



State of West Virginia

OFFICE OF THE STATE TREASURER
PHONE: 304-558-5000 or 1-800-422-7498
www.wvtreasury.com

STATE CAPITOL, ROOM E-145
1900 KANAWHA BOULEVARD, EAST
CHARLESTON, WV 25305

RILEY MOORE
STATE TREASURER

Bid Opportunity Notice

Solicitation Number: ARFP STO2400000003
Solicitation Description: WV 457(b) Deferred Compensation Plan
Recordkeeping Plan Services Administrator
Deadline for Q&A: 05/24/2024 3:00 PM EST
Bid Closing Date and Time: 06/18/2024 2:30 PM EST

Dear Potential Bidder:

Your business has been identified as a potential vendor for the solicitation noted above.

Should your business be interested in this bid opportunity, please visit www.wvOASIS.gov, and click on the Vendor Self Service (VSS) Portal. At the welcome screen, please review announcements and log into your account or click on *View Published Solicitations* at the top portion of the page in order to view the *West Virginia Purchasing Bulletin*. You may view all bid opportunities, or you may search for the solicitation noted above by typing the solicitation number in the "keyword search" box. Additional information may be accessed by clicking on the summary or details of the solicitation. All modifications to solicitations prior to award will be noted as an "addendum" and also available at this same location; please make sure to review for Addenda before submitting a final response to a solicitation.

The above Solicitation is also cross-posted to the WV State Treasurer's Office web page. Please visit <https://www.wvtreasury.com/RFP-RFQ>; and review this same page for Addenda or other information before submitting your final bid response. **Questions regarding the solicitation should be directed to the designated Buyer listed in the *Instructions to Vendors* document.**

Should you decide to bid on this opportunity, you may submit a response through the acceptable delivery methods including electronic submission via wvOASIS system, hand delivery, delivery by courier, secure email, or by facsimile; however, wvOASIS does not accept bids for Request for Proposals (ARFP).

Solicitations prefaced with an "A" are agency-delegated bid opportunities and are considered agency delegated and/or STO exempt from the requirements of the WV Purchasing Division pursuant to W.Va. Code §12-3A-3 and §5-10B-3. Those prefaced with a "C" are solicitations that are under a non-exempt purchasing authority and are processed through the WV Purchasing Division.

Should you have any questions regarding becoming a registered vendor with the State of West Virginia, please visit the vendor registration webpage within the WV State Purchasing Division at <http://www.state.wv.us/admin/purchase/VendorReg.html>.

WV State Treasurer's Office – Purchasing Division
General Email: purchasing@wvsto.gov / Phone: 304-558-5000



**State of West Virginia
Agency Request for Proposals
Financial**

Proc Folder: 1428135			Reason for Modification:	
Doc Description: WV 457(b) Plan Recordkeeping Services Administrator				
Proc Type: Agency Master Agreement				
Date Issued	Solicitation Closes	Solicitation No	Version	Phase
2024-05-08	2024-06-18 14:30	ARFP 1300 STO2400000003	1	Final

BID RECEIVING LOCATION

WEST VIRGINIA STATE TREASURERS OFFICE
322 70TH ST SE

CHARLESTON WV 25304
US

VENDOR

Vendor Customer Code:
Vendor Name :
Address :
Street :
City :
State : **Country :** **Zip :**
Principal Contact :
Vendor Contact Phone: **Extension:**

FOR INFORMATION CONTACT THE BUYER

Alberta Kincaid
(304) 341-0723
alberta.kincaid@wvsto.gov

Vendor Signature X **FEIN#** **DATE**

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

INVOICE TO	SHIP TO
WEST VIRGINIA STATE TREASURERS OFFICE 322 70TH ST SE CHARLESTON WV 25304 US	WEST VIRGINIA STATE TREASURERS OFFICE 322 70TH ST SE CHARLESTON WV 25304 US

Line	Comm Ln Desc	Qty	Unit of Measure	Unit Price	Total Price
1	Management and Business Professionals and Administrative Ser				

Comm Code	Manufacturer	Specification	Model #
80000000			

Extended Description:
Management and Business Professionals and Administrative Ser

SCHEDULE OF EVENTS

Line	Event	Event Date
1	Vendor Ques Due 3pm EST	2024-05-24

	Document Phase	Document Description	Page
STO2400000003	Final	WV 457(b) Plan Recordkeeping Services Administrator	3

ADDITIONAL TERMS AND CONDITIONS

See attached document(s) for additional Terms and Conditions

REQUEST FOR PROPOSAL

WV State Treasurer's Office
West Virginia 457(b) Deferred Compensation Plan
Recordkeeping Services Administrator
Solicitation # ARFP STO2400000003

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SECTION ONE: GENERAL INFORMATION

- 1.1. Purpose: The West Virginia State Treasurer's Office, hereafter referred to as the "STO", is soliciting proposals from qualified vendors to provide third party administrative and investment plan services (Services) for the West Virginia 457 Deferred Compensation Plan known as West Virginia Retirement Plus (Plan or 457 Plan), in accordance with the specifications, terms and conditions of the RFP. "Services" include administrative services, recordkeeping, custodial trustee services, customer service, communication, education, investment options, transition services, reporting and compliance, as well as any goods, hardware, software and any other tangible and intangible items required to provide or produce the Services at a reasonable cost. This procurement is exempt from the requirements of the West Virginia Purchasing Division pursuant to W.Va. Code §12-3A-3 and §5-10B-3.
- 1.2. By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this Request for Proposal ("RFP").

An RFP is generally used for the procurement of services in situations where price is not the sole determining factor, and the award will be based on a combination of cost and technical factors (Best Value). Through its proposal, the bidder offers a solution to the objectives, problem, or need specified in the RFP, and defines how it intends to meet (or exceed) the RFP requirements.

- 1.3. Schedule of Events:

Vendor's Written Questions Submission Deadline.....	3:00pm EST on 05/24/2024
STO Addendum Issued.....	06/05/2024
Bid Opening Date	2:30pm EST on 06/18/2024
Oral Presentation (<i>Held Virtually</i>)	TBD (mid-late July)

REQUEST FOR PROPOSAL

WV State Treasurer's Office
West Virginia 457(b) Deferred Compensation Plan
Recordkeeping Services Administrator
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1.4. Attachments:

Attachment A – Vendor Response Sheet

Attachment B – Vendor Mandatory Specification Checklist

Attachment C – Cost Sheet

1.5. Exhibits:

Exhibit A – Reference Sheet for Vendor Response

Exhibit B – Plan Document

Exhibit C – Empower Quarterly Reports (Two Quarters)

Exhibit D – Auto Enrollment Banking CSV Files

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West Virginia 457(b) Deferred Compensation Plan
Recordkeeping Services Administrator
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SECTION TWO: INSTRUCTIONS TO VENDORS SUBMITTING BIDS

Instructions are attached

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

WV State Treasurer's Office (STO) Exempt Procurement

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

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

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

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

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

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

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

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

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

Questions submitted at least five (5) business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the STO Purchasing Division designated buyer. Questions must be submitted in writing and be submitted on or before the date listed below and to the address listed below to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written questions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding. Submitted emails should have the solicitation number in the subject line.

Questions Submission Deadline: May 24, 2024 **By:** 3:00pm EST

Submit questions to Buyer: Alberta Kincaid

State Treasurer’s Office – Purchasing Division, 322 70th Street SE, Charleston, WV 25304

Fax: (304) 340-1518 / Buyer Email: alberta.kincaid@wvsto.gov

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the STO Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted on or before the date and time of the bid opening listed in Section 7 below. Vendors can submit bids electronically through wvOASIS, in paper form delivered to the STO Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the STO Purchasing Division at the number listed below. For non-complex purchases, the STO may also allow for bids to be submitted via email. Notwithstanding the foregoing, the STO Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor’s inability to submit bids through wvOASIS.

Bids submitted in paper, facsimile, or email form must contain a signature. Bids submitted in wvOASIS are deemed to be electronically signed, however, additional information may be requested and/or signed based on directions in the Solicitation. Any bid received by the STO Purchasing Division staff is considered to be in the possession of the STO Purchasing Division and will not be returned for any reason.

For Request for Proposal (“RFP”) Responses Only: Submission of a response to a Request for Proposal is not currently permitted in wvOASIS. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified below, plus THREE (3) convenience copies of the technical proposal to the STO Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.

Bid Delivery Address and Fax Number:

WV State Treasurer's Office
Attn: Purchasing Division
322 70th Street SE, Charleston, WV 25304
Fax: (304) 340-1518

A bid that is not submitted electronically through *wvOASIS* should contain the information listed below on the face of the envelope, or fax cover sheet as applicable, or the bid may be rejected by the STO. Note: information in *italics* is for information purposes only to assist in responding.

SEALED BID: WV 457(b) Deferred Comp Plan Administrator
BUYER: Alberta Kincaid
SOLICITATION NO.: ARFP STO2400000003
BID OPENING DATE: June 18, 2024
BID OPENING TIME: 2:30PM EST
FAX NUMBER: 304-340-1518 (use if submitting bid response via facsimile)

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

Bid Opening Date: June 18, 2024 **Time:** 2:30pm EST

Bid Opening Location: **WV State Treasurer's Office, Purchasing Division**
322 70th Street SE, Charleston WV 25304

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

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

10. ALTERNATE MODEL OR BRAND: Any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications.

The equality of any alternate being bid shall be determined by the STO at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

This solicitation is based upon a standardized commodity established by the WV State Treasurer's Office under its exemption authority. Vendors are expected to bid the standardized commodity identified, or upon bid a comparable product that meets or exceeds the standard for consideration.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: Communication with anyone other than the designated buyer or STO Purchasing Division staff regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the STO Purchasing Division, is strictly prohibited without prior STO Purchasing Division approval.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable. Other registrations, including but are not limited to business registration requirements of the WV Secretary of State, WV State Tax Department, and any other state or local entities, will also be required prior to receiving a contract/purchase order.

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

15. WAIVER OF MINOR IRREGULARITIES: The STO Purchasing Director reserves the right to waive minor irregularities in bids or specifications.

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

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

18. ACCEPTANCE / REJECTION: The State Treasurer's Office may accept or reject any bid in whole, or in part.

19. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., 5G-1- 1 et seq. and the Freedom of Information Act in West Virginia Code §§ 29B-1-1 et seq.

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

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

20. WITH THE BID REQUIREMENTS: In instances where the specifications require documentation or other information with the bid response, and a vendor fails to provide it with the bid, the STO Purchasing Division Director reserves the right to request those items after the bid opening and prior to the contract award pursuant to the authority to waive minor irregularities in bids or specifications. This authority does not apply to instances where state law mandates receipt with the bid.

21. EMAIL NOTIFICATION OF AWARD: The STO Purchasing Division will attempt to provide bidders with email notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the STO Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or request the information from the STO Purchasing Division.

22. ISRAEL BOYCOTT CERTIFICATION: Vendor's act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel.

ADDENDUM ACKNOWLEDGEMENT FORM

SOLICITATION NO.:

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

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

Addendum Numbers Received:

(Check the box next to each addendum received)

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

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

Company

Authorized Signature

Date

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

REQUEST FOR PROPOSAL

WV State Treasurer's Office
West Virginia 457(b) Deferred Compensation Plan
Recordkeeping Services Administrator
Solicitation # ARFP STO2400000003

SECTION THREE: GENERAL TERMS AND CONDITIONS

Terms and conditions are attached

GENERAL TERMS AND CONDITIONS

West Virginia State Treasurer's Office - Exempt Procurement

1. **CONTRACTUAL AGREEMENT:** Issuance of an Award Document signed by the Treasurer, or his designee, and approved as to form by the Agency's Counsel constitutes acceptance of this Contract made by and between the West Virginia State Treasurer's Office ("STO") and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in the Contract.

2. **DEFINITIONS:** As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.
 - 2.1. **"Agency"** means the West Virginia State Treasurer's Office ("STO"/"WVSTO"), and any of its boards or financial programs identified in the Solicitation seeking to procure goods or services under this Contract.

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

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

 - 2.4. **"Director"** means the Executive Director of STO Purchasing Division

 - 2.5. **"Award Document"** means the document issued by the STO that identifies the Vendor as the contract holder.

 - 2.6. **"Solicitation"** means the official notice of an opportunity to supply the STO with goods or services that is published by the STO Purchasing Division.

 - 2.7. **"Exempt"** means the solicitation/purchase is exempt from the requirements of the West Virginia Department of Administration - Purchasing Division.

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

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

Term Contract

Initial Contract Term: The Initial Contract Term will be for a period of Five (5) Years. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signature of either the STO Administration Division Assistant Treasurer, Purchasing Division Executive Director or other authorized designee, and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the STO and the Vendor, and the Attorney General's Office, as applicable, as to form only as applicable. A request for Contract renewal should be submitted to the STO Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract.

Unless otherwise specified below, Renewal of this Contract is limited to Five (5) successive One (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Renewals must be approved by the Vendor and STO. **Automatic renewal of this Contract is prohibited.**

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

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

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

Fixed Period Contract with Renewals: This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion, of the work covered by the preceding sentence, the vendor agrees that:

the contract will continue for _____ years;

the contract may be renewed for _____ successive _____ year renewal periods or shorter periods provided that they do not exceed the total number of months contained in

all available renewals. **Automatic renewal of this Contract is prohibited.** Renewals must be approved by the Vendor and the STO.

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

Construction/Project Oversight: This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures (electronic or written) of the STO Purchasing Division designee, and continues until the project for which the vendor providing oversight is complete.

Other: Contract Term specified in _____.

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

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

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

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

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

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

Construction: This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The STO Assistant Treasurer of Administration, or the Executive Director of Purchasing, or their designee, may authorize the purchase of goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the STO from filling its obligations under a One Time Purchase contract.

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

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

All required business registrations for doing business with/in the State of WV

As listed in Section 4.5 of the Specifications

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

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of the contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the STO with proof that the insurance mandated herein has been continued. Vendor must also provide the STO with the immediately notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed in this section. Vendor must maintain:

Commercial General Liability Insurance in at least an amount of:

FIVE MILLION DOLLARS (US Dollars) per occurrence.

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

Professional/Malpractice/Errors and Omission Insurance in at least an amount of: FIVE MILLION DOLLARS (US Dollars) per occurrence. Notwithstanding the foregoing, Vendor is not required to list the State/STO as an additional insured for this type of policy.

Commercial Crime and Third Party Fidelity Insurance in at least an amount of: FIVE MILLION DOLLARS (US Dollars) per occurrence.

Cyber Liability Insurance in an amount of: FIVE MILLION DOLLARS (US Dollars) per occurrence.

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

Pollution Insurance in an amount of: _____ per occurrence.

Aircraft Liability in an amount of: _____ per occurrence.

Notwithstanding anything contained in this section to the contrary, the STO Assistant Treasurer of Administration or Executive Director of Purchasing reserves the right to waive the requirement that the STO be named as an additional insured on one or more of the Vendor's insurance policies if he/she finds that doing so is in the STO's best interest.

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

10. VENUE: All legal actions for damages brought by Vendor against the STO 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.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the STO's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

_____ for _____.

Liquidated Damages Contained in the Specifications

Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the STO that cannot be unilaterally withdrawn, signifies that the product or service proposed by Vendor meets the mandatory requirements contained in the Solicitation for

that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in Solicitation unless otherwise indicated.

- 13. PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the STO. A Vendor's inclusion of price adjustment provisions in its bid, without express authorization from the STO in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the STO and invoice at the lower of the contract price or the publicly advertised sale price.
- 14. PAYMENT IN ARREARS:** Payment 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 maintenance, licenses, or subscriptions may be paid annually in advance.
- 15. PAYMENT METHODS:** The State's preferred payment methods are by electronic funds transfer and/or a State issued credit card, also known as P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards). Payments requested by physical warrant/check are available but take additional time for processing and are only processed once per week.
- 16. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
- 17. ADDITIONAL FEES:** Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State Treasurer's Office, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.
- 18. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the STO 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.
- 19. CANCELLATION:** The STO Assistant Treasurer of Administration, or the Executive Director of Purchasing reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The STO Assistant Treasurer of Administration or the Executive Director of Purchasing may also cancel any purchase order or Contract upon 30 days written notice to the Vendor.

- 20. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.
- 21. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.
- 22. COMPLIANCE WITH LAWS:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

- 23. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.
- 24. MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the STO and the Vendor. Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the STO Purchasing Division and/or Agency's Counsel as to form prior to the implementation of the change or commencement of work affected by the change. No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the STO Purchasing Division.

VENDOR NAME MODIFICATIONS: If a Vendor has a change of name (and/or address) after the issuance of a contract, Vendor must notify the STO and also update its business registrations with all applicable State of West Virginia entities it has previously registered. If invoices do not match the name on the Contract and applicable business registrations, they must be held until compliance is verified. Address changes may require additional supporting information before accepting.

- 25. WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.
- 26. SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents

submitted by the Vendor to the STO such as price lists, order forms, invoices, sales agreements, or maintenance agreements, any clauses that may void State law, including internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. **ASSIGNMENT:** Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the STO, and any other government agency or office that may be required to approve such assignments.
28. **WARRANTY:** The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the STO; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.
29. **STATE EMPLOYEES:** STO employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.
30. **BANKRUPTCY:** In the event the Vendor files for bankruptcy protection, the State Treasurer's Office may deem this Contract null and void, and terminate this Contract without notice.
31. **PRIVACY, SECURITY, AND CONFIDENTIALITY:** The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the STO, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the STO's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.
32. **YOUR SUBMISSION IS A PUBLIC DOCUMENT:** Vendor's entire response to the Solicitation and the resulting Contract are considered public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia and the Freedom of Information Act found in West Virginia Code §§ 29B-1-1 et seq.

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

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

33. **LICENSING:** Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax

Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the STO Purchasing Division to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up to date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

34. **ANTITRUST:** In submitting a bid to, signing a contract with, or accepting an Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency renders the initial payment to Vendor.
35. **VENDOR NON-CONFLICT:** Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the STO.
36. **VENDOR RELATIONSHIP:** The relationship of the Vendor to the STO/State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the STO with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

- 37. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the STO, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.
- 38. NO DEBT CERTIFICATION:** The State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the STO, Vendor is (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or political subdivision of the state; and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.
- 39. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts (“Other Government Entities”), provided, that both the Other Government Entity and the Vendor agree, and, have such authority to do so. Any extension of this Contract to the aforementioned Other Government Entities must be on the same prices, terms, and conditions as those offered and agreed to in this Contract, provided that such extension is in compliance with the applicable laws, rules, and ordinances of the Other Government Entity. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.
- 40. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the STO.
- 41. REPORTS:** Vendor shall provide the STO with the following reports identified by a checked box below:
- Such reports as the STO may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures, etc.
- Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by the agency. Unless otherwise provided for upon Contract award, quarterly reports should be delivered to the STO Purchasing Division via email at purchasing@wvsto.com.

42. BACKGROUND CHECK: In accordance with W.Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol Complex based on results addressed from a criminal background check. Service providers should contact the WV Division of Protective Services at (304) 558-9911 for more information.

43. JOINT PROPOSALS AND SUBCONTRACTING: Joint Proposals are not permitted. Subcontracting is permitted subject to STO authorization. The purchase order/contract shall be awarded to the Vendor submitting the proposal. The Vendor awarded the purchase order/contract shall be the sole point of contact with regard to the purchase order and shall be solely responsible for all matters provided pursuant to the purchase order/contract, including without limitation, any tangible or intangible items provided by a subcontractor or other party.

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

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

45. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:

In accordance with W.Va. Code § 5-19-1 et seq., and W.Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic
STO Gen T/C Exempt Purchasing (Rev 12/22/23)

aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

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

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

- 46. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE:** W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.
- 47. PROHIBITION AGAINST USED OR REFURBISHED:** Unless expressly permitted in the solicitation published by the STO, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.
- 48. VOID CONTRACT CLAUSES:** This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State Law.
- 49. ISRAEL BOYCOTT:** Bidder understands and agrees that, pursuant to W.Va, Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

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

(Printed Name and Title)

(Address)

(Phone Number) / (Fax Number)

(Email address)

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the STO that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration, or shall promptly register upon notification of any such requirement by the STO.

(Company Name)

Printed Name and Title of Authorized Signatory

Date

(Authorized Signature)

(Phone Number)

(Fax Number)

Email: _____

REQUEST FOR PROPOSAL

WV State Treasurer's Office
West Virginia 457(b) Deferred Compensation Plan
Recordkeeping Services Administrator
Solicitation # ARFP STO2400000003

SECTION FOUR: PROJECT SPECIFICATIONS

4.1. Location: Agency's main office is located at 1900 Kanawha Blvd. E, Bldg. 1 Suite E-145, Charleston, WV 25305. The WV Retirement Plus program staff office are located at 315 70th Street, Charleston, WV 25304. Servicing shall be provided by the Vendor to Plan participants throughout West Virginia.

4.2. Background and Current Operating Environment:

Background

West Virginia Code §5-10B-1 *et seq.* authorized the creation of the qualified 457(b) Plan in 1982 within the West Virginia Consolidated Public Retirement Board (WVCPRB). In 2006, Plan operation was transferred to the West Virginia State Treasurer.

The Plan is a defined contribution plan under IRC §457(b). The Plan consists of employee contributions and very small amounts of employer contributions from political subdivisions. Political subdivisions have the option to offer their own matching plan, but there is currently no matching program for state employees. Participants' direct investments and funds may rollover to and from the Plan.

Full-time state employees and some full-time political subdivision employees participate in a defined benefit plan through the WVCPRB. The 457 Plan is mostly a supplemental retirement program, open to state employees and political subdivisions that elect to use the Plan. However, the Plan serves as the primary retirement plan for entities with no defined benefit plan.

The Plan is open to most state employees and those political subdivisions that elect to use the Plan. There are approximately 27,000 eligible state agency employees along with another 26,000 employees from counties, cities, and other political subdivisions. As additional entities adopt the Plan, the total number of eligible employees will increase beyond the current 53,000 total.

Empower Retirement is the current recordkeeper with a contract ending on January 31, 2025. The contract base term awarded as a result of this RFP is intended to be five (5) years, with the option of up to five (5), one-year extensions.

SageView Advisory Group is the current consultant to the Plan, providing investment and administrative consulting services.

Plan Information and Statistics

A copy of the Plan Document is included as an Exhibit B to this RFP.

A copy of the two most recent Empower quarterly reports are included as an Exhibit C to this RFP and contains statistical and investment information.

