



# THIRD PARTY ADMINISTRATOR AUDIT

## Request for Proposal

June 2, 2017

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This RFP and attachments maybe downloaded at our website located at:

<http://www.westvirginia.com/peia/>

**REQUEST FOR PROPOSAL  
FOR  
THIRD PARTY ADMINISTRATOR AUDITING SERVICES**

**SECTION 1 – INTRODUCTION**

**Purpose**

The West Virginia Public Employees Insurance Agency, hereinafter referred to as “PEIA,” is soliciting proposals for Third Party Administrator Audit. This solicitation serves as notice, pursuant to West Virginia Code §5A-3-10b, of the service being sought and is to be considered the opportunity for Vendors to indicate their interest in bidding on this service.

**Background**

PEIA is an agency of the State of West Virginia which administers benefits for approximately 118,000 active employees and COBRA participants. PEIA also administers benefits for 38,000 retired employees and surviving dependents on behalf of the West Virginia Retiree Health Benefits Trust Fund. There are 116,000 eligible dependents, resulting in approximately 234,000 members being covered by the PEIA health plan. Combined total annual health premiums and capitations are approximately \$851 million.

A comprehensive fee-for-service health benefit plan, the Preferred Provider Benefit (PPB) plan, is offered to all eligible participants statewide (as well as members in other jurisdictions) and is administered by a third party. PEIA also offers a managed care plan option statewide, and currently contracts with a managed care organization. Approximately 7,000 policyholders are enrolled in managed care plans and 110,000 Medicare retirees are members of the Medicare Advantage (MAPD).

In the PEIA PPB plan, participants are responsible for cost sharing in the form of an annual medical deductible, coinsurance, and copayments; they also pay a separate prescription drug deductible and copayments. Amounts paid by the individual in the prescription program do not apply to the maximum annual medical out-of-pocket amount, except for Plan C (approximately 500 members), in which the deductible is a combined medical and prescription drug deductible. The prescription drug program is administered by a separate vendor.

Participants in the PPB Plan may use any provider in West Virginia they choose; they are not required to use a select group of providers, nor must they go through primary care providers to gain access to more specialized providers. By law, all providers in West Virginia who provide health care services or supplies to PEIA members must accept assignment of benefits, and cannot bill PEIA patients for any amount by which their charges exceed the maximum fees established by PEIA for each service. There is an exemption for emergency care (see the WV Omnibus Health Care Act).

PEIA employs a variety of techniques for the PPB plan that are characteristic of managed care programs:

- utilization review, consisting of prior approval for specific procedures and or out-of-network care, precertification of hospital inpatient admissions and certain outpatient procedures, case management of high

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utilizer and/or high dollar cases, disease management for diabetes and care coordination through a predictive modeling program;

- a provider fee schedule employing the Resource-Based Relative Value Scale (RBRVS) which represents a discount from most providers' usual charges and which is enforced by statute prohibiting in-state providers from billing PEIA insureds for charges other than applicable copays, coinsurance, deductibles, and non-covered services;
- an outpatient prescription drug plan that utilizes a nationwide network of participating providers throughout the state and elsewhere which have agreed to discount prices and which submit claims electronically to a separate third party administrator;
- a contracted network of hospitals and professional providers, both inside and outside the state, that perform organ transplant services for pre-negotiated rates;
- a contracted network of hospitals and professional providers, nationally, for members who must obtain services outside West Virginia;
- pre and post payment reviews by TPA, including but not limited to DRG validation, McKesson's Code Review and CCI editing;
- a prospective payment system (PPS) for inpatient hospital reimbursement; and
- an ambulatory payment classification system (APC) for outpatient hospital reimbursement.

Benefits and premiums, or cost-sharing mechanisms are set annually by the PEIA Finance Board, as recommended by the plan's actuary, based upon anticipated utilization and participation.

Open enrollment is held each spring for plan selection. The fiscal year under which the State allocates funding is July 1 through June 30; this is also the PEIA benefit plan year. The PEIA reserves the right to implement any changes affecting benefits and premium contribution within the plan, as deemed appropriate, or as mandated by legislative action.

State, higher education, and some public school employees participating in PEIA have the ability to pay medical and life premiums on a pretax basis through a premium conversion plan, which is an IRS approved Section 125 plan.

Employees and retirees may elect to participate in Mountaineer Flexible Benefits which offers coverage for vision, dental, long and short-term disability, and medical and dependent care spending accounts. These optional benefits are funded wholly by participating employees and are administered by a separate third-party. Premiums for these optional benefits are paid on a pre-tax basis through a Section 125 Plan.

For more information regarding PEIA, potential Bidders may research our website at [www.wvpeia.com](http://www.wvpeia.com).

### Issuing Agent and Contacts

In response to this Request for Proposal (RFP), please submit a comprehensive quotation for one year (12 month) period, to commence September 4, 2017; and evidence of the minimum requirements noted below.

Bidders may submit, in writing, any specific questions or clarifications prior to the date shown in Section 1.4. Written questions received later than the date and time shown in Section 1.4, shall not be answered. All

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questions with responses will be provided to all potential Bidders who are known, on the date and time shown in Section 1.4. The questions may be submitted via fax or email; however, PEIA assumes no liability for assuring accurate/complete FAX/email transmission/receipt and will not acknowledge receipt except by addressing the question.

The issuing agent for this RFP is the PEIA. All communication, inquiries, and final proposals regarding this RFP **must** be submitted in writing to the following individual:

Ms. Karen A. Hall, MBA, CPA  
Quality Assurance and Compliance Manager  
WV Public Employees Insurance Agency  
601 57<sup>th</sup> St., SE, Suite 2  
Charleston, WV 25304-2345  
Fax: 1 877 233-4295  
Email: Karen.A.Hall@wv.gov

**The Vendor or anyone on the Vendor's behalf is not permitted to make any contact whatsoever with any member of the evaluation committee.** Violations may result in rejection of the bid.

