

April 15, 2019

Shepherd University is soliciting bids from vendors to provide plank style luxury vinyl tile (LVT), carpet and cove base, and include preparation and installation of the same. The awarded contractor will be responsible for monitoring, coordination and timely shipping/delivery of all products and services as well as prompt and timely installation of the same covered under the terms of the contract.

Attached, please find the University's Request for Bid No. P0005869. Please note that all responses are due no later than 3:00 PM local time on April 30, 2019 to:

Shepherd University Procurement Services
217 Ikenberry Hall
PO Box 5000
Shepherdstown WV 25443
Attn: Debra Langford
Dlangfor@shepherd.edu

Thank you for your interest in Shepherd University. If you have any questions please call me at (304) 876-5216.

Debra Langford
Executive Director of Purchasing

REQUEST FOR BIDS

FOR

PURCHASE AND INSTALLATION OF FLOORING PRODUCTS

FOR SHAW AND THACHER RESIDENCE HALLS

Issued by:

Shepherd University Procurement Services

April 15, 2019

SECTION 1-INSTRUCTIONS TO BIDDERS

1.1 SCOPE OF WORK

Shepherd University is soliciting bids for the purchase and installation of both luxury vinyl tile (LVT) and carpet for Shaw Hall and Thatcher Hall, both residence buildings on the Shepherd University campus. The bid will consist of both product and services rendered, with the completion of the contract consisting of successful installation of both in the areas identified.

1.2 BID SUBMISSION

Sealed bids shall be enclosed in a sealed envelope and shall be identified as a "Request for Bids" including the RFB number P0005869 and the RFB opening time (3:00) and date (April 30, 2019). The vendor, by making a bid, represents that: (a) the vendor has read and understands the RFB terms and conditions, and the bid is made in accordance therewith; and (b) the bid is based upon the merchandise specified or an acceptable equivalent.

The envelope shall be addressed to Shepherd University Procurement Services, 301 N King Street, 217 Ikenberry Hall, PO Box 5000, Shepherdstown, WV 25443 and must be received on or before April 30, 2019 at 3:00 PM, local time.

Bids received after the time and date for the bid opening will be returned unopened. The vendor 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.

The bid must be signed by such individual or individuals who have full authority from the vendor to enter into a binding contract on behalf of the vendor so that a contract may be established as a result of acceptance of the bid submitted. By reference, the terms and conditions set forth in the Request for Bid shall serve as the contract terms and conditions. No other terms and conditions will apply unless submitted as a part of the bid response and accepted by the University.

The bid price shall include everything for the vendor to provide and deliver the services and product requested by the University. In the event of a discrepancy between the unit price and the total price, the unit price will govern and the total price will be adjusted accordingly.

1.3 OFFER ACCEPTANCE PERIOD

Bid (offer) shall remain in effect for a minimum period of ninety (90) calendar days from the bid opening date unless otherwise indicated and is irrevocable.

1.4 BID COPIES

One original signed and completed Request for Bids, and one (1) copy shall be submitted to the University.

1.5 REQUEST FOR BID SCHEDULE

April 15, 2019:	Request for Bid is issued
April 23, 2019:	Pre-Bid Meeting-Walk Through of Shaw/Thacher Residence Halls for Measuring Confirmation-Meet for Meeting in Shaw Hall Lobby
April 30, 2019:	Bid Due at 3:00 PM
Target Dates:	
May 2, 2019:	Evaluation Complete
May 6, 2019:	Contract Effective

1.6 INQUIRIES

Communications with employees of Shepherd University or with other representatives of the State concerning this request by the proposer or on the proposer's behalf, except as specified in the next paragraph, would not be appropriate during the submission and selection processes. If communication does take place, the proposer may be eliminated from the selection process.

All questions and/or inquiries concerning this request shall be submitted in writing to:

Shepherd University Procurement Services
217 Ikenberry Hall
PO Box 5000
Shepherdstown WV 25443
Debra Langford, Executive Director
Dlangfor@shepherd.edu

Inquiries submitted after close of business on Friday, April 26, 2019 may be disregarded by the University at its discretion due to proximity to the opening dated. Vendors should consider the Department of Procurement Services as the first and prime point of contact on all matters related to the procedures associated with this RFB. If additional information is needed from any source, the Department of Procurement Services will work with the vendor and the various offices of the University to gather that information.

