

Request for Bids	Fairmont State University Procurement Office 1201 Locust Avenue Fairmont WV 26554-2470	Bid # RFB-466		
<table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> Vendor: Phone: Fax: FEIN/SSN: </td> <td style="width: 50%; vertical-align: top;"> For information call: Buyer: Abby C. Haught Director of Facilities Admin & Services Phone: 304-367-4778 Email: abby.haught@fairmontstate.edu </td> </tr> </table>			Vendor: Phone: Fax: FEIN/SSN:	For information call: Buyer: Abby C. Haught Director of Facilities Admin & Services Phone: 304-367-4778 Email: abby.haught@fairmontstate.edu
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Sealed requests to bid for furnishing the supplies, equipment or services described below will be received by the Institution. TO RECEIVE CONSIDERATION FOR AWARD, THE BID WILL BE SUBMITTED ON THIS FORM IN ORIGINAL AND (1) COPY, SIGNED IN FULL IN INK, AND RECEIVED IN THE PURCHASING DEPARTMENT TO HAVE A DATE/TIME STAMP AFFIXED, ON OR BEFORE THE DATE AND TIME SHOWN FOR THE BID OPENING. Prices will be based on units specified. Bidders will enter the delivery date or time for each item contained herein. The Institution reserves the right to accept or reject bids on each item separately or as a whole, to reject any or all bids, to waive informalities or irregularities and to contract as the best interests of the Institution may require.				
DATE 7/14/2026	BIDS ARE SUBJECT TO THE GENERAL TERMS AND CONDITIONS AS PRINTED ON THE NEXT PAGE HEREOF AND AS SET FORTH HEREIN.	BIDS OPEN: 2:00 pm on 7/22/2026		
Item #	Quantity	Description	Unit Price	Extended Price
		INVITATION TO BID Fairmont State University is accepting bids for: Eaton Controllers and Controller Kits for Falcon Center Lighting Controls As specified on the attached pages.		
Total				
To the Purchasing Department, In compliance with the above, the undersigned offers and agrees, if this offer is accepted within _____ calendar days (30 calendar days unless a different period is inserted by the purchaser) from the bid open date, specified above, to furnish any or all items upon which prices are offered, at the price set opposite each item, delivered at the designated point(s), within the time specified.				
Bidder guarantees shipment from _____ _____ within _____ days FOB _____ after receipt of order at address shown. Terms _____ BOD-37			Bidder's name _____ Title _____ Signature _____ Street address _____ City/State _____ Date _____ Phone _____	