### Time Requirements

Notification of interest and all questions must be received no later than 4:00 p.m., Friday, July 7, 2017. All firms giving notification of interest will receive copies of all responses to inquiries from all vendors. Proposals are due no later than 4:00 p.m., Friday, August 11, 2017.

### → Time Requirements ←

RFP Issued	Friday	June 2, 2017
Notification of Interest Form	Friday	July 7, 2017
Questions Submitted to PEIA	Friday	July 7, 2017
Question Answers to Vendor	Friday	July 21, 2017
Proposals Due	Friday	August 11, 2017
Evaluation of Proposals		August 11-September 1, 2017
Conduct Interviews of Finalists	-----	To be Announced – Optional
Award Contract	Wednesday	September 1, 2017
Contract Begins	Thursday	September 4, 2017

### Contract Period

The contract period will begin on September 4, 2017 and will continue until the completion of the audit. 4

### Confidentiality/Public Record

PEIA requests that all information provided to prospective firms as part of this RFP, as well as all subsequent evaluations and discussions, be used exclusively for purposes of responding to the RFP and any subsequent discussions related thereto.

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News releases that pertain to this RFP, or contract resulting therefrom, must not be made without prior approval of the State of West Virginia, and then only in coordination with PEIA.

Ownership of all data, materials and documentation originated and prepared for PEIA pursuant to the RFP shall belong exclusively to the State.

Vendor shall have access to private and confidential data maintained by the participating agencies to the extent required for the Vendor to carry out the duties and responsibilities defined in this contract. Vendor agrees to maintain confidentiality and security of the data made available, shall comply with all applicable confidentiality laws or regulations, including HIPAA, and shall indemnify and hold harmless the State and the participating agencies against any and all claims brought by any party attributed to actions of breach of confidentiality by the Vendor, subcontractors, or individuals permitted access by the Vendor.

Vendor agrees to the terms of the West Virginia State Government Covered Entity HIPAA Business Associate Addendum. (See Exhibit D)

### **Submissions Are Public Record**

All documents submitted that are related to purchase orders or contracts are considered public records. All bids, proposals, or offers submitted by bidders shall become public information and are available for inspection during official, normal business hours in the PEIA offices.

### **Written Release of Information**

All public information may be released with or without a Freedom of Information Act request; however, only a written request will be acted upon with duplication fees paid in advance. Duplication fees shall apply to all requests for copies of any document. Currently the fees are \$1.00 per page, or a minimum of \$10.00 per request, whichever is greater.

### **Risk of Disclosure**

The only exemptions from disclosure of information are listed in West Virginia Code §29B-1-4. Primarily, trade secrets as submitted by a bidder are the only exemption from public disclosure. The submission of any information to the State by a vendor puts the risk of disclosure on the vendor. The State will notify the vendor if PEIA receives an FOIA request for material the vendor has labeled as trade secret or proprietary so that the vendor can seek a Court Order prohibiting disclosure. Absent an Order from a Court of Competent Jurisdiction to the contrary, PEIA will release the materials. The State does not guarantee non-disclosure of any information to the public. Designation of an entire proposal or excessive portions of the proposal as “proprietary” is not considered to be in good faith and will be disregarded.

### **Status as Registered Vendor**

All vendors must be registered with the State of West Virginia **prior** to the award of an actual purchase order or contract. The vendor must complete a Vendor Registration and Disclosure Statement, Form WV-1, and remit the required annual registration fee. Please go to the State of West Virginia’s Purchasing Division website at <http://www.state.wv.us/admin/purchase/> for complete information and related form.

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Vendors must also be registered with the West Virginia Secretary of State (SOS) to do business in West Virginia. Please contact the SOS at 304-558-6000 for further details.

### Terms of Contract

The performance of the contract awarded pursuant to this document is contingent upon adequate funding being appropriated by the West Virginia Legislature for such purposes. In the event the Legislature fails to appropriate sufficient funds for the continuation of the contract, then the contract will be canceled without penalty at the end of the fiscal year.

The terms of the contract must be consistent with the following:

- *Acceleration* – Any references to acceleration of payments in the event of default or non-funding is unacceptable.
- *Amendments* – All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by the parties.
- *Arbitration* – Any references to arbitration contained in the agreement are unacceptable. The vendor shall present disputes arising out of the agreement to the West Virginia Court of Claims.
- *Assignment* – Notwithstanding any clause to the contrary, the participating agencies reserve the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the vendor and vendor shall obtain the written consent of the participating agencies prior to assigning the agreement.
- *Attorney Fees* – The participating agencies recognize an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
- *Bidder* – a person or organization who submitted an offer in response to this RFP.
- *Bid/Amount* – Bids **cannot** be negotiated, amended, and/or revised after the bid is received by PEIA.
- *Bid/Alteration* – Any interlineation, alteration, or erasure made before opening time must be initialed by the signer of the bid, guaranteeing authenticity. The PEIA reserves the right to accept, negotiate, amend or reject any/all of the bids as it deems to be in the best interest of the members of PEIA.
- *Bid award* – The PEIA reserves the right to award any combination or not to award the contract discussed in this RFP.
- *Bid/Late* – Bids received after submission deadline will be considered void and unacceptable. PEIA is not responsible for lateness or non-delivery of mail, carrier, etc., and the PEIA mail department date/time stamp shall be the official time of receipt.



