Shepherd
UNIVERSITY

Procurement Services

P.O. Box 5000
Shepherdstown
West Virginia 25443-5000
T 304-876-5216
F 304-876-5001

April 20, 2020

Shepherd University is soliciting bids to establish a multi-year, open-end contract for mattresses for the residence halls. During the first year of the contract, it is anticipated that there will be 255 mattresses replaced. The contract is being established for this initial replacement as well as for future replacement of other residence hall mattresses. The initial order may include the quantities listed in the contract but may include additional purchases as well. However, the quantities provided are an estimate of the quantities that will be ordered on a yearly basis.

Attached, please find the University's Request for Bid No. SUDL20-22. Please note that all responses are due no later than 3:00 PM local time on Thursday, May 7, 2020 to:

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

Thank you for your interest in Shepherd University. If you have any questions please email me at dlangfor@shepherd.edu.

Debra Langford
Executive Director of Procurement

REQUEST FOR BIDS

FOR

MATTRESSES

Issued by:

Shepherd University
Procurement Services

April 2020

SECTION 1-INSTRUCTIONS TO BIDDERS

1.1 SCOPE OF WORK

Shepherd University is soliciting bids to establish a multi-year, open-end contract for mattresses for the residence halls. The contract is being established for replacement mattresses this year as well as for future replacement of other residence hall mattresses.

This solicitation is for a multi-year contract. The initial contract is for two (2) years with the option to renew the contract for three (3) additional 1-year periods upon mutual agreement between the awarded contractor and Shepherd University.

1.2 BID SUBMISSION

Sealed bids shall be enclosed in a sealed envelope and shall be identified as a "Request for Bids" including the RFB number SUDL20-22 and the RFB opening time (3:00) and date (May 7, 2020). The vendor, by making a bid, represents that: (a) the vendor has read and understands the RFB terms and conditions, and the bid is made in accordance therewith; and (b) the bid is based upon the merchandise specified or an acceptable equivalent.

The envelope shall be addressed to Shepherd University Procurement Services, 215 Ikenberry Hall, PO Box 5000, Shepherdstown, WV 25443 and must be received on or before May 7, 2020 at 3:00 PM, local time.

Bids received after the time and date for the bid opening will be returned unopened. The vendor shall assume full responsibility for timely delivery at the location designated for receipt of bids. Oral, telephonic, facsimile, or telegraphic bids are invalid and will not receive consideration.

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

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

1.3 OFFER ACCEPTANCE PERIOD

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

1.4 BID COPIES

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

1.5 REQUEST FOR BID SCHEDULE

April 20, 2020:	Request for Bid is issued
May 7, 2020:	Bid Due at 3:00 PM
Target Dates:	
May 13, 2020:	Evaluation Complete
June 1, 2020:	Contract Effective
August 3-12, 2020:	Installation of Mattresses to Begin
August 12, 2020:	Installation of Mattresses to be Completed

1.6 INQUIRIES

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

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

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

Inquiries submitted after close of business on Friday, May 1, 2020 may be disregarded by the University at its discretion due to proximity to the opening date. Vendors should consider the Department of Procurement Services as the first and prime point of contact on all matters related to the procedures associated with this RFB. If additional information is needed from any source, the Department of Procurement Services will work with the vendor and the various offices of the University to gather that information. Should any prospective bidder find discrepancies in or omissions from this RFB or be in doubt of the meaning, the bidder should at once request in writing an interpretation from the University as described above. All necessary interpretations will be made available to all recipients of this RFB in the form of addenda to the RFB and such addenda shall become part of this RFB. Failure of any recipient of this RFB to receive any such addendum or interpretation shall not relieve such recipient from any obligation under their proposal as submitted; copies os such addenda shall be available on the Procurement Services website. The University will assume no responsibility for oral instructions or suggestions. ORAL ANSWERS SHALL NOT BE FINDING ON Shepherd University, regardless of who made the statement. Every official and binding interpretation made by the University will be made in the form of an addendum that, if issued, will be sent by the University to all interested parties by Shepherd University Procurement Services and posted on the website located at:

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

The Department of Procurement Services can also be reached by:

Telephone: (304) 876-5216
Facsimile: (304) 876-5001

1.7 INTERPRETATION, CORRECTIONS, OR CHANGES IN RFB

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

1.8 MODIFICATION OR WITHDRAWAL OF BID

At any time prior to the specified time and date set for receipt of bids, a bid submitted may be modified or withdrawn by notice to the party receiving bids at the place designated for receipt of bids. Such notice shall be in writing over the signature of the bidder with authority as set forth under paragraph 1.2 above and shall be received prior to the designated time and date for receipt of bids. A

modification shall be worded so as not to reveal the amount of the original bid and the modified bid prices shall be submitted under seal.