Should any prospective proposer find discrepancies in or omissions from this RFB or be in doubt of the meaning, the bidder should at once request in writing an interpretation from the University as described above. All necessary interpretations will be made available to all recipients of this RFB in the form of addenda to the RFB and such addenda shall become part of this RFB. Failure of any recipient of this RFB to receive any such addendum or interpretation shall not relieve such recipient from any obligation under their proposal as submitted; copies of such addenda shall be available on the Procurement Office website. The University will assume no responsibility for oral instructions or suggestions. ORAL ANSWERS SHALL NOT BE BINDING ON Shepherd University, regardless of who made the statement. Every official and binding interpretation made by the University will be made in the form of an addendum that, if issued, will be sent by the University to all interested parties by Shepherd University Procurement Services and posted on the website located at:

<http://www.shepherd.edu/procurement/current-bids>

The Department of Procurement Services can also be reached by:

Telephone: (304) 876-5216

Facsimile: (304) 876-5001

1.7 INTERPRETATION, CORRECTIONS, OR CHANGES IN RFB

Any interpretation, correction or change in the RFB will be made by formal addendum by the University. Interpretation, corrections, or changes to the RFB allegedly made in any other manner will not be binding, and no bidder may rely upon any such interpretation, correction or change.

1.8 MODIFICATION OR WITHDRAWAL OF BID

At any time prior to the specified time and date set 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 with authority as set forth under paragraph 1.2 above 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 and the modified bid prices shall be submitted under seal.

1.9 ERASURES AND INTERLINEATIONS

Erasures, interlineations, or other changes in the bid must be initialed by the person(s) signing the bid.

1.10 ACKNOWLEDGMENT OF AMENDMENTS OF RFB

Receipt of an addendum to this RFB must be acknowledged by a bidder on the Bidder Response Certificate (Attachment A). Addenda, if any, may be accessed on the Shepherd University Procurement Services Website:

<http://www.shepherd.edu/procurement/current-bids>

1.11 VENDOR REGISTRATION

Prior to any award for purchases exceeding \$25,000 or the award of an open-end contract, the apparent successful proposer must be properly registered with the West Virginia Department of Administration, Purchasing Division, and have paid the required vendor registration fee. The current registration amount is \$125.00.

1.12 NON-FUNDING

All service performed or goods delivered under this contract are to be continued for the term of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise available for these services or goods, this Purchase Order/Contract becomes void and of no effect after June 30 of the fiscal year preceding the funding out condition.

1.13 PAYMENTS AND INTEREST ON LATE PAYMENTS

Payment may only be made after the delivery and acceptance of goods or services. Interest or charges due to late payment is not permissible.

1.14 RESIDENT VENDOR PREFERENCE

A resident vendor preference will be granted upon written request in accordance with the West Virginia Code and subject also to completion of Attachment B and any necessary requests for supplemental information.

1.15 TAX EXEMPTION

The State of West Virginia, the Higher Education Policy Commission and the Shepherd University Governing Board are exempt from federal and state taxes and will not pay or reimburse such taxes.

1.16 REJECTION OF BIDS

The University shall have the right to reject any and all bids, in whole or part; to reject a bid, which is in any way incomplete or irregular; to waive informalities, or minor irregularities and discrepancies; or to reissue a Request for Bids.

1.17 BID PRICE

The prices submitted in the bid shall include everything necessary for the completion of the contract including, but not limited to, purchase of the product(s), preparation of the associated surfaces, coordination and proper installation of the product(s) and labor, and purchase, execution and coordination of services, and removal of debris merchandise was shipped in.

The University may reject an offer if it is materially unbalanced as to process for the basic requirements. An offer is unbalanced when it is based on prices significantly less than cost for some items and prices, which are significantly overstated for other items.

1.18 AWARD OF CONTRACT

The award shall be made by the University to the responsible vendor whose bid will be most advantageous to the University with respect to price, conformance to the specifications, quality and other factors as evaluated by the University.