TERMS AND CONDITIONS

1. **ACCEPTANCE:** Seller shall be bound by this Order and its terms and conditions upon receipt of this Order. This Order expressly limits acceptance to the terms and conditions stated herein. Additional or different terms proposed by the Seller are objected to and are hereby rejected, unless otherwise provided for in writing by the Buyer and approved by the Attorney General.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the Procedural Rules of the Governing Board having jurisdiction shall govern all rights and duties under the Contract, including without limitation the validity of the Purchase Order/Contract.
3. **ASSIGNMENT:** Neither this Order nor any monies due, or to become due hereunder, may be assigned by the Seller without the Buyer's consent.
4. **BUYER:** For the purposes of these Terms and Conditions, the "buyer" means the institutional purchasing goods and services for which a Purchase Order has been lawfully issued to the Seller.
5. **CANCELLATION:** The Buyer may cancel any Purchase Order/Contract upon 30 days written notice to the Seller.
6. **COMPLIANCE:** Seller shall comply with all federal, state and local laws, regulations and ordinances including, but not limited to, the prevailing wage rates of the WV Division of Labor, if applicable.
7. **DELIVERY:** For exceptions to the delivery date as specified in the Order, the Seller shall give prior notification and obtain the approval of the Buyer. Time is of the essence of this Order and it is subject to termination by the Buyer for failure to deliver on time.
8. **DISPUTES:** Disputes arising out of the agreement shall be submitted to the West Virginia Court of Claims.
9. **HOLD HARMLESS:** The Buyer will not agree to hold the Seller or any other party harmless because such agreement is not consistent with state law.
10. **MODIFICATIONS:** This writing is the parties final express of intent. No modification of this Order shall be binding unless agreed to in writing by the Buyer.
11. **NON-FUNDING:** All services performed or goods delivered under this Purchase Order/Contract are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
12. **ORDER NUMBERS:** Contract Order numbers or Purchase Order numbers shall be clearly shown on all acknowledgements, shipping labels, packing slips, invoices and correspondence.
13. **PAYMENTS AND INTEREST ON LATE PAYMENTS:** Payments may only be made after the delivery of goods and services; interest may be paid on late payments in accordance with the West Virginia Code.
14. **RENEWAL:** The Contract may be renewed only upon mutual written agreement of the parties.
15. **REJECTION:** All goods or materials purchased herein are subject to approval of the Buyer. Any rejection of goods or materials resulting in nonconformity to the terms, conditions or specifications of this Order, whether held by the Buyer or the Seller, will be at the Seller's risk and expense.
16. **SELLER:** For the purposes of these Terms and Conditions, the "Seller" means the vendor whose quotation, bid, proposal or expression of interest has been accepted and has received a lawfully issued purchase order from the Buyer.
17. **SHIPPING, PACKING, BILLING & PRICING:** Unless otherwise stated, all goods are to be shipped prepaid, FOB Destination. No charges will be allowed for special handling, packing, wrapping, bags, containers, etc., unless otherwise specified. All goods and services shall be shipped on or before the date specified on this Order. Prices are those that are stated in this Order. No price increase will be accepted without written authority from the Buyer.
18. **TAXES:** The State of West Virginia (the Buyer) is exempt from Federal and State taxes and will not pay or reimburse such taxes.
19. **TERMINATION:** In the event of a breach by the Seller of any of the provisions of this contract, the Buyer reserves the right to cancel and terminate this contract forthwith upon giving written notice to the Seller. The Seller shall be liable for damages suffered by the Buyer resulting from the Seller's breach of contract.
20. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: (a) conform to the specifications, drawings, samples or other description furnished or specified by the Buyer; (b) be merchandise and fit for the purpose intended; (c) be free and clear of all liens, claims and encumbrances of any kind; and/or (d) be free from defect in material and workmanship.

Any supplier furnishing items on this purchase order covered by a Material Safety Data Sheet must provide the MSDS citing the purchase order number.

It is the policy of Fairmont State University to administer all university actions and procedures without regard to race, color, age, religion, sex, national origin, disability, veterans status or sexual orientation as identified and defined by law.

The university neither affiliates knowingly with nor grants recognition to any individual, group, or organization, including vendors that discriminate on the basis of any of the above. FSU complies with the requirements of the nondiscrimination clauses set out by the Code of Federal Regulations Title 41, Parts 60-1.4(a)(7) (equal opportunity clause), 60-250.4(m) (affirmative action for veterans), and 60-741.4(f) (affirmative action for persons with disabilities).

All items, including delivery, shall be provided in accordance with the Specifications included herein.

During the bidding process, bidders shall direct all questions to Abby Haught, Director of Facilities

Administration and Services at: Fairmont State University, Physical Plant, 1201 Locust Avenue, Fairmont WV.

All questions shall be submitted in writing via email at: abby.haught@fairmontstate.edu. The RFB number should be referenced in the subject line of the message.

Questions

FSU will attempt to provide Bidders (4) business days for the completion of responses without any new information being included in the solicitation. Therefore, all questions regarding this RFB shall be submitted to FSU by the following date and time:

Date and time for cut-off for questions: **7/16/2026 2:00 PM**

Submission of Bids

Sealed bids will be received by Fairmont State University at the following location until **2:00 pm on 7/22/2026**.

