the Director's asserted grounds for suspension do not apply and why the vendor should not be suspended.

5.4.2.c. A vendor's failure to serve a request for hearing on the Director no later than 5 working days of the vendor's receipt of the notice of suspension will be deemed a waiver of the right to a hearing and may result in the automatic enforcement of the suspension without further notice or an opportunity to respond.

5.4.2.d. A vendor who files a timely request for hearing but nevertheless fails to provide an explanation of why the asserted grounds for suspension are inapplicable or should not result in a suspension, may result in a denial of the vendor's hearing request.

5.4.2.e. Within 5 working days of receiving the vendor's request for a hearing, the Director will serve on the vendor a notice of hearing that includes the date, time and place of the hearing.

5.4.2.f. The hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the hearing, the Director will issue and serve on the vendor, a written decision either confirming or reversing the suspension.

5.4.3. A vendor may appeal a decision of the Director to the Secretary of the appropriate. The appeal must be in writing and served on the Secretary no later than 5 working days of receipt of the Director's decision.

5.4.4. The Secretary, or his or her designee, will schedule an appeal hearing and serve on the vendor, a notice of hearing that includes the date, time and place of the hearing. The appeal hearing will be recorded and an official record prepared. Within 10 working days of the conclusion of the appeal hearing, the Secretary will issue and serve on the vendor a written decision either confirming or reversing the suspension.

5.4.5. Any notice or service related to suspension actions or proceedings must be provided by certified mail, return receipt requested.

5.5. Vendor Debarment. The Director may debar a vendor on the basis of one or more of the grounds for debarment contained in [W. Va. Code § 5A-3-33d](#) or if the vendor has been declared ineligible to participate in procurement related activities under federal laws and regulation.

5.5.1. Debarment proceedings shall be conducted in accordance with [W. Va. Code § 5A-3-33e](#) and these rules. A vendor that has received notice of the proposed debarment by certified mail, return receipt requested, must respond to the proposed debarment within 30 working days after receipt of notice or the debarment will be instituted without further notice. A vendor is deemed to have received notice, notwithstanding the vendor's failure to accept the certified mail, if the letter is addressed to the vendor at its last known address. After considering the matter and reaching a decision, the Director shall notify the vendor of his or her decision by certified mail, return receipt requested.

5.5.2. Any vendor, other than a vendor prohibited from participating in federal procurement, undergoing debarment proceedings is permitted to continue participating in the state's procurement process until a final debarment decision has been reached. Any contract that a debarred vendor obtains prior to a final debarment decision shall remain in effect for the current term, but may not be extended or renewed. Notwithstanding the foregoing, the Director may cancel a contract held by a debarred vendor if the Director determines, in his or her sole discretion, that doing so is in the best interest of the State. A vendor prohibited from participating in federal procurement will not be permitted to participate in the state's procurement process during debarment proceedings.

5.5.3. If the Director's final debarment decision is that debarment is warranted and notice of the final debarment decision is mailed, the Purchasing Division shall reject any bid submitted by the debarred vendor, including any bid submitted prior to the final debarment decision if that bid has not yet been accepted and a contract consummated.

5.5.4. Pursuant to [W. Va. Code § 5A-3-33e\(e\)](#), the length of the debarment period will be specified in the debarment decision and will be for a period of time that the Director finds necessary and proper to protect the public from an irresponsible vendor.

5.5.5. List of Debarred Vendors. The Director shall maintain and publicly post a list of debarred vendors on the Purchasing Division's website.

5.5.6. Related Party Debarment. The Director may pursue debarment of a related party at the same time that debarment of the original vendor is proceeding or at any time thereafter that the Director determines a related party debarment is warranted. Any entity that fails to provide the Director with full, complete, and accurate information requested by the Director to determine related party

status will be presumed to be a related party subject to debarment.

5.6. Damages.

5.6.1. A vendor who fails to perform as required under a contract shall be liable for actual damages and costs incurred by the state.

5.6.2. If any commodities delivered under a contract have been used or consumed by a spending unit and on testing the commodities are found not to comply with specifications, no payment may be approved by the Spending Unit for the merchandise until the amount of actual damages incurred has been determined.

5.6.3. The Spending Unit shall seek to collect damages by following the procedures established by the Office of the Attorney General for the collection of delinquent obligations.