SECTION 2-INSTRUCTIONS FOR PREPARING BID

2.1 GENERAL

To aid in the evaluation process, it is required that all responses comply with the items and sequence as presented in paragraph 2.2, RFB Response Outline. Paragraph 2.2 outlines the minimum requirements and packaging for the preparation and presentation of a response. Failure to comply may result in rejection of the bid response.

2.2 RFB RESPONSE OUTLINE

- A. Response Sheet: The Bidder Response Certification, Attachment A, shall be attached to the front of the proposal and shall contain bidder's certification of the submission. It shall be signed by an official who has full authority to enter into a contract.
- B. West Virginia Vendor Preference Certificate: The West Virginia Vendor Preference Certificate, Attachment B, shall be executed, if applicable, with all lines applicable identified.
- C. Purchasing Affidavit: The Purchasing Affidavit, Attachment C, shall be executed in order for vendor to submit a proposal. If the vendor is unable to confirm and notarize the statements in the Purchasing Affidavit, the vendor will not be eligible for the bid submission or award.
- D. Disclosure of Interested Parties to Contracts: A state agency may not enter into a contract, or a series of related contracts, that has/have an actual or estimated value of \$100,000 or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract. This form must be submitted as part of the bid prior to any award being made to the bidder. The Vendor agrees that the resulting contract may be extended for
- E. Descriptive Literature: Bidder is responsible for providing descriptive literature that provides information regarding items being offered.
- F. Purchasing Affidavit: The Purchasing Affidavit, Attachment F, shall be executed in order for vendor to submit a bid. The Purchasing Affidavit verifies and authorizes that the vendor or prospective vendor or a related party to the vendor does not owe the State of West Virginia debt in an amount greater than one thousand dollars in aggregate or the vendor is in employer default. If the vendor is unable to confirm and notarize the statements in the Purchasing Affidavit, the vendor will not be eligible for the bid submission or award.

- G. Vendor Exceptions: Describe any exceptions to the terms and conditions contained within this document. Add comments about the project of concern to the vendor.
 - H. Problem Resolutions: Please describe the actions that will be taken to resolve issues related to damaged material received, scheduling issues to ensure materials are installed on timeline required, or other items that may arise.
 - I. Price Submission: Section 3 will provide information regarding the flooring pricing. This information will be submitted as Attachment I in the bidder's response documentation.
 - J. Contractual Terms and Conditions: Section 5 contains the contractual terms and conditions. Please execute this document and submit as part of the bid. This acknowledges that the contractor agrees to the terms and conditions of the contract.
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SECTION 3-BID INFORMATION

3.1 PRODUCTS and SERVICES REQUESTED

Shepherd University is soliciting bids from vendors to provide plank style luxury vinyl tile (LVT), carpet and cove base, and include preparation and installation of the same. The awarded contractor will be responsible for monitoring, coordinating, with the timely shipping/delivery of all products and services as well as prompt and timely installation of the same covered under the terms of the contract.

It should also be noted that the University has limited storage capacity, so the successful contractor will be required to coordinate delivery and staging of material and supplies with the University. Shepherd will make every effort to prepare the identified spaces and buildings prior to delivery and installation. It is incumbent on the contractor to have the product on hand prior to installation, following manufacturer's instructions on proper installation preparation.

Depending on the various products ultimately selected, it is understood that there may be instances where lead times on items may be longer than others. However, should the contractor be required to expedite delivery for reasons due to, but not limited to, oversight in area calculation, additional product needed, lack of required installation materials, or any other issue not caused by the University, the contractor will make every attempt to expedite delivery of the product as quickly as possible with no upcharge. Additionally, any usual and customary delivery, maintenance, markup or administrative fees shall be included in the costs provided.

The University **desires** to consider materials that conform to sustainable practices. It is requested if possible, that the vendor identify any product that carries the Carpet and Rug Institute's (CRI) Green Label Plus specifications for carpet and adhesives, solutions, or other materials, and SCS Global Services Floor Score for LVT and adhesives for consideration by the university.