**Fairmont State University
Physical Plant
1201 Locust Avenue
Fairmont, WV 26554
(304) 367-4711**

Bids shall be submitted on the Bid Form included herein. The bid shall be signed by an authorized agent of the bidder who has the authority to bind the bidder to the bid price, terms, conditions, and the requirements of the specification. The bid submitted must have an original signature.

Each bid shall be enclosed in a sealed envelope, plainly marked:

SEALED BID

Date of Bid Opening: 7/22/2026

Time of Bid Opening: 2:00 p.m.

RFB number: RFB-466

Specifications – Description of Work/Purchase

To avoid the unnecessary expense of a complete system replacement for the Falcon Center lighting control system, the University intends to perform a partial replacement to restore the existing system's functionality.

The repair will consist of replacing only the panel connections rather than the entire lighting control system and associated wiring. Because the existing system is manufactured by Eaton, replacement shall be completed using genuine Eaton components to ensure compatibility and proper system operation.

Installation labor shall be performed by Fairmont State University personnel and is not part of this solicitation.

<u>Item</u>	<u>Description</u>	<u>Qty</u>
<u>1</u>	<u>Eaton PRC2000E Enclosure Mounted Controller Kit, Catalog No. 43C1967G03</u>	<u>15 EA</u>
<u>2</u>	<u>Eaton PRC2000E Enclosure Mounted Controller, Catalog No. 42C5258G0P</u>	<u>5 EA</u>
<u>3</u>	<u>Eaton Pow-R-Command system startup, programming, commissioning, and on-site training services (3 days)</u>	<u>1 EA</u>

Because these components must integrate with the University's existing Eaton lighting control system, only genuine Eaton components meeting the specified catalog numbers will be accepted. Alternate manufacturers or equivalent products will not be considered.

Additional Bid Submission Requirements

Prices shall be inserted in the appropriate spaces on the Bid Form. Unit price where applicable shall prevail and all prices shall be extended and totaled.

Most equipment and material listed herein are suggested brand names. Any equipment or material proposed by the Bidder, other than specified herein, shall be supported by literature, technical data or actual tests performed to indicate compliance with the minimum specifications. Any alternate equipment must meet the satisfaction of the buyer. Bidders must clearly indicate any alternate equipment that will be part of their bid.

WV Purchasing Division Registration

Prior to contract award, Vendor must be registered (and pay the applicable registration fee) with the State of West Virginia Purchasing Division. Vendors are strongly encouraged to register with the State of West Virginia through the Vendor Self-Service portal, which may be accessed at [wvOASIS.gov](http://www.oasis.wv.gov). Vendors may also register by completing a **WV-1 Vendor Registration & Disclosure Statement and Small, Women, & Minority-Owned Business Certification** form, available for download through:

<http://www.state.wv.us/admin/purchase/forms.html>. A completed registration can be processed for a vendor through either the electronic or paper form method.

Secretary of State Registration

Prior to contract award, unless a waiver is obtained from the Secretary of State's Office, every vendor organized as a business entity must have a certificate of authority and be in good standing with the WV Secretary of State's Office. The Secretary of State requirement applies generally to businesses that operate as separate legal entities and does not apply to sole proprietors and general partnerships.

<https://sos.wv.gov/Pages/default.aspx>

Attachment B - 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 owned is an amount greater than one thousand dollars in the aggregate.

To acknowledge you are in compliance with this regulation, you must ***complete, sign and return an original "Purchasing Affidavit" to Fairmont State University Procurement Office with your signed bid.*** The "Purchasing Affidavit" is included herein.

Attachment C – Form WV-96

If it is the intent of the apparent successful vendor to require the State to execute the vendor's contract, such contract must be attached for consideration with the proposal. It will also be a requirement of the successful vendor to sign the "Agreement Addendum" form (WV-96), which is attached for your review.

Attachment D – Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions

Prior to contract award, for purchases over \$25,000, Vendor status shall be verified on www.SAM.gov before award is made. Screen prints of the search results shall be printed and kept in the purchasing file for audit verification. If the vendor does not appear on SAM.gov, they must sign the Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions. A sample of this document has been provided in the Appendix.