Credits

History: Filed 4-1-19, eff. 4-1-19; Filed 4-16-21, eff. 5-1-21.

Current through register dated May 7, 2021. Some sections may be more current. See credits for details.

W. Va. C.S.R. § 148-1-5, WV ADC § 148-1-5

End of Document

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Government Works.

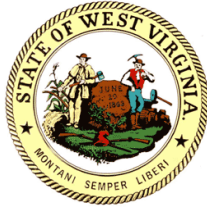
EXHIBIT B To:
REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY
CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.317):

Prevailing Wage Determination

☐ – Not Applicable Because Contract Not for Construction

☐ – Federal Prevailing Wage Determination on Next Page

West Virginia Ethics Commission



Disclosure of Interested Parties to Contracts

Pursuant to *W. Va. Code* § 6D-1-2, a state agency may not allow a vendor to perform work on a contract, or a series of related contracts, that has/have an actual or estimated value of \$1 million or more until the business entity submits to the state agency a Disclosure of Interested Parties to the applicable contract. In addition, the business entity awarded a contract is obligated to submit a supplemental Disclosure of Interested Parties reflecting any new or differing interested parties to the contract within 30 days following the completion or termination of the applicable contract.

For purposes of complying with these requirements, the following definitions apply:

"Business entity" means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership or corporation, but does not include publicly traded companies listed on a national or international stock exchange.

"Interested party" or *"Interested parties"* means:

- (1) A business entity performing work or service pursuant to, or in furtherance of, the applicable contract, including specifically sub-contractors;
- (2) the person(s) who have an ownership interest equal to or greater than 25% in the business entity performing work or service pursuant to, or in furtherance of, the applicable contract. (This subdivision does not apply to a publicly traded company); and
- (3) the person or business entity, if any, that served as a compensated broker or intermediary to actively facilitate the applicable contract or negotiated the terms of the applicable contract with the state agency. (This subdivision does not apply to persons or business entities performing legal services related to the negotiation or drafting of the applicable contract.)

"State agency" means a board, commission, office, department or other agency in the executive, judicial or legislative branch of state government, including publicly funded institutions of higher education: Provided, that for purposes of *W. Va. Code* § 6D-1-2, the West Virginia Investment Management Board shall not be deemed a state agency nor subject to the requirements of that provision.

The contracting business entity must complete this form and submit it to the state agency prior to beginning work under a contract and to complete another form within 30 days of contract completion or termination.

This form was created by the State of West Virginia Ethics Commission, 210 Brooks Street, Suite 300, Charleston, WV 25301-1804. Telephone: (304)558-0664; fax: (304)558-2169; e-mail: ethics@wv.gov; website: www.ethics.wv.gov.

West Virginia Ethics Commission
Disclosure of Interested Parties to Contracts

(Required by W. Va. Code § 6D-1-2)

Name of Contracting Business Entity: _____ Address: _____

Name of Authorized Agent: _____ Address: _____

Contract Number: _____ Contract Description: _____

Governmental agency awarding contract: _____

☐ Check here if this is a Supplemental Disclosure

List the Names of Interested Parties to the contract which are known or reasonably anticipated by the contracting business entity for each category below (*attach additional pages if necessary*):

1. Subcontractors or other entities performing work or service under the Contract

☐ Check here if none, otherwise list entity/individual names below.

2. Any person or entity who owns 25% or more of contracting entity (not applicable to publicly traded entities)

☐ Check here if none, otherwise list entity/individual names below.

3. Any person or entity that facilitated, or negotiated the terms of, the applicable contract (excluding legal services related to the negotiation or drafting of the applicable contract)

☐ Check here if none, otherwise list entity/individual names below.

Signature: _____ Date Signed: _____

Notary Verification

State of _____, County of _____:

I, _____, the authorized agent of the contracting business entity listed above, being duly sworn, acknowledge that the Disclosure herein is being made under oath and under the penalty of perjury.

Taken, sworn to and subscribed before me this _____ day of _____, _____.

Notary Public's Signature

To be completed by State Agency:

Date Received by State Agency: _____

Date submitted to Ethics Commission: _____

Governmental agency submitting Disclosure: _____