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Auto enrollment	State employees hired on or after July 1, 2007, are automatically enrolled in the Plan with a contribution of \$10 per pay period directed to the age-appropriate target date fund. The STO is interested in potentially increasing the automatic contribution amount, but this will require legislative action.
Contributions	Traditional and Roth
Loans	Not allowed
In-Person Servicing	Two (2) Retirement Plan Advisors are currently dedicated to servicing WV Plan participants.
Advice and Managed Accounts	Continue to offer service currently used by 3,142 participants (03/31/2024) representing \$43.8 million
Payroll	Approximately 226 state agencies remit payroll deductions to one centralized input file and approximately 322 individual political subdivisions remit contributions separately by check or ACH with various payroll remittance data submission processes (i.e., paper, electronic).
Current Stable Value Option	Assets in the Guaranteed Interest Fund are available to transfer to a new stable value option via a) lump sum with a market value adjustment (MVA), b) book value with a 1 or 3 year put (currently 1 year) c) book value with 20 quarterly payments. The most recent calculation of the MVA was approximately \$7.4 million.

- 4.3. Qualifications and Experience:** Vendors should provide in **Attachment A: Vendor Response Sheet** information regarding their firm, such as staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.
- 4.3.1** Vendor should provide a brief overview and history of its organization, including parent and/or subsidiary companies and the number of employees. Identify the products and services marketed by your company and parent/subsidiaries. Provide the address of the corporate headquarters and the office location(s) that will service the STO.
- 4.3.2 References:** Vendor should provide at least five references, three from current customers and two from former customers, ideally of similar size and structure to the State of West Virginia, if available, to which similar services were provided (See Exhibit A). All or none of these clients may be contacted by one or more members of the Evaluation Committee to determine the ability of the Vendor and the level of satisfaction with the Vendor. Furthermore, the STO reserves the right to contact any person or entity it believes prudent in order to inquire about the Vendor. List should include the following information for each reference:

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West Virginia 457(b) Deferred Compensation Plan
Recordkeeping Services Administrator
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- a. Entity name and contract manager with current contact information
 - b. Start and End dates of services provided
 - c. List of services provided in comparison to those sought through this RFP
 - d. Plan type, number of participants, and amount of assets
- 4.3.3** Explain any current or anticipated litigation, or other legal proceeding or government investigation, to which Vendor is a party.
- 4.3.4** Vendor should provide a resume for each individual that will be directly involved as management or support staff for the STO account. Identify which individual would be the day-to-day contact for the project. Include the following information for each individual:
- Their experience in working with public entities
 - Their anticipated roles with regard to STO account
 - Their number of years of industry experience
 - Their number of years with the company.
 - The number of other accounts/plans handled/serviced by the individual
 - Availability of back-up staff for the individual
- 4.3.5** Provide the names and backgrounds of Retirement Plan Advisors that would service the plan.
- 4.3.6** Indicate whether any services will be subcontracted to another company and fully describe these services and the stability, background, and qualifications of all companies that may provide subcontracted services.
- 4.3.7** Describe any pending agreements to merge, sell or reorganize your company or any component of the overall organization of which your company is a part.
- 4.3.8** Do you have any sponsorship, endorsement, or other financial relationship with a union, employee or employer organization, association, or affiliate to such a group? If yes, please describe.
- 4.3.9** Identify the senior staff turnover experienced over the last five (5) years. Provide information regarding the reasoning for the turnover and the impact it has had on your recordkeeping business.
- 4.3.10** How many governmental defined contribution plan clients and participants have you gained and lost in the last three years? Complete the following table:

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	Governmental Clients Added		Governmental Clients Lost	
	Number of Plans	Number of Participants	Number of Plans	Number of Participants
2023				
2022				
2021				

4.3.11 Please provide the number of plans for each category listed below:

Participants in Plan	DC plans	Gov't DC Plans	457(b) Gov't Plans
Up to 5,000			
5,000 - 10,000			
10,000 – 25,000			
25,000 - 50,000			
50,000+			
TOTAL			

Plan Size	DC plans	Gov't DC Plans	457(b) Gov't Plans
Under \$100 M			
\$100 - \$500 M			
\$500 M - \$1 B			
\$1 B - \$5 B			
\$5 B+			
TOTAL			

4.3.12 Provide the total number of participant accounts on your DC recordkeeping system.

4.4. Project and Goals: The project goals and objectives are to hire a qualified vendor to provide third party administrative and investment plan services. The services desired include the following: administrative, recordkeeping, custodial trustee, customer service, communication, education, investment options, transition services, and reporting and compliance. In addition, the Plan wishes to consider the following items as part of the overall project:

- The Plan is seeking creative ways to increase contributions and also support retention of participant accounts.

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- The Plan would like to fully automate processes wherever possible. The successful bidder must work with wvOASIS and payroll systems to implement the requested automated processes.
- The Plan is seeking options to offer the conversion of pre-tax contributions to Roth within the Plan, which is currently not allowed.
- The Plan is seeking to implement a fee leveling structure that is consistent across investment options. The fee structure implemented must be able to provide minimum funding levels for the STO to administer the program.
- The Plan would consider custom advisor managed options.
- For investments within the Plan, the Plan is willing to consider the following potential changes:
 - Target Date Funds (5-year increments) – Consider non-proprietary options.
 - Large Blend – Consider consolidating lineup to only offer S&P 500 Index in this space.
 - Large Growth – Consider consolidating to one actively managed fund.

4.4.1 Transition Plan

- 4.4.1.1. Describe in detail your plan for the transition process. Provide a detailed work plan and flow chart of activities, responsibilities, and time frames for conversion of the Plan.
- 4.4.1.2. What is the minimum amount of time that you will require to conduct the conversions? Confirm your ability to meet the January 2025 implementation date.
- 4.4.1.3. How will you guarantee the stated implementation time frame?
- 4.4.1.4. Fully describe the required blackout period during the conversion in which no transactions can take place. How is the investment of new contributions handled during conversion? Will your company allow distributions during conversion? Describe restrictions fully.
- 4.4.1.5. Describe your experience, if any, with recordkeeping conversions from Empower, if applicable. How many such conversions have occurred with any record keeper in the past three (3) years?
- 4.4.1.6. Confirm your ability to assist the STO in reviewing the current plan documents and identifying any necessary or recommended updates to the plan documents during the implementation.

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- 4.4.1.7. Describe the roles and responsibilities of your conversion team. Is the same team responsible for on-going processing? If not, describe how the team will change and how the transition will be handled. Identify the expected members of the implementation team(s) by functionality.
- 4.4.1.8. What other conversions do you have planned within three (3) months before or after the STO implementation date?
- 4.4.1.9. How many conversions and implementations have you conducted during the past three (3) years involving 5,000 or more participants? How many conversions and implementations have you conducted during the past three (3) years involving 10,000 or more participants?
- 4.4.1.10. Please confirm that you will be able to assist with reconciling the ending balances the cutoff of Empower, if applicable, to the beginning balances upon transition. The STO must be able to completely reconcile the transition of all funds to the new vendor.
- 4.4.1.11. Describe your resources available to payroll coordinators and administrators that will be utilizing your service center website/portal. Do you provide training and ongoing support for political sub-divisions that join the program.

4.4.2 Participant Communication and Education

- 4.4.2.1. Fully describe how you intend to conduct the initial communication of the change in recordkeeper, if applicable. Provide a communication plan and a proposed timetable. Outline the content and number of all proposed meetings (both group and individual).
- 4.4.2.2. Identify the number of group and individual meetings you anticipate the proposed Retirement Plan Advisors can provide each year during the contract. Please identify number of virtual and onsite meetings anticipated. How does a participant schedule a meeting?
- 4.4.2.3. Describe how you will prepare an annual education plan for the STO.
- 4.4.2.4. Describe the survey or review mechanisms that you use to ensure that Retirement Plan Advisors are conducting education/enrollment meetings in a professional manner.
- 4.4.2.5. Indicate whether any of your representatives conducting the education meetings receive incentive-based compensation such as commissions, bonuses, or performance-based compensation. If any of your employees do receive increased compensation, fully describe these incentive-based compensation arrangements, including the percentage that is variable and the basis for the compensation. Describe the extent to which the STO can provide input on defining goals for staff related to the Plan.

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- 4.4.2.6. Describe the content of the on-going education and enrollment meetings that you will conduct. How does your education strategy address different participants (i.e., new savers, early career, mid-career, pre-retirement, retirement readiness, retirement planning, and distribution planning)? What education, services, and tools do you provide for general financial wellness for participants?
- 4.4.2.7. Briefly summarize the education and communication materials that will be used with participants, including a description of content and how they will be delivered (electronic or printed, etc.)
- 4.4.2.8. What materials do you provide that cover Roth and differences from a traditional 457(b)?
- 4.4.2.9. Discuss the use of social media in your communications to participants. Does social media currently play a role in your communications strategy? If yes, please describe how. If you have future plans to incorporate the use of social media in your communications strategy, please describe.
- 4.4.2.10. What capabilities does your organization have to personalize the messaging for individual participants and/or targeted groups?
- 4.4.2.11. Does your firm provide financial planning services? If yes, describe the service and deliverables provided to participants? How are such services delivered? Are representatives licensed and/or certified? What fees are charged for such services?
- 4.4.2.12. When will participant statements be mailed following each quarter end date? Provide a sample statement and indicate whether you would customize it for the STO.
- 4.4.2.13. When are individual participant statements posted to the website? Please provide an example participant statement with your submission.
- 4.4.2.14. Describe how fees paid by participants are shown on quarterly statements?
- 4.4.2.15. What ways can a participant determine a projection of monthly income at retirement?

4.4.3. Call Center and Voice Response System

- 4.4.3.1. Describe your voice response system (VRS). Describe your Personal Identification Number (PIN) generation capabilities for new participants and on-going PIN administration capabilities. How quickly can a participant obtain a new PIN number if the original is forgotten?

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- 4.4.3.2. Is the voice system key entry only or does it have natural voice recognition capabilities as well?
- 4.4.3.3. Will you provide a WV Plan specific call center number, or is the same number used by other employer plans?
- 4.4.3.4. Where is your call center(s) located? Will your recordkeeping and administrative services also be processed at this location? If not, where will those services be Provided?
- 4.4.3.5. What are the hours that call center representatives are available?
- 4.4.3.6. What security procedures do you use at your customer service center to authorize transactions that the participant makes over the phone?
- 4.4.3.7. Describe your customer service staff training plan. How do you ensure that the customer service staff provide accurate information to participants about Plan specific information?
- 4.4.3.8. Provide the following statistics for the time periods indicated:

	Calendar Year 2022	Calendar Year 2023
Quality standard for VRS answer time in number of seconds		
Average actual VRS answer time in number of seconds		
Quality standard for VRS downtime (hours per month)		
Average actual VRS downtime (hours per month)		
Number of calls to VRS		
Number of Customer Service Representatives (CSRs)		
Number of calls received by CSRs		
Average length of calls with CSRs		
Quality standard for number of seconds on hold while call transfers to CSRs from VRS		
Average actual number of seconds on hold while call transfers to CSRs from VRS		

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	Calendar Year 2022	Calendar Year 2023
Quality standards for call abandonment rate		
Actual call abandonment rate		
Number of calls monitored by supervisor on a monthly basis		

4.4.3.9. What licensing (if any), is required for call center representatives?

4.4.3.10. How is the call center staffed? Is there a primary team that is trained on the Plan or do calls sent to the entire call center?

4.4.4. Mobile Applications

4.4.4.1. Do you provide a mobile application? If so, which platforms does your mobile application support (i.e., Android, iOS, etc.)?

4.4.4.2. Is your website mobile enabled to allow participants to easily review from their mobile devices?

4.4.4.3. Is the application fully transactional? If not, discuss the transactions that can and cannot be performed through the application.

4.4.4.4. Can participant notifications be sent using the mobile application (e.g. notify of increased annual contribution limit, reaching annual contribution limits, etc.)?

4.4.4.5. Describe other capabilities of the application. Provide screen shots if appropriate.

4.4.4.6. What kind of reporting is available to the STO regarding mobile application usage, transactions, etc.?

4.4.5. Website Services

4.4.5.1. The STO desires a public-facing website using STO owned or provided, fully qualified domain names, logos and marketing materials that will be custom branded for the Plan. Please describe the components of the website that can be customized for the Plan at no additional cost.

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- 4.4.5.2. Describe your firm’s website for prospective and current participants to obtain general information on retirement, investment, and Plan issues. Please describe the available information in detail and provide sample screens.
- 4.4.5.3. Describe the calculators and tools available to participants on the website. What tools are available to project retirement readiness?
- 4.4.5.4. Provide the address and necessary access codes or passwords so that the STO can review a sample website (both participant and plan sponsor websites).
- 4.4.5.5. Describe your website capabilities for plan sponsors (e.g. service center, etc.). Describe the reports available, including the ability to create customized reports.
- 4.4.5.6. Please describe the website’s customer support capabilities (i.e., live chat, email support, knowledge base, video tutorials, chat functionality, etc.) Please specify whether you utilize a large language model (AI) for any aspect of customer support.
- 4.4.5.7. How does a newly eligible participant receive their initial user ID and password? Can you use a user ID other than Social Security number?
- 4.4.5.8. How does a participant change or reset their user ID and password?
- 4.4.5.9. Describe the extent to which multi-factor authentication is utilized. How is the code for multi-factor authentication provided?
- 4.4.5.10. Do you alert participants who attempt to log in (successfully and unsuccessfully) from a new device?

4.4.6. Access Channel Functionality

- 4.4.6.1. Indicate with a “Y” or “N” which services are available to participants through each technology.

	Operator Assisted	Voice Response	Mobile Application	Internet	Describe process if not available through technology
Enrollment:					
▪ Request forms					
▪ Select elections					
▪ Plan information (e.g., contribution, transfer, and withdrawal rules)					

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	Operator Assisted	Voice Response	Mobile Application	Internet	Describe process if not available through technology
Account balance:					
▪ By plan type					
▪ By fund					
Tools and information:					
▪ Asset allocation tool					
▪ Materials for non-English speaking participants					
▪ Fund performance					
▪ Fund profiles					
▪ Request plan document					
Investment transfers of existing balances:					
▪ Rearrange balances					
▪ By percent					
▪ By dollar amount					
▪ Changes in deferral amount					
▪ Initiate catch-up					
▪ Suspend contributions					
▪ Contribution rate modeling					
▪ Change investment allocation for future contributions					
Hardship/Unforeseen Emergency withdrawals:					
▪ Learn amount available					
▪ Request form					
▪ Request withdrawal (paperless)					
Retirement distribution:					
▪ Learn amount available					
▪ Tax modeling					
▪ Model payment options available					
▪ Request form					

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	Operator Assisted	Voice Response	Mobile Application	Internet	Describe process if not available through technology
▪ Request distribution (paperless)					
Participant addresses:					
▪ Request form					
▪ Make changes					
Beneficiary:					
▪ Initial designation					
▪ Request form					
▪ Make changes					
PIN/password:					
▪ Establish PIN/password					
▪ Change PIN/password					
▪ Request lost PIN/reset password					
▪ Enable multifactor authentication					
Statements on demand:					
▪ Last quarterly statement					
▪ Current balance					
▪ Personal rate of return					
▪ Participant specified period					

4.4.7. Advice and Managed Accounts

- 4.4.7.1. Describe your company's capabilities for offering investment advice and/or managed account services.
- 4.4.7.2. Who is the independent Investment Manager for the managed account services offered?
- 4.4.7.3. Does your firm accept fiduciary responsibility for investment advice related to the managed account service and/or the managed account service itself?
- 4.4.7.4. Identify the investment advisor associated with the advice and managed account services. Provide a copy of its Form ADV.

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- 4.4.7.5. Identify the independent investment expert if one is utilized. Describe the steps your company went through to select the independent investment expert. What continuing due diligence is performed? Do you have or anticipate having any plans to change the independent investment expert?
- 4.4.7.6. Does the Plan Sponsor contract with your firm who subcontracts to the managed account provider, or is the contract direct between the Plan Sponsor and the managed account provider? Provide a sample contract.
- 4.4.7.7. Is the STO indemnified for advice and managed account services provided to participants by your organization or by the advice provider? Describe the fiduciary responsibilities of the Plan sponsor, your company, and the advice provider for advice and managed accounts.
- 4.4.7.8. Describe your experience with offering advice and managed accounts to defined contribution plans. Please complete the following table:

	Advice	Managed Accounts
Year your company began providing this service		
Number of defined contribution plans utilizing this service		
Number of 457(b) plans utilizing this service		
Number of defined contribution participants utilizing this service		
Number of 457(b) participants utilizing this service		

- 4.4.7.9. What channels is advice available through (internet, phone, in-person, etc.)?
- 4.4.7.10. How are retirement income and risk preferences established for participants?
- 4.4.7.11. How many allocation models would be utilized within the Plan?
- 4.4.7.12. Describe the investment theory that is the basis for the investment advice and managed account services.
- 4.4.7.13. Provide sample copies of communication materials available to participants regarding investment advice and managed accounts.
- 4.4.7.14. What communications are sent to participants enrolled in managed accounts to updated information? Provide a sample. How often is this information solicited?

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- 4.4.7.15. Describe the types of advice available for retired employees, including whether is given on drawdown amounts.
- 4.4.7.16. Describe the information provided to Plan Sponsors regarding the rates of return/metrics of participants who utilize managed account services versus participants not utilizing managed account services.
- 4.4.7.17. Identify the reports to which the STO will have access regarding investment advice and managed accounts.
- 4.4.7.18. Describe how you would notify the STO of any participant complaints regarding advice or managed account services.
- 4.4.7.19. Would any portion of field representative compensation be based on the participant usage of investment advice and/or managed account services? If yes, describe the incentives. If the STO objects to these incentives, would you be willing to eliminate them?
- 4.4.7.20. Discuss your ability to support an advisor managed account product utilizing the STO's selected consulting firm.

4.4.8. Recordkeeping System

- 4.4.8.1. Identify your recordkeeping system. How long has it been in use?
- 4.4.8.2. Was the system purchased from an outside vendor? Do you have a maintenance agreement with the vendor?
- 4.4.8.3. If the system was not purchased, when was it developed?
- 4.4.8.4. What is the size of the internal systems staff that supports your system?
- 4.4.8.5. How much did you spend on system enhancements and technology advancement during each of the last three (3) calendar years? What percentage of annual company spending does this represent?
- 4.4.8.6. Describe your system back-up, security, and disaster recovery procedures. Are files archived and stored at an off-site location? Have procedures been tested? When did you last perform a full-scale disaster recovery test, and what were the results?
- 4.4.8.7. How long do you retain participant records (including transaction history) on your base recordkeeping system? Is there another site where these records are saved indefinitely once the data is removed from the base recordkeeping system?

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4.4.9. Processing and Administration

- 4.4.9.1. Describe your procedures for ensuring that the plans are in balance on a daily basis. Does the daily valuation accounting involve estimation? If so, how often are accounts reconciled?
- 4.4.9.2. What controls are in place to ensure that the plan is administered according to the plan provisions?
- 4.4.9.3. Describe your standards for performance in transaction processing by completing the chart below. Assume all data, wires, or other requests are received in good order, and before your cutoff time for the day, and that any required employer approvals have been received.

Activity	Quality Standard (business days)	Average Actual 2023 (business days)
Contribution reconciliation and posting	Days from receipt of payroll data	Days from receipt of payroll data
Contribution investment	Days from receipt of deposit	Days from receipt of deposit
Withdrawals paid (paperless)	Days from receipt of request	Days from receipt of request
Withdrawals paid (forms)	Days from receipt of form	Days from receipt of form
Distributions paid (paperless)	Days from receipt of request	Days from receipt of request
Distributions paid (form)	Days from receipt of form	Days from receipt of form
Investment fund transfers settled	Days from receipt of request	Days from receipt of request
Rollovers into the plan processed and invested	Days from receipt of deposit	Days from receipt of deposit
Confirmations mailed	Days from execution of transaction or request	Days from execution of transaction or request
Participant statements mailed	Days from period end	Days from period end

- 4.4.9.4. Identify what performance standards you will agree to for this contract. Identify each standard and the amount of money you agree to put at risk if the performance standard is not met.
- 4.4.9.5. Describe how you will monitor the maximum contribution limits and the reporting you will give the employer. Describe how you would monitor limits for participants that contribute on both a pre-tax and Roth basis. Describe how you will communicate this to participants.

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- 4.4.9.6. Describe your procedures for identifying and calculating required minimum distributions. Describe how you will communicate this to participants.
- 4.4.9.7. Describe the process for handling returned checks or payments.
- 4.4.9.8. Describe how you will handle the conformance review and processing of Qualified Domestic Relations Orders (QDRO). What involvement is required of the STO? Are there any additional fees associated with handling QDROs?
- 4.4.9.9. Indicate the procedures that are used to process a hardship withdrawal application. Describe the assistance you could provide in summarizing the information in the application and commenting on the adequacy of the application.
- 4.4.9.10. Provide a copy of your most recent SOC 1/SOC 2 or similar third-party audit reports. Confirm audits are conducted annually and may be provided to the STO.
- 4.4.9.11. Discuss your ability to collect revenue sharing and credit it back into participant accounts on a quarterly basis (or other time period as determined by the STO). Describe your experience with providing this service and identify any challenges or concerns you have regarding this procedure.
- 4.4.9.12. What resources are available to employers with questions on topics such as submitting contributions or other processing inquiries?

4.4.10. Trustee/Custodial Services

- 4.4.10.1. Indicate and describe the trust/custodial services which are included in your Proposal. What party is your preferred custodial trustee?
- 4.4.10.2. Identify the asset level currently in custody with the proposed custodian/trustee. How many years have trust/custodial services been provided to defined contribution plans?
- 4.4.10.3. Provide a sample trust/custodial agreement.

4.4.11. Stable Value Fund

- 4.4.11.1. What stable value option are you proposing?
- 4.4.11.2. Provide a fund profile for this option.
- 4.4.11.3. Is this a general account product? Describe the structure and any applicable minimum rate guarantee.

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- 4.4.11.4. Is there a minimum contract guaranteed rate for the life of the contract?
- 4.4.11.5. Fully describe the payout options available to the STO if the stable value contract is terminated. Does the product require a 12-month put notification?
- 4.4.11.6. Describe your approach with regard to diversification of wrap managers. List the wrap managers and approximate dollar value exposure to each.
- 4.4.11.7. Identify the sector holdings of the stable value option (e.g. % treasury, GIC, government, corporate, etc.)
- 4.4.11.8. Provide the investment allocation by credit rating (e.g. % AAA, % AA, % A, etc.).
- 4.4.11.9. Describe any applicable equity wash or other trading restriction for your proposed option.
- 4.4.11.10. The current stable value option has a significant market value adjustment, or alternatively a 1-year put or 5-year payout. What do you propose for the transfer of assets from the current stable value option, if applicable?