Funding Paragraph

Services performed under the Contract are to be continued in the succeeding fiscal year contingent upon funds being appropriated by the Legislature for this service. In the event funds are not appropriated for these services, this Contract becomes of no effect and is null and void after June 30.

SPECIFICATIONS/ BID FORM

[illegible]

RESPECTFULLY SUBMITTED:

Signature: _____ Date: _____

Name: _____

Title: _____

Vendor name: _____

Vendor address: _____

Telephone: _____

FAX: _____

FEIN Number: _____

EMAIL Address: _____

ATTACHMENT A: Instructions To Bidders (Purchases greater than \$25,000)

1. **BIDDER'S REPRESENTATIONS:** The bidder, by making a bid, represents that: (a) the bidder has read and understands the bidding documents, terms and conditions, and the bid is made in accordance therewith; and (b) the bid is based upon the materials, equipment, systems, printing and/or services specified.
2. **QUALITY STANDARDS:** Brand names, when identified, include the standard of quality, performance or use desired. Unless otherwise noted, bids by bidders on equivalents may be considered, provided the bidder furnishes descriptive literature and other proof required by the Institution. Samples, when required, must be furnished free of charge, including freight. In the event the Institution elects to contract for a brand purported to be an equivalent by the bidder, the acceptance of the item will be conditioned on the Institution's inspection and testing after receipt. If, in the sole judgment of the Institution, the item is determined not to be equivalent, the item will be returned at the Seller's expense and the contract terminated.
3. **SUBMISSION OF BIDS:** The bid, the bid security, if any, and other documents required to be submitted with the bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the bids and shall be identified as a "Sealed Bid," and shall include the bid number, the bid opening time, and the bid opening date. Bids shall be delivered and deposited at the designated location prior to the time and date for receipt of bids. Bids received after the time and date for the bid opening will be returned unopened. The bidder shall assume full responsibility for timely delivery at the location designated for receipt of bids. Oral, telephonic, facsimile or telegraphic bids are invalid and will not receive consideration.
4. **MODIFICATION OR WITHDRAWAL OF BIDS:** Prior to the time and date designated for receipt of bids, a bid submitted may be modified or withdrawn by notice to the party receiving bids at the place designated for receipt of bids. Such notice shall be in writing over the signature of the bidder and shall be received prior to the designated time and date for receipt of bids. A modification shall be worded so as not to reveal the amount of the original bid. A withdrawal may be made by facsimile or electronic transmission. A modification may also be made by facsimile or electronic transmission if the final bid result is not revealed prior to the bid opening.
5. **OPENING OF BIDS:** Bids shall be publicly opened and read aloud at the designated location for receipt of bids shortly after the time and date bids are due.
6. **REJECTION OF BIDS:** The Institution shall have the right to reject any and all bids, in whole or part; to reject a bid not accompanied by a required bid security or other data required by the bidding documents; or reject a bid which is in any way incomplete or irregular.
7. **ACCEPTANCE OF BID (AWARD):** It is the intent of the Institution to award a contract to the lowest responsible and responsive bidder provided the bid does not exceed the funds available. The Institution shall have the right to waive informalities or irregularities in a bid received and to accept the bid, which in the Institution's judgment, is in the Institution's own best interests. All bids are governed by the West Virginia Code and the Procedural Rules of the Commission.
8. **VENDOR REGISTRATION:** Prior to any award for purchases exceeding \$25,000, the apparent successful bidder must be properly registered with the W. Va. Department of Administration, Purchasing Division, and have paid the required vendor registration fee.
9. **NON-FUNDING:** All services performed or goods delivered under State Purchase Orders/Contracts are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30.
10. **PAYMENTS AND INTEREST ON LATE PAYMENTS:** Payment may only be made after the delivery and acceptance of goods or services. Interest may be paid for late payment in accordance with the West Virginia Code.
11. **RESIDENT VENDOR PREFERENCE:** A resident vendor preference will be granted upon written request in accordance with the West Virginia Code.
12. **TAX EXEMPTION:** The State of West Virginia, the Commission, Governing Board and its institutions are exempt from federal and state taxes and will not pay or reimburse such taxes.