All products and equipment may be subject to review and testing to determine quality and acceptability.

The minimum specifications for flooring products requested are listed below. It is expected that the contractor will submit pricing based on the attached sketches showing placement of the product, and include all labor and other material necessary for proper installation. While suggested manufacturers are stated, it is encouraged that the vendor provide acceptable equal products meeting similar minimum specifications.

Carpet Tiles:

Style: Modular Tile

Tufted Yard Weight: Minimum 17 oz/sq yard

Average yarn density: Minimum 5000

Dyeing method: 100% solution dyed

Backing System: Vinyl or similar moisture-proof barrier

Installation method: Consistent with manufacturer instructions

Static control: Not to exceed 3.5kv, permanent

Warranty: Minimum 10-year commercial warranty - provide specifications

Stain resistance: Identify product details

Attic Stock: 10% of total square footage required for project

Cove base: 4.5 in height in 4 foot lengths; Color to coordinate with flooring requirements

Cove base adhesive: 30 ounce

Pattern preferences: needs to be able to mask stains in frequent use hallways and lounges; some circular element to the design preferable.

Acceptable Products: Shaw No Rules Link Tile – Timeless, or approved equal

Luxury Vinyl Tile (LVT):

Plank Style

Overall plank thickness: Should be between 4-8mm, with ideal thickness of 5mm

Preferred design: wood design, medium color, smooth surface texture

Installation Method: glue (not floating), installed consistent with manufacturer instructions; will be installed on concrete flooring

Maintenance: may not require wax finishing or specific cleaning products; cleaning methods should be limited to regular household type products.

Warranty: minimum 10-year commercial warranty - provide specifications

Attic Stock: 10% of total square footage required for project

Construction: preference for low VOCs, phthalate-free (desired)

Acceptable Products: Primo Spectrum 3200 Series Natural Hickory, or approved equal

Provide Sample and Pricing for: 30 mil plank style LVT - heavy commercial use. Flooring will be installed in college residential student rooms, so durability, water resistance, and scratch resistance is critical.

The following area calculations are estimates of quantities for products and services requested, and should not be used for ordering of materials. Under no circumstance will Shepherd University be responsible for lack of due diligence on the part of the vendor. It is the responsibility of the vendor to visit the site, become familiar with the scope of work, verify the dimensions, conditions and quantities, and to ensure that the quantities being bid will be adequate to complete the scope of work.

Shaw Hall

Floor 1: Carpet 4,050 sq. ft. Tile 1,750 sq. ft.

Floor 2: Carpet 6,700 sq. ft. Tile 1,960 sq. ft.

Floor 3: Carpet 6,700 sq. ft. Tile 1,960 sq. ft.

Total Carpet Shaw Hall: 17,500 sq. ft.

Total Tile Shaw Hall: 5,600 sq. ft.

Thacher Hall

Floor 1: Carpet 525 sq. ft.

Floor 2: Carpet 1,085 sq. ft.

Floor 3: Carpet 1,085 sq. ft.

Total Tile Thacher Hall: 2,700 sq. ft.

TOTAL CARPET
(ESTIMATED, DOES NOT INCLUDE ATTIC STOCK) 17,500 square feet

TOTAL TILE
(ESTIMATED, DOES NOT INCLUDE ATTIC STOCK) 8,300 square feet

BID FORM

Shaw Hall

Floor 1: Carpet _____ sq. ft.	Tile _____ sq. ft.
Floor 2: Carpet _____ sq. ft.	Tile _____ sq. ft.
Floor 3: Carpet _____ sq. ft.	Tile _____ sq. ft.

Total Carpet Shaw Hall: _____ sq. ft. Total Tile Shaw Hall: _____ sq. ft.

Thacher Hall

Floor 1: Tile _____ sq. ft.
Floor 2: Tile _____ sq. ft.
Floor 3: Tile _____ sq. ft.

Total Tile Thacher Hall: _____ sq. ft.

Attic Stock (10%)

Shaw Hall Carpet _____ sq. ft.	Shaw Hall Tile _____ sq. ft.
	Thacher Hall Tile _____ sq. ft.