4.4.12. Variable Investment Options

- 4.4.12.1. Discuss your ability to support the current variable investment options offered in the Plan. If there are current variable investment options in the Plan that you cannot support, please identify them.
- 4.4.12.2. What target date funds are you proposing? Please provide the name, ticker symbols and share class for these funds.
- 4.4.12.3. This RFP contemplates combining some funds during implementation (e.g. combining all large blend funds into a single S&P 500 index option). Please discuss your ability to support this (termination of a fund and mapping to the index option) during implementation or provide your suggested approach.
- 4.4.12.4. Discuss your ability to broadly support any funds selected by the STO in the future. Are there any fund managers you will not offer on your recordkeeping platform?
- 4.4.12.5. Identify the self-directed brokerage option (SDBO) you are proposing.
- 4.4.12.6. Will balances in the current SDBO be transferred so that participants remain in the investments they selected with the prior provider?

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4.4.12.7. Describe the ability of the STO to set limitations for the SDBO such as limiting investment

types offered or maintaining a minimum balance outside of the SDBO.

4.4.12.8. Describe the reporting available for investments in the SDBO.

4.4.13. Cybersecurity

4.4.13.1. Describe your organization's cybersecurity framework (e.g., NIST SP 800-53, ISO 27001, COBIT, ANSI/ISA-62443, CIS) and whether you adhere to the SEC Proposed Rules (33-11028).

4.4.13.2. List all third-party security audits you have perform in the last two years (e.g., ISO 17799, SSAE18, SysTrust, PCI DSS, SOC, SOX).

4.4.13.3. Do you have documented security, incident response, business continuance, and disaster recover policies, along with internal procedural plans for each?

4.4.13.4. Explain your approach to privileged access management (PAM) for your internal system processes, privileged accounts, multifactor authentication, automated password management, and remote access.

4.4.13.5. Describe in detail your organization's ability to detect fraudulent activity, your response when fraud is identified and security measures for identify verification as it relates to customer support by traditional channels (e.g., telephone). Do you deploy any risk-based authentication solutions (RBA) for authentication purposes?

4.4.13.6. Describe your data storage standards, including, but not limited to, the physical country in which your datacenters reside, data retention policy, physical and logical access controls, whether the data is encrypted at rest, and your data destruction policy.

4.5. Mandatory Requirements

The following mandatory requirements must be met by the Vendor as a part of the submitted proposal. Failure on the part of the Vendor to meet any of the mandatory specifications shall result in the disqualification of the proposal. The terms "must", "will", "shall", "minimum", "maximum", or "is/are required" identify a mandatory item or factor. Decisions regarding compliance with any mandatory requirements shall be at the sole discretion of the STO Purchasing Division.

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- 4.5.1.** Vendor must be located within the United States of America and authorized to do business in and with the State of West Virginia or obtain such authorization within thirty (30) days of being notified by the STO to obtain the authorization. No contract award will be made until all business registrations are complete and/or lists the Vendor in good standing.
- 4.5.2.** Vendor must have at least 5 years of experience providing service for IRC Section 457(b) plans.
- 4.5.3.** Vendor must have experience with at least three (3) IRC 457(b) plans, each with at least \$250 million in assets.
- 4.5.4.** Vendor must be licensed, capable and authorized to provide all Services contemplated by the solicitation.
- 4.5.5.** Vendor must administer or have under management at least \$5 billion in assets for deferred compensation plans.
- 4.5.6.** Vendor must make a participant whole at the Vendor's (not the Plan's) expense if an erroneous contribution/transfer/allocation is due to the Vendor's error.
- 4.5.7.** Vendor must monitor for compliance with the maximum contribution limits.
- 4.5.8.** Vendor that provides local or remote web applications must not require Java, Silverlight, Adobe Flash, Active X Controls or any additional third-party plugins or dependencies. All web applications must be compatible with the latest version of Microsoft Edge (Chromium engine). All web communications whether remote or internal, must be secured using a minimum of TLS v1.2. Any required cipher suites, protocols or encryption technology that has been publicly exploited (published CVE) must be immediately remediated upon discovery, including any minimum-security requirements.
- 4.5.9.** Approval of use of third-party plugins or dependencies are made at the sole discretion by the STO's Information Technology department.
- 4.5.10.** All applications shall be developed with a mobile-friendly HTML5 framework, allowing for access across multiple devices including, but not limited to, phones, laptops, desktops, and tablets.
- 4.5.11.** Upon request, the Vendor hosting any data belonging to the STO, must export and return the data in a commonly used format, at no additional cost to the state within 30 days.
- 4.5.12.** Vendor shall provide the STO their most recent System and Organization (SOC) II Type 2 report on an annual basis at a minimum. Additionally, SOC I and any relative penetration testing reports are preferred upon request.

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- 4.5.13.** Vendor shall exchange data with the STO according to the standards provided by the STO. Data exchanged includes, but is not limited to, employee contribution changes, employee enrollments, and year-to-date contributions.
- 4.5.14.** Vendor must adhere to the standards set by the STO, which shall include data exchanged, file transfer requirements, employee enrollment and contribution file requirements. Please see Exhibit D for additional details.
- 4.5.15.** Vendor must accept a remittance file according to the standard requirements of wvOASIS.
- 4.5.16.** Vendor's infrastructure and application shall maintain a 99.95% uptime, calculated monthly.
- 4.5.17.** Vendor shall provide two (2) Retirement Plan Advisors dedicated 100% to servicing WV Plan participants. These representatives will not sell other products to plan participants without prior approval by the STO.
- 4.5.18.** Personally Identifiable Information (PII) refers to any information that can be used to identify an individual, including, but not limited to, name, address, telephone number, email address, social security number, financial account information, and health information.
- (a) Vendor acknowledges that while providing the services under this agreement, it may have access to PII.
 - (b) Vendor shall use PII only for the purposes of providing services under this agreement.
 - (c) Vendor shall not disclose PII to any third parties without the prior written consent of the STO.
 - (d) Vendor shall implement appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, or damage.
- 4.5.19.** In the event of a breach or suspected breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, PII, Vendor must promptly notify the STO and cooperate fully with the State of West Virginia's Privacy Office investigation of such breach and its efforts to mitigate the effects of such breach. A full incident report shall be provided to the STO/State of West Virginia, fully supplying all the technical details, remediation efforts and resolution to the issue.
- 4.5.20.** Upon termination of this Agreement for any reason, Vendor must return all PII to the STO/State of West Virginia or securely destroy all PII, certify in writing to the state that it has done so and provide evidence of its destruction.

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4.5.21. Administrative funding is \$320,000 per year, increased annually with a cost-of-living adjustment.

4.5.22. Recordkeeper must not retain revenue sharing. Confirm your company will deposit all revenue sharing back into participant accounts on a quarterly basis, or other frequency as agreed to by the STO or be used as otherwise directed by the STO.

4.6. Oral Presentations:

The Agency has the option of requiring oral presentations of all Vendors participating in the RFP process. During the oral presentations, Vendors may not alter or add to their submitted proposal, but only clarify information. A description of the materials and information to be presented by virtual participation is provided below:

4.6.1. Materials and Information Required at Oral Presentation:

4.6.1.1. Demo of platform from participant perspective.

4.6.1.2. Demo of platform from Plan sponsor perspective.

4.6.1.3. Demo of the mobile application.

4.6.1.4. Other clarifying information requested by STO prior to the oral presentations but after the initial evaluation of proposals.

SECTION FIVE: VENDOR PROPOSAL

5.1. Economy of Preparation: Proposals should be prepared simply and economically providing a straightforward, concise description of the Vendor's abilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of the content.

**** NOTE ** Vendors proposals should not exceed 150 pages excluding any requested exhibits or attachments.**

5.2. Incurring Cost: Neither the State nor any of its employees or officers shall be held liable for any expenses incurred by any Vendor responding to this RFP, including but not limited to preparation, delivery, or travel.

5.3. Proposal Format: Vendors should provide responses in the format listed below:

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- Title Page:** State the RFP subject, number, Vendor's name, business address, telephone number, fax number, name of contact person, e-mail address, and Vendor signature and date.
- Table of Contents:** Clearly identify the material by section and page number.
- Attachment A:** Within the attached response sheet (**Attachment A: Vendor Response Sheet**), Vendor should provide the following per section:
- Section 4.3:** firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives were and how they were met.
- Section 4.4,** describe the approach and methodology proposed for this project. This should include how each of the goals and objectives listed is to be met.
- Attachment B:** Complete **Attachment B: Mandatory Specification Checklist**. By signing and dating this attachment, the Vendor acknowledges that they meet or exceed each of the specifications as outlined in **Section 4.5 of Section Four: Project Specifications**. The State reserves the right to require documentation detailing how each is met at its discretion.
- Attachment C:** Complete **Attachment C: Cost Sheet** included in this RFP and submit in a separate sealed envelope with the bid response. Cost should be clearly marked on the outside of the envelope.
- Oral Presentations:** If established by the Agency in the Schedule of Events (Section 1.3), all Vendors participating in this RFP that have met the requirements specified in the RFP will be required to provide an oral presentation, based on the criteria set in Section 4.6. During oral presentations, Vendors may not alter or add to their submitted proposal, but only to clarify information.

5.4. Proposal Submission: Proposals must be received in **two distinct parts**: technical and cost.

- **Technical proposals** must not contain any cost information relating to the project.
- **Cost proposal** shall be sealed in a separate envelope within the bid response package and will not be opened initially.

Vendor is to provide ONE (1) original Technical and ONE (1) original Cost proposal.

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Vendor is to provide **THREE (3)** convenience copies of its Technical proposal that are printed and bound.

Vendor is requested to provide an exact copy of the Technical response on a diskette, CD-ROM, DVD or USB flash drive in Adobe PDF or Microsoft Word with its proposal or immediately upon request by the designated buyer/contact person named within the solicitation document.

All proposals must be submitted to the STO Purchasing Division **prior** to the date and time stipulated in the RFP as the opening date. All bids will be dated, and time stamped to verify official time and date of receipt. Bids not received prior to the proposal opening date and time as required shall be immediately disqualified. All submissions must be in accordance with the provisions listed below and in Section Two: Instructions to Bidders Submitting Bids above.

- 5.5. Technical Bid Opening:** The STO Purchasing Division will open and announce only the names of the vendors who submitted technical proposals received prior to the date and time specified in the Request for Proposal. The technical proposals shall then be provided to the Agency evaluation committee.
- 5.6. Cost Bid Opening:** The STO Purchasing Division shall schedule a date and time to publicly open and announce cost proposals when the STO Purchasing Division has approved the technical recommendation of the evaluation committee. All cost bids for qualifying proposals will be opened. Cost bids for non-qualifying proposals may also be opened but shall not be considered. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award.

SECTION SIX: EVALUATION AND AWARD

- 6.1 Evaluation Process:** Proposals will be evaluated by a committee of three (3) to five (5) individuals against the established criteria with points deducted for deficiencies. The Vendor who demonstrates that they meet all of the mandatory specifications required; and has appropriately presented within their written response and/or during the oral demonstration (if applicable) 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 STO reserves the right to contact any Vendor to clarify or elaborate on the proposal. No new or additional matter may be discussed. The selection of the successful Vendor will be made by a consensus of the evaluation committee.
- 6.2 Evaluation Criteria:** All evaluation criteria is defined in the specifications section and based on a 200 point total score. Cost shall represent a minimum of 30 points of the 200 total points.

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The following are the evaluation factors and maximum points possible for technical point scores:

• Qualifications and experience	(30) Points Possible
• Project and Goals	(125) Points Possible
• Cost	(30) Points Possible
• Oral Interviews	(15) Points Possible
Total	200 Points Possible

Scores above may be adjusted following oral interviews based on clarifying information provided in the interview.

Each cost proposal cost will be scored by use of the following formula for all Vendors who attained the minimum acceptable score:

Lowest price of all proposals

X 30 = Price Score

Price of Proposal being evaluated

- 6.2.1 Technical Evaluation:** The Agency evaluation committee will review the technical proposals, deduct points where appropriate, and make a final written recommendation to the STO Purchasing Division.
- 6.2.2 Minimum Acceptable Score:** Vendors must score a minimum of 70% (119 points) of the total technical points possible. All Vendors not attaining the minimum acceptable score (MAS) shall be considered as non-qualifying. A proposal may be deemed non-qualifying for a number of reasons including, but not limited to, the bidder's technical proposal failing to meet the minimum acceptable score and the bidder's technical proposal failing to meet a mandatory requirement of the contract. Cost bids for non-qualifying proposals may also be opened but shall not be considered. Certain information, such as technical scores and reasons for disqualification, will not be available until after the contract award.
- 6.2.3 Cost Evaluation:** The Agency evaluation committee will review the cost proposals, assign appropriate points, and make a final recommendation to the STO Purchasing Division.

SECTION SEVEN: VENDOR PROTESTS

7.1 Types of Protests

7.1.1 Protests of Requirements, Specifications or Terms

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By issuing the RFP, the STO intends to encourage competition among eligible Vendors. Any protest, complaint or problem with the RFP, including any requirement, specification or term contained in the RFP or any combination thereof, must be filed in writing with the Executive Director of Purchasing no later than five (5) working days prior to the Proposal Opening Date specified in the RFP. Protests received after that date will not be considered.

7.1.2 Protests of Award

After selection of the apparent successful Vendor, the Executive Director of Purchasing will send a written Notice to each Vendor regarding the award. Each Vendor will have until the date specified in the notice to file a written protest as to the award. Protests received after that date will not be considered.

7.2 Written Letter of Protest

The written letter of protest must contain the name and address of the protesting Vendor, the RFP number, a statement explaining why the protest has been filed, the relief sought, and any other information that may assist the Executive Director of Purchasing in reaching a decision on the matter. The Executive Director of Purchasing must receive the letter of protest by the appropriate deadline to be considered.

7.3 Review of Protest and Issuing Decision

The STO will review the letter of protest and issue a written decision. The STO may contact the protestor or any other entity he or she considers necessary to reach a decision. Opening of the proposals, evaluation of the proposals or award of the purchase order may be delayed, as considered appropriate by the STO.

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Attachment A: Vendor Response Sheet

Section 4.3 **Qualifications & Experience**

Provide a response regarding the following: firm and staff qualifications and experience in completing similar projects; references; copies of any staff certifications or degrees applicable to this project; proposed staffing plan; descriptions of past projects completed entailing the location of the project, project manager name and contact information, type of project, and what the project goals and objectives where and how they were met.

Section 4, Subsection 4.3.1: Vendor should provide a brief overview and history of its organization, including parent and/or subsidiary companies and the number of employees. Identify the products and services marketed by your company and parent/subsidiaries. Provide the address of the corporate headquarters and the office location(s) that will service the STO.

Vendor Response:

Section 4, Subsection 4.3.2: References: Vendor should provide at least five references, three from current customers and two from former customers, ideally of similar size and structure to the State of West Virginia, if available, to which similar services were provided (See Exhibit A). All or none of these clients may be contacted by one or more members of the Evaluation Committee to determine the ability of the Vendor and the level of satisfaction with the Vendor. Furthermore, the STO reserves the right to contact any person or entity it believes prudent in order to inquire about the Vendor. List should include the following information for each reference:

- a. Entity name and contract manager with current contact information
- b. Start and End dates of services provided
- c. List of services provided in comparison to those sought through this RFP
- d. Plan type, number of participants, and amount of assets

Vendor Response:

Section 4, Subsection 4.3.3 Explain any current or anticipated litigation, or other legal proceeding or government investigation, to which Vendor is a party.

Vendor Response:

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Section 4, Subsection 4.3.4: Vendor should provide a resume for each individual that will be directly involved as management or support staff for the STO account. Identify which individual would be the day-to-day contact for the project. Include the following information for each individual:

- Their experience in working with public entities
- Their anticipated roles with regard to STO account
- Their number of years of industry experience
- Their number of years with the company.
- The number of other accounts/plans handled/serviced by the individual
- Availability of back-up staff for the individual

Vendor Response:

Section 4, Subsection 4.3.5: Provide the names and backgrounds of Retirement Plan Advisors that would service the plan.

Vendor Response:

Section 4, Subsection 4.3.6: Indicate whether any services will be subcontracted to another company and fully describe these services and the stability, background, and qualifications of all companies that may provide subcontracted services.

Vendor Response:

Section 4, Subsection 4.3.7: Describe any pending agreements to merge, sell or reorganize your company or any component of the overall organization of which your company is a part.

Vendor Response:

Section 4, Subsection 4.3.8: Do you have any sponsorship, endorsement, or other financial relationship with a union, employee or employer organization, association, or affiliate to such a group? If yes, please describe.

Vendor Response:

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Section 4, Subsection 4.3.9: Identify the senior staff turnover experienced over the last five (5) years. Provide information regarding the reasoning for the turnover and the impact it has had on your recordkeeping business.

Vendor Response:

Section 4, Subsection 4.3.10: How many governmental defined contribution plan clients and participants have you gained and lost in the last three years? Complete the following table:

	Governmental Clients Added		Governmental Clients Lost	
	Number of Plans	Number of Participants	Number of Plans	Number of Participants
2023				
2022				
2021				

Vendor Response:

Section 4, Subsection 4.3.11: Please provide the number of plans for each category listed below:

Participants in Plan	DC plans	Gov't DC Plans	457(b) Gov't Plans
Up to 5,000			
5,000 - 10,000			
10,000 – 25,000			
25,000 - 50,000			
50,000+			
TOTAL			

Plan Size	DC plans	Gov't DC Plans	457(b) Gov't Plans
Under \$100 M			
\$100 - \$500 M			
\$500 M - \$1 B			
\$1 B - \$5 B			
\$5 B+			
TOTAL			

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Vendor Response:

Section 4, Subsection 4.3.12 Provide the total number of participant accounts on your DC recordkeeping system.

Vendor Response:

Section 4, Subsection 4.4: Project and Goals: The project goals and objectives are to hire a qualified vendor to provide third party administrative and investment plan services. The services desired include the following: administrative, recordkeeping, custodial trustee, customer service, communication, education, investment options, transition services, and reporting and compliance. In addition, the Plan wishes to consider the following items as part of the overall project:

- The Plan is seeking creative ways to increase contributions and also support retention of participant accounts.
- The Plan would like to fully automate processes wherever possible. The successful bidder must work with WV OASIS and payroll systems to implement the requested automated processes.
- The Plan is seeking options to offer the conversion of pre-tax contributions to Roth within the Plan, which is currently not allowed.
- The Plan is seeking to implement a fee leveling structure that is consistent across investment options. The fee structure implemented must be able to provide minimum funding levels for the STO to administer the program.
- The Plan would consider custom advisor managed options.
- For Investments within the Plan, the Plan is willing to consider the following potential changes:
 - Target Date Funds (5-year increments) – Consider non-proprietary options.
 - Large Blend – Consider consolidating lineup to only offer S&P 500 Index in this space.
 - Large Growth – Consider consolidating to one actively managed fund.

Section 4, Subsection 4.4.1: Transition Plan

Section 4, Subsection 4.4.1.1: Describe in detail your plan for the transition process. Provide a detailed work plan and flow chart of activities, responsibilities, and time frames for conversion of the Plan.

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Vendor Response:

Section 4, Subsection 4.4.1.2: What is the minimum amount of time that you will require to conduct the conversions? Confirm your ability to meet the January 2025 implementation date.

Vendor Response:

Section 4, Subsection 4.4.1.3: How will you guarantee the stated implementation time frame?

Vendor Response:

Section 4, Subsection 4.4.1.4: Fully describe the required blackout period during the conversion in which no transactions can take place. How is the investment of new contributions handled during conversion? Will your company allow distributions during conversion? Describe restrictions fully.

Vendor Response:

Section 4, Subsection 4.4.1.5: Describe your experience, if any, with recordkeeping conversions from Empower, if applicable. How many such conversions with any record keepers have occurred in the past three (3) years?

Vendor Response:

Section 4, Subsection 4.4.1.6: Confirm your ability to assist the STO in reviewing the current plan documents and identifying any necessary or recommended updates to the plan documents during the implementation.

Vendor Response:

Section 4, Subsection 4.4.1.7 Describe the roles and responsibilities of your conversion team. Is the same team responsible for on-going processing? If not, describe how the team will change and how the transition will be handled. Identify the expected members of the implementation team(s) by functionality.

Vendor Response:

Section 4, Subsection 4.4.1.8 What other conversions do you have planned within three (3) months before or after the STO implementation date?

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Vendor Response:

Section 4, Subsection 4.4.1.9. How many conversions and implementations have you conducted during the past three (3) years involving 5,000 or more participants? How many conversions and implementations have you conducted during the past three (3) years involving 10,000 or more participants?

Vendor Response:

Section 4, Subsection 4.4.1.10. Please confirm that you will be able to assist with reconciling the ending balances the cutoff of Empower, if applicable, to the beginning balances upon transition. The STO must be able to completely reconcile the transition of all funds to the new vendor.

Vendor Response:

Section 4, Subsection 4.4.1.11. Describe your resources available to payroll coordinators and administrators that will be utilizing your service center website/portal. Do you provide training and ongoing support for political subdivisions that join the program.

Vendor Response:

Section 4, Subsection 4.4.2 Participant Communication and Education

Section 4, Subsection 4.4.2.1 Fully describe how you intend to conduct the initial communication of the change in recordkeeper, if applicable. Provide a communication plan and a proposed timetable. Outline the content and number of all proposed meetings (both group and individual).

Vendor Response:

Section 4, Subsection 4.4.2.2. Identify the number of group and individual meetings you anticipate the proposed Retirement Plan Advisors can provide each year during the contract. Please identify number of virtual and onsite meetings anticipated. How does a participant schedule a meeting?

Vendor Response:

Section 4, Subsection 4.4.2.3. Describe how you will prepare an annual education plan for the STO.

Vendor Response:

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Section 4, Subsection 4.4.2.4. Describe the survey or review mechanisms that you use to ensure that Retirement Plan Advisors are conducting education/enrollment meetings in a professional manner.

Vendor Response:

Section 4, Subsection 4.4.2.5. Indicate whether any of your representatives conducting the education meetings receive incentive-based compensation such as commissions, bonuses, or performance-based compensation. If any of your employees do receive increased compensation, fully describe these incentive-based compensation arrangements, including the percentage that is variable and the basis for the compensation. Describe the extent to which the STO can provide input on defining goals for staff related to the Plan.

Vendor Response:

Section 4, Subsection 4.4.2.6. Describe the content of the on-going education and enrollment meetings that you will conduct. How does your education strategy address different participants (i.e., new savers, early career, mid-career, pre-retirement, retirement readiness, retirement planning, and distribution planning)? What education, services, and tools do you provide for general financial wellness for participants?

Vendor Response:

Section 4, Subsection 4.4.2.7. Briefly summarize the education and communication materials that will be used with participants, including a description of content and how they will be delivered (electronic or printed, etc.)

Vendor Response:

Section 4, Subsection 4.4.2.8. What materials do you provide that cover Roth and differences from a traditional 457(b)?