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- *Breach* – means the acquisition, access, use or disclosure of PHI in a manner not permitted by the Privacy Rule that comprises the security or privacy of the PHI as defined under *Business Associate*.
- *Business Associate* - The prospective vendor will be performing an Administrative Function on behalf of PEIA, a Health Plan and a Covered Entity as defined by §45 CFR 160.103, and will be considered a Business Associate of PEIA. The prospective vendor shall be fully compliant with any and/or all provisions of the Privacy and Security Rule(s) of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), including the provisions of the Health Information Technology for Economic and Clinical Health Act (HITECH) as adopted as part of the American Reinvestment and Reauthorization Act of 2009 (ARRA) and the Omnibus Rule(s) that went into effect September 23, 2013. The prospective vendor will be required to sign the West Virginia Executive Branch Business Associate Agreement prior to beginning any work under this proposed contract.
- *Contract* – is a legal and binding agreement between two or more competent parties, in consideration for the procurement of services as described in this RFP.
- *Contractor* – a person or organization who is a successful bidder as a result of an RFP and/or who enters into a contract or any subcontract of a successful bidder.
- *Governing Law* – The agreement shall be governed by the laws of the State of West Virginia.
- *Hold Harmless* – Any clause requiring the participating agencies to indemnify or hold harmless any party is unacceptable. The vendor must hold harmless the participating agencies from any liability arising from the vendor’s performance of services.
- *Indemnification* – The vendor agrees to indemnify, defend and hold harmless the State and the participating agencies, its officers and employees from and against any and all claims arising from the vendors acts or failure to act, including but not limited to: (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; (3) Any failure of the Vendor, its officers, employees or subcontractors to observe State and federal laws, including but not limited to labor and wage laws.
- *Insurance* – Any provision requiring the participating agencies to insure equipment or property of any kind and name the vendor as beneficiary or as an additional insured is unacceptable.
- *Interest* – Should the agreement include a provision for interest on late payments, the participating agencies agree to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are unacceptable.

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- *Limitation of Liability* – The participating agencies, as State entities, cannot agree to assume the potential liability of a vendor. Accordingly, any provision limiting the Vendor’s liability for direct damages or limiting the vendor’s liability under a warranty to a certain dollar amount or to the amount of the agreement is unacceptable. In addition, any limitation is unacceptable to the extent that it precludes any action for injury to persons or for damages to personal property.
- *May* – means that a certain feature, component, or action is permissible, but not required.
- *Member* – any person covered as either a subscriber or a dependent in accordance with the terms and conditions of the Plan.
- *Must* – means that a certain feature, component, or action is a mandatory condition. Failure to provide or comply may result in a proposal being considered non-responsive.
- *PHI* – means Protected Health Information, as defined in HIPPA.
- *Payment* – Any references to prepayment are unacceptable. Payment will be in arrears.
- *Provider* – is a physician, hospital, medical agency, specialist or other duly licensed health care facility or practitioner certified or otherwise authorized to furnish health care services pursuant to the law of the jurisdiction in which care or treatment is received.
- *Recoupment* – Any language in the agreement waiving the participating agencies’ rights to set-off, counterclaim, recoupment, or another defense is unacceptable.
- *Renewal* – Any reference to automatic renewal is unacceptable. The agreement may be renewed only upon mutual written agreement of the parties.
- *Respondent* – any party responding in any way to this RFP.
- *Right to Notice* – Any provision for repossession of equipment without notice is unacceptable. However, the participating agencies do recognize a right of repossession with notice.
- *Right to Terminate* – The participating agencies shall have the right to terminate the agreement upon thirty (30) days written notice to the vendor.
- *Shall* – has the same meaning as the word must.
- *Should* – means that certain feature, component and/or action is desirable but not mandatory.
- *Similar Services* – Any provisions limiting the participating agencies’ rights to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are unacceptable.

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- *Statute of Limitation* – Any clauses limiting the time in which the participating agencies may bring suit against the vendor, lessor, individual, or any other party are unacceptable.
- *Taxes* – Provisions in the agreement requiring the participating agencies to pay taxes are unacceptable. As State entities, the participating agencies are exempt from federal, state, and local taxes and will not pay taxes for any vendor, including individuals, and will not file any tax returns or reports on behalf of vendor or any other party.
- *Termination Charges* – Any provision requiring the participating agencies to pay a fixed amount or liquidated damages upon termination of the agreement is unacceptable. The participating agencies may only agree to reimburse a vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the participating agencies prior to the end of any current agreement term.

### **Right to Reject**

The State reserves the right to reject any and all proposals submitted and to request additional information from all bidders or to withdraw the RFP if in the best interest of the participating agencies.

### **Quotation Included as Part of Agreement**

PEIA anticipates making this RFP and bidder's quotation part of the actual contractual agreement by reference.

### **Proposal Included as Part of Agreement**

PEIA anticipates making this RFP and bidder's quotation part of the actual contractual agreement by reference.

**SECTION 2 – REQUIREMENTS**

**2.1 Scope of Work**

PEIA desires to have auditing and recovery services to ensure that the Agency pays only covered services for truly eligible members; that these services are appropriate, justified and provided in accordance with Plan policies and procedures; that the services are billed within standard coding conventions, including, but not limited to ICD-9, HCPCS, and NCCI; and to identify member or prescriber outliers that may indicate potential fraud, waste or abuse.

As a result of these audits, PEIA seeks identification and reporting of improper payments for substantiation by the TPA, with subsequent recovery of overpayments. Throughout this document, the term “improper payment” is used to refer collectively to overpayments and underpayments. For purposes of this project, an eligibility error, incorrect code, or other discrepancy, that does not change claim(s) payment amount when corrected, is NOT considered an improper payment.

The scope of the audits requested by PEIA will include the following specifications:

**1. TPA - Perform a Contract Compliance Audit including, but not limited to the following:**

1. Benefit specific audits of claims processed by PEIA’s third party administrators to assure correct application of deductibles, copayments, coinsurance, out-of-pocket maximums, fee schedules, and coverage. As requested, a specific audit may encompass a single or multiple compliance issues.
2. Audit of PEIA’s third party administrator’s customer service staff to assure that PEIA members are receiving accurate information in a timely manner.
3. Audit to confirm that PEIA’s third party administrator is providing accurate statistical reports.
4. Audit to assure correct process is followed for determining network discounts and allowances for out-of-state providers.
5. Audit to determine that the correct network is utilized for out-of-state providers.
6. Audit to determine timeliness of claims payment and other provider satisfaction issues.
7. Audit to assure that PEIA’s TPA has correctly interpreted PEIA’s eligibility records and loaded them onto the claim processing system accordingly, i.e. confirm eligibility, primary vs. secondary coverage, etc.
8. Review of records, policies and procedures, staffing as compared to industry best practices and / or benchmarks.
9. Determination of whether controls and procedures are adequate.
10. Opportunities to automate procedures.
11. Suggestions on how to enhance productivity.
12. Recommended changes to improve operations and administration to achieve savings and improve efficiency and effectiveness.
13. Recommendations regarding redundant, inefficient, or burdensome activities.