TOTAL CARPET, INCLUDING ATTIC STOCK	_____ sq. ft.
TOTAL TILE, INCLUDING ATTIC STOCK	_____ sq. ft.
TOTAL COVE BASE, INCLUDING ATTIC STOCK	_____ sq. ft.

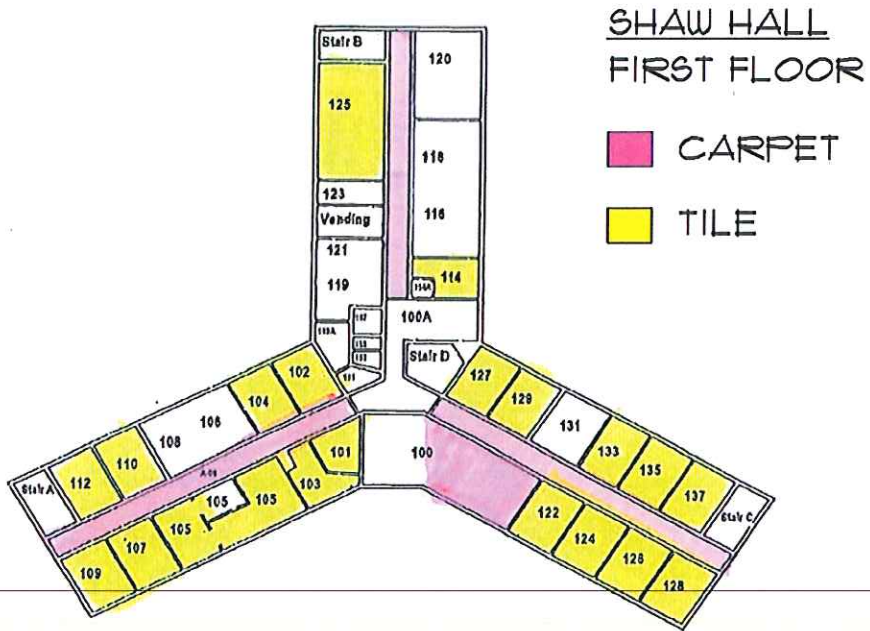
The bid amounts listed below include **all** costs required for all necessary material, proper preparation, installation, labor and cleanup.