Vendor Response:

Section 4, Subsection 4.4.2.9. Discuss the use of social media in your communications to participants. Does social media currently play a role in your communications strategy? If yes, please describe how. If you have future plans to incorporate the use of social media in your communications strategy, please describe.

Vendor Response:

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Section 4, Subsection 4.4.2.10. What capabilities does your organization have to personalize the messaging for individual participants and/or targeted groups?

Vendor Response:

Section 4, Subsection 4.4.2.11. Does your firm provide financial planning services? If yes, describe the service and deliverables provided to participants? How are such services delivered? Are representatives licensed and/or certified? What fees are charged for such services?

Vendor Response:

Section 4, Subsection 4.4.2.12. When will participant statements be mailed following each quarter end date? Provide a sample statement and indicate whether you would customize it for the STO.

Vendor Response:

Section 4, Subsection 4.4.2.13. When are individual participant statements posted to the website? Please provide an example participant statement with your submission.

Vendor Response:

Section 4, Subsection 4.4.2.14. Describe how fees paid by participants are shown on quarterly statements?

Vendor Response:

Section 4, Subsection 4.4.2.15. What ways can a participant determine a projection of monthly income at retirement?

Vendor Response:

Section 4, Subsection 4.4.3. Call Center and Voice Response System

Section 4, Subsection 4.4.3.1. Describe your voice response system (VRS). Describe your Personal Identification Number (PIN) generation capabilities for new participants and on-going PIN administration capabilities. How quickly can a participant obtain a new PIN number if the original is forgotten?

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Section 4, Subsection 4.4.3.2. Is the voice system key entry only or does it have natural voice recognition capabilities as well?

Vendor Response:

Section 4, Subsection 4.4.3.3. Will you provide a WV Plan specific call center number, or is the same number used by other employer plans?

Vendor Response:

Section 4, Subsection 4.4.3.4. Where is your call center(s) located? Will your recordkeeping and administrative services also be processed at this location? If not, where will those services be Provided?

Vendor Response:

Section 4, Subsection 4.4.3.5. What are the hours that call center representatives are available?

Vendor Response:

Section 4, Subsection 4.4.3.6. What security procedures do you use at your customer service center to authorize transactions that the participant makes over the phone?

Vendor Response:

Section 4, Subsection 4.4.3.7. Describe your customer service staff training plan. How do you ensure that the customer service staff provide accurate information to participants about Plan specific information?

Vendor Response:

Section 4, Subsection 4.4.3.8. Provide the following statistics for the time periods indicated:

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	Calendar Year 2022	Calendar Year 2023
Quality standard for VRS answer time in number of seconds		
Average actual VRS answer time in number of seconds		
Quality standard for VRS downtime (hours per month)		
Average actual VRS downtime (hours per month)		
Number of calls to VRS		
Number of Customer Service Representatives (CSRs)		
Number of calls received by CSRs		
	Calendar Year 2022	Calendar Year 2023
Average length of calls with CSRs		
Quality standard for number of seconds on hold while call transfers to CSRs from VRS		
Average actual number of seconds on hold while call transfers to CSRs from VRS		
Quality standards for call abandonment rate		
Actual call abandonment rate		
Number of calls monitored by supervisor on a monthly basis		

Section 4, Subsection 4.4.3.9. What licensing (if any), is required for call center representatives?

Vendor Response:

Section 4, Subsection 4.4.3.10. How is the call center staffed? Is there a primary team that is trained on the Plan or do calls sent to the entire call center?

Vendor Response:

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Section 4, Subsection 4.4.4 Mobile Applications

Section 4, Subsection 4.4.4.1. Do you provide a mobile application? If so, which platforms does your mobile application support (i.e., Android, iOS, etc.)?

Vendor Response:

Section 4, Subsection 4.4.4.2. Is your website mobile enabled to allow participants to easily review from their mobile devices?

Vendor Response:

Section 4, Subsection 4.4.4.3. Is the application fully transactional? If not, discuss the transactions that can and cannot be performed through the application.

Vendor Response:

Section 4, Subsection 4.4.4.4. Can participant notifications be sent using the mobile application (e.g. notify of increased annual contribution limit, reaching annual contribution limits, etc.)?

Vendor Response:

Section 4, Subsection 4.4.4.5. Describe other capabilities of the application. Provide screen shots if appropriate.

Vendor Response:

Section 4, Subsection 4.4.4.6. What kind of reporting is available to the STO regarding mobile application usage, transactions, etc.?

Vendor Response:

Section 4, Subsection 4.4.5. Website Services

Section 4, Subsection 4.4.5.1. The STO desires a public-facing website using WVSTO owned or provided, fully qualified domain names, logos and marketing materials that will be custom branded for the Plan. Please describe the components of the website that can be customized for the Plan at no additional cost.

Vendor Response:

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Section 4, Subsection 4.4.5.2. Describe your firm's website for prospective and current participants to obtain general information on retirement, investment, and Plan issues. Please describe the available information in detail and provide sample screens.

Vendor Response:

Section 4, Subsection 4.4.5.3. Describe the calculators and tools available to participants on the website. What tools are available to project retirement readiness?

Vendor Response:

Section 4, Subsection 4.4.5.4. Provide the address and necessary access codes or passwords so that the STO can review a sample website (both participant and plan sponsor websites).

Vendor Response:

Section 4, Subsection 4.4.5.5. Describe your website capabilities for plan sponsors (e.g. service center, etc.). Describe the reports available, including the ability to create customized reports.

Vendor Response:

Section 4, Subsection 4.4.5.6. Please describe the website's customer support capabilities (i.e., live chat, email support, knowledge base, video tutorials, chat functionality, etc.) Please specify whether you utilize a large language model (AI) for any aspect of customer support.

Vendor Response:

Section 4, Subsection 4.4.5.7. How does a newly eligible participant receive their initial user ID and password? Can you use a user ID other than Social Security number?

Vendor Response:

Section 4, Subsection 4.4.5.8. How does a participant change or reset their user ID and password?

Vendor Response:

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Section 4, Subsection 4.4.5.9. Describe the extent to which multi-factor authentication is utilized. How is the code for multi-factor authentication provided?

Vendor Response:

Section 4, Subsection 4.4.5.10. Do you alert participants who attempt to log in (successfully and unsuccessfully) from a new device?

Vendor Response:

Section 4, Subsection 4.4.6 Access Channel Functionality

Section 4, Subsection 4.4.6.1. Indicate with a “Y” or “N” which services are available to participants through each technology.

	Operator Assisted	Voice Response	Mobile Application	Internet	Describe process if not available through technology
Enrollment:					
▪ Request forms					
▪ Select elections					
▪ Plan information (e.g., contribution, transfer, and withdrawal rules)					
Account balance:					
▪ By plan type					
▪ By fund					
Tools and information:					
▪ Asset allocation tool					
▪ Materials for non-English speaking participants					
▪ Fund performance					
▪ Fund profiles					
▪ Request plan document					
Investment transfers of existing balances:					
▪ Rearrange balances					
▪ By percent					

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	Operator Assisted	Voice Response	Mobile Application	Internet	Describe process if not available through technology
▪ By dollar amount					
▪ Changes in deferral amount					
▪ Initiate catch-up					
▪ Suspend contributions					
▪ Contribution rate modeling					
▪ Change investment allocation for future contributions					
Hardship/Unforeseen Emergency withdrawals:					
▪ Learn amount available					
▪ Request form					
▪ Request withdrawal (paperless)					
Retirement distribution:					
▪ Learn amount available					
▪ Tax modeling					
▪ Model payment options available					
▪ Request form					
▪ Request distribution (paperless)					
Participant addresses:					
▪ Request form					
▪ Make changes					
Beneficiary:					
▪ Initial designation					
▪ Request form					
▪ Make changes					
PIN/password:					
▪ Establish PIN/password					
▪ Change PIN/password					
▪ Request lost PIN/reset password					

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	Operator Assisted	Voice Response	Mobile Application	Internet	Describe process if not available through technology
▪ Enable multifactor authentication					
Statements on demand:					
▪ Last quarterly statement					
▪ Current balance					
▪ Personal rate of return					
▪ Participant specified period					

Section 4, Subsection 4.4.7 Advice and Managed Accounts

Section 4, Subsection 4.4.7.1. Describe your company's capabilities for offering investment advice and/or managed account services.

Vendor Response:

Section 4, Subsection 4.4.7.2. Who is the independent Investment Manager for the managed account services offered?

Vendor Response:

Section 4, Subsection 4.4.7.3. Does your firm accept fiduciary responsibility for investment advice related to the managed account service and/or the managed account service itself?

Vendor Response:

Section 4, Subsection 4.4.7.4. Identify the investment advisor associated with the advice and managed account services. Provide a copy of its Form ADV.

Vendor Response:

Section 4, Subsection 4.4.7.5. Identify the independent investment expert if one is utilized. Describe the steps your company went through to select the independent investment expert. What continuing due diligence is performed? Do you have or anticipate having any plans to change the independent investment expert?

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Vendor Response:

Section 4, Subsection 4.4.7.6. Does the Plan Sponsor contract with your firm who subcontracts to the managed account provider, or is the contract direct between the Plan Sponsor and the managed account provider? Provide a sample contract.

Vendor Response:

Section 4, Subsection 4.4.7.7. Is the STO indemnified for advice and managed account services provided to participants by your organization or by the advice provider? Describe the fiduciary responsibilities of the Plan sponsor, your company, and the advice provider for advice and managed accounts.

Vendor Response:

Section 4, Subsection 4.4.7.8. Describe your experience with offering advice and managed accounts to defined contribution plans. Please complete the following table:

	Advice	Managed Accounts
Year your company began providing this service		
Number of defined contribution plans utilizing this service		
Number of 457(b) plans utilizing this service		
Number of defined contribution participants utilizing this service		
Number of 457(b) participants utilizing this service		

Section 4, Subsection 4.4.7.9. What channels is advice available through (internet, phone, in-person, etc.)?

Vendor Response:

Section 4, Subsection 4.4.7.10. How are retirement income and risk preferences established for participants?

Vendor Response:

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Section 4, Subsection 4.4.7.11. How many allocation models would be utilized within the Plan?

Vendor Response:

Section 4, Subsection 4.4.7.12. Describe the investment theory that is the basis for the investment advice and managed account services.

Vendor Response:

Section 4, Subsection 4.4.7.13. Provide sample copies of communication materials available to participants regarding investment advice and managed accounts.

Vendor Response:

Section 4, Subsection 4.4.7.14. What communications are sent to participants enrolled in managed accounts to solicit updated information? Provide a sample. How often is this information solicited?

Vendor Response:

Section 4, Subsection 4.4.7.15. Describe the types of advice available for retired employees, including whether advice is given on drawdown amounts.

Vendor Response:

Section 4, Subsection 4.4.7.16. Describe the information provided to Plan Sponsors regarding the rates of return/metrics of participants who utilize managed account services versus participants not utilizing managed account services.

Vendor Response:

Section 4, Subsection 4.4.7.17. Identify the reports to which the STO will have access regarding investment advice and managed accounts.

Vendor Response:

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Section 4, Subsection 4.4.7.18. Describe how you would notify the STO of any participant complaints regarding advice or managed account services.

Vendor Response:

Section 4, Subsection 4.4.7.19. Would any portion of field representative compensation be based on the participant usage of investment advice and/or managed account services? If yes, describe the incentives. If the STO objects to these incentives, would you be willing to eliminate them?

Vendor Response:

Section 4, Subsection 4.4.7.20. Discuss your ability to support an advisor managed account product utilizing the STO's selected consulting firm.

Vendor Response:

Section 4, Subsection 4.4.8. Recordkeeping System

Section 4, Subsection 4.4.8.1. Identify your recordkeeping system. How long has it been in use?

Vendor Response:

Section 4, Subsection 4.4.8.2. Was the system purchased from an outside vendor? Do you have a maintenance agreement with the vendor?

Vendor Response:

Section 4, Subsection 4.4.8.3. If the system was not purchased, when was it developed?

Vendor Response:

Section 4, Subsection 4.4.8.4. What is the size of the internal systems staff that supports your system?

Vendor Response:

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Section 4, Subsection 4.4.8.5. How much did you spend on system enhancements and technology advancement during each of the last three (3) calendar years? What percentage of annual company spending does this represent?

Vendor Response:

Section 4, Subsection 4.4.8.6. Describe your system back-up, security, and disaster recovery procedures. Are files archived and stored at an off-site location? Have procedures been tested? When did you last perform a full-scale disaster recovery test, and what were the results?

Vendor Response:

Section 4, Subsection 4.4.8.7. How long do you retain participant records (including transaction history) on your base recordkeeping system? Is there another site where these records are saved indefinitely once the data is removed from the base recordkeeping system?

Vendor Response:

Section 4, Subsection 4.4.9. Processing and Administration

Section 4, Subsection 4.4.9.1. Describe your procedures for ensuring that the plans are in balance on a daily basis. Does the daily valuation accounting involve estimation? If so, how often are accounts reconciled?

Vendor Response:

Section 4, Subsection 4.4.9.2. What controls are in place to ensure that the plan is administered according to the plan provisions?

Vendor Response:

Section 4, Subsection 4.4.9.3. Describe your standards for performance in transaction processing by completing the chart below. Assume all data, wires, or other requests are received in good order, and before your cutoff time for the day, and that any required employer approvals have been received.

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Activity	Quality Standard (business days)	Average Actual 2023 (business days)
Contribution reconciliation and posting	Days from receipt of payroll data	Days from receipt of payroll data
Contribution investment	Days from receipt of deposit	Days from receipt of deposit
Withdrawals paid (paperless)	Days from receipt of request	Days from receipt of request
Withdrawals paid (forms)	Days from receipt of form	Days from receipt of form
Distributions paid (paperless)	Days from receipt of request	Days from receipt of request
Distributions paid (form)	Days from receipt of form	Days from receipt of form
Investment fund transfers settled	Days from receipt of request	Days from receipt of request
Rollovers into the plan processed and invested	Days from receipt of deposit	Days from receipt of deposit
Confirmations mailed	Days from execution of transaction or request	Days from execution of transaction or request
Participant statements mailed	Days from period end	Days from period end

Vendor Response:

Section 4, Subsection 4.4.9.4. Identify what performance standards you will agree to for this contract. Identify each standard and the amount of money you agree to put at risk if the performance standard is not met.

Vendor Response:

Section 4, Subsection 4.4.9.5. Describe how you will monitor the maximum contribution limits and the reporting you will give the employer. Describe how you would monitor limits for participants that contribute on both a pre-tax and Roth basis. Describe how you will communicate this to participants.

Vendor Response:

Section 4, Subsection 4.4.9.6. Describe your procedures for identifying and calculating required minimum distributions. Describe how you will communicate this to participants.

Vendor Response:

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Section 4, Subsection 4.4.9.7. Describe the process for handling returned checks or payments.

Vendor Response:

Section 4, Subsection 4.4.9.8. Describe how you will handle the conformance review and processing of Qualified Domestic Relations Orders (QDRO). What involvement is required of the STO? Are there any additional fees associated with handling QDROs?

Vendor Response:

Section 4, Subsection 4.4.9.9. Indicate the procedures that are used to process a hardship withdrawal application. Describe the assistance you could provide in summarizing the information in the application and commenting on the adequacy of the application.

Vendor Response:

Section 4, Subsection 4.4.9.10. Provide a copy of your most recent SOC 1/SOC 2 or similar third-party audit reports. Confirm audits are conducted annually and may be provided to the STO.

Vendor Response:

Section 4, Subsection 4.4.9.11. Discuss your ability to collect revenue sharing and credit it back into participant accounts on a quarterly basis (or other time period as determined by the STO). Describe your experience with providing this service and identify any challenges or concerns you have regarding this procedure.

Vendor Response:

Section 4, Subsection 4.4.9.12. What resources are available to employers with questions on topics such as submitting contributions or other processing inquiries?

Vendor Response:

Section 4, Subsection 4.4.10. Trustee/Custodial Services

Section 4, Subsection 4.4.10.1. Indicate and describe the trust/custodial services which are included in your Proposal. What party is your preferred custodial trustee?

Vendor Response:

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Section 4, Subsection 4.4.10.2. Identify the asset level currently in custody with the proposed custodian/trustee. How many years have trust/custodial services been provided to defined contribution plans?

Vendor Response:

Section 4, Subsection 4.4.10.3. Provide a sample trust/custodial agreement.

Vendor Response:

Section 4, Subsection 4.4.11. Stable Value Fund

Section 4, Subsection 4.4.11.1. What stable value option are you proposing?

Vendor Response:

Section 4, Subsection 4.4.11.2. Provide a fund profile for this option.

Vendor Response:

Section 4, Subsection 4.4.11.3. Is this a general account product? Describe the structure and any applicable minimum rate guarantee.

Vendor Response:

Section 4, Subsection 4.4.11.4. Is there a minimum contract guaranteed rate for the life of the contract?

Vendor Response:

Section 4, Subsection 4.4.11.5. Fully describe the payout options available to the STO if the stable value contract is terminated. Does the product require a 12-month put notification?

Vendor Response:

Section 4, Subsection 4.4.11.6. Describe your approach with regard to diversification of wrap managers. List the wrap managers and approximate dollar value exposure to each.

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Vendor Response:

Section 4, Subsection 4.4.11.7. Identify the sector holdings of the stable value option (e.g. % treasury, GIC, government, corporate, etc.)

Vendor Response:

Section 4, Subsection 4.4.11.8. Provide the investment allocation by credit rating (e.g. % AAA, % AA, % A, etc.).

Vendor Response:

Section 4, Subsection 4.4.11.9. Describe any applicable equity wash or other trading restriction for your proposed option.

Vendor Response:

Section 4, Subsection 4.4.11.10. The current stable value option has a significant market value adjustment, or alternatively a 1-year put or 5-year payout. What do you propose for the transfer of assets from the current stable value option, if applicable?

Vendor Response:

Section 4, Subsection 4.4.12. Variable Investment Options

Section 4, Subsection 4.4.12.1. Discuss your ability to support the current variable investment options offered in the Plan. If there are current variable investment options in the Plan that you cannot support, please identify them.

Vendor Response:

Section 4, Subsection 4.4.12.2. What target date funds are you proposing? Please provide the name, ticker symbols and share class for these funds.

Vendor Response:

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Section 4, Subsection 4.4.12.3. This RFP contemplates combining some funds during implementation (e.g. combining all large blend funds into a single S&P 500 index option). Please discuss your ability to support this (termination of a fund and mapping to the index option) during implementation or provide your suggested approach.

Vendor Response:

Section 4, Subsection 4.4.12.4. Discuss your ability to broadly support any funds selected by the STO in the future. Are there any fund managers you will not offer on your recordkeeping platform?

Vendor Response

Section 4, Subsection 4.4.12.5. Identify the self-directed brokerage option (SDBO) you are proposing.

Vendor Response:

Section 4, Subsection 4.4.12.6. Will balances in the current SDBO be transferred so that participants remain in the investments they selected with the prior provider?

Vendor Response:

Section 4, Subsection 4.4.12.7. Describe the ability of the STO to set limitations for the SDBO such as limiting investment types offered or maintaining a minimum balance outside of the SDBO.

Vendor Response:

Section 4, Subsection 4.4.12.8. Describe the reporting available for investments in the SDBO.

Vendor Response:

Section 4, Subsection 4.4.13. Cybersecurity

Section 4, Subsection 4.4.13.1. Describe your organization's cybersecurity framework (e.g., NIST SP 800-53, ISO 27001, COBIT, ANSI/ISA-62443, CIS) and whether you adhere to the SEC Proposed Rules (33-11028).

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Section 4, Subsection 4.4.13.2. List all third-party security audits you have perform in the last two years (e.g., ISO 17799, SSAE18, SysTrust, PCI DSS, SOC, SOX).

Vendor Response:

Section 4, Subsection 4.4.13.3. Do you have documented security, incident response, business continuance, and disaster recover policies, along with internal procedural plans for each?

Vendor Response:

Section 4, Subsection 4.4.13.4. Explain your approach to privileged access management (PAM) for your internal system processes, privileged accounts, multifactor authentication, automated password management, and remote access.

Vendor Response:

Section 4, Subsection 4.4.13.5. Describe in detail your organization's ability to detect fraudulent activity, your response when fraud is identified and security measures for identify verification as it relates to customer support by traditional channels (e.g., telephone). Do you deploy any risk-based authentication solutions (RBA) for authentication purposes?

Vendor Response:

Section 4, Subsection 4.4.13.6. Describe your data storage standards, including, but not limited to, the physical country in which your datacenters reside, data retention policy, physical and logical access controls, whether the data is encrypted at rest, and your data destruction policy.

Vendor Response:

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Attachment B: Mandatory Specification Checklist

Section 4.5 Mandatory Requirements

The following mandatory requirements must be met by the Vendor as a part of the submitted proposal. Failure on the part of the Vendor to meet any of the mandatory specifications shall result in the disqualification of the proposal. The terms “must”, “will”, “shall”, “minimum”, “maximum”, or “is/are required” identify a mandatory item or factor. Decisions regarding compliance with any mandatory requirements shall be at the sole discretion of the STO Purchasing Division.

Section 4, Subsection 4.5.1: Vendor must be located within the United States of America and authorized to do business in and with the State of West Virginia or obtain such authorization within thirty (30) days of being notified by the STO to obtain the authorization. No contract award will be made until all business registrations are complete and/or lists the Vendor in good standing.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.2: Vendor must have at least 5 years of experience providing service for IRC Section 457(b) plans.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.3: Vendor must have experience with at least three (3) IRC 457(b) plans, each with at least \$250 million in assets.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.4: Vendor must be licensed, capable and authorized to provide all Services contemplated by the solicitation.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.5: Vendor must administer or have under management at least \$5 billion in assets for deferred compensation plans.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.6: Vendor must make a participant whole at the Vendor's (not the Plan's) expense if an erroneous contribution/transfer/allocation is due to the Vendor's error.

Vendor Response: Yes or No.

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Section 4, Subsection 4.5.7: Vendor must monitor for compliance with the maximum contribution limits.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.8: Vendor that provides local or remote web applications must not require Java, Silverlight, Adobe Flash, Active X Controls or any additional third-party plugins or dependencies. All web applications must be compatible with the latest version of Microsoft Edge (Chromium engine). All web communications whether remote or internal, must be secured using a minimum of TLS v1.2. Any required cipher suites, protocols or encryption technology that has been publicly exploited (published CVE) must be immediately remediated upon discovery, including any minimum-security requirements.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.9: Approval of use of third-party plugins or dependencies are made at the sole discretion by the STO's Information Technology department.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.10: All applications shall be developed with a mobile-friendly HTML5 framework, allowing for access across multiple devices including, but not limited to, phones, laptops, desktops, and tablets.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.11: Upon request, the Vendor hosting any data belonging to the STO, must export and return the data in a commonly used format, at no additional cost to the state within 30 day

Vendor Response: Yes or No.

