

**WEST VIRGINIA UNIVERSITY
AT PARKERSBURG
Farm Equipment/Utility Tractor
RFQ-2022-003**

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Exhibits

Exhibit A	Pricing Page
Exhibit B	WV96

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia University at Parkersburg (WVUP) Purchasing Division is soliciting bids on behalf of WVUP to establish a one-time purchase of farm equipment outlined below.
2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.
 - 2.1 **“Contract Item”** means provide commodities as more fully described in the “General Requirement” section.
 - 2.2 **“Bid Form”** means the pages, attached as Exhibit A, upon which Vendor should list its proposed price for the Contract Items.
 - 2.3 **“Solicitation”** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.
3. **GENERAL REQUIREMENTS:**

Preferred Equipment - New Holland PowerStar 75 or Equivalent Specifications

Engine:	74hp 55kW
Chassis:	4x2 2WD: 4x4 MFWD 4WD
Final Drives:	Inboard Planetary
Steering:	Power
Brakes:	Wet Disc
Cab:	Cab Preferred
Transmissions:	12 Speed Four Synchronized Gears in Three Ranges with Power Shuttle 12 Speed Mechanical Shuttle 20 Speed Creeper FPT 3.4L 4-Cyl Diesel

Hydraulics:	Open Center
	Front End Loader
Tractor Hitch:	Rear Type II
	Rear Lift 3664 lbs

4. CONTRACT AWARD:

4.1 Contract Award: The Contract is intended to provide Agencies with a purchase price for the Contract Items. The Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

The College reserves the right to withdraw this RFQ at any time and for any reason. Submission of, or receipt by the College of proposals confers no rights upon the proposer nor obligates the College in any manner.

4.2 Bid Form and Exhibits: Vendor should complete the attached Bid Form that includes the not-to-exceed price for the commodity specified in section 3. Additionally, the vendor should complete all forms included in the Exhibits attached. Vendors must complete the Bid Form and Exhibits in full as failure to submit a complete proposal will result in Vendor's bid being disqualified.

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

5. PAYMENT:

5.1 Payment: Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

6. TIMING OF WORK:

6.1 Expected Timing of Work: Refer to the scope of work section within the RFQ.

6.2 Estimate of Time to Complete Job: Please include in your response to this request for quotation an accurate estimate of the time to supply the commodity requested.

6.3 Warranty: Please include a statement in your response regarding the warranty offered on parts and labor.

7. VENDOR DEFAULT:

7.1 The following shall be considered a vendor default under this Contract.

- 7.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2** Failure to comply with other specifications and requirements contained herein.
- 7.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4** Failure to remedy deficient performance upon request.

7.2 The following remedies shall be available to Agency upon default.

- 7.2.1** Immediate cancellation of the Contract.
- 7.2.2** Immediate cancellation of one or more release orders issued under this Contract.
- 7.2.3** Any other remedies available in law or equity.

8. OTHER TERMS & CONDITIONS:

By signing and submitting its proposal, the successful Vendor agrees to be bound by all the terms contained in this RFQ.

8.1 Conflict of Interest:

Vendor affirms that it, its officers or members or employees presently have no interest and shall not acquire any interest, direct or indirect, which would conflict or compromise in any manner or degree with the performance or its services hereunder. The Vendor further covenants that in the performance of the contract, the Vendor shall periodically inquire of its officers, members and employees concerning such interests. Any such interests discovered shall be promptly presented in detail to the College.

8.2 Prohibition against Gratuities:

Vendor warrants that it has not employed any company or person other than a bona fide employee working solely for the vendor or a company regularly employed as its marketing agent to solicit or secure the contract and that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award of the contract.

For breach or violation of this warranty, the College shall have the right to annul this contract without liability at its discretion or to pursue any other remedies available under this contract or by law.

8.3 Vendor Relationship:

The relationship of the Vendor to the College shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by the parties to 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 RFQ and resulting contract. Neither the Vendor, nor any employees or contractors of the vendor, shall be deemed to be employees of the College for any purposes 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, and licensing fees, etc. and the filing of all necessary documents, forms and returns pertinent to all of the foregoing.

Vendor shall hold harmless the College, and shall provide the College 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.

The Vendor shall not assign, convey, transfer or delegate any of its responsibilities and obligations under this contract to any person, corporation, partnership, association or entity without expressed written consent of the College.

8.4 Indemnification:

The Vendor agrees to indemnify, defend and hold harmless the College, 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 laws.

8.5 Contract Provisions:

After the successful Vendor is selected, a formal contract document will be executed between the College and the Vendor. In addition, the RFQ and the Vendor's response will be included as part of the contract by reference. The order of precedence is the contract, the RFQ and the Vendor's proposal in response to the RFQ.