CARPET _____ dollars

TILE _____ dollars

COVE BASE _____ dollars

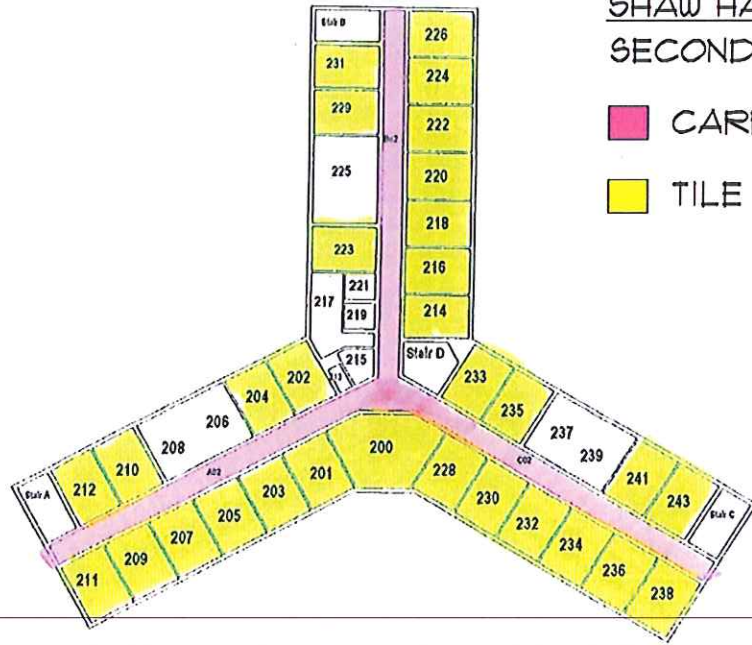
TOTAL BID AMOUNT _____ dollars




Shepherd University 2601	Shaw Hall Floor	SH28 01	Original Drawing 06/10/2004 by Balakrishnan	Content Revised 10/4/2010 by Shepherd University	NOT TO SCALE	N →
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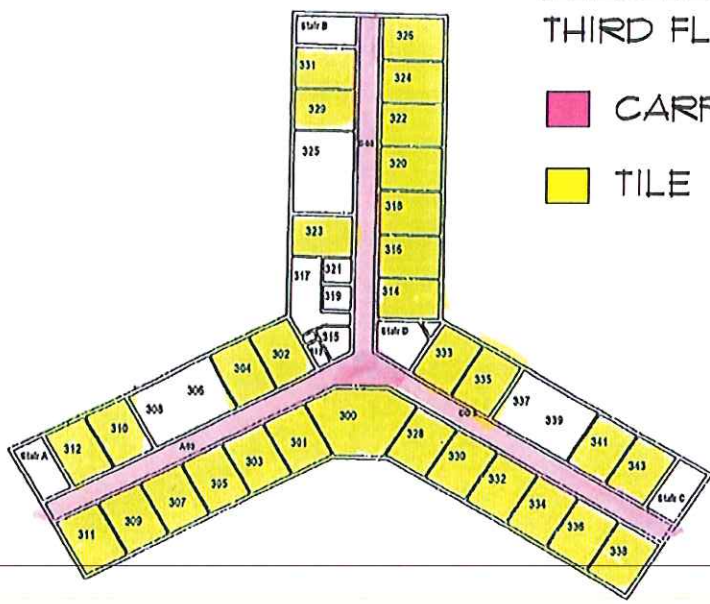
**SHAW HALL
SECOND FLOOR**

 CARPET
 TILE



Shepherd University 2501	Shaw Hall Floor	SH28 02	Original Drawing 05/10/2004 by Balakrishnan	Content Revised 10/4/2010 by Shepherd University	NOT TO SCALE	N 
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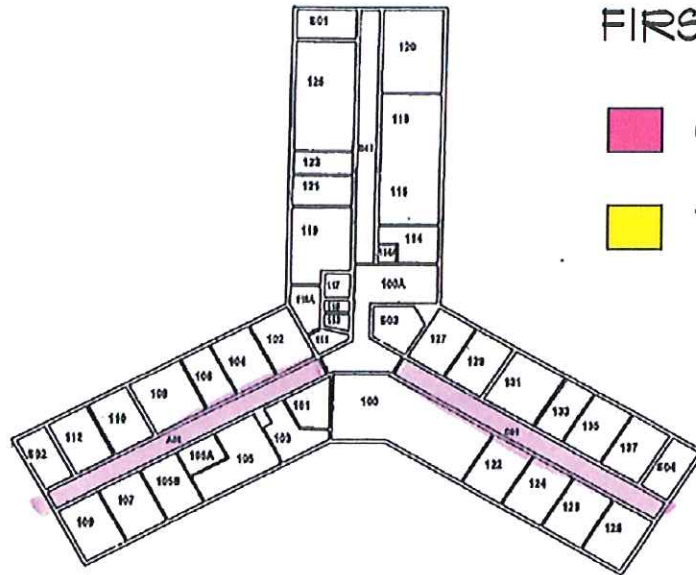
SHAW HALL
THIRD FLOOR