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14. Any other matters identified by the Contractor that may strengthen the financial integrity of the Plan or Plan benefits.

### TPA Audit - Audit should include, but not be limited to the following:

1. Provide a secure FTP site where PEIA's PBM may scan claims for the vendor's review or an electronic connection where claims can be passed back and forth.
2. Produce communications and any relevant forms to be used.
3. Work with ESI to recover incorrect billings and overpayments.
4. Produce reporting and invoicing for services rendered in a format acceptable to PEIA.
5. Review and respond (or provide recommendations) to appeals related to the audit.

### TPA Audit – Other Necessary Information:

1. PEIA's third party administrator is HealthSmart Benefit Solutions;
2. PEIA's TPA does have offset/withholding rights for improper payments. The current process includes a notification and request for payment from HealthSmart, then a second request for payment, and after 60 days repayment is automatically withheld from future payments;
3. The TPA will handle recoupment of improper payments;
4. The TPA will verify all improper payments;
5. The Contracted Audit team will notify providers of improper payments;
6. The Managed Care Plan is not part of this audit;
7. Pharmacy Benefits are not part of this audit;
8. Dental benefits are not part of this audit;
9. PEIA's position on photocopies for medical records is that we paid for the service and as such the provider must provide records to be in compliance with our audits;
10. The contractor will be responsible for answering any appeals from Providers related to the audit findings within 60 days of the date of the appeal;
11. All plan policies and procedures are located on PEIA's website (<http://www.peia.wv.gov/policies/Pages/default.aspx>);
12. The contractor will be responsible for answering any appeals from providers related to the audit findings within 60 days of the date of the appeal;
13. Claims data will be received from PEIA's database administrator, Mike Madalena. Copies of actual claims for the sample selected will be received from PEIA Staff;
14. The audit population will include both in-state and out-of-state providers;
15. This audit will be performed with HIPPA compliance and as such all Personal Health Information (PHI) will be confidential;
16. Sample size should equal – Algorithms run on 100% of PEIA's medical claims with a sample of 95% confidence level and a confidence interval of 5 drawn from each of the following claims algorithms.
17. The population is approximately 24.5million claims annually.

## **2. Staging of Contract Deliverables**

Business deliverables are grouped into stages to facilitate contract monitoring and payment for services. The Plan will measure the Contractor's performance relative to each stage of each deliverable, as follows:

### Stage #1: Engagement with TPA, Orientation, and Audit Plan

- Execution of Confidentiality Agreement

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- Orientation and General Understanding of TPA Operations
- Development & Approval of Audit Plan and Timeline

Stage #2: Field Work and Functional Area Reports

- Data Gathering, Investigation and Analysis
- Summary of findings (draft)

Stage #3: Submission of Draft Copy of Comprehensive Final Report to PEIA

Stage #4: Submission of Draft Copy of Comprehensive Final Report to TPA for review and reply

Stage #5: Submission of Comprehensive Final Report and Presentation(s) of Findings and Recommendations

- Perform a series of presentations to the Plan's governing bodies on the overall audit findings, as well as findings and recommendations for each functional area.

1. The stages of delivery specified in Section 2, Staging of Contract Deliverables, apply to each requirement of this RFP. Deliverables shall not be considered complete until the comprehensive final report, incorporating all findings and recommendations and an assessment of the overall efficiency and effectiveness of the Plan's TPA, has been submitted and presentations to the Plan's governing bodies have concluded.
2. The Plan shall withhold payment for ANY stage of any deliverable determined by the Plan to be incomplete, unsatisfactory or untimely. For additional information on the timing of payment for deliverables, refer to Section 2, Invoicing.
3. The stages of deliverables and their respective components specified in this section are subject to change based on the details of the Contractor's proposed project plan and functional area audit plans as approved by PEIA.

### **3. Invoicing:**

- a. The Contractor shall invoice the Plan for services rendered in accordance with this section.
- b. The Contractor shall submit a detailed invoice for each completed deliverable. Completion of deliverables and invoicing by the Contractor shall follow the order outlined above, Staging of Deliverables, or as otherwise determined by the Plan.
- c. PEIA, at its sole discretion, shall determine if the deliverable on each invoice has been satisfactorily completed. PEIA shall withhold payment for incomplete, unsatisfactory or untimely deliverables. PEIA will not render payment for incomplete or unsatisfactory work.
- d. The Plan will remit a percentage of the total contracted fixed cost for each functional area as follows:

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<b>Deliverable Stage and Description</b>		<b>Percentage of Functional Area Fixed Cost Fee Payable Upon Completion</b>
Stage #1	Engagement with TPA, Orientation, Audit Plan	25%
Stage #2	Field Work and Functional Area Reports	45%
Stage #3	Draft Copy of Comprehensive Final Report to PEIA	10%
Stage #4	Draft Copy of Comprehensive Final Report to TPA for review and appeals	10%
Stage #5	Comprehensive Final Report and Presentation(s)	10%

- e. Payment shall be made within thirty (30) days of receipt of the invoice, provided the Plan has determined completion of a particular stage of deliverable is satisfactory.
- f. PEIA reserves the right to validate any invoice submitted for payment, and shall have access to Contractor’s or Subcontractor’s supporting documentation necessary to validate the invoice including, but not limited to; personnel timesheets, expense reports, travel and subsistence receipts.
- g. The Contractor is responsible for any and all payments to subcontractors.