ATTACHMENT B: Purchasing Affidavit

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

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 _____

ATTACHMENT C: Addendum to Vendor's Standard Contractual Forms (WV96)

<http://www.state.wv.us/admin/purchase/vrc/wv96.pdf>

WV-96
May 2026

STATE OF WEST VIRGINIA ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS

REQUIRED INFORMATION ABOUT THIS CONTRACT:

State Agency, Board, or Commission (the "State"): _____

Vendor: _____

Contract Name or Identifier/Lease Number ("Contract"): _____

Commodity/Service: _____

The State and the above-identified Vendor are entering into the above-referenced contract. The Contract or other materials incorporated into this Contract may contain provisions that are inconsistent with West Virginia law, regulations, or policy. **THIS ADDENDUM SUPERSEDES, MODIFIES AND CONTROLS ANY CONFLICTING PROVISIONS CONTAINED IN THE CONTRACT REGARDLESS OF WHEN SUCH DOCUMENTS ARE SUBMITTED.**

1. **PAYMENT** – The State will not make any advanced payments for goods or services unless the payment is (i) authorized by the policy of the West Virginia State Auditor (e.g., software/SaaS licenses, software support services, and the first year of a software subscription), or (ii) expressly authorized in a writing by the West Virginia State Auditor and that approval is made a part of this contract. Payments are made only after the (i) receipt of the goods and/or services and (ii) processing of all required invoice documentation to the State Auditor's satisfaction.

The following provisions are deleted: (i) interest or penalties for late payment, (ii) payment of lost profits, termination fees, or liquidated damages upon termination, and (iii) acceleration of payments due to termination, default, or non-funding.

2. **FUNDING** – Payments under this Contract are contingent upon the availability of properly encumbered funds through legislative appropriation or other lawful funding sources. If funding becomes unavailable, then the State may terminate this Contract upon notice to the vendor. Non-appropriation or non-funding is not an event of default, and all work shall cease upon termination.
3. **TERMINATION FOR CONVENIENCE** – The State may terminate this Contract for convenience upon thirty (30) days written notice to the Vendor. The State will pay only for undisputed services rendered or goods delivered prior to termination. Any conflicting Vendor provision regarding termination is deleted.
4. **GOVERNING LAW** – The Contract shall be governed by the laws of the State of West Virginia or required federal law. Any provision requiring the application of any other state's laws is deleted.
5. **JURISDICTION/DISPUTES** – All claims for monetary damages must be filed with the West Virginia Legislative Claims Commission. Other legal actions must be brought in courts authorized under West Virginia laws to exercise jurisdiction.
6. **PRESERVATION OF STATE LEGAL RIGHTS** - Notwithstanding any provision contained in this Contract or other materials incorporated into this Contract, any term that limits, waives, or otherwise restricts the legal rights available to the State is deleted. Without limitation, the following provisions are deleted:
 - a. Any requirement that the State agrees to (i) participate in binding arbitration or other extra-judicial dispute resolution process, (ii) waive a jury trial, or (iii) resolve disputes in any jurisdiction or venue other than the State of West Virginia.
 - b. Any provision requiring the State to (i) indemnify, defend, or hold harmless the Vendor or any third party, or (ii) assume the Vendor's business or legal risks.
 - c. Any provision limiting the Vendor's liability for direct damages arising from bodily injury, death, or damage to property (tangible or intangible) caused by the negligence or willful misconduct of the Vendor or its employees or agents. Any limitation of liability is enforceable only to the extent permitted by West Virginia Law.
 - d. Any provision requiring the State to waive or limit its legal rights, claims or defenses.
 - e. Any provision limiting the time within which the State may file a claim or initiate any legal action.
 - f. Any provision permitting repossession of equipment without notice to the state. Repossession may occur only with appropriate notice.
 - g. Any provisions requiring the State to pay Vendor's attorney fees, collection costs, or litigation expenses are deleted except in cases where they are ordered by a court of competent jurisdiction.
7. **TAXES** – The State is exempt from federal, state, and local taxes. Any provision requiring the State to pay taxes on behalf of the Vendor is deleted. The State will provide a tax-exempt certificate upon request.