 CARPET
 TILE

Shepherd University 2601	Shaw Hall Floor	SH28 03	Original Drawing 05/10/2004 by Balakrishnan	Content Revised 10/04/2010 by Shepherd University	NOT TO SCALE	N 
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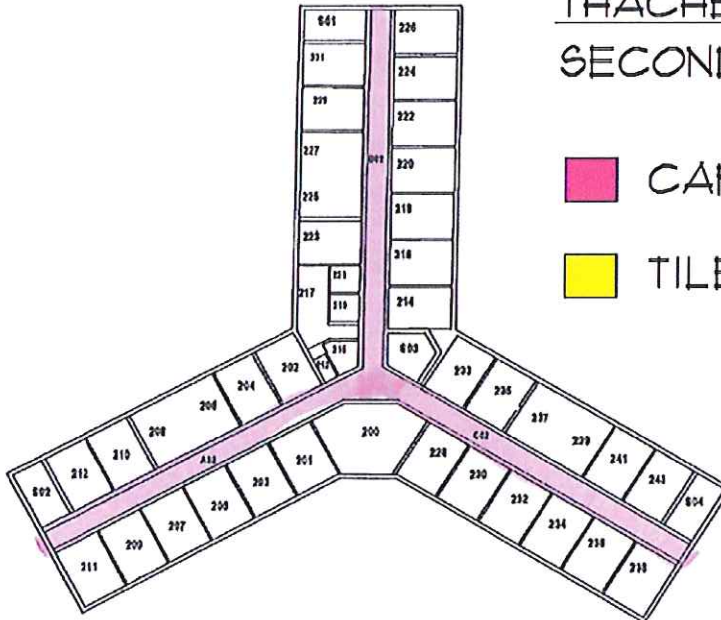
THACHER HALL FIRST FLOOR



 CARPET
 TILE

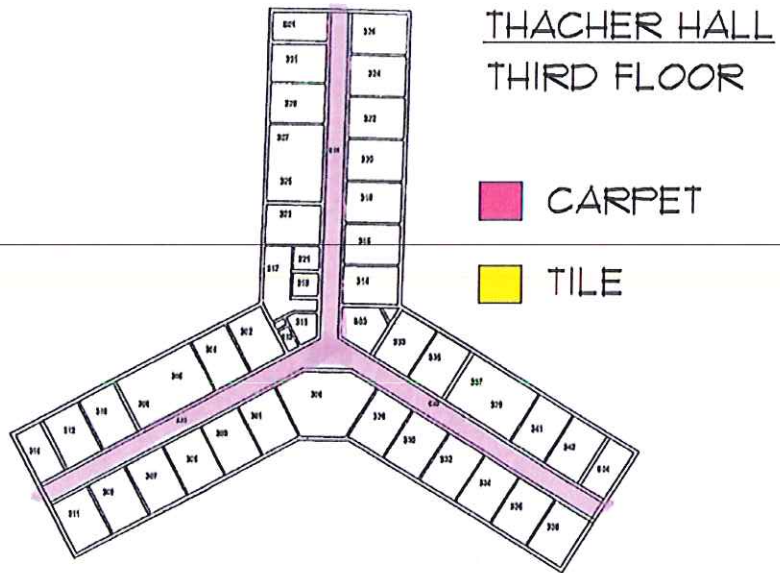
Shepherd University 2501	Thacher Hall Floor	TH29 01	Original Drawing 06/10/2004 by Balakrishnan	Content Revised 09/30/2010 by Shepherd University	NOT TO SCALE	N →
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THACHER HALL SECOND FLOOR



 CARPET
 TILE

Shepherd University 2501	Thacher Hall Floor	TH29 02	Original Drawing 05/10/2004 by Balakrishnan	Content Revised 09/30/2010 by Shepherd University	NOT TO SCALE	N →
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Shepherd University 2601	Thacher Hall Floor	TH28 03	Original Drawing 05/10/2004 by Balakrishnan	Content Revised 09/30/2010 by Shepherd University	NOT TO SCALE	N →
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SECTION 4-EVALUATION CRITERIA

To be considered responsive, the bidder must complete the Bid Form located in Section 3.

The University reserves the right to drop from consideration:

- Those items that not all bidders submitted a bid;
- Those items that were not bid as specified.

In addition, the University will consider:

- The ability, capacity, and skill of bidder to perform the contract or provide the services required;
- The character, integrity, reputation, judgment, experience, and efficiency of the bidder.

The University reserves the right to make calculations to allow comparisons. Comparison may be made among the different areas listed in Section 3 to evaluate the most cost advantageous Bid being offered to the University.

SECTION 5 - GENERAL CONTRACTUAL TERMS AND CONDITIONS

STATE OF WEST VIRGINIA STANDARD CONTRACTUAL TERMS AND CONDITIONS

If the Vendor desires to incorporate one or more forms it created into the Contract, Vendor's form(s) may include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Agreement which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on any Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL** above any other contractual document and shall not be deemed to have been amended unless such amendment of these terms and conditions have been agreed to in writing by the Office of the Attorney General of the State of West Virginia.
2. **PAYMENT** - Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** - Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
4. **RIGHT TO TERMINATE** - The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** - Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** - Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** - Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.