**4. Next Steps**

As audit work proceeds, provide the Audit Committee with bi-weekly activity reports describing the status and progress towards completing the audit assignment.

**Minimum Requirements**

THESE ARE ABSOLUTE REQUIREMENTS. FAILURE TO MEET ANY ONE OF THE REQUIREMENTS LISTED BELOW SHALL RESULT IN DISQUALIFICATION FROM FURTHER CONSIDERATION IN THIS BID PROCESS.

- a. An introductory section should be included in the proposal which includes the name, address, and telephone number of the firm, the name and telephone number of the contact person with the firm, and the date of submission of the proposal
- b. The vendor must meet all requirements imposed by West Virginia and other local laws, rules, and regulations, including not having a delinquent tax liability of any nature with the State of West Virginia. Vendors must submit with the proposal a “Purchasing Affidavit” (See Exhibit E).

Vendors must submit with their proposal a signed Waiver of Legal Challenge (Exhibit C) or their proposal will not be considered by PEIA.

- c. The vendor must agree to comply with all “Terms of Contract” Section.

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- d. The vendor must demonstrate knowledge of Medicare's reimbursement guidelines and provide PEIA with resumes demonstrating this knowledge for the staff assigned to this audit (See Exhibit H).
- e. The vendor must have work experience, third party administrators of similar size and scope to that of HealthSmart TPA, with three (3) different clients during the past five years. A brief description of the completed or ongoing work and each client's company name, contact name, address and telephone number must be submitted as a reference (Exhibit G).
- f. Proposal staffing must include at least one (1) registered nurse that will be available for assignment to PEIA audits. This requirement may be replaced with five (5) years' experience, within the last ten (10) years, of auditing third party administrators of similar size and scope to that of HealthSmart TPA and healthcare providers. For each such project list the name of the client along with a contact name and telephone number.
- g. The vendor must include copies of all the attached forms. (Exhibit A if planning on bidding, Exhibits C, D, E, F, G, and H with your bid)
- h. The vendor must provide weekly updates during the audit period.
- i. Vendor must provide evidence of an online HIPPA compliant software used to gather information from the providers and from PEIA. This software will be used for collection of all member information.
- j. The vendor must provide a detailed work plan reflecting the general audit requirements outlined in the Section titled Scope of Work that presents key activities, milestones, and timing for completion of the functional area reviews and overall audit (i.e., project timeline). The project plan shall consider the staging of deliverables outlined in the Section titled Scope of Work and address such activities as implementing data transfers, executing confidentiality agreements, system access requirements, business system training requirements, applying knowledge of federal and state requirements, and other activities relevant to demonstrating Vendor's ability to provide the requested services timely.
- k. The proposing company must provide a detailed work plan reflecting the general audit requirements outlined in Section 2.1, Scope of Work that presents key activities, milestones, and timing for completion of the functional area reviews and overall audit (i.e., project timeline). The project plan shall consider the staging of deliverables outlined in Section 2.1 and address such activities as implementing data transfers, executing confidentiality agreements, system access requirements, business system training requirements, applying knowledge of federal and state requirements, and other activities relevant to demonstrating Vendor's ability to provide the requested services timely.
- l. Proposing company must submit proposals as follows:
  - i. five (5) bound copies of cost proposal, one (1) unbound original of the cost proposal and one electronic copy; and
  - ii. **technical and cost proposals must be prepared as separate documents and submitted under separate cover.**

### Purchasing Affidavit

It is required that all vendors submit a Purchasing Affidavit which certifies that there are no outstanding obligations or debts owed to the State of West Virginia. The Purchasing Affidavit **must** be completed, signed and returned **with** the vendor's proposal. (See Exhibit E)



## **Insurance Requirements**

The vendor must possess and maintain Professional Liability Insurance in a form acceptable to the participating agencies, which shall cover the vendor, its officers, employees, and agents for any actual or alleged breach of duty, neglect, error, misstatement, misleading statement, or omission committed by the vendor in the performance of its duties and responsibilities as the administrator under this contract, including any hold harmless and/or indemnification agreement. The Professional Liability Insurance shall be maintained from the inception of the vendor's service under the contract until at least three (3) years after completion of all services required under the contract.

## **Specific Instructions for Responding to This RFP**

In order to simplify the review process and to obtain maximum comparability, the quotes should be organized in the manner specified below:

- a. An introductory section should include the subject, name, address, and telephone and fax numbers of the firm; name, telephone number and e-mail address of the contact person; and the date of submission of the proposal. Your quotation must be signed by an individual who is capable of legally binding your firm.
- b. Please answer all the questions in the same order they are asked. The answers should be as concise as possible. If you would like to provide additional information beyond what is asked, please provide that at the end of your proposal.
- c. An affirmative statement should be included, which states that the work will be performed within the time specified.
- d. **technical and cost proposals must be prepared as separate documents and submitted under separate cover. The cost proposal may not be emailed to PEIA.**
- e. In a separately sealed envelope clearly marked "**cost proposal**", the proposing firm should include the hourly rate, the contingency fee, or a combination of both and the projected distribution of work for audit team members under normal audit conditions.

Bidders should use the Audit Bid Form located under Appendix B for submission of the cost proposal

**Failure on the part of the vendor to respond to specific requirements detailed in the RFP may be a basis for disqualification of the proposal.**

## **Contract Award**

This is a service contract and all bids should include an all-inclusive price. This bid amount shall include travel costs. The fees quoted must be firm for the duration of the resulting agreement.

In providing pricing information, please be very clear as to what assumptions you are making in regards to PEIA's supply of resources for both people and hardware.

## Request for Proposal for Professional Auditing Services

You are required to complete the Pricing Summary Form, (Exhibit B) by inputting the respective pricing information. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Pricing Summary Form to prevent errors in the evaluation.

### **Time Requirements**

*The above material is required to be received by 4:00 p.m., Friday, August 11, 2017, for a proposing firm to be considered.*

Firms that do not meet these timeframes will be disqualified.