Section 4, Subsection 4.5.12: Vendor shall provide the STO their most recent System and Organization (SOC) II Type 2 report on an annual basis at a minimum. Additionally, SOC I and any relative penetration testing reports are preferred upon request.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.13: Vendor shall exchange data with the STO according to the standards provided by the STO. Data exchanged includes, but is not limited to, employee contribution changes, employee enrollments, and year-to-date contributions.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.14: Vendor must adhere to the standards set by the STO, which shall include data exchanged, file transfer requirements, employee enrollment and contribution file requirements. Please see Exhibit D for additional details.

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Vendor Response: Yes or No.

Section 4, Subsection 4.5.15: Vendor must accept a remittance file according to the standard requirements of WVOASIS.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.16: Vendor's infrastructure and application shall maintain a 99.95% uptime, calculated monthly.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.17: Vendor shall provide two (2) Retirement Plan Advisors dedicated 100% to servicing WV Plan participants. These representatives will not sell other products to plan participants without prior approval by the STO.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.18: Personally Identifiable Information (PII) refers to any information that can be used to identify an individual, including, but not limited to, name, address, telephone number, email address, social security number, financial account information, and health information.

- a) The Vendor Acknowledges that while providing the services under this agreement, it may have access to PII.
- b) The Vendor shall use PII only for the purposes of providing services under this agreement.
- c) The Vendor shall not disclose PII to any third parties without the prior written consent of the STO.
- d) The Vendor shall implement appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, or damage.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.19: In the event of a breach or suspected breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, PII. Vendor must promptly notify the STO and cooperate fully with the State of West Virginia's Privacy Office investigation of such breach and its efforts to mitigate the effects of such breach. A full incident report shall be provided to the state, fully supplying all the technical details, remediation efforts and resolution to the issue.

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Vendor Response: Yes or No.

Section 4, Subsection 4.5.20: Upon termination of this Agreement for any reason, Vendor must return all PII to the STO/State of West Virginia or securely destroy all PII, certify in writing to the state that it has done so and provide evidence of its destruction.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.21: Administrative funding shall be \$320,000 per year, increased annually with a cost-of-living adjustment.

Vendor Response: Yes or No.

Section 4, Subsection 4.5.22: Recordkeeper must not retain revenue sharing. Confirm your company will deposit all revenue sharing back into participant accounts on a quarterly basis, or other frequency as agreed to by the STO or be used as otherwise directed by the STO.

Vendor Response: Yes or No.

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

(Company)

(Representative Name and Title)

(Contact Phone / Fax Number) / (Email)

Authorized Signature:

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Attachment C: Cost Sheet

Cost information below as detailed in the Request for Proposal and submitted in a separate sealed envelope. Cost should be clearly marked on the outside of the envelope.

1. Recordkeeping Fee: Identify the total fee requirement for your company to provide the services included in this proposal. Assume the STO will utilize the stable value option and target date funds identified in your proposal, as well as offering advice and managed accounts (opt-in). Please provide the fee structure utilizing an asset-based fee (applicable to all assets in the Plan). Also include the asset-based fee charged on managed account services.

	Asset-Based Fee Proposed
Proposed Recordkeeping Fee:	%
12/31/2023 Assets	\$353.5 million
Managed Account Proposed Fee:	%
12/31/2023 Managed Account Assets	\$36,820,255
Fee Projection (Recordkeeping + Managed Account Fees)	\$

Lowest Fee Projection

Your Fee Projection

Multiplied by Maximum Cost Points = Your Cost Score

2. Additional Clarifying Fee Questions

- a) Confirm your asset-based fee percentages above will not increase for the life of the base contract period of five years.
- b) Indicate and describe any additional fees associated with trust/custodial services.
- c) Recordkeeper shall not retain revenue sharing. Confirm your company will deposit all revenue sharing back into participant accounts on a quarterly basis, or other frequency as agreed to by the STO or be used as otherwise directed by the STO.
- d) Please provide an alternative flat-dollar per-participant annual fee.
- e) For the asset-based pricing above, please outline the assumptions you have made regarding the transfer of stable value assets.
- f) What would be the impact to fees if a different stable value fund was offered?
- g) What would be the impact to fees if a different set of target date funds were offered?
- h) What fees are associated with the advice and managed account services? Identify any fee breakpoints based on assets in the product.
- i) If you can support an advisor managed account offering, identify the impact to fees for managed accounts.
- j) What fees are associated with determining the qualified status of QDROs?
- k) What is the annual fee for users of the SDBO?

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- l) Are there any other applicable fees, such as mailing or other fees associated with any transaction type? Please list any other fee that may be charged to participants.
- m) Confirm your proposed fees include providing the annual administrative funding to the STO. Administrative funding shall be \$320,000 per year, increased annually with a cost-of-living adjustment. If you were not responsible for providing the administrative funding, identify how much your proposed fees above would be reduced.
- n) What assumptions have you made regarding the amount of assets and participants in the plans over the term of the contract?

End of Year	Assets	Participants
Year 1		
Year 2		
Year 3		
Year 4		
Year 5		

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EXHIBIT A—REFERENCES

Vendor Name: _____

REFERENCES AND PROOF OF EXPERIENCE (limit of 5)

1. Client: _____

Nature of Engagement: _____

Contact Person and Phone Number: _____

Other Pertinent Information: _____

2. Client: _____

Nature of Engagement: _____

Contact Person and Phone Number: _____

Other Pertinent Information: _____

3. Client: _____

Nature of Engagement: _____

Contact Person and Phone Number: _____

Other Pertinent Information: _____

4. Client: _____

Nature of Engagement: _____

Contact Person and Phone Number: _____

Other Pertinent Information: _____

5. Client: _____

Nature of Engagement: _____

Contact Person and Phone Number: _____

Other Pertinent Information: _____

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EXHIBIT B – INCLUDED IN THE FOLLOWING PAGES

“Plan Document”

Amended 12-12-2023

(Referenced in Section 4.2)

STATE OF WEST VIRGINIA

AMENDED AND RESTATED
DEFERRED COMPENSATION PLAN
JANUARY 15, 2016

PURSUANT TO

SECTION 457(b)
OF THE
INTERNAL REVENUE CODE

ADMINISTERED

BY THE

WEST VIRGINIA
STATE TREASURER'S OFFICE

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**STATE OF WEST VIRGINIA
AMENDED AND RESTATED DEFERRED COMPENSATION PLAN
PURSUANT TO SECTION 457(b) OF THE INTERNAL REVENUE CODE**

INTRODUCTION

The State of West Virginia ("State") hereby amends and restates its Deferred Compensation Plan ("Plan") as of January 15, 2016, pursuant to Section 457(b) of the Internal Revenue Code of 1986, as amended ("Code"), the regulations thereto, and applicable State laws, rules and policies. The purpose of the Plan is to encourage and enable employees to save for retirement by permitting them to enter into agreements with the West Virginia State Treasurer's Office ("STO"), on behalf of the Employer (as defined in Article I below), that provide for the payment of deferred compensation on retirement or separation from service and death benefits in the event of death before or after separation.

After the adoption of this Plan Document, as amended, any limitations or restrictions herein that are suspended or limited by the Internal Revenue Code or regulations thereunder, as amended from time to time, in whole or in part, for a period of time or indefinitely, shall be suspended or eliminated for the time period authorized or until this Plan Document is amended.

Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement between the Participant (as defined in Article I below) and the Employer or the STO, to give a Participant (as defined in Article I below) any right to be retained in the employment of, or under contract to, the Employer, nor to modify the terms of any employment contract or agreement between the Participant and the Employer.

**ARTICLE I
DEFINITIONS**

1.01 **Account:** The bookkeeping account established and maintained with respect to a Participant which reflects the earnings, losses, market valuation, rollovers, transfers, distributions, fees and expenses attributable to the Account, such as a deferred Compensation Account, Designated Roth Account, Rollover Account, Alternate Payee Account and Beneficiary Account.

1.02 **Administrator:** The West Virginia State Treasurer's Office or any successor entity thereto.

1.03 **Adoption Agreement:** An agreement between the Administrator and an Employer in which the Employer agrees to participate in the Plan. The Adoption Agreement shall be considered a part of the Plan.

1.04 **Annual Deferral:** The amount of Compensation deferred in any year.

1.05 **Applicable Dollar Amount:** The maximum amount that may be deferred in any Plan Year, and as specified in the Code.

1.06 **Approved Institution:** Any organization which as been approved by the Administrator to provide services or Investment Product(s) to the Plan in accordance with the terms of the Plan and provisions of Code Section 457(g)(3).

1.07 **Automatic Enrollment:** In accordance with W.Va. Code §5-10B-3a, the program whereby every state Employee beginning employment on or after July 1, 2007, has a minimum of \$10.00 of his or her salary each pay period deferred under the Plan or whereby a Political Subdivision Employer requires its Employees to have a minimum amount of their salaries deferred under the Plan. An Employee participating in Automatic Enrollment may change the contribution amount or cease participation at any time. An employee declining to participate in the Plan may elect to participate at a later time.

1.08 **Beneficiary:** The designated person (or, if none, the Participant's estate) entitled to receive benefits under the Plan after the death of a Participant. Nothing herein shall prevent the Participant from designating more than one Beneficiary, designating primary and secondary Beneficiaries or changing the designation of a Beneficiary; provided that such designations are applicable and permissible under Code Section 457(b) and the regulations thereunder. If two or more or less than all designated Beneficiaries survive the Participant, payments shall be made equally to all such Beneficiaries, unless otherwise provided in the Participant's Beneficiary designation.

1.09 **Code:** The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.10 **Compensation or Includable Compensation:** All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, and increased (up to the dollar maximum) by any compensation reduction election under Section 125, 132(f), 401(k), 403(b) or 457(b) of the Code (including an election to defer Compensation under Article III). "Compensation" has the meaning given to the term "Participant's Compensation" by 415(c)(3). In addition, pursuant to IRC Reg.

Section 1.415(c)-2(e)(4), "Includable Compensation" shall include payments made to an individual who does not currently perform services for the Employer by reason of qualified military service (as defined in IRC Section 404(u)(5)) to the extent those payments do not exceed the amount the individual would have received if the individual had continued to perform services for the Employer rather than enter qualified military service. For purposes of Leased Employees, "Compensation" shall mean all amounts payable to a Participant from the Employer as remuneration for services rendered which would be includible in income for federal tax purposes if not deferred under this Plan, subject to the provisions of the Code.

1.11 **Contribution:** The maximum amount that may be contributed by or on behalf of a Participant during any taxable year.

1.12 **Deferral:** The amount of Compensation not yet earned, which the Participant and the Employer agree shall be deferred in accordance with the provisions of the Plan.

1.13 **Employee:** Each natural person, whether appointed or elected, who performs services for the Employer. For purposes of this Plan, "Employee" includes Leased Employees.

1.14 **Employer:** The State of West Virginia and any agency or instrumentality thereof, and any Political Subdivision or agency or instrumentality thereof, which:

- a. satisfies the definition of Code Section 457 (together with any other entity required to be aggregated with that governmental employer under Code Sections 414(b), (c), (m) or (o)), and
- b. upon the consent of the Administrator, agrees to participate in the Plan, including any applicable Investment Product of the Plan, by executing an agreement with the Administrator.

1.15 **Excess Deferrals:** The amounts contributed to the Plan by a Participant exceeding the amount of the Applicable Dollar Amount in any given Plan Year.

1.16 In **Good Order:** When a document, instruction or action has been properly and fully completed or performed in compliance with procedures or methods established by the Plan and has been presented to the Administrator or Approved Institution for processing with no research or discretion required to process. Instructions sent to the Approved Institution by telephone, facsimile or mail must be received no later than the close of the New York Stock Exchange (typically 4:00 p.m. Eastern Time).

1.17 **Investment Option or Investment Product:** Any investment issued by or obtained through an Approved Institution for the purposes of holding Plan assets.

1.18 **Leased Employee:** Means any natural person (other than a common law or statutory Employee) who performs services under the primary direction or control of the

Employer, pursuant to the agreement between the Employer and a person or entity for the performance of services for the Employer on a substantially full time basis.

1.19 Normal Retirement Age: For purposes of the Catch-up Limitation under Section 3.02 of the Plan, the Normal Retirement Age shall be age 70½, unless prior to that time, another Normal Retirement Age is elected in writing by the Participant. In selecting an alternate Normal Retirement Age, a Participant may select any age (1) at which he or she has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan and (2) not later than the date the Participant attains age 70½.

1.20 Participant: An individual who has entered into a Participation Agreement or been automatically enrolled in the Plan and for whom a Participant Account exists.

1.21 Participant Agreement: An agreement entered into between the Participant and the Administrator pursuant to which an Employee agrees to defer amounts of Compensation to the Plan and become a Participant.

1.22 Permissive Service Credit: Service credit which is permitted to be purchased by voluntary contributions in an amount which does not exceed the amount necessary to fund the benefit attributable to the period of service for which the service credit is being purchased, as defined in Section 415 of the Code.

1.23 Political Subdivision: County, municipality, or other local government of the State of West Virginia, and any board, commission or related entity thereof.

1.24 Plan: The "State of West Virginia Retirement Plus Deferred Compensation Plan."

1.25 Plan Account, UPA or Unallocated Plan Account: An account maintained by the Service Provider for the Administrator which may be used for Program purposes as determined by the Administrator and which will be invested in a single Investment Option selected by the Administrator.

1.26 Plan Year: The calendar year.

1.27 Public Safety Officer: An individual serving a public entity in an official capacity as a law enforcement officers, fire fighter, chaplain, emergency medical technician, or member of a rescue squad or ambulance crew, or as may be defined from time to time by the U.S. Department of Justice.

1.28 Qualified Default Investment Alternative, QDIA, Qualified Default Investment Option or QDIO: The Investment Product selected by the Administrator to receive all Deferrals in the absence of direction from a Participant.

1.29 **Qualified Domestic Relations Order or QDRO:** Order, judgment or decree issued by a court of competent jurisdiction relating to the provision of child support, alimony payments or the marital property rights of an Alternate Payee that meets the requirements of Code §414(p).

1.30 **Regulations:** The regulations of the Internal Revenue Service, 26 C.F.R. 1.0-1 et seq.

1.31 **Severance from Employment:** The term Severance from Employment means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator.

1.32 **Trust Agreement:** The written agreement (or declaration) made by and between the Employer and the Trustee under which the Trust Fund is maintained.

1.33 **Trust Fund:** The trust fund or deemed trust fund holding Plan assets under and subject to the Trust Agreement and the provisions of West Virginia Code §5-108-10, as amended from time to time.

1.34 **Trustee:** The entity or entities duly appointed and currently serving under the Trust Agreement.

1.35 **Unforeseeable Emergency:** The extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant, including but not limited to:

- a. severe financial hardship of the Participant resulting from an illness or accident of a Participant, the Participant's spouse or of a Participant's dependent (as defined in Code Section 152(a));
- b. loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance); or
- c. the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code Section 152(a)).

A determination of an Unforeseeable Emergency shall be based on each Participant's specific facts and circumstances.

1.36 **Valuation Date:** Each day the New York Stock Exchange is open for business.

1.37 **West Virginia State Treasurer's Office or STO:** The entity authorized by W. Va. Code §5-108-1 et seq. to manage the Plan.

ARTICLE II

PARTICIPATION AND CONTRIBUTIONS

2.01 **Eligibility.** Each Employee shall be eligible to participate in the Plan and defer Compensation hereunder immediately upon becoming employed by the Employer.

2.02 **Participation Agreements.** An Employee may elect to become a Participant by completing and executing a Participation Agreement and any other documents required by the Administrator (including a election for investments) to defer a portion of his or her Compensation (and have that amount contributed as an Annual Deferral on his or her behalf) and filing it with the Administrator or the Approved Institution. Pursuant to the Participation Agreement, the Employee agrees to be bound by all the terms and conditions of the Plan and to abide by the minimum Annual Deferral specified by the Administrator, which minimum may change from time to time.

2.03 **Vesting.** All moneys deposited into an Account shall be fully vested and owned by the Participant.

2.04 **Automatic Enrollment.** In accordance with West Virginia Code §5-108-3a, any person employed by the State on or after July 1, 2007 is automatically enrolled in the Plan and deemed to have elected to defer \$10.00 of his or her Compensation per pay period (and have that annualized amount contributed as an Annual Deferral on his or her behalf) for deposit in the QDIA designated by the Administrator. A person automatically enrolled is deemed to agree to be bound by all the terms and conditions of the Plan. He or she may opt out of the Plan without penalty for a period of thirty (30) days from the beginning date he or she performs services for the Employer, terminate his or her participation at any time, and may change the amount of Annual Deferral, Investment Products and Beneficiaries at any time upon submission of the appropriate forms or instructions to the Administrator or Approved Institution. Annual notice explaining the right to designate Investment Products and the QDIA shall be sent to automatically enrolled Employees that have not yet made an allocation of the assets in their Account.

2.05 **Commencement of Participation.**

a. An Employee electing to participate shall become a Participant as soon as administratively practicable following the date the Employee enters into an agreement with the Administrator and files a participation election pursuant to Section 2.02. The election shall be made before Compensation to be deferred is paid or made available and shall become effective no earlier than the first day of the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the Employer.

b. An Employee automatically enrolled in the Plan shall become a Participant on the first day on which the Participant performs services for the Employer.

2.06 Information Provided by the Participant. Each Employee enrolling in the Plan should provide to the Administrator or Approved Institution at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including without limitation, whether the Employee is a Participant in any other eligible plan under Code Section 457.

2.07 Contributions Made Promptly. Annual Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is no longer than is reasonable for the proper administration of the Participant's Account. For this purpose, Annual Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration, if the contribution is made to the Trust Fund within fifteen (15) business days following the end of the month in which the amount would otherwise have been paid to the Participant.

2.08 Amendment of Annual Deferrals. Subject to other provisions of the Plan, a Participant may at any time execute a new Participation Agreement to change of the amount of his or her Annual Deferrals. Unless the Participation Agreement specifies a later effective date, a change in the amount of the Annual Deferrals shall take effect as of the first day of the next following month or as soon as administratively practicable if later.

2.09 Amendment of Investment Election. At any time, a Participant may contact the Approved Institution or may contact the Approved Institution by telephone or via the internet to change his or her investment election. In certain limited situations, such as when a Participant is subject to trading restrictions, the Participant may be required to complete a paper form, as provided by the Approved Institution, to change his or her investment election. A change in the investment election shall take effect the same day the Participant's election is received In Good Order.

2.10 Designation and Amendment of Beneficiaries. A Participant may at any time complete a paper form provided by the Approved Institution to designate or change his or her designation of Beneficiaries. A change in the Beneficiary designation shall take effect when the election is completed and accepted In Good Order by the Approved Institution.

2.11 Leave of Absence. Unless a new Participation Agreement is executed, if a Participant is absent from work by leave of absence, Annual Deferrals under the Plan shall continue to the extent that Compensation continues.

2.12 Employer Contributions. An Employer, in its discretion, may elect to make Contributions to the Plan in accordance with the procedures of the Administrator. Employer Contributions, (a) combined with Employee Contributions shall not exceed the lesser of the Applicable Dollar Amount or 100% of the Participant's Compensation, (b)

shall be available to all actively contributing Participants employed by the Employer or to all actively contributing Participants employed by the Employer for a specified period of time, (c) shall immediately vest and be considered part of the Participant's Account, and (d) shall be subject to the control of and investment direction of the receiving Participant.

ARTICLE III LIMITATIONS ON AMOUNTS DEFERRED

3.01 Basic Annual Limitation. The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the Applicable Dollar Amount or (ii) the Participant's Includable Compensation for the calendar year. The Applicable Dollar Amount is the amount established under Section 457(e)(15) of the Code.

3.02 Catch-up Annual Deferral Contributions.: A Participant may choose the Age 50 Catch-up or Special Section 457 Catch-up. Only one Catch-up provision may be utilized during any calendar year. In addition, a Participant may only have one Normal Retirement Age for all of the 457 plans sponsored by the Employer.

a. Age 50 Catch-up Annual Deferral Contributions. A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferrals for a year is the amount established under Section 414(v)(2)(c) of the Code.

b. Special Section 457 Catch-up Limitation. If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 3.02(b) exceeds the amount computed under Sections 3.01 and 3.02(a), then the Annual Deferral limit under this Article V shall be the lesser of:

- (i) An amount equal to two (2) times the Section 3.01 Applicable Dollar Amount for such year; or
- (ii) The sum of:
 - (1) An amount equal to (A) the aggregate Section 3.01 limit for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus (B) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus
 - (2) An amount equal to (A) the aggregate limit referred to in Section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the

Participant was an Employee (determined without regard to Sections 3.01 and 3.02(b)), minus (8) the aggregate contributions to Pre-2002 Coordination Plans for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for the year.

3.03 Special Rules. For purposes of this Article III, the following rules shall apply:

a. Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other non-governmental eligible plans within the meaning of Section 457(b) of the Code, the Participant's maximum Deferral for the Plan may not exceed the Applicable Dollar Amount, without regard to the other plans in which he or she participates. If the Participant is or has been a participant in one or more other governmental eligible plans within the meaning of Section 457(b) of the Code, the Participant may not defer more than the Applicable Dollar Amount for all Section 457 plans per Plan Year. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan. Notwithstanding the foregoing, in accordance with West Virginia Code §18-25-1, the maximum amount deferred by Participants who are employees of county boards of education, Department of Education and Department of Education and the Arts may not exceed the amount excludable under §403(b) of the Code.

b. Pre-Participation Years. In applying Section 3.03, a year shall be taken into account only if (i) Participant was eligible to participate in the Plan during all or a portion of the year and (ii) Compensation deferred, if any, under the Plan during the year was subject to the Applicable Dollar Limit described in this Article III or any other plan ceiling required by Section 457(b) of the Code.

c. Pre-2002 Coordination Years. For purposes of Section 3.03, "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code Section 457(b) plan, or a salary reduction or elective contribution under any Code Section 401(k) qualified cash or deferred arrangement, Code Section 402(h)(1)(8) simplified employee pension (SARSEP), Code Section 403(b) annuity contract, and Code Section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of Section 3.03 to the extent that the total of such contributions does not exceed the aggregate limit referred to in Section 457(b)(2) of the Code for that year.

d. **Disregard Excess Deferral.** For purposes of Sections 3.01, 3.02 and 3.03, an individual is treated as not having deferred Compensation under a plan for a prior taxable year to the extent Excess Deferrals under the Plan are distributed, as described in Section 3.04. To the extent that the combined deferrals for pre-2002 years exceeded the Applicable Dollar Amount, the amount is treated as an Excess Deferral for those prior years.