9. **LIMITING LIABILITY** -Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES**-Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** - Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.
12. **STATUTE OF LIMITATIONS** - Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT**-The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** - Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** - Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** - Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** -All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** - Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.

Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.

19. **THIRD-PARTY SOFTWARE**-If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software 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 an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** - The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and strikethrough for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: _____ Vendor: _____

By: _____ By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ATTACHMENT A
BID RESPONSE CERTIFICATION
SHEPHERD UNIVERSITY

DATE

The undersigned, as bidder, declares that he/she has read the Request for Bids and the following bid is submitted on the basis that the undersigned, the company and its employees or agents, shall meet, or agree to, all specifications contained therein. It is further acknowledged addenda numbers _____ to _____ have been received and were examined as part of the RFB document.

Name of Bidder

Signature of Bidder

Title

Firm Name

Street Address

City, State, Zip

Telephone

Facsimile Number

ATTACHMENT B

WV-10
Approved / Revised
05/03/18

State of West Virginia VENDOR PREFERENCE CERTIFICATE

Certification and application is hereby made for Preference in accordance with *West Virginia Code, §5A-3-37*. (Does not apply to construction contracts). *West Virginia Code, §5A-3-37*, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the *West Virginia Code*. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1. **Application is made for 2.5% vendor preference for the reason checked:**
____ Bidder is an individual resident vendor and has resided continuously in West Virginia, or bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia, for four (4) years immediately preceding the date of this certification; or,
____ Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; or,
____ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
2. **Application is made for 2.5% vendor preference for the reason checked:**
____ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
3. **Application is made for 2.5% vendor preference for the reason checked:**
____ Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; or,
4. **Application is made for 5% vendor preference for the reason checked:**
____ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
5. **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
____ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
6. **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
____ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
7. **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code §5A-3-59* and *West Virginia Code of State Rules*.**
____ Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.
8. **Application is made for reciprocal preference.**
____ Bidder is a West Virginia resident and is requesting reciprocal preference to the extent that it applies.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) rescind the contract or purchase order; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: _____ Signed: _____

Date: _____ Title: _____

*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.

ATTACHMENT C

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

CONSTRUCTION CONTRACTS: Under W. Va. Code § 5-22-1(f), 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 _____

Purchasing Affidavit (Revised 01/10/2018)

ATTACHMENT D

West Virginia Ethics Commission



Disclosure of Interested Parties to Contracts

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

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

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

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

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

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

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

This form was created by the State of West Virginia Ethics Commission, 216 Brooks Street, Suite 300, Charleston, WV 25301-1804. Telephone: (304)558-0664; fax: (304)558-2169; e-mail: ethics@wv.gov; website: www.ethics.wv.gov.

Revised June 8, 2018

West Virginia Ethics Commission
Disclosure of Interested Parties to Contracts

(Required by W. Va. Code § 6D-1-2)

Name of Contracting Business Entity: _____ Address: _____

Name of Authorized Agent: _____ Address: _____

Contract Number: _____ Contract Description: _____

Governmental agency awarding contract: _____

Check here if this is a Supplemental Disclosure

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

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

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

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

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

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

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

Signature: _____ Date Signed: _____

Notary Verification

State of _____ County of _____

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

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

Notary Public's Signature

To be completed by State Agency:

Date Received by State Agency: _____

Date submitted to Ethics Commission: _____

Governmental agency submitting Disclosure: _____

Revised June 8, 2011

ATTACHMENT E
DESCRIPTIVE LITERATURE

ATTACHMENT F
PURCHASING AFFIDAVIT

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 _____

Purchasing Affidavit (Revised 01/10/2015)

ATTACHMENT G
VENDOR EXCEPTIONS

ATTACHMENT H
PROBLEM RESOLUTION

ATTACHMENT I
PRICE SUBMISSION FROM SECTION 3

ATTACHMENT J

INSERT SECTION 5 EXECUTED TERMS & CONDITIONS