### **Proposal Withdrawal**

Prior to the proposal due date, a Bidder may withdraw their proposal by submitting a written request for its withdrawal signed by the Bidder's authorized agent. The written withdrawal request will be directed to the Contact and the address listed in Section 1.3.

**SECTION 3 – EVALUATION OF PROPOSALS**

**Evaluation Process**

The following process will be used to evaluate vendor proposals:

- A. Responses received within the time frame and in the form specified by the guidelines will first be evaluated to confirm that all proposal sections, as detailed, have been provided in the bid response. Any vendor failing to provide all required information and an original and five (5) copies will be eliminated from further consideration.
- B. The proposals will be evaluated by a committee of three (3) or more individuals against the established criteria with points deducted for deficiencies. Members of the review committee will evaluate and collectively score each proposal. The Vendor who demonstrates that they meet **all** the mandatory specifications required; and has appropriately presented within their written response their understanding in meeting the goals and objectives of the project; and attains the highest overall point score of all Vendors shall be awarded the contract. The selection of the successful Vendor will be made by a consensus of the evaluation committee.
- C. Each proposal will be reviewed and points awarded to all items indicated on the **PROPOSAL EVALUATION FORM**. Any proposal component may be awarded points not to exceed the maximum specified on the **PROPOSAL EVALUATION FORM**. The total technical score available is 70 points. Bidders failing to obtain a minimum technical score of 49 points will be disqualified.
- D. All points awarded for each proposal component will be summed to obtain a total figure. The Vendor who meets all the mandatory specifications and attains the highest point score of all Vendors shall be awarded the contract. The successful Vendor will be made by a consensus of the evaluation committee.
- E. Vendor proposals which include more than one cost scenario will be evaluated as separate proposals to obtain total points for the proposal under each pricing plan.
- F. PEIA, at its option, may elect to conduct interviews with the top rated bidder(s). There are no points specifically assigned to the interview. The purpose is to confirm and/or clarify responses to the RFP.

**State's Rights**

Vendors should note the State reserves the right to modify this evaluation structure if it is deemed necessary, or request additional information from vendors. It is the intention of the State to select the most qualified and cost-effective proposal based on the evaluation of the vendor's responses to this RFP. However, the State reserves the right to accept or reject any or all of these proposals, in whole or part. The State reserves the right to ask vendors for additional information and/or an oral presentation to clarify their proposals.

The sum of the scores for each of criteria A through F will constitute 70% of the overall evaluation criteria, based on a total available score of 100 points. Each proposal will be independently evaluated on criteria A through E by three or more qualified individuals. Their raw scores will be averaged to obtain a composite score. Any proposal with less than 49 of the potential 70 points for technical ability will be disqualified.

The price criteria will be evaluated in terms of absolute dollars and will constitute 30% of the overall evaluation criteria.

**Request for Proposal for Professional Auditing Services**

**SELECTION CRITERIA**

**RFP for Professional Auditing Services**

**Proposing Firm**

**Date of Review**

Description	Points to be Awarded
<b>A. Audit Plan - Methodology</b>	<b>10</b>
<b>B. Audit Plan - Timeline reasonableness</b>	<b>20</b>
<b>C. Firm size and capabilities</b>	<b>10</b>
<b>D. Experience in TPA auditing</b>	<b>20</b>
<b>E. Firm and Individual Staff Experience</b>	<b>10</b>

Criteria	Score
A	
B	
C	
D	
E	
<b>Total = Sum (A:E)</b>	

Each proposed contract price will be evaluated by use of the following formula:

**Lowest price of all proposals ÷ Price of proposal being evaluated X 30 = Price Score**

After the technical and price evaluation have been performed the two scores will be added together to constitute the final score for each proposal.

Technical Score:	+ Price Score:	= Total Score:
------------------	----------------	----------------

**SECTION 4 - CONTRACTUAL SERVICES TERMS AND CONDITIONS**

**Contract Period**

The contract period will be on September 4, 2017 and will continue until the completion of the audit.

**Contract Administrator**

Upon approval of a Contract, and following execution of said Contract, the PEIA shall direct the Bidder to administer the Contract on a day-to-day basis during the term of the Contract. However, administration of any Contract resulting from this Request implies no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions, and specifications of such Contract. That authority is retained by the PEIA and other authorized representatives and these appointees are subject to change.

**Cost Liability**

The PEIA assumes no responsibility or liability for costs incurred by the successful Bidder prior to the signing of any Contract resulting from this RFP. The PEIA's responsibility and liability is limited to the terms and conditions of any Contract resulting from this RFP.

**Bidder Responsibilities**

The Bidder shall be required to assume responsibility for all contractual activities offered in this proposal whether or not that Bidder performs them. Further, PEIA shall consider the Primary Bidder to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Contract. If any part of the work is to be subcontracted, responses to this RFP should include a list of subcontractors, including firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning subcontractor's organizational abilities. The PEIA reserves the right to approve subcontractors for this project and to require the Primary Bidder to replace subcontractors found to be unacceptable. The Bidder is totally responsible for adherence by the subcontractors to all provisions of the Contract.

The Bidder and any subcontractors must commit to the entire contract period stated within this RFP, unless the PEIA specifically agrees to a change of subcontractors. The Agreement between the Bidder and PEIA will not be assignable to another party without prior written permission from the PEIA. The Bidder shall provide advance notice to the PEIA on any intended sale of the contracting entity. The PEIA will have the option of terminating the Contract with the Bidder upon the sale of the contracting entity.

**Freedom of Information/Disclosure**

**All documents in this RFP process are subject to West Virginia's Freedom of Information Act (FOIA) and may be disclosed upon request.** The Bidder must clearly identify which data are considered proprietary. If the PEIA receives a FOIA request for data, labeled by the Bidder as proprietary, the PEIA will notify the Bidder, in writing, of the request to allow the Bidder time to obtain the appropriate court order to prevent the release of the information. Otherwise, the PEIA will be compelled by state law to release such information.