1.9 ERASURES AND INTERLINEATIONS

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

1.10 ACKNOWLEDGMENT OF AMENDMENTS OF RFB

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

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

1.11 VENDOR REGISTRATION

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

1.12 NON-FUNDING

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

1.13 PAYMENTS AND INTEREST ON LATE PAYMENTS

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

1.14 RESIDENT VENDOR PREFERENCE

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

1.15 TAX EXEMPTION

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

1.16 REJECTION OF BIDS

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

1.17 BID PRICE

The prices being requested in the Request for Bids document is being requested two ways. The first way is for the purchase and delivery of the merchandise. The second way is for the purchase, delivery, and installation of merchandise, removal of debris of merchandise was shipped within, and any other service as it relates to the bid document.

The pricing is being requested in this manner as future purchases of merchandise may be only for the purchase of the materials. However, the initial order placed will be for the quantities identified.

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

1.18 AWARD OF CONTRACT

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

1.19 AMOUNT OF MERCHANDISE

The amount of merchandise that the University will need varies from time to time. However, best estimate numbers have been provided to provide vendors with quantities of merchandise the University will be obtaining. However, the University will not be bound to ensure a specific number of items are purchased.

1.20 INVOICING FOR SERVICES

Payment for services will be performed after the services have been completed. The State of West Virginia cannot prepay for goods or services prior to receipt. The University encourages the contractor to accept the WV State Purchasing Card to expedite payments to the vendor. However, invoices exceeding the then current WV State Purchasing Card transaction limit will be processed via invoice through the WV State Auditor's Office.

1.21 INSTALLATION SERVICES

Installation services will be quoted as part of the response. The initial order against this open-end contract will require that the mattresses are delivered and installed. Some of the residential buildings may have at least three stories in them. Please be advised that some buildings not have elevators in them. Please take this into consideration when bidding the job. Again, the pricing that will be requested in the Bid Section is for the purchase of the mattresses and for the purchase of the mattresses with installation.

Drawings of the buildings that the mattresses are to be installed within are attached as Appendix 1.

1.22 INSURANCE REQUIREMENT

Since Shepherd University will be contracting with the awarded bidder to install the furniture as well, an insurance certificate will be required to be completed and submitted to Shepherd University upon notification of award. The insurance certificate will become part of the contract document. An insurance certificate with the appropriate limits is attached as Attachment D.

SECTION 2-INSTRUCTIONS FOR PREPARING BID

2.1 GENERAL

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

2.2 RFB RESPONSE OUTLINE

A. **Response Sheet**: The Bidder Response Certification, Attachment A, shall be attached to the front of the proposal and shall contain bidder's certification of the submission. It shall be signed by an official who has full authority to enter into a contract.

B. **West Virginia Vendor Preference Certificate:** The West Virginia Vendor Preference Certificate, Attachment B, shall be executed, if applicable, with all lines applicable identified.

C. **Purchasing Affidavit**: The Purchasing Affidavit, Attachment C, shall be executed in order for vendor to submit a proposal. If the vendor is unable to confirm and notarize the statements in the Purchasing Affidavit, the vendor will not be eligible for the bid submission or award.

D. **Disclosure of Interested Parties to Contracts:** A state agency may not enter into a contract, or a series of related contract, that has/have an actual or estimated value of $100,000 or more until the business entity submits to the contracting state agency a Disclosure of Interested Parties to the applicable contract. This form (Attachment D) must be submitted as part of the bid prior to any award being made to the bidder.

E. **Descriptive Literature and Sample of Product Bid:** Bidder is responsible for providing descriptive literature information regarding items being offered.

F. **Vendor Exceptions:** Describe any exceptions to the terms and conditions contained within this document. Add comments about the project of concern to the vendor (Attachment F).

G. **Problem Resolutions:** Please describe the actions that will be taken to resolve issues related to damaged material received, scheduling issues to ensure merchandise is received on timeline required, or other items that may arise (Attachment G).

H. **Price Submission:** Section 3 will provide information regarding the mattress prices. This information will be submitted as Attachment H in the bidder's response documentation.

I. **Offering:** The Vendor agrees that the resulting contract may be extended for participation by any or all West Virginia Higher Education Institutions and Agencies where the use of the contract becomes advantageous to all involved parties.

SECTION 3-BID FORM

3.1 MERCHANDISE REQUESTED

The merchandise being requested by the University is listed below.