3.04 Correction of Excess Deferrals.: If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any Plan Year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible Section 457 of the Code deferred compensation plan under Section 457(b) of the Code for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the Applicable Dollar Amount (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant as soon as administratively practicable after the excess is determined.

3.05 Protection of Persons Who Serve in a Uniformed Service. Notwithstanding any provision of this Plan to the contrary and in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Code Section 414(u). A Participant whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the Employer. The additional contribution shall be equal to the maximum amount that the Participant could have deferred during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave. The additional contribution shall be made no later than five years following the resumption of employment.

ARTICLE IV INVESTMENTS

4.01 Investment Product Selection. The Administrator, in the Administrator's sole discretion, shall determine which Investment Products shall be offered under the Plan and shall screen, review and authorize each Investment Product offered by the Plan for use by the Participants and Beneficiaries.

4.02 Direction by Participant or Beneficiary. Deferrals under the Plan shall be invested as directed by the Participant or Beneficiary among the Investment Products offered under the Plan.

4.03 **QDIA:** The Administrator shall select the Investment Product to be used as the QDIA. For the 457(b) Plan, the QDIA shall be the target date Investment Product for the age of the Participant.

4.04 **Earnings and Losses.** Earnings and losses, including market valuation changes, attributable to the Investment Products designated by a Participant or Beneficiary shall be allocated to his or her Account.

4.05 **Valuation.** The Approved Institution shall value the balances and amounts allocated to each Investment Product and each Account each business day in accordance with accepted industry practices.

4.06 **Evaluation:** At least annually, the Administrator shall review and evaluate the offered Investment Products in accordance with the Investment Policy.

4.07 **Discontinued Investment Product:** In the event the Employer elects to discontinue an Investment Product, the Employer shall transfer the amounts invested in the discontinued Investment Product to a different Investment Product and notify the affected Participants or Beneficiaries. Participants or Beneficiaries may elect to use the different Investment Product selected by the Administrator or any other available Investment Product.

4.08 **Records and Reports:** The Approved Institution shall maintain a record of all actions taken in connection with each Participant, Beneficiary, Alternate Payee and Account.

ARTICLE V LOANS

5.01 **No Loans:** No loans shall be available from the Plan.

ARTICLE VI DETERMINATION, DISTRIBUTION AND TRANSFER OF BENEFITS

6.01 **Determination of Benefits Payable to a Participant.**

a. Upon attainment of a distributable event described in Section 5.02, but in no event later than the requirement to commence minimum distribution payments in

accordance with Code Section 401(a)(9), a Participant may elect a benefit distribution option to which benefits will be paid.

b. Upon receipt of an application In Good Order for benefits by a Participant upon Severance from Employment, the Approved Institution shall process the application and distribute the Account in accordance with this Plan.

c. A Participant may choose a benefit distribution option as selected by the Administrator. In the event a Participant fails to make an election as to a benefit distribution option, any benefit payable to such Participant shall be distributed as directed by the Administrator. The terms of any annuity contract purchased and distributed by the Plan to a Participant shall comply with the requirements of the Plan.

d. Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity contract, shall be made in accordance with the requirements of Code Section 401(a)(9) and the Regulations thereunder.

e. If permitted by the Administrator, a Participant or Beneficiary who made an irrevocable election pursuant to Code Section 457(e)(9) prior to the time such benefits first become payable or otherwise made available, may change their benefit election in accordance with procedures established by the Administrator, to the extent permitted under the Investment Product and applicable law.

f. Minimum distribution payments under Code Section 401(a)(9) to a Participant must begin by April 1 of the year following the later of:

- (i) the year in which the Participant attains age 70 1/2, or
- (ii) the year in which the Participant retires from employment with his or her Employer.

g. During a Participant's lifetime, the minimum amount to be distributed for each distribution calendar year consistent with Code Section 401(a)(9) and the Regulations thereunder is the lesser of:

- (i) the quotient obtained by dividing the Participant's Account balance as of the December 31st of the preceding distribution calendar year by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, A-2 of the Regulations, using the Participant's age of his birthday in the distribution calendar year; or
- (ii) the quotient determined based on who is the primary Beneficiary of the Participant as follows:
 - (1) if the Participant's primary designated Beneficiary is either a non-spouse Beneficiary or is a spousal Beneficiary who is less than ten (10) years the age of the Participant, the quotient obtained by dividing the Participant Account balance by the factor in the Uniform Lifetime Table set

forth in Section 1.401(a)(9)-9, A-2 of the Regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's or former Participant's sole, primary designated Beneficiary is the Participant's spouse and such spouse is ten (10) or more years younger than the Participant for the distribution calendar year, the quotient obtained by dividing the Participant Account balance by the factor in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, A-3 of the Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

h. Required minimum distributions will be determined under this Section 5.01 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death. If the Participant dies before receiving the minimum distribution payable for the distribution calendar year in the year of the Participant's death, such amount shall be distributed to the Participant's Beneficiary.

i. For purposes of this Section 5.01, "distribution calendar year" means the calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. The required minimum distribution for the Participant's or former Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

6.02 Distributions.

a. A Participant Account may not be distributed to a Participant (or, if applicable, the Beneficiary) until one of the following events has occurred:

- (i) upon the Participant's Severance from Employment;
- (ii) an Unforeseeable Emergency, within the meaning of and subject to Section 5.07;
- (iii) upon the Participant reaching the calendar year in which he or she reaches the Normal Retirement Age;
- (iv) upon the Participant reaching the age of 70 $\frac{1}{2}$; or
- (v) the election of a small balance distribution within the meaning of and subject to Section 5.08.

b. A Participant may choose to receive a distribution from his 457(b) rollover account and/or Participant non-457(b) rollover account at any time, regardless if he or she has a distributable event or not.

6.03 Determination of Benefits Upon Death

a. The Administrator shall use his/her best efforts to notify the Approved Institution of the death of a Participant within a reasonable period of time following the death.

b. In the event no valid designation of Beneficiary exists at the time of the Participant's or Beneficiary's death, the death benefit shall be payable to the Participant's or Beneficiary's estate.

c. Upon receipt of an application In Good Order by a Beneficiary for death benefits, the Approved Institution shall process the application and distribute the Account in accordance with this Plan.

d. The Approved Institution may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Account of a deceased Participant or Beneficiary, as the Approved Institution may reasonably consider appropriate. In the event there are questions as to the legitimate Beneficiary or adequacy of proper proof of death, the application shall be referred to the Administrator. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

e. Death benefits payable to a Beneficiary shall be made in a form as selected by the Beneficiary in accordance with the available options as elected by the Administrator. In the event a Beneficiary fails to make an election as to a benefit distribution option, any benefit payable to such Beneficiary shall be distributed in a lump sum payment in accordance with Code Section 401(a)(9). The terms of any annuity contract purchased and distributed by the Plan to a Beneficiary shall comply with the requirements of the Plan.

f. Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall be made in accordance with the requirements of this Section 5.03 and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder.

g. In accordance with the Beneficiary's election, if minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant and the designated Beneficiary is not the Participant's surviving spouse, death benefit payments must:

(i) begin to be distributed to the designated Beneficiary no later than the December 31 of the calendar year immediately following the calendar year of the Participant's death payable over a period not to exceed the life expectancy of the Beneficiary; or

(ii) be distributed no later than the December 31 of the calendar year containing the fifth anniversary of the Participant's death.

h. In accordance with the Beneficiary's election, if the designated Beneficiary is the Participant's surviving spouse and minimum payments under Code Section 401(a)(9) have not begun upon the death of a Participant, minimum payments to the surviving spouse as the designated Beneficiary must begin by the later of the:

(i) December 31 of the calendar year immediately following the calendar year in which the Participant dies, or

(ii) December 31 of the calendar year in which the Participant or former Participant would have attained age 70 1/2.

The payments to the surviving spouse as the designated Beneficiary must be made over a period not to exceed the surviving spouse's life expectancy.

i. If minimum distribution payments have not begun upon the death of a Participant and if there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

j. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, distributions shall be based on the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary.

k. Life expectancy calculations will be computed using the factors in the Single Life Table set forth in Section 1.401(a)(9)-9, A-1 of the Regulations, as follows:

(i) The Participant's or former Participant's remaining life expectancy is calculated using the age of the Participant or former Participant in the year of death, reduced by one for each subsequent year.

(ii) If the Participant's or former Participant's surviving spouse is the Participant's or former Participant's sole, primary designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's or former Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving spouse is not the Participant's sole, primary designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(iv) If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

6.04 Distribution to Minors and Others Adjudged Incapable of Giving Receipt.

a. In the event a distribution is to be made to a minor, the Approved Institution shall pay such distribution to the legal guardian, or if none, to a parent of or custodian for such Beneficiary under the Uniform Transfers to Minors Act, if such is permitted by the laws of the state in which the Beneficiary resides. Such a payment to the legal guardian, parent or guardian of a minor Beneficiary shall fully discharge the Administrator, Employer, Plan, Approved Institution any other providers of the Plan from further liability on account thereof.

b. In the event a distribution is to be made to an individual adjudged to be legally incapable of giving valid receipt and discharge for a distribution, or is deemed so by the Administrator, the Approved Institution shall pay such distribution to the duly appointed and currently acting conservator of the individual or to other such person who is legally responsible for the individual as permitted by the laws of the state in which the individual resides. Such a payment to the conservator or other such individual who is legally responsible for the individual shall fully discharge the Administrator, Employer, Plan, Approved Institution and any other providers of the Plan from further liability on account thereof.

6.05 Locating Participant or Beneficiary upon Severance from Employment. In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the Participant's Severance from Employment, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable shall be held within the Investment Product, with investment direction provided by the Administrator, under the Plan. In the event a Participant or Beneficiary is located subsequent to his benefit being held in such account, such benefit shall be restored, including any applicable interest, and paid, to the Participant or Beneficiary, in accordance with this Article VI.

6.06 Procedure When Participant or Beneficiary Cannot be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's, Administrator's or Approved Institution's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty

Corporation (under their program to identify persons under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trust Fund shall continue to hold the benefits due such person until the abandonment period of the unclaimed property laws of the payee's state of residence have been met. At that time, the Approved Institution shall comply with the provisions of those unclaimed property laws.

6.07 Unforeseeable Emergency Withdrawals.

a. A Participant, Beneficiary or the spouse or dependent of a Participant or Beneficiary may request an Unforeseeable Emergency withdrawal subject to the following requirements:

- (i) The request for an Unforeseeable Emergency withdrawal will be determined by the Approved Institution, based on the Participant's relevant facts and circumstances.
- (ii) The request for an Unforeseeable Emergency may be made only to the extent that such emergency is or may not be relieved through:
 - (1) reimbursement or compensation from insurance or otherwise;
 - (2) liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or
 - (3) cessation of the Participant's deferrals under the Plan.
- (iii) Distributions due to an Unforeseeable Emergency must be limited to the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

b. A Participant may request an Unforeseeable Emergency withdrawal by submitting that request in writing on the Plan's approved form to the Approved Institution. If the Approved Institution denies the request, a request for review of the determination may be made to the Administrator. If at any time a request of an Unforeseeable Emergency withdrawal is approved, the Employer may thereupon direct the Approved Institution to distribute so much of the Account as is necessary to provide the amount approved to meet the Unforeseeable Emergency, as determined by the Administrator.

6.08 Small Balance Distribution.

Upon written request, received by the Approved Institution In Good Order, a Participant may elect to receive a small balance distribution, payable in a lump sum, if the Participant Deferral Account value is \$5,000.00 or less, and the Participant has not deferred into the Plan for a period of two years prior to distribution. A Participant may take a small balance distribution under this Section 6.08 only once while a Participant under the Plan, unless otherwise permitted by law.

6.09 Distributions from Governmental Plans for Health and Long Term Care for Public Safety Officers. Annual distributions of up to \$3,000 from the Plan are excludable for income tax purposes if the distribution is used to pay for qualified health insurance premiums (accident, health insurance or long term care) for an eligible public safety officer if separated from service due to disability or attainment of the age which the Participant has the right to retire and receive unreduced retirement benefits from the Employer's basic pension plan and if the distributions are paid directly to the insurer.

6.10 Rollovers from the Plan.

a. Notwithstanding any provision of the Plan to the contrary, a Participant shall be permitted to elect to have any eligible rollover distribution (as defined in Code Section 402(c)(4)) paid directly to an eligible retirement plan specified by the Participant. The Participant shall, in the time and manner prescribed by the Administrator, specify the amount to be rolled over and the eligible retirement plan to receive such rollover. Any portion of a distribution which is not rolled over shall be distributed directly to the Participant.

b. The election described in subsection (a) also applies to the surviving spouse who is the designated Beneficiary of the Participant, provided that such spouse directs the transfer of an eligible rollover distribution into an eligible retirement plan in which such spouse is a participant.

c. A non-spouse Beneficiary may elect to roll over death benefit amounts to a traditional or Roth IRA, subject to the conversion rules pertaining to income limits and taxation, or to any other investment permitted by law.

6.11 Transfers to Other Section 457(b) Plans Upon Severance from Employment.

a. Upon a Participant's Severance from Employment, a Participant or Beneficiary may elect to have all or a portion of the Account transferred to the Code Section 457(b) plan of an Employer. Such amounts shall be transferred at the Participant's or Beneficiary's election, provided:

- (i) The Code Section 457(b) plan to which the Participant's or Beneficiary's benefit is being transferred provides for the acceptance of such amounts;
- (ii) The Participant or Beneficiary has a benefit amount immediately after the transfer at least equal to the amount under the Plan immediately before the transfer; and
- (iii) In the case of a transfer made on behalf of a Participant, such individual has had a Severance from Employment with the Employer and is performing services for the Employer maintaining the receiving plan.

b. Upon the transfer of amounts under subsection (a), the Plan's liability to pay benefits to the Participant or Beneficiary under the Plan shall be discharged to the

extent of the amount so transferred on behalf of the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.11 or effectuate the transfer pursuant to Regulation Section 1.457-10(b).

6.12 Permissive Service Credit. A Participant may request the transfer of all or a portion of a Participant's Account to purchase permissive service credit in a qualified retirement plan. The transfer shall be in accordance with the Administrator's procedures.

6.13 Recognition of QDROs and other Lawful Court Orders. The Administrator shall recognize QDROs and other lawful court orders conforming to the procedures established by the Administrator. As specified in a conforming QDRO, the Approved Institution shall pay the amount specified to the Alternate Payees or create a separate Account for each Alternate Payee. Payments to Alternate Payees shall be made without regard to the whether or not the Participant is eligible for distribution of benefits under the Plan. When an Account has been established for an Alternate Payee, the Alternate Payee or the legal guardian of the Alternate Payee shall be entitled to make investment selections in the same manner as the Participant and shall select from among the forms of payment available to Participants when electing or when required to obtain a distribution from the Account.

ARTICLE VII ROLLOVERS TO THE PLAN

7.01 Eligible Rollover Contributions to the Plan.

A Participant or Beneficiary entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code.

b. For purposes of Section 6.01(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's or Beneficiary's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseen emergency or other distribution which is made upon hardship of the employee or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement account described in Section

408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code, an annuity plan described in Section 403(a) or 403(b) of the Code, or an eligible governmental plan described in Section 457(b) of the Code, that accepts the eligible rollover distribution.

c. The Plan shall establish and maintain for the Participant or Beneficiary a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Section 457(b) of the Code. Distribution limitations on the non-457(b) plans remain in effect. In addition, the Plan shall establish and maintain for the Participant or Beneficiary a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under Section 457(b) of the Code.

7.02 Plan-to-Plan Transfers to the Plan. A Participant or a Beneficiary in another eligible plan may transfer assets to the Plan as provided in this Section 7.02. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's or Beneficiary's interest in the plan and if the amount deferred under the other plan immediately before the transfer be at least equal to the amount transferred. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer. If the transfer is from an eligible governmental plan, the amount so transferred shall be credited to the Participant's Account Balance and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article III.

ARTICLE VIII TRUST FUNDS

8.01 Trust Fund. All amounts of Deferrals, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Trust Fund in accordance with this Plan and the Trust Agreement. The Trust Fund, and any subtrust established under the Plan, shall be established pursuant to a written agreement that constitutes a valid trust under the law of the State of West Virginia. The Trustee shall ensure that all investments, amounts, property, and rights held under the Trust Fund are held for the exclusive benefit of the Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of the Plan and of the Trust Fund. It shall be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or

diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

ARTICLE IX DESIGNATED ROTH ACCOUNTS

9.01 Establishing a Designated Roth Account. A Participant may request to establish a Designated Roth Account by electing to defer Compensation that has been included in gross income, subject to the income and distribution limitations set forth in the Code or by the Internal Revenue Service. The Designated Roth Account shall be a separate Account.

9.02 Deferrals. Deferrals to a Designated Roth Account are irrevocable and may be made after a Participant has attained the age of 70 ½.

9.03 Automatic Enrollment. A Political Subdivision Employer may authorize Automatic Enrollment in a Designated Roth Account for each of its Employees. Employees whose Political Subdivision Employer has authorized Automatic Enrollment for a Designated Roth Account may opt out without penalty for a period of thirty (30) days from the beginning date he or she is automatically enrolled, terminate his or her participation at any time, and may change the amount of Annual Deferral, Investment Products and Beneficiaries at any time upon submission of the appropriate forms or instructions to the Administrator or Approved Institution. Annual notice explaining the right to designate Investment Products and the QDIA shall be sent to automatically enrolled Employees that have not yet made an allocation of the assets in their Account.

9.04 Qualified Rollovers. Qualified rollover Contributions shall not be considered for purposes of the Applicable Dollar Limit. A qualified direct rollover from a Designated Roth Account will only be made under the Plan to another Designated Roth Account or to a Roth IRA. The Plan will accept a rollover contribution only from another Designated Roth Account.

9.05 Distributions. Distributions are excludable from gross income when occurring more than five (5) years after the initial contribution to the Designated Roth Account and Participant is age 59 ½ or older or dies or becomes disabled.

9.06 Separate Accounting. Contributions and withdrawals, earnings, losses and other credits and charges pertaining to a Designated Roth Account shall be separately allocated, recorded and reported by the Approved Institution from any other Account of the Participant.

**ARTICLE X
ADOPTION AND WITHDRAWAL BY
POLITICAL SUBDIVISION EMPLOYERS**

10.01 **Adoption Agreement.** A Political Subdivision Employer shall execute an Adoption Agreement and such other documents determined by the Administrator to be able to participate in the Plan.

10.02 **Effective Date.** The Political Subdivision Employer shall set the effective date for participation by its Employees.

10.03 **Timely Remittance of Contributions.** The Political Subdivision Employer shall ensure all deferred Compensation and other moneys to be deposited into an Employee Account are timely remitted as directed by the Administrator.

10.04 **Withdrawal from Plan.** Upon determining it desires to withdraw from the Plan, a Political Subdivision Employer will file with the Administrator a resolution or other document authorized by the Administrator stating a termination date for its participation in the Plan, which termination date shall be no earlier than at least 60 calendar days from the date notice is provided to the Administrator. All Participants who are employees of the withdrawing Employer shall receive no less than thirty days written notice of the withdrawal.

10.05 **Effect of Withdrawal.** Upon withdrawal by a Political Subdivision Employer, the Administrator shall not permit any further deferrals or contributions to the Accounts of the Employees of the Political Subdivision Employer. The rights of those Employees with Accounts in the Plan shall be unaffected by the withdrawal in connection with the continued administration of their Accounts and the Accounts shall continue under the Plan until closed.

**ARTICLE XI
REPORTS AND RECORDS**

11.01 **Reports to Participants.** The Approved Institution shall send or make available through the Plan website to each Participant and Alternate Payee a quarterly report of all actions in regard to an Account, including, without limitation, all Deferrals, Contributions, earnings, losses, market valuations and any other information the Administrator may direct.

11.02 **Reports to Administrator.** The Approved Institution shall send or make available through the Plan website to the Administrator a quarterly report containing the

information specified by the Administrator and within the time frame specified by the Administrator. The Administrator shall use the reports provided by the Approved Institution and the Administrator's consultant to review and evaluate Investment Products and the Plan.

11.03 **Plan Records.** All Plan records in the possession of the Approved Institution are the exclusive property of the Administrator and shall be submitted to the Administrator in a useable and readable format at the end of any contract between the Approved Institution and the Administrator.

ARTICLE XII MISCELLANEOUS

12.01 **Non-Assignability.** Except as provided in Section 8.02 and 8.03, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

12.02 **IRS Levy.** Notwithstanding Section 8.01, the Administrator may pay from a Participant's or Beneficiary's Account the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

12.03 **Mistaken Contributions.** If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt In Good Order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant.

12.04 **Limitation of Liability.** The State of West Virginia and the Employers are not liable for losses suffered or change in value of an investment product. Their financial liability is limited to the amounts paid over to the Trust but not invested.

12.05 **Fees, Deferred Compensation Administrative Account and the Plan Account.** The Administrator may charge such fees as the Administrator determines is necessary for the operation and maintenance of the Trust and the Plan and shall deposit such fees into the Deferred Compensation Administrative Account in the State Treasury, which the Administrator shall operate. Fees assessed against Plan Accounts and Plan assets and collected by the Approved Institution shall be deposited in the Plan

Account (also known as the Unallocated Plan Account or UPA). Moneys deposited into the Plan Account shall be transferred into the Deferred Compensation Administrative Account as determined by the Administrator.

12.06 Termination of Accounts with Balances Under \$1,000. The Administrator may elect to terminate Accounts with balances under \$1,000 upon giving the Participant no less than sixty days written notice of the intent to terminate the Account. The notice shall offer the options available to each affected Participant to rollover their Account balance or to receive the amount in cash by means of a check or ACH. The notice shall also include information that payment in cash will cause the Participant to incur a tax liability.

12.07 Amendment or Termination of Plan. The Administrator may terminate or amend the provisions of this Plan at any time; provided, however, no termination or amendment shall affect the rights of a Participant or a Beneficiary to the receipt of his or her Account funds or benefits with respect to any Compensation deferred before the time of the termination or amendment, as adjusted for the investment experience of the Investment Product of the Approved Institutions prior to or subsequent to the termination or amendment. The Participant or Beneficiary shall direct distribution of his or her Account funds.

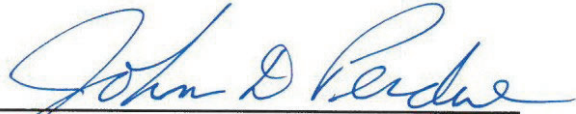
12.08 Interpretation; Severability. The intention of the Employer is that the Plan shall comply with the provisions of Section 457 of the Code and the corresponding provisions of any subsequent laws. The provisions of the Plan shall be construed to effectuate such intention.