### **HIPAA Compliance**

The Bidder must agree to become a business associate of the PEIA, it must have policies and procedures in place consistent with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) standards for privacy and security of protected health information (45 CFR Parts 160 and 164) and any other applicable state or Federal law related to the privacy or security of information. The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at the Purchasing Division's website (<http://www.wv.us/admin/purchase/vrc/hipaa.htm>) is hereby made part of the agreement.

### **Data Sales**

Data sales are strictly prohibited under the contract between the successful Bidder and the PEIA.

### **Independent Price Determination**

1. By submission of a proposal, the Bidder certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this proposal:
  - a) The prices in the proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition as to any matter relating to these prices with any other Bidder or with any competitor; and
  - b) Unless otherwise required by law, the prices which have been quoted in the proposal have not been knowingly disclosed by the Bidder and shall not knowingly be disclosed by the Bidder prior to award directly or indirectly to any other Bidder or to any competitor; and
  - c) No attempt has been made or shall be made by the Bidder to induce any other person or firm to submit or not submit a proposal for the purpose of restricting competition.
  
2. Each person signing the proposal certifies that she/he:
  - a) Is the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal and has not participated (and shall not participate) in any action contrary to 1.a., b., and c. above; or
  - b) Is not the person in the Bidder's organization responsible within that organization for the decision as to the prices being offered in the proposal but has been authorized to act as agent for the persons responsible for such decision in certifying that they and such persons have not participated (and shall not participate) in any action contrary to 1.a., b., and c. above.
  
3. Should a Bidder be awarded a Contract resulting from this RFP, and be found to have failed to abide by the provisions set forth in this Section, said acts shall be in default of the Contract. Consequences may include cancellation of the Contract.

**Gratuities or Kickbacks**

By submission of a proposal, the Bidder represents that it has not retained any person, agency, or entity to solicit or secure a PEIA contract upon an agreement or understanding for a commission or a percentage, brokerage, or contingent fee. The PEIA will not pay any brokerage fees for securing or executing any of the services outlined in this RFP. Therefore, all proposed fees must be net of commissions and percentage, contingent, brokerage, service, or finder's fees.

**Miscellaneous Provisions**

The following provisions will be incorporated into any agreement entered into between PEIA and the successful bidder. The successful bidder will be asked to sign a form accepting the provisions described below.

**Arbitration**

Any references to arbitration contained in the agreement are hereby deleted. Claims against the PEIA or the State of West Virginia arising out of the agreement shall be presented to the West Virginia Court of Claims.

**Hold Harmless**

Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety. The successful bidder must indemnify and hold harmless the State of West Virginia and PEIA for its acts or omissions arising out of the contract.

**Governing Law**

The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.

**Taxes**

Provisions in the agreement requiring PEIA to pay taxes are deleted. As a State entity, PEIA is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.

**Payment**

Any references to prepayment are deleted. Payment will be in arrears. As per West Virginia State Law, PEIA will pay all uncontested invoices within sixty days of receipt at the PEIA offices.

**Interest**

Should the agreement include a provision for interest on late payments, PEIA agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.

**Recoupment**

Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.

**Fiscal Year Funding**

Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service. The agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best

## Request for Proposal for Professional Auditing Services

efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.

### **Statute of Limitations**

Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.

### **Similar Services**

Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.

### **Attorney Fees**

The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.

### **Assignment**

Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.

### **Limitation of Liability**

The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages or limiting the Vendor's liability under a warranty to a certain dollar amount or to the amount of the agreement is hereby deleted. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.

### **Right to Terminate**

Agency shall have the right to terminate the agreement upon Ninety (90) written notice to Vendor.

### **Termination Charges**

Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. PEIA may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by PEIA prior to the end of any current agreement term. Upon termination of this agreement, or any extension thereto, the Bidder has the duty to continue to provide any reports required by the agreement or any law or regulation.

### **Renewal**

Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.

### **Insurance**

Any provision requiring PEIA to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.

### **Right to Notice**

Any provision for repossession of equipment without notice is hereby deleted. However, PEIA does recognize a right of repossession with notice.



**Request for Proposal for Professional Auditing Services**

**Acceleration**

Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.

**Amendments**

All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties.

# Exhibit A

## NOTIFICATION OF INTEREST

### TPA AUDIT

**(Due Date: July 7, 2017)**

Firms interested in submitting a proposal must return this "Notification of Interest" by July 7, 2017.

To: Ms. Karen A. Hall, MBA, CPA  
 Quality Assurance and Compliance Manager  
 WV Public Employees Insurance Agency  
 601 57th St., SE, Suite 2  
 Charleston, WV 25304-2345  
 Fax: 1 877 233-4295  
 Email: Karen.A.Hall@wv.gov

From:			
	<b>FIRM</b>		
	<b>MAILING ADDRESS</b>		
	<b>CITY</b>	<b>STATE</b>	<b>ZIP</b>
	<b>NAME AND TITLE OF INDIVIDUAL</b>		
	<b>TELEPHONE NUMBER</b>		
	<b>FAX NUMBER</b>		

Please consider this Notification of Interest intent to submit a proposal to the RFP issued by the Public Employees Insurance Agency of the Department of Administration for professional auditing services for PEIA's Preferred Provider Benefit Plan.

<b>SIGNED</b>	<b>DATE</b>
---------------	-------------

# Exhibit B

## TPA AUDIT

### COST PROPOSAL BID FORM

Name of Proposing Firm:

Projected TPA Audit Cost:

	Total Projected Hours	Total Projected Cost
Stage 1		\$
Stage 2		\$
Stage 3		\$
Stage 4		\$
Stage 5		\$
Total		\$

The cost listed is considered firm during the awarded contract. Ancillary expenses (travel, meals, lodging, etc.) are to be included in proposed rates.