Initial Order	Description
255 Each	Siesta University Mattress with Nylon Cover or equivalent All mattresses must be new, clean, and free of defects Minimum 6" high x 36" wide x 80" Length Inner Core composed of 1.8 lbs./ft.^{3} F.R. polyurethane California Technical Bulletin No. 117. A 30 lb. IFD inner core A ½" minimum thickness of CR Safguard polychloroprene compound cushioning and a minimum density of 6.0 lbs. per cubic foot shall completely encapsulate the polyurethane by means of a "neoprene" water based adhesive. High-density CR Safguard fire-resistant cushioning used to ensure compliance to California Technical Bulletin No. 129. The fire resistant exterior cushioning must meet the following physical and fire- performance properties and finished/covered mattress will comply with the established full-scale fire performance criteria listed below: o Meet the value of 35+/-10 lbs. Indentation Test when an ASTM D3574 Measured at 2" thickness test is performed. o Meet the value of 12% maximum on Compression Test on an ASTM D3574 Test D with 50% constant deflection percent of original thickness. o Meet the value of 120% minimum on ASTM D3574 for Elongation and meet 30% minimum on ASTM D3574 for Resiliency. o Meet the value of "no growth" on Fungal Growth Test on an ASTM G-21 test o Meet the value of 5% maximum on Thickness Loss Test, taken as a percentage of original thickness after 24 hours.

- Meets the composite mattress test to meet standards of California Technical Bulletin 129, 16 CFR Part 1633, and Boston BFD IX-11.

Flammability Characteristics

	Test Method	Value
Radiant Panel	ASTM D3675	D3675Maximum flame index –10 No melting or dripping
NBS Smoke Chamber	ASTM E662 Flaming and non-flaming modes 1 inch sample	Ds90 seconds 100 maximum Ds4 minutes 175 maximum D maximum 200
Rate of Heat Release	ASTM E1354 (a) Radiant Flux 35 kW/m2 (b) Horizontal Mode (2" sample) Run with an Edge Frame	Peak Heat Release Rate –75 kW/m2 maximum 3 Minute Average Heat Release Rate-30 kW/m2 maximum
Composite Mattress Test	ASTM E1590	Heat release rate –35 kW maximum Heat release rate at 10 minutes–10 MJ max
Composite Mattress Tests	California T.B. No. 129 Boston BFD IX-11 16 CFR Part 1633	Pass Pass Pass

- Flame resistant properties shall not be affected by water or other compatible cleaning agents.
- Nylon Covering shall be a fire-retardant covering that complies with NFPA 701 (Method 1) and fluid-resistant coated nylon.
- Cover shall be a four-corner box construction with two-inverted and centered side seams and one inverted and centered end seam. Cover may not have any taped edges.
- Mattress shall utilize Federal Standard 751, stitch type 301 with a single lock stitch and nylon thread. Sewing shall consist of 8-10 stitches per inch on seam.
- Completed mattress shall comply with all applicable State and Federal regulations, including but not limited to Federal Standard 16 CFR 1632 (FF4-72) and 16 CFR 1633, ASTM E-1590, California Technical Bulletin 129, and Boston BFD XI-11. Confirmation of results shall be submitted with the bid.

- Labeling of completed mattress must comply with applicable State and Federal standards. Information will include mattress size, date of manufacture, and the manufacture's name. Label shall be of a cloth type and attached by the seam stitching on one end of the mattress.
- Packaging shall consist of one mattress inserted in one poly bag of sufficient strength to provide safe transport to using location.
- The University reserves the right to randomly inspect mattresses for compliance to all stated speculations. Manufacturers found to be in non-compliance shall replace mattresses at no charge to the University.
- Manufacturer must disclose any product warranty provided on the mattress.

3.2 SPECIFICATION STANDARDS

Bidder must provide documented proof that mattress being offered in bid meets or exceeds the specifications identified above.

3.3 ADDITIONAL MERCHANDISE

The University reserves the right to request additional merchandise not identified above as part of the contract. The University will request from the vendor to provide a price quote for such merchandise. Upon acceptance of the pricing identified, the University will purchase these goods from the contractor. If the pricing presented by the vendor is not acceptable, the University reserves the right to obtain merchandise from a non-contract vendor.

SECTION 4-EVALUATION CRITERIA

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

The University reserves the right to drop from consideration:

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

In addition, the University will consider:

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

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

SECTION 5 - CONTRACTUAL TERMS AND CONDITIONS

1. **ORDER OF PRECEDENCE:** This Section Five of this contract modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Contract. IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS SECTION FIVE, THIS SECTION FIVE SHALL CONTROL unless a contract change order is executed by both parties which expressly references a modification of this Section Five.

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

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

3. **FISCAL YEAR FUNDING** - Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated 0or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

4. **RIGHT TO TERMINATE** - The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

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

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

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

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

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.

7. **GOVERNING LAW** -Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.

8. **RISK SHIFTING** - Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.