8. **ASSIGNMENT** – No assignment of this contract is effective and binding until the State and Vendor execute a change order to this Contract. This Contract is automatically terminated if the assignment is to a person or entity with whom the State is prohibited from doing business. In that circumstance, Vendor agrees to pay the State a pro-rata refund equal to the cost paid for the unused portion of the commodity or service provided. The State may assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor.
9. **RENEWAL/MODIFICATION** – This Contract may be renewed, extended, amended, or modified only by written agreement signed by both parties and approved, as to form, by the Attorney General. Any automatic renewal or modification provision is deleted.
10. **INSURANCE** – Any provision requiring the State to maintain insurance for the benefit of the State, the Vendor or any third party is deleted.
11. **DELIVERY** – All deliveries under the Contract shall be FOB destination unless the State expressly and knowingly agrees otherwise in writing. Any contrary delivery term is deleted.
12. **PUBLIC RECORDS AND CONFIDENTIALITY** – This Contract and related records are subject to the West Virginia Freedom of Information Act ("W. Va. FOIA") (W. Va. Code §29B-1-1 et seq.) and applicable public procurement laws. Any provision requiring Vendor consent or notice prior to disclosure is deleted.

All provisions requiring the non-disclosure of information must be (i) permitted by West Virginia law, (ii) incorporated through a separately signed writing, and (iii) approved, as to form, by the Attorney General.

13. **DATA OWNERSHIP.** During and after the term of this Contract, the State retains all ownership rights to information or data that the State provides to the Vendor, or which the Vendor collects or captures while providing its services (hereafter "Data"). The Vendor agrees to only use the Data to provide the procured services. Without limitation, the following provisions are deleted:
- a. Any provision granting the Vendor or any other person or entity: (i) rights to sell, license or otherwise exploit the Data, (ii) use rights (including without limitation the right to use the Data to train machine learning and/or artificial intelligence models) or (iii) any other proprietary interests in the Data.
 - b. Any provision that defines "Data" in a manner that excludes from these protections: (i) transaction or system-based data, including metadata, (ii) Data once it has been de-identified, anonymized, or aggregated, or (iii) vendor analytics performed on the Data.

Before contract termination, the Vendor agrees to coordinate with the State, to either (1) destroy the Data or (2) return it to the State in the format requested by the State. This shall be done without further conditions, costs, or delays.

14. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires binding the State to third-party's end-users license agreement (EULA), the Vendor represents that none of the mandatory click-through, unsigned, or web-linked EULA terms and conditions conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from a wrongful representation/assertion that the EULA's terms and conditions are in accord with, or subordinate to, this Addendum.
15. **AMENDMENTS** –All amendments, modifications, alterations or changes to this Contract shall be made by a (i) written change order, (ii) signed by all parties, and (iii) approved, as to form, by the Attorney General.

If legal circumstances require this Addendum to be amended, then those changes must be made in an OBVIOUS MANNER such as by using **bold Italics**, or underline to identify language being added and using bold ~~strikethrough~~ to identify language being deleted. Do not use track-changes. All changes to this WV-96 must be expressly approved by the Office of the Attorney General.

State: _____
By: _____
Printed Name: _____
Title: _____
Date: _____

Vendor: _____
By: _____
Printed Name: _____
Title: _____
Date: _____

ATTACHMENT D: Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions



Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from a covered transaction by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this award had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall include an explanation with this document.

Organization Name: _____

PO/Contract Number or Project Name: _____

Name(s) and Title(s) of Authorized Representative(s): _____

Signature: _____

Date: _____