8.6 Governing Law:

This contract shall be governed by the laws of the State of West Virginia. The Vendor further agrees to comply with the Civil Rights Act of 1964 and all other applicable laws and regulations, Federal, State and Local Government.

8.7 Compliance with Laws and Regulations:

The vendor shall procure all necessary permits and licenses to comply with all applicable laws, Federal, State or municipal, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, or the equipment, or services delivered pursuant here to shall be borne by the contractor. It is clearly understood that the West Virginia University at Parkersburg is exempt from any taxes regarding performance of the scope of work of this contract.

8.8 Subcontracts/Joint Ventures:

The Vendor is solely responsible for all work performed under the contract and shall assume prime contractor responsibility for all services offered and products to be delivered under the terms of this contract. The College will consider the Vendor to be the sole point of contact with regard to all contractual matters. The Vendor may, with the prior written consent of the College, enter into written subcontracts for performance of work under this contract; however, the vendor is totally responsible for payment of all subcontractors.

8.9 Non-Appropriation of Funds

If the College is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this contract by the West Virginia Legislature or the Federal Government, the WVUP, or College may terminate the contract at the end of the affected current fiscal period without further charge or penalty. The College shall give the vendor written notice of such non-allocation of funds as soon as possible after the College receives notice. No penalty shall accrue to the College in the event this provision is exercised.

8.10 Contract Termination:

The College may terminate any contract resulting from this RFQ immediately at any time the Vendor fails to carry out its responsibilities or to make substantial progress under the terms of this RFQ and resulting contract. The College shall provide the Vendor with advance notice of performance conditions which are endangering the contract's continuation. If after such notice the Vendor fails to remedy the conditions contained in the notice, within the time period contained in the notice, the College shall issue the Vendor an order to cease and desist any and all work immediately. The College shall be obligated only for services rendered and accepted prior to the date of the notice of termination. The contract may also be terminated by the College with thirty (30) days prior notice.

8.11 Changes:

If changes to the original contract become necessary, a formal contract change order will be negotiated by the College and the Vendor, to address changes to the terms and conditions, costs of work included under the contract. An approved contract change order is defined as one approved by the College and approved as to form by the West Virginia Attorney General's Office, if required, encumbered and placed in the U.S. Mail prior to the effective date of such amendment. An approved contract change order is required whenever the change affects the

payment provision or the scope of the work. Such changes may be necessitated by new and amended Federal and State regulations and requirements.

As soon as possible after receipt of a written change request from the College, but in no event more than thirty (30) days thereafter, the Vendor shall determine if there is an impact on price with the change requested and provide the College a written statement to identifying any price impact on the contract or to state that there is no impact. In the event that price will be impacted by the change, the Vendor shall provide a description of the price increase or decrease involved in implementing the requested change.

NO CHANGE SHALL BE IMPLEMENTED BY THE VENDOR UNTIL SUCH TIME AS THE VENDOR RECEIVES AN APPROVED WRITTEN CHANGE ORDER.

8.12 Agreement Addendum (Form WV-96)

The Agreement Addendum (Form WV-96) are the standard State of West Virginia terms and conditions issued by the West Virginia Attorney General and must be agreed to by the successful vendor prior to receiving a contract/purchase order. No modifications may be made to these terms and conditions without written consent of the Attorney General.

9. WVUP CONTACTS:

Jeannine Ratliffe, Chief Purchasing Officer
300 Campus Drive
Parkersburg, WV 26104
Jeannine.Ratliffe@wvup.edu

Sealed bids are due no later than 1:00 PM on Friday, September 30th, 2022. A public bid opening will be held at that time. Your submission must be mailed with RFQ number posted on outside of the package.

10. EXHIBITS

The following Exhibits are a binding part of this RFQ:

- Exhibit A – Pricing Page
- Exhibit B – WV96

Exhibit A Pricing Page

1.01 FOR:

A. Service/Product: Farm Equipment/Utility Tractor

1.02 DATE: _____

1.03 SUBMITTED BY:

A. Vendor Name _____
1. Address _____
2. City, State, Zip _____
3. Representative _____

1.04 PRICES

A. The following are Prices for Specified Equipment:

1. New Holland PowerStar 75 _____ **OR**
2. Equivalent Equipment _____

1.05 RESPONSE TIME & AVAILABILITY

A. Describe expected availability of equipment

1.06 SIGNATURE(S)

(Authorized signing officer)

(Print Authorized signing officer, Title)

(Date)

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

State Agency, Board, or Commission (the "State"): West Virginia University at Parkersburg

Vendor:

Contract/Lease Number ("Contract"):

Commodity/Service:

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

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.
- Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

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

State: _____

Vendor: _____

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____