In the event any provision shall be determined to be illegal or invalid for any reason, the illegal or invalid provision shall not affect the remaining parts of the Plan and the Administrator may perform such alternative acts which most clearly carry out the intent and purpose of the Plan.

12.09 Headings. The headings of the Articles and Sections of this Plan are for reference only and shall have no substantive effect on the provisions of the Plan.

12.10 Governing Law. Except when preempted by federal law, the provisions of the Plan shall be construed under the laws of the State of West Virginia.

IN WITNESS WHEREOF, the West Virginia State Treasurer, acting on behalf of the State of West Virginia has caused this Plan to be signed and attested to on the 15th day of January, 2016.

By: 

Title: West Virginia State Treasurer

AMENDMENT FOR CARES ACT

ARTICLE 1 PREAMBLE; DEFINITIONS

- 1.1 **Adoption of Amendment.** The Employer adopts this Amendment to implement provisions of the Act which affect the Plan. All references to the Plan include the Plan's loan program, policy, or procedure to the extent applicable.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any Article or Section reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).
- 1.5 **Definitions.** Definitions contained herein shall have the same meaning and function as stated in the Previous Plan Document, titled "State of West Virginia, Amended and Restated Deferred Compensation Plan." Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. The following definitions apply specifically to this Amendment:
 - A. The "**Act**" is the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act. This Amendment shall be interpreted and applied to comply with the Act.
 - B. A "**Qualified Individual**" means any individual who meets one or more of the criteria described in paragraphs (1), (2), (3), or (4). Participants, alternate payees and beneficiaries of deceased participants can be treated as Qualified Individuals. The Plan Administrator may rely on an individual's certification that the individual satisfies a condition to be a Qualified Individual unless the Plan Administrator has actual knowledge to the contrary. In applying the criteria, "COVID-19" means either the virus SARS-CoV-2 or coronavirus disease 2019; "an approved test" means a test approved by the Centers for Disease Control and Prevention (including a test authorized under the Federal Food, Drug, and Cosmetic Act); and a "member of the individual's household" means someone who shares the individual's principal residence. The criteria are as follows:
 - (1) The individual was diagnosed with COVID-19 by an approved test;
 - (2) The individual's spouse or dependent (as defined in Code §152) was diagnosed with COVID-19 by an approved test;
 - (3) The individual has experienced adverse financial consequences because: (a) the individual or the individual's spouse, or a member of the individual's household was quarantined, furloughed or laid off, or had work hours reduced due to COVID-19; (b) the individual, the individual's spouse, or a member of the individual's household was unable to work due to lack of childcare due to COVID-19; (c) A business owned or operated by the individual, the individual's spouse, or a member of the individual's household closed or reduced hours due to COVID-19; or (d) the individual, the individual's spouse, or a member of the individual's household had a reduction in pay (or self-employment income) due to COVID-19 or had a job offer rescinded or start date for a job delayed due to COVID-19; or
 - (4) The individual satisfies any other criteria determined by the Treasury or the IRS.

ARTICLE 2
IDENTIFYING INFORMATION; EMPLOYER ELECTIONS

2.1 **Reserved.**

2.2 **Employer identifying information.**

A. Name of Employer: State of West Virginia, which means State of West Virginia any agency or instrumentality thereof, and any Political Subdivision or agency or instrumentality thereof, which:

- a. satisfies the definition of Code Section 457 (together with any other entity required to be aggregated with that governmental employer under Code Sections 414(b), (c)t (m) or (o)), and
- b. upon the consent of the Administrator, agrees to participate in the Plan, including any applicable Investment Product of the Plan, by executing an agreement with the Administrator.

B. Name of Plan: Deferred Compensation Plan

C. Type of Plan (*check one; optional*)

- (1) 401(k) Plan
- (2) Profit-Sharing Plan (other than a 401(k) plan)
- (3) Money Purchase Pension Plan
- (4) Defined Benefit Plan (including a cash balance plan)
- (5) 403(b) Plan
- (6) 457(b) Plan sponsored by a governmental employer

2.3 **Relief for Qualified Individuals.** Will the Plan provide any or all of the following relief for Qualified Individuals: (1) Coronavirus-Related Distributions described in Article 3, (2) increased loan limits, (3) the loan repayment extension. (*Select one of (a), (b), or (c). If (c) is selected, then select one or more of (d), (e), and/or (f)*)

(a) **No.** The Plan will not provide any of these relief provisions.

(b) **Yes.** The Plan will provide all of these relief provisions. The limitations on distributions described in Sections 2.3(d)(1) – (4) and the limitations on loans in Section 2.3(e)(1) – (3) and 2.3(f)(1)–(3) do not apply.

(c) **Some.** The Plan will provide those relief provisions selected in (d), (e), or (f) below.

(d) **The Coronavirus-Related Distribution provisions described in Article 3** (*If (d) is selected, the Employer may optionally select one or more of (1), (2), (3), or (4).*)

(1) Coronavirus-Related Distributions are not available from an account in which the Participant is not 100% vested.

(2) Coronavirus-Related Distributions may be made only from the following accounts:

(3) The maximum amount of Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed: \$100,000. (*Enter amount less than \$100,000.*)

(4) The following additional provisions apply to Coronavirus-Related Distributions: The provisions of Article 3 of this Amendment apply only to the extent a Coronavirus-Related Distribution has been made to a Qualified Individual. To the extent the Plan does not operationally apply the rules of Article 3 of this Amendment, it does not apply to the Plan. The Plan Administrator shall document through administrative procedures or otherwise the manner in which the Plan operationally applied the rules under Article 3 of this Amendment. (*Enter limitations or restrictions which are nondiscriminatory and not subject to Employer discretion.*)

(e) **The increased loan limit**

(f) **The loan repayment extension**

2.4 **RMD waivers for 2020.** Unless the Employer elects otherwise below, the provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD will receive the distribution unless the Participant or Beneficiary chooses not to receive the distribution.

(a) **No RMDs without request.** The provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD **will not** receive the distribution unless the Participant or Beneficiary chooses to receive the distribution.

(b) [] Split. The provisions of Section 5.2 apply. A Participant or Beneficiary who would have been required to receive a **2020 RMD will not** receive the distribution unless the Participant or Beneficiary chooses to receive the distribution. A Participant or Beneficiary who would have been required to receive an **Extended 2020 RMD will receive** the distribution unless the Participant or Beneficiary chooses not to receive the distribution.

(c) [] No change to RMDs. Payment of RMDs or Extended 2020 RMDs will be governed by the terms of the Plan without regard to this Amendment (i.e., no election is available to Participants or Beneficiaries).

(d) [] Describe: _____.

For purposes of Section 5.3, the Plan will also treat the following as eligible rollover distributions in 2020: *(Choose one or none of (e), (f), (g), or (h):* If no election is made, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I):

(e) [] 2020 RMDs.

(f) [] 2020 RMDs and Extended 2020 RMDs.

(g) [] 2020 RMDs but only if paid with an additional amount that is an eligible rollover distribution without regard to Code §401(a)(9)(I).

(h) [] Describe: _____.

The provisions of Article 5, and the elections in this Section 2.4, will be effective on the date specified in Section 2.5.

2.5 **Effective Date.** This Amendment is effective March 27, 2020, or as soon as practical thereafter.

ARTICLE 3 CORONAVIRUS-RELATED DISTRIBUTIONS

3.1 **Application.** This Article 3 will apply if Section 2.3(b) or Section 2.3(d) is selected.

3.2 **Coronavirus-Related Distribution(s).** Subject to the provisions described in Section 2.3(d)(4), if any, a Qualified Individual may take one or more Coronavirus-Related Distributions. The accounts from which the amount may be distributed shall be limited if selected in Sections 2.3(d)(1) and (2). However, if the Plan is a Defined Benefit Plan, and the Qualified Individual has not separated from service, the Qualified Individual may not take a Coronavirus-Related Distribution prior to attaining the earlier of Normal Retirement Age or age 59½. The provisions of this Section will apply notwithstanding any limitation in the Plan on partial distributions or any otherwise applicable plan or administrative limits on the number of allowable distributions.

3.3 **Repayment of distribution.** If the Plan permits a Participant to make rollover contributions, then a such a Participant who received a Coronavirus-Related Distribution (from this Plan and/or another eligible retirement plan as defined in Code §402(c)(8)(B)), at any time during the 3-year period beginning on the day after receipt of the distribution, may make one or more contributions to the Plan, as rollover contributions, in an aggregate amount not to exceed the amount of such distribution.

3.4 **Definition of Coronavirus-Related Distribution.** A "Coronavirus-Related Distribution" means a distribution to a Qualified Individual during the period beginning January 1, 2020 and ending December 30, 2020. The total amount of Coronavirus-Related Distributions to a Qualified Individual pursuant to this Amendment from all plans maintained by the Employer, or any related employer described in Code §414(b), (c), (m), or (o), shall not exceed \$100,000, (or such lesser amount specified in Section 2.3(d)(3)). The Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed the amount of the individual's vested account balance or the present value of the individual's vested accrued benefit.

**ARTICLE 4
PARTICIPANT LOAN RELIEF**

4.1 **Application.** This Article 4 will not apply for a plan without loans.

**ARTICLE 5
WAIVER OF 2020 REQUIRED MINIMUM DISTRIBUTIONS (RMDs)**

5.1 **Application.** This Article 5 will apply only to defined contribution plans, including 401(k) Plans, Profit-Sharing Plans, Money Purchase Pension Plans, 403(b) Plans, and 457(b) Plans sponsored by governmental employers. The definitions in Section 5.4 will apply in interpreting Section 2.4.

5.2 **Waiver; default provision.** This Section 5.2 will apply unless Section 2.4(c) is selected or to the extent 2.4(d) overrides it. Notwithstanding the provisions of the Plan relating to RMDs, whether a Participant or Beneficiary who would have been required to receive 2020 RMDs, and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) Extended 2020 RMDs will receive those distributions is determined in accordance with the option chosen in Section 2.4. Notwithstanding the option chosen in Section 2.4, a Participant or Beneficiary will be given an opportunity to make an election as to whether or not to receive those distributions. If the Plan permits a Beneficiary of a deceased Participant to make the election to use the 5-year rule or the life expectancy rule, the deadline to make the election may be extended to reflect the adoption of Code §401(a)(9)(I).

5.3 **Direct rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2020, as elected by the Employer in Section 2.4, will be treated as eligible rollover distributions. If no election is made by the Employer in Section 2.4, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I).

5.4 **Definitions. "RMDs"** means required minimum distributions described in Code §401(a)(9). **"2020 RMDs"** means required minimum distributions the Plan would have been required to distribute in 2020 (or permitted to pay in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of Code §401(a)(9)(I). **"Extended 2020 RMDs"** means one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years.

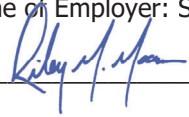
5.5 **Installment payments.** A Participant or Beneficiary receiving payment of 2020 RMDs or 2020 Extended RMDs pursuant to this Article 5 may receive them in any method (including installments or partial distributions) which would have been permitted under the terms of the Plan if the amounts would have been RMDs but for the enactment of Code §401(a)(9)(I).

* * * * *

This Amendment has been executed this 12th day of December, .

Name of Plan: Deferred Compensation Plan

Name of Employer: State of West Virginia

By:  (signature)

Riley Moore (printed name)

Its: _____

AMENDMENT TO IMPLEMENT SECURE ACT AND OTHER LAW CHANGES

ARTICLE 1 PREAMBLE

- 1.1 **Adoption and effective date of Amendment.** The Employer hereby adopts this Amendment to the Plan identified below. Each Article specifies the effective date of its provisions. Also see Section 1.5.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. Most Articles include definitions which are specific to that Article. Also see Section 1.6
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Intention; Construction.** The purpose of this amendment is to amend the Plan in accordance with pension-related provisions of the Further Consolidated Appropriations Act of 2019 ("FCAA") in general, and Division O of that Act, the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE"), in specific. It also addresses a provision of the Bipartisan American Miners Act ("BAMA"), which is also part of FCAA, as well as a section of the Coronavirus Aid, Relief, and Economic Security Act ("CARES"). The provisions of this Amendment shall be interpreted and applied to be consistent with FCAA and CARES and IRS guidance issued in connection therewith, whether such guidance is issued before or after the date of this amendment.
- 1.5 **Effect of subsequent restatement or amendment of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions). Some Articles in this amendment may not apply to a particular plan at the time the Amendment is executed but they will apply in the future based on subsequent amendments. For example, Article 8 is limited to 401(k) plans; its provisions do not apply to a profit-sharing plan that does not have a 401(k) feature. But if that plan is subsequently amended to add a 401(k) feature, then the provisions of Article 8 (and corresponding Section 2.8) will automatically become effective at that time.
- 1.6 **Preservation of prior amendments.** If the Employer previously amended the Plan after December 20, 2019 to implement a provision contained in one or more Articles of this Amendment, that prior amendment shall remain in effect and will not be superseded by this Amendment, unless Section 1.6(a) is selected. For example, if the Employer previously adopted an amendment to implement the BAMA provisions of Article 10, that amendment remains in effect, notwithstanding the provisions of this Amendment, unless Section 1.6(a) is selected.
- (a) [] This amendment supersedes all prior inconsistent amendments of the Plan.
- 1.7 **Definitions.** Definitions contained herein shall have the same meaning and function as stated in the Previous Plan Document, titled "State of West Virginia, Amended and Restated Deferred Compensation Plan."

**ARTICLE 2
IDENTIFICATION; ELECTIONS**

2.1 Identifying information.

- A. Name of Employer: State of West Virginia, which means State of West Virginia any agency or instrumentality thereof, and any Political Subdivision or agency or instrumentality thereof, which:
- a. satisfies the definition of Code Section 457 (together with any other entity required to be aggregated with that governmental employer under Code Sections 414(b), (c)t (m) or (o)), and
 - b. upon the consent of the Administrator, agrees to participate in the Plan, including any applicable Investment Product of the Plan, by executing an agreement with the Administrator.
- B. Name of Plan: Deferred Compensation Plan
- C. Type of Plan (*select one; optional*)
- (1) 401(k) Plan
 - (2) Profit-Sharing Plan (other than a 401(k) plan)
 - (3) Money Purchase Pension Plan
 - (4) Defined Benefit Plan (including a cash balance plan)
 - (5) 403(b) Plan
 - (6) 457(b) Plan (select one): Governmental employer Tax-exempt employer

2.2 **Plan Type Definitions.** "Qualified Plan" means a 401(k) Plan, Profit-Sharing Plan, Money Purchase Pension Plan or Defined Benefit Plan. "Defined Contribution Plan" means a Qualified Plan other than a Defined Benefit Plan.

2.3 **Operating Elections.** Many subsequent Articles of this Amendment refer to elections appearing in this Article 2. Each of Sections 2.4 through 2.10 refers to a corresponding Article. For example, Section 2.4 has the elections related to Article 4. The definitions in those Articles apply to the elections in the corresponding Section of this Article 2, and those elections have the same effective date as the corresponding Article. Each Section of this Article lists the default provisions which will apply if no election is made. If you accept the default(s), there is no need to complete the Section. There are no elective provisions which apply to Article 3 or Articles 11 through 12. The following are the defaults and a summary of the Articles for which there are no elections.

- Article 3. Permits retroactive safe harbor 401(k) amendments (to appear in separate document). Eliminates requirement of safe harbor notice for safe harbor nonelective.
- Article 4. QBADs are not permitted.
- Article 5. Distributions of RMDs will not begin before a Participant turns 72.
- Article 6. The Plan will apply its RMD provisions with respect to the 5-year rule in administering the 10- year rule.
- Article 7. RMDs subject to 5-Year Rule for participants who died from 2015 through 2019 are extended one year unless the beneficiary objects.
- Article 8. None of the optional elections with regard to LTPT Employees apply.
- Article 9. The QACA maximum automatic deferral is 10% of compensation.
- Article 10. The amendment does not modify the minimum age for in-service distributions.
- Article 11. Administrative policy can permit distributions of Discontinued Lifetime Income Investments.
- Article 12. Updated RMD tables and 2022 transition.

Check (a) or (b).

- (a) All defaults apply. *Skip the rest of Article 2 and sign the amendment.*
- (b) One or more defaults do not apply. *Complete those sections in Article 2 for which you do not accept the default; then sign the amendment.*

2.4 **Article 4 – Birth/Adoption Distributions.** In the absence of an election below, Article 4 does NOT apply. To permit QBADs (Qualified Birth and Adoption Distributions), check (a). If QBADs are available, they apply to all accounts except as provided in Article 4 or in elections (b), (c), (d), or (e). *(Select all that apply.)*

- (a) Article 4 applies effective January 1, 2020, unless a different date is selected in (1) below.
 - (1) _____. *(Enter date after December 31, 2019.)*
- (b) QBADs may only be made from accounts in which the Participant is fully vested.
- (c) QBADs are only available from the following Accounts *(select one or more)*:
 - (1) Pre-Tax Elective Deferrals
 - (2) Roth Elective Deferrals
 - (3) Employer matching contributions (including safe harbor contributions and QMACs)
 - (4) Employer nonelective contributions (including safe harbor contributions and QNECs)
 - (5) Rollover contributions
 - (6) After-tax employee contributions
 - (7) Transferred accounts
 - (8) Describe: _____
(must be definitely determinable and not subject to discretion)
- (d) QBADs are not available if the Participant has severed employment.
- (e) Describe additional limitations: _____
(must be definitely determinable and not subject to discretion)

2.5 **Article 5 – RMD Timing.** Unless Section 2.5(a) is selected, distribution of RMDs will begin for Affected Participants no sooner than April 1 of the calendar year following the year the Participant attains age 72.

- (a) Distribution of RMDs to Affected Participants will NOT be delayed on account of this Amendment (i.e., distributions will generally commence no later than April 1 of the calendar year following the year the Affected Participant attains age 70½), in accordance with Section 5.5. This election is effective for distributions after December 31, 2019, except as specified below *(Optional: select either or both of (1) or (2))*:
 - (1) Section 5.5 is effective for distributions after _____ and prior to the earlier of January 1, 2022 or the date entered in 2.5(a)(2). *(Enter date on or after December 31, 2019.)*
 - (2) Section 5.5 is repealed for distributions after _____ *(enter date on or after the date entered in 2.5(a)(1) and before January 1, 2022)*, subject to the anti-cutback rule of Code §411(d)(6) to the extent applicable.

2.6 **Article 6 – 10-Year Rule for Beneficiary RMDs.** RMDs to an Eligible Designated Beneficiary of a Participant who dies prior to the Participant's RBD will be made as elected below. In the absence of an election in Section 2.6, the Plan's provisions about Beneficiary elections with regard to the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule.

- (a) **Beneficiary election.** The Eligible Designated Beneficiary may elect application of the 10-Year Rule or the Life Expectancy rule. If the Beneficiary does not make a timely election *(Select one of (1) or (2))*:
 - (1) **10-year rule.** The 10-year rule applies to the Eligible Designated Beneficiary.

- (2) **Life Expectancy Rule.** The Life Expectancy rule applies to the Eligible Designated Beneficiary.
- (b) **10-year rule.** The 10-year rule applies to the Eligible Designated Beneficiary.
- (c) **Life Expectancy rule.** The Life Expectancy rule applies to the Eligible Designated Beneficiary.
- (d) **Shorter Period.** The entire interest of the Eligible Designated Beneficiary will be distributed no later than December 31 of the _____ (*enter a number of years, not exceeding "tenth"*) year following the year of the Participant's death.
- (e) **Other:** (*Describe, e.g., the 10-Year Rule applies to all Beneficiaries other than a surviving spouse* *Beneficiary.*)
-

2.7 **Article 7 - CARES RMD Waivers; 5-Year Rule.** Unless the Employer elects otherwise below, beneficiaries of Applicable Participant Accounts will have the option to extend distribution under the 5-Year Rule by one year, and in the absence of a beneficiary election the extension will apply.

- (a) **No extension without request.** The provisions of Section 7.2 apply but in the absence of a beneficiary election the extension will NOT apply.
- (b) **Not Apply.** Article 7 will **NOT** apply to this Plan.

2.8 **Article 8 – LTPT Employees.** The Employer makes the following optional elections with regard to LTPT Employees. (*Select all that apply.*)

- (a) An LTPT Employee, in addition to being eligible to defer will also be treated as a Regular Participant for purposes of (*check any or all that apply*):
- (1) Receiving an allocation of the safe harbor contributions (including QACA).
 - (2) Receiving an allocation of Employer matching contributions
 - (3) Receiving an allocation of Employer nonelective contributions.
 - (4) Making after-tax Employee voluntary contributions.
 - (5) Making rollover contributions.
 - (6) Making deemed IRA contributions described in Code §408(q).
- (b) The following provisions which apply to Regular Participants do not apply to LTPT Employees (*check any or all that do not apply to LTPT Employees*):
- (1) The ability to make Roth elective deferrals.
 - (2) Automatic deferral provisions.
 - (3) Automatic escalation provisions.
- (c) Instead of being the *first* day of the first month and the seventh month of the Plan Year, the LTPT Entry Date is (*select one*):
- (1) The same as the entry date which applies to Elective Deferrals of Regular Participants.
 - (2) Describe: _____
- (d) In addition to Union Employees and Nonresident Aliens, the following Employees are LTPT Excluded Employees (*check all that apply; see the instructions*):
- (1) Employees described in a category of employees that would be excluded from the Plan even if they satisfied the minimum age and service requirements which apply to Employees generally.
 - (2) Describe: _____.
- (e) Instead of age 21, the *LTPT* Minimum Age is (*select one*):
- (1) Waived.
 - (2) The same minimum age that applies to Regular Participants.
 - (3) Age _____ (cannot exceed 21).

2.9 **Article 9 – QACA Maximum Automatic Deferrals.** In the absence of an election below, Article 9 does NOT apply and automatic deferrals under a QACA shall not exceed 10% of a Participant's

Compensation. To permit automatic deferrals of up to 15% of compensation, *complete (a) below and (b) if applicable.*

(a) Article 9 applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.