9. **LIMITING LIABILITY** -Any language limiting the Vendor's liability for direct damages to person or property is deleted.

10. **TAXES**-Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.

11. **NO WAIVER** - Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

12. **STATUTE OF LIMITATIONS** - Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.

13. **ASSIGNMENT-The** Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.

14. **RENEWAL** - Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.

15. **INSURANCE** - Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.

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

17. **DELIVERY** -All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.

18. **CONFIDENTIALITY** - Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-l, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.

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

19. **THIRD-PARTY SOFTWARE-If** this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that is has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.

20. **AMENDMENTS** - The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

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

TERM OF CONTRACT: This contract becomes effective on June 1, 2020 and extends for a period of two (2) years. The vendor may cancel this contract after the initial two (2) year term by giving the Executive Director of Procurement thirty (30) days written notice.

RENEWAL: This contract may be renewed upon mutual written consent, submitted to the Executive Director of Procurement thirty (30) day prior to the date of expiration. Such renewal shall be in accordance with the terms and conditions of the original contract and shall be limited to three (3) successive one-(1) year periods.

OPEN MARKET CLAUSE: The Executive Director of Procurement may purchase in the open market, without the filing of a requisition or cost estimate, items specified on this contract for immediate delivery in emergencies due to unforeseen causes (including but not limited to delays in transportation or an unanticipated increase in the volume of work).

PREFERRED TERMS: The prices on this contract are firm for the initial two (2) year term of the contract. If this contract is renewed at the end of the initial two (2) year period, Procurement Services may accept or reject a proposed price increase for the succeeding terms.

ATTACHMENT A

BID RESPONSE CERTIFICATION

SHEPHERD UNIVERSITY

_____
DATE

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

_____
Name of Bidder

_____
Signature of Bidder

_____
Title

_____
Firm Name

_____
Street Address

_____
City, State, Zip

_____
Telephone

_____
Facsimile Number

ATTACHMENT B

WEST VIRGINIA VENDOR PREFERENCE CERTIFICATE

WV-10
Approved / Revised
06/08/18

State of West Virginia
VENDOR PREFERENCE CERTIFICATE

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

1. ____ **Application is made for 2.5% vendor preference for the reason checked:**
Bidder is an individual resident vendor and has resided continuously in West Virginia, or bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia, for four (4) years immediately preceding the date of this certification; **or,**

____ Bidder is a resident vendor partnership, association, or corporation with at least eighty percent of ownership interest of bidder held by another entity that meets the applicable four year residency requirement; **or,**

____ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; **or,**

2. ____ **Application is made for 2.5% vendor preference for the reason checked:**
Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; **or,**

3. ____ **Application is made for 2.5% vendor preference for the reason checked:**
Bidder is a nonresident vendor that employs a minimum of one hundred state residents, or a nonresident vendor which has an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia and employs a minimum of one hundred state residents, and for purposes of producing or distributing the commodities or completing the project which is the subject of the bidder's bid and continuously over the entire term of the project, on average at least seventy-five percent of the bidder's employees or the bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years and the vendor's bid; **or,**

4. ____ **Application is made for 5% vendor preference for the reason checked:**
Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; **or,**

5. ____ **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; **or,**

6. ____ **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**
Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

7. ____ **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code* §5A-3-59 and *West Virginia Code of State Rules*.**
Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

8. ____ **Application is made for reciprocal preference.**
Bidder is a West Virginia resident and is requesting reciprocal preference to the extent that it applies.

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

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

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

Bidder: _____ **Signed:** _____

Date: _____ **Title:** _____

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

ATTACHMENT C

PURCHASING AFFIDAVIT

STATE OF WEST VIRGINIA
Purchasing Division

PURCHASING AFFIDAVIT

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

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

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

DEFINITIONS:

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

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

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

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

WITNESS THE FOLLOWING SIGNATURE:

Vendor's Name: _____

Authorized Signature: _____ Date: _____

State of _____

County of _____, to-wit:

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

My Commission expires _____, 20___

AFFIX SEAL HERE **NOTARY PUBLIC** _____

Purchasing Affidavit (Revised 01/19/2018)

ATTACHMENT D

DISCLOSURE OF INTERESTED PARTIES TO CONTRACTS

West Virginia Ethics Commission

Disclosure of Interested Parties to Contracts

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

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

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

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

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

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

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

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

Revised June 8, 2018

ATTACHMENT E

DESCIPTIVE LITERATURE

ATTACHMENT F

VENDOR EXCEPTIONS

ATTACHMENT G

PROBLEM RESOLUTION

ATTACHMENT H

PRICE SUBMISSION

_____/Each Mattress

_____/Each Mattress Plus Installation

ATTACHMENT I

OFFERING TO OTHER INSTITUTIONS