# Exhibit C

## BIDDERS LITIGATION WAIVER FORM

\_\_\_\_\_, hereinafter "Bidder," wishes to submit a Proposal in response to the Request For Proposals for Auditing Services (the RFP) issued on July 8, 2011 by the Public Employees Insurance Agency for the State of West Virginia (PEIA). The Bidder acknowledges that a mandatory requirement of the RFP is that the Bidder submit a litigation bond or waiver with its proposal. In consideration of the waiver of said litigation bond requirement by the PEIA, and in lieu of such bond, the Bidder agrees:

That the Bidder completely waives and foregoes any and all legal right or ability it may now have, or in the future acquire, to initiate any sort of challenge to or against the selection of a Bidder and/or the ultimate award of a contract or contracts pursuant to the RFP. This Waiver is entered voluntarily by a representative authorized to legally bind the Bidder and shall be binding on the Bidder, its successors, assigns, heirs and any others claiming under the legal rights of the Bidder. This Waiver shall apply to any and all types of action, in challenge to or seeking to attack, in any way, the RFP selection process, or the subsequent award of contract(s) to the successful Bidder, including but not limited to, administrative, judicial, or collateral actions.

<i>Legal Name of Bidder</i>

By:		
	<i>Authorized Signature</i>	<i>Date</i>

Title:	
	<i>Title of Authorized Signature</i>

**Approved:**

Public Employees Insurance Agency for the State of West Virginia

By:		
	<i>Authorized Signature</i>	<i>Date</i>

# **Exhibit D**

## **BUSINESS ASSOCIATE INFORMATION FORM**

**See Attached Form.**

# **Exhibit E**

**BUSINESS ASSOCIATE INFORMATION FORM**  
**Attachment A**

**See Attached Form.**

# Exhibit F

RFQ No. \_\_\_\_\_

STATE OF WEST VIRGINIA  
Purchasing Division

## PURCHASING AFFIDAVIT

**West Virginia Code §5A-3-10a states:** 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 the debt owed is an amount greater than one thousand dollars in the aggregate.

**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.

“Debtor” means any individual, corporation, partnership, association, Limited Liability Company or any other form or business association owing a debt to the state or any of its political subdivisions. “Political subdivision” means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. “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 exceed five percent of the total contract amount.

**EXCEPTION:** The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this 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.

Under penalty of law for false swearing (*West Virginia Code §61-5-3*), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

**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** \_\_\_\_\_

*Purchasing Affidavit (Revised 12/15/09)*

# Exhibit G

WV-96 **AGREEMENT ADDENDUM**  
Rev. 10/07

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

1. **DISPUTES** - Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** - Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** - The agreement shall be governed by the laws of the State of West Virginia. This provision replaces any references to any other State's governing law.
4. **TAXES** - Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, nor will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** - Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** - Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.
7. **RECOUPMENT** - Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.
8. **FISCAL YEAR FUNDING** - Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** - Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** - Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** - The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** - Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** - The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.
14. **RIGHT TO TERMINATE** - Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay Vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** - Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or losses sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** - Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** - Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.



**Request for Proposal for Professional Auditing Services**

18. **RIGHT TO NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right of repossession with notice.

19. **ACCELERATION** - Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.

20. **CONFIDENTIALITY** -Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.

21. **AMENDMENTS** - All amendments, modifications, alterations or changes to the agreement shall be in writing and signed by both parties. No amendment, modification, alteration or change may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

**ACCEPTED BY:  
STATE OF WEST VIRGINIA VENDOR**

Spending Unit: \_\_\_\_\_ Company Name: \_\_\_\_\_

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

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

# Exhibit H

<b>Vendor Experience Reference Information</b>	
<b>Reference #1 Name</b>	
Contact Person	
Position	
Address Line 1	
City, State, Zip	
Telephone Number	
Email Address	
Project Description	
Project Dates	
Personnel Assigned	
<b>Reference #2 Name</b>	
Contact Person	
Position	
Address Line 1	
City, State, Zip	
Telephone Number	
Email Address	
Project Description	
Project Dates	
Personnel Assigned	

**Request for Proposal for Professional Auditing Services**

Reference #3 Name	
Contact Person	
Position	
Address Line 1	
City, State, Zip	
Telephone Number	
Email Address	
Project Description	
Project Dates	
Personnel Assigned	

# Exhibit I

Vendor Personnel Resume	
Name	
Title	
Relevant Experience	
Relevant Certifications	
Education	
Vendor Personnel Resume	
Name	
Title	
Relevant Experience	
Relevant Certifications	
Education	

**Request for Proposal for Professional Auditing Services**

<b>Vendor Personnel Resume</b>	
Name	
Title	
Relevant Experience	
Relevant Certifications	
Education	
<b>Vendor Personnel Resume</b>	
Name	
Title	
Relevant Experience	
Relevant Certifications	
Education	

# Prospective Vendor's Checklist

## Mandatory –

This appendix must be completed with proposal.

- (    )    1. FIRM INTRODUCTION
- (    )    2. DEBT AFFIDAVIT
- (    )    4. AGREEMENTS
  - Exhibit B – Cost Proposal Bid Form
  - Exhibit C - Bidder's Litigation Waiver Form
  - Exhibit D – Business Associates Information Form
  - Exhibit E – Business Associates-Attachment A
  - Exhibit F – Purchasing Affidavit
  - Exhibit G – Agreement Addendum
  - Exhibit H – Vendor Experience Reference Information
  - Exhibit I – Vendor Personnel Resumes
  - Exhibit J – Prospective Vendor's Checklist
- (    )    3. RESPONSE TO SECTION CONTRACT STAGING
- (    )    4. RESPONSE TO SECTION INVOICING
- (    )    5. RESPONSE TO SECTION TERMS OF CONTRACT
- (    )    6. RESPONSE TO SECTION MINIMUM REQUIREMENTS

PROSPECTIVE VENDOR NAME:

DATE:

\_\_\_\_\_

\_\_\_\_\_

AUTHORIZED REPRESENTATIVE:

\_\_\_\_\_