(1) _____. (*Enter date on or after the first day of the first plan year beginning after December 31, 2019.*)

(b) The following modified QACA statutory schedule will apply (the limitations in the parentheses below only applies to QACAs): (*Select and complete one of (1), (2), or (3) below. The resulting schedule must satisfy Code §401(k)(13)(C)(iii).*)

(1) **Detailed Schedule.** The following modified QACA statutory schedule will apply. **NOTE:** *Plan Years 1 & 2 must be between 3% and 10%. 3-14 may not exceed 15%*

<u>Plan Year of application to a Participant</u>	<u>Automatic Deferral Percentage</u>
1	% (not less than 3 and not more than 10)
2	% (not less than 3 and not more than 10)
3	% (not less than 4 and not more than 15)
4	% (not less than 5 and not more than 15)
5	% (not less than 6 and not more than 15)
6	% (not less than 6 and not more than 15)
7	% (not less than 6 and not more than 15)
8	% (not less than 6 and not more than 15)
9	% (not less than 6 and not more than 15)
10	% (not less than 6 and not more than 15)
11	% (not less than 6 and not more than 15)
12	% (not less than 6 and not more than 15)
13	% (not less than 6 and not more than 15)
14 and thereafter	% (not less than 6 and not more than 15)

(2) **Fixed Increase.**

a. First plan year of application to a participant: ____ (*not less than 3 and not more than 10*)

b. Second plan year of application to a participant: ____ (*not less than 3 and not more than 10*)

c. In subsequent plan years the automatic deferral percentage will increase by ____% per year up to a maximum of ____% (*not more than 15*) of Compensation

(3) **Describe:** _____

2.10 **Article 10 – In-Service Distributions.** In the absence of an election below, Article 10 does NOT apply. To permit in-service distributions at age 59½ for pension plans and governmental 457(b) plans, *check (a) Check (b) to specify an age greater than 59 ½. If Article 10 applies, it applies to all Accounts except as limited in Article 10.*

(a) Article 10 applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.

(1) _____. (*Enter date on or after the first day of the first plan year beginning after December 31, 2019.*)

(b) Age at which in-service distributions are permitted _____ (*Enter age greater than 59½.*)

ARTICLE 3
ADP SAFE HARBOR NONELECTIVE PLANS – SECURE §103

- 3.1 **Application.** This Article 3 will apply only if the Plan is a 401(k) or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2019.
- 3.2 **No need for safe harbor notice.** If the Employer makes a Safe Harbor Nonelective Contribution, then the Plan can use the ADP Safe Harbor, whether or not Participants receive a Safe Harbor Notice, and the Plan Administrator is not required to provide a Safe Harbor Notice. However, the Plan is required to provide a Safe Harbor Notice if the plan utilizes the ACP safe harbor described in Code §401(m)(11) or (12), unless the plan is a QACA.
- 3.3 **Retroactive adoption.** Unless the Plan at any time during the Plan Year is a Safe Harbor Match Plan, then the Employer may amend the Plan at any time within twelve months after the end of the Plan Year to provide (A) that the Employer will make a Safe Harbor Nonelective Contribution for the entire Plan Year, (B) that the Plan qualifies for the ADP Safe Harbor for the Plan Year, and (C) that the Plan will not be required to perform the ADP Test for the Plan Year. However, if the Employer adopts the amendment on or after the 30th day before the close of the Plan Year, the Safe Harbor Nonelective Contribution must be at least 4% of the Participant’s Compensation.
- 3.4 **Definitions.** The following terms have the meaning set forth in this paragraph as more fully provided in the plan terms pertaining to the related subject matter.
- (a) A “**Safe Harbor Nonelective Contribution**” means a contribution described in Code §401(k)(12)(C) or Code §401(k)(13)(D)(i)(II) of at least 3% of Compensation.
 - (b) The “**ADP Test**” means the test provided in Code §401(k)(3)(ii).
 - (c) The “**ADP Safe Harbor**” means the safe harbor provided by Code §401(k)(12)(A) or Code §401(k)(13).
 - (d) A “**Safe Harbor Match Plan**” is a Plan which provided during the Plan Year that Participants would receive a matching contribution described in Treas. Reg. §1.401(k)-3(c) or Treas. Reg. §1.401(k)-3(k)(2).
 - (e) A “**Safe Harbor Notice**” is a notice described in Code §401(k)(12)(D) or Code §401(k)(13)(E).
 - (f) A “**QACA**” is a Qualified Automatic Contribution Arrangement described in Code §401(k)(13).

ARTICLE 4
BIRTH/ADOPTION DISTRIBUTIONS – SECURE Act §113

- 4.1 **Application.** This Article 4 will apply only if (1) the Plan is a Defined Contribution Plan, a 403(b) Plan, or a Governmental 457(b) Plan, and (2) the Employer elects in Section 2.4(a) for this Article 4 to apply, effective on the date specified in Section 2.4(a).
- 4.2 **Distribution Authorized.** Except as limited by Section 2.4 (b), (c), (e), a Participant may request a distribution of up to \$5,000 (per child or Eligible Adoptee) as a QBAD. The Participant may request the distribution whether or not the Participant has severed employment unless Section 2.4(d) is selected. This \$5,000 limit shall be reduced by QBADs to the Participant made with respect to the same child or Eligible Adoptee by other plans maintained by the Employer or a related employer described in Code §414(b), (c), (m), or (o). However, if the Plan is a Money Purchase Pension Plan (or the account from which the distribution is withdrawn was transferred from a Money Purchase Pension Plan), and the Participant has not separated from service, the Participant may not take a QBAD prior to attaining the earlier of Normal Retirement Age or age 59½. The Plan Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions for QBADs.

4.3 **Definitions.** The following definitions apply for this Article 4 and Section 2.4:

- (a) A “**QBAD**” is a Qualified Birth or Adoption Distribution described in Code §72(t)(2)(H)(iii). A QBAD must be made during the 1-year period beginning on the date on which a child of the Participant is born or on which the legal adoption of an Eligible Adoptee by the Participant is finalized.
- (b) An “**Eligible Adoptee**” is an individual, other than a child of the Participant’s spouse, who has not attained age 18 or is physically or mentally incapable of self-support. An individual is considered physically or mentally incapable of self-support if that individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or to be of long-continued and indefinite duration. This provision shall be applied in a manner consistent with Part D of IRS Notice 2020-68.

4.4 **Rollover.** A Participant who received one or more QBADs from this Plan may, if the Plan then permits the Participant to make rollover contributions, make one or more contributions in an aggregate amount not to exceed the amount of such QBADs. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.

4.5 **Reliance.** The Plan Administrator may rely on an individual’s reasonable representation that the individual is eligible to receive a QBAD unless the Plan Administrator has actual knowledge to the contrary.

4.6 **Status.** A QBAD is not an eligible rollover distribution for purpose of the obligation to permit a direct rollover under Code §401(a)(31), the notice requirement of Code §402(f), or the mandatory withholding rules of Code §3405(c)(1).

ARTICLE 5 REQUIRED BEGINNING DATE – SECURE Act §114

5.1 **Application.** This Article 5 will apply to all plans, regardless of type. It is effective with regard to RMDs required to be made after December 31, 2019.

5.2 **Delay of Required Beginning Date.** An Affected Participant’s RBD shall not be earlier than April 1 of the calendar year following the year the Affected Participant attains age 72. For purposes of determining an Affected Participant’s RBD, an Affected Participant will be treated as a more than 5% owner if the Participant was a 5-percent owner (as defined in Code §416(i)(1)(B)) as to the Plan Year ending in the calendar year the Participant attains age 72.

5.3 **Spousal Distributions.** If an Affected Participant dies prior to the Participant’s RBD, and the Participant’s sole Designated Beneficiary is the Participant’s surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later. However, this Section will apply only if the Plan, prior to this Amendment, permitted a surviving spouse to delay RMD distributions to December 31 of the calendar year in which the Participant would have attained age 70½.

5.4 **Definitions.** The following definitions apply for this Article 5 and Section 2.5:

- (a) A Participant is an “**Affected Participant**” if the Participant was born after June 30, 1949.
- (b) An “**RMD**” is a Required Minimum Distribution as described in Code §401(a)(9).

(c) A Participant's "RBD" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C), as amplified by Section 5.2.

- 5.5 **Optional Distribution Timing.** If the Employer elects in Section 2.5(a) for this Section 5.5 to apply, the timing and form of distributions to an Affected Participant will be determined as though this Article 5 had not been adopted. Distributions pursuant to this paragraph, which are not RMDs, will be treated as eligible rollover distributions for purposes of the direct rollover provisions of Code §401(a)(31). This Section 5.5 will no longer be effective for distributions after December 31, 2021, or, if earlier, the date specified in Section 2.5(a)(2).

ARTICLE 6 BENEFICIARY RMDs – SECURE Act §401

- 6.1 **Application.** This Article 6 will apply to all plans other than Defined Benefit Plans. This Article will not apply to qualified annuities described in SECURE Act §401(b)(4)(B).
- 6.2 **Effective Date.** Except as provided in Section 6.4, Article 6 will apply to Participants who die on or after the Effective Date of this Article. Generally, the Effective Date of this Article is January 1, 2020. In the case of a governmental plan (as defined in Code §414(d)), the Effective Date of this Article is January 1, 2022. The Effective Date of this Article 6 in the case of a collectively-bargained plan will be the date determined in SECURE Act §401(b)(2). See Section 6.5 regarding the limited application of this Article to certain accounts of Participants who died before the Effective Date of this Article.
- 6.3 **Death before RBD.** If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Accrued Benefit not later than as follows:
- (a) **No Designated Beneficiary** If there is no Designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule.
 - (b) **Eligible Designated Beneficiary.** If the distributee of a Participant's account is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule unless the 10- Year Rule applies. The Employer may elect application of the Life Expectancy rule or the 10-Year Rule in Section 2.6. In the absence of an election in Section 2.6, the Plan's provisions with regard to election of the 5- Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule. A permitted Beneficiary election must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.
 - (c) **Other Designated Beneficiaries.** If the distributee of the Participant's account is a Designated Beneficiary who is not an Eligible Designated Beneficiary, then the Beneficiary's entire interest will be distributed under the 10-Year Rule.
 - (d) **10-Year Rule.** If distribution of a deceased Participant's account thereof is subject to the "10-Year Rule," then the Plan will distribute the account in full no later than December 31 of the tenth year following the year of the Participant's death. No RMDs are required to be distributed from the account prior to that date.
- 6.4 **Death after RBD.** If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of

the date of the participant's death, using the Life Expectancy Rule, as, and to the extent, provided by applicable guidance. If the Beneficiary is a Designated Beneficiary that is not an Eligible Designated Beneficiary, the Plan will distribute the remaining account in full no later than December 31 of the tenth year following the year of the Participant's death.

- 6.5 **Beneficiary Death.** If an Eligible Designated Beneficiary receiving distributions under the Life Expectancy Rule dies before receiving distribution of the Beneficiary's entire interest in the Participant's account, the Plan will distribute that interest in full no later than December 31 of the 10th year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article 6, and the beneficiary died after such Effective Date, but prior to receiving full distribution of the beneficiary's interest, the Plan will distribute that interest in full no later than December 31 of the tenth year following the year of the beneficiary's death.
- 6.6 **Age of Majority.** If a child of the Participant was receiving distributions under the Life Expectancy rule, when the child reaches the age of Majority, the Plan will distribute the child's account in full no later than 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary, such as a disabled or chronically ill individual.
- 6.7 **Definitions; operating rules.** The following definitions and operating rules apply for this Article 6 and Section 2.6:
- (a) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
 - (b) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C) and the Plan. Also see Section 5.2.
 - (c) A distributee of a Participant's account is a "**Designated Beneficiary**" if the distributee is an individual or trust who is a beneficiary of the account (whether pursuant to a designation by the Participant or application of the Plan terms) and who is a designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4, Q&As-4 and -5.
 - (d) An individual is an "**Eligible Designated Beneficiary**" of a Participant if the individual qualifies as a Designated Beneficiary and is (1) the Participant's spouse, (2) the Participant's child who has not reached the age of Majority, (3) an individual not more than 10 years younger than the Participant, (4) a disabled individual, as defined in Code §72(m)(7), or (5) an individual who has been certified to be chronically ill (as defined in Code §7702B(c)(2)) for a reasonably lengthy period, or indefinitely. Certain trusts may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).
 - (e) Whether a child has reached the age of "**Majority**" is determined under Code §401(a)(9)(F) and applicable regulations and guidance issued thereunder.
 - (f) The "**Life Expectancy Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.
 - (g) The "**5-Year Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.
 - (h) The "**10-Year Rule**" is described in Section 6.3(d) of a Participant or Beneficiary.
 - (i) **Shorter period.** Section 2.6 may specify a shorter period to be used in place of the tenth year after the death of a Participant or Beneficiary.

(j) **Separate share rule.** All references in this Article to a Participant's Account and a Beneficiary's interest in that account will be applied separately to each separate account determined under Treas. Reg. §1.401(a)(9)-8, Q&A 2 and 3, and Code §401(a)(9)(H)(iv).

ARTICLE 7 EXTENSION OF 5-YEAR RULE FOR RMDs – CARES §2203

- 7.1 **Application.** This Article 7 will apply only to Defined Contribution plans, including 401(k) Plans, Profit-Sharing Plans, Money Purchase Pension Plans, 403(b) Plans, and 457(b) Plans sponsored by governmental employers. It does not apply to Defined Benefit Plans or to 457(b) Plans sponsored by tax-exempt employers. It does not apply if the Employer has selected Section 2.7(b); otherwise, it is effective January 1, 2020.
- 7.2 **Waiver; default provision.** The beneficiary of an Applicable Participant Account will have the option to extend the deadline to distribute the account for one year. The default in the absence of a beneficiary election will be to extend the distribution, unless the Employer elects in Section 2.7(a) for the default to be not to extend unless the beneficiary requests it.
- 7.3 **Definitions.** The following definitions apply for this Article 7 and Section 2.7:
- (a) "**RMDs**" means required minimum distributions described in Code §401(a)(9).
 - (b) The "**5-Year Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.
 - (c) "**Applicable Participant Account**" means the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule.

ARTICLE 8 LONG-TERM PART-TIME EMPLOYEES – SECURE §112

- 8.1 **Application.** This Article 8 will apply only if the Plan is a 401(k) Plan that permits elective deferrals. It is effective for Plan Years beginning after December 31, 2020.
- 8.2 **LTPT Employee Deferrals.** An LTPT Employee will be eligible to make Elective Deferrals to the Plan. An LTPT Employee enters the Elective Deferral portion of the Plan on the Employee's LTPT Entry Date if the Employee is still an LTPT Employee on that Entry Date. The provisions of the Plan relating to rehired employees, breaks in service, and change in status will apply to LTPT Employees.
- 8.3 **Limited Participation.** An LTPT Employee who is eligible to make Elective Deferrals under Section 8.2 will be a Participant solely with regard to Elective Deferrals and related Account Balances. Except as otherwise provided in Section 2.8(a), an LTPT Employee will not be eligible (1) to receive any employer contributions, including top-heavy minimum allocations and safe harbor contributions, (2) to make after-tax Employee voluntary contributions, (3) to make rollover contributions (unless otherwise permitted under the Plan's administrative policies related to rollover contributions), or (4) to make deemed IRA contributions described in Code §408(q).
- 8.4 **Satisfaction of Eligibility Conditions.** If and when an LTPT Employee becomes a Regular Participant, the individual will no longer be an LTPT Employee, but will instead participate in the Plan in the same manner as other Regular Participants, except as provided in Section 8.5.

- 8.5 **Vesting.** For purposes of applying any vesting schedule in the Plan applicable to Employer contributions other than elective deferrals, an LTPT Employee or a Regular Participant who was previously an LTPT Employee (1) will be credited with a Year of Service for each vesting computation period during which the Employee was credited with more than 500 Hours of Service (or such lower requirement as may apply to Regular Participants) in such period, and (2) will not be credited with a break in service for any vesting computation period unless the Employee has no more than 500 Hours of Service in such period. The Plan Administrator may optionally apply any simplified method of determining years of service under this Section announced by the IRS.
- 8.6 **Testing.** Pursuant to Code §401(k)(15)(i)(II), the Plan Administrator may elect to exclude LTPT Employees from coverage testing under Code §410(b), the ADP test of Code §401(k)(3), the ACP test of Code §401(m)(2), and other nondiscrimination testing under Code §401(a)(4).
- 8.7 **Application of Elective Deferral Provisions.** Except as otherwise provided in Section 2.8(b), all provisions of the Plan related to Elective Deferrals which apply to Regular Participants also apply to LTPT Employees who are eligible to defer, including as applicable (1) eligibility to make Roth deferrals, (2) automatic enrollment provisions, (3) automatic escalation provisions.
- 8.8 **Definitions.** The following definitions apply for this Article 8 and Section 2.8:
- (a) An “**LTPT Employee**” means a long-term part-time employee described in Code §§401(k)(2)(D) and 401(k)(15). Specifically, an LTPT Employee is an Employee, other than an LTPT Excluded Employee, who has not entered the Plan as a Regular Participant, but who is credited with at least three (3) consecutive Eligibility Computation Periods beginning after December 31, 2020 with at least 500 Hours of Service in each and who has attained the LTPT Minimum Age.
- (b) With regard to an LTPT Employee, the “**LTPT Entry Date**,” unless otherwise specified in Section 2.8(c), is the earlier of the first day of the first month or the seventh month of the Plan Year immediately following or coincident with the date an Employee becomes an LTPT Employee. In no event will the LTPT Entry Date exceed the maximum delay in participation specified in Code §410(a)(4).
- (c) An “**LTPT Excluded Employee**” refers to a Union Employee or a Nonresident Alien and those individuals described in Section 2.8(d). However, in no event will an Employee be an LTPT Excluded Employee merely because the Employee failed to satisfy a service condition, or is a part-time, seasonal, or temporary employee. In no event will an Employee be an LTPT Excluded Employee to the extent such an exclusion is not permitted under applicable IRS guidance.
- (d) The “**LTPT Minimum Age**” is 21 unless Section 2.8(e) specifies a different age (or waives the LTPT Minimum Age). The LTPT Minimum Age shall not exceed 21.
- (e) An Employee is a “**Regular Participant**” if the Employee has satisfied all conditions to enter the Plan (or any portion thereof) determined without regard to this Article 8, including those relating to the Employee’s entry date. An LTPT Employee becomes a Regular Participant on such entry date.
- (f) A “**Union Employee**” is an employee described in Code §410(b)(3)(A).
- (g) A “**Nonresident Alien**” is an employee described in Code §410(b)(3)(C).

ARTICLE 9
QACA MAXIMUM AUTOMATIC DEFERRAL – SECURE §102

- 9.1 **Application.** This Article 9 will apply only if (1) the Plan is a 401(k) Plan or a 403(b) Plan, and (2) the Employer elects in Section 2.9 for this Article 9 to apply, effective on the date specified in Section 2.9(a).
- 9.2 **Higher Maximum Contribution.** If the Plan includes a QACA, then the automatic deferral percentage which applies to a Participant (referred to as the “qualified percentage” in Treas. Reg. §1.401(k)-12(j)(2)) shall not exceed 10% of the Participant’s Compensation during the Initial Period and shall not exceed 15% of the Participant’s Compensation after the Initial Period.
- 9.3 **Validation; Policy.** If the Employer amends or has amended the plan (effective for a Plan Year beginning on or after the effective date specified in Section 2.9) to provide for an automatic deferral percentage which does not exceed the limitations of Section 9.2, the amendment is valid notwithstanding any limitations contained in any provision of the Plan which would limit the automatic deferral percentage to 10%. The Plan Administrator may adopt a reasonable, uniform policy in applying the increased limit provided by this Article 9 to QACA automatic escalation provisions in effect prior to the effective date of the Article.
- 9.4 **Definitions.** The following definitions apply for this Article 9 and Section 2.9:
- (a) “**QACA**” means a Qualified Automatic Contribution Arrangement described in Code §401(k)(13).
- (b) The “**Initial Period**” for a Participant begins when the Participant first has contributions made pursuant to a default election under the QACA for a Plan Year and ends on the last day of the following Plan Year.

ARTICLE 10
IN-SERVICE PENSION DISTRIBUTIONS – BAMA §104

- 10.1 **Application.** This Article 10 will apply only if (1) the Plan is a Money Purchase Pension Plan, a Defined Benefit Plan, or a Governmental 457(b) Plan, or, as described in Section 10.3, a 401(k) or Profit-Sharing Plan, and (2) the Employer elects in Section 2.10 for this Article 10 to apply, effective on the date specified in Section 2.10(a).
- 10.2 **Distribution at 59½.** A Participant can take an in-service distribution at age 59½, or, if later, the age (if any) specified in Section 2.10(b). Such a distribution will be limited to the vested portion of the Participant’s accrued benefit or account and will be subject to all Plan provisions related to in-service distributions. If the Plan is a Governmental 457(b) Plan, the Plan can operationally permit distributions as early as January 1 of the calendar year the Participant attains 59½ (or such later age).
- 10.3 **Limited application to Profit-Sharing Plans.** If the Employer elects in Section 2.10 for this Article 10 to apply, this Article 10 will apply to an account in a 401(k) Plan or a Profit-Sharing Plan which holds assets transferred from a Money Purchase Pension Plan or a Defined Benefit Plan.

ARTICLE 11
DISTRIBUTIONS OF DISCONTINUED LIFETIME INCOME INVESTMENTS – SECURE §109

- 11.1 **Application.** This Article 11 will apply only if (1) the Plan is a Defined Contribution Plan, a 403(b) Plan, or a Governmental 457(b) Plan. It is effective for Plan Years beginning after December 31, 2019.
- 11.2 **Distributions authorized.** The Plan Administrator may authorize Participants to request, and as soon as practical after a Participant makes the request, the Plan will make a distribution of a Discontinued Lifetime Income Investment. Distribution under this Article is limited to the 90-day period prior to the date on which the Lifetime Income Investment is no longer authorized to be held as an investment option under the Plan. Such distribution will be in the form of a Qualified Distribution, or in the form of a Qualified Plan Distribution Annuity Contract, as determined by the Plan Administrator. The Plan Administrator will administer this section in a reasonable, nondiscriminatory manner, and may authorize distributions of some Discontinued Lifetime Income Investments and not others.
- 11.3 **Definitions.** The terms “Lifetime Income Investment,” “Qualified Distribution” and “Qualified Plan Distribution Annuity Contract” have the meanings set forth in Code §401(a)(38)(B). A “Discontinued Lifetime Income Investment” is a Lifetime Income Investment which will no longer be authorized to be held as an investment option under the Plan.

ARTICLE 12
UPDATED LIFE EXPECTANCY TABLES – TREAS. REG. §1.401(a)(9)-9

- 12.1 **Application.** This Article 12 will apply to all plans and is effective for distribution calendar years beginning on or after January 1, 2022.
- 12.2 **New RMD Tables.** Any Plan reference to the life expectancy tables detailed in Treas. Reg. §1.401(a)(9), such as the Uniform Life Table, the Single Life Table, or the Joint and Last Survivor Table, refers to these tables as published in Treas. Reg. §1.401(a)(9)-9 from time to time, and is subject to adjustment as described in Treas. Reg. §1.401(a)(9)-9(f).

* * * * *

This Amendment has been executed this 12th day of December.

Name of Plan: Deferred Compensation Plan

Name of Employer: State of West Virginia

By:  (signature)

Riley Moore (printed name)

Its: _____