

# Purchase Order



WV Department of Health and  
Human Resources  
Office of Purchasing  
One Davis Square, Suite 100  
Post Office Box 50130  
Charleston, WV 25301

PURCHASE ORDER NO.
MED13006

PAGE
1

I N V O I C E  T O	Bureau For Medical Services 350 Capitol Street, Room 251 Charleston, WV 25301
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BLANKET RELEASE
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CORRECT PURCHASE ORDER NUMBER MUST APPEAR ON ALL PACKAGES, INVOICES, AND SHIPPING PAPERS. QUESTIONS CONCERNING THIS PURCHASE ORDER SHOULD BE DIRECTED TO THE BUYER AS NOTED BELOW.

CHANGE ORDER

**SEE REVERSE SIDE FOR TERMS AND CONDITIONS**

V E N D O R	Molina Information Systems LLC 200 Oceangate Ste 100 Long Beach, CA 90802
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S H I P  T O	Bureau For Medical Services 350 Capitol Street, Room 251 Charleston, WV 25301
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DATE PRINTED	TERMS OF SALE	FEIN/SSN	FUND		
12/12/2012	Net 30	271510177			
SHIP VIA	F.O.B.	FREIGHT TERM	ACCOUNT NUMBER		
Best Way	Destination	Prepaid	Multiple		
LINE	QUANTITY	UOP	VENDOR ITEM NO.	UNIT PRICE	AMOUNT
	DELIVERY DATE	CAT. NO.	ITEM NUMBER		
					OPEN END

**Contract Date:** from 01/01/2013 to 12/31/2022

Contract for Medicaid Management Information System (MMIS) for the Bureau for Medical Services (BMS) located at 350 Capitol Street - Room 251, Charleston, WV 25301.

This award is per the following:

1. Request for Proposal (RFP) dated 04/24/2012.
2. Addendum No. 1 dated 06/07/2012.
3. Addendum No. 2 dated 06/12/2012.
4. Vendor's Proposal dated 06/21/2012.
5. Proposal clarification letters and Vendor's response dated 09/18/2012 - 09/21/2012 and 10/29/2012 - 11/05/2012.

By *Roena S. Fumillo*  
Bureau for Medical Services authorized signature

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Life of Contract: This contract becomes effective January 1, 2013 through December 31, 2022 at which time the contract may, upon mutual written consent, be renewed. Such renewals are for a period of up to one (1) year, with a maximum of two (2) one (1) year renewals, or until such reasonable time thereafter as is necessary to obtain a new contract. The "reasonable time" period shall not exceed twelve (12) months.

During the "reasonable time" period Vendor may terminate the contract for any reason upon giving the agency ninety (90) days written notice. Notice by Vendor of intent to terminate will not relieve Vendor of the obligation to continue to provide services pursuant to the terms of the contract.

Unless specific provisions are stipulated in the contract document, the terms, conditions, and pricing established are firm for the life of the contract.

Renewal: This contract may be renewed upon written consent of the spending unit and the Vendor, submitted to the Director of the DHHR Office of Purchasing thirty (30) days prior to the expiration date. Such renewals shall be in accordance with the terms and conditions of the original contract and shall be limited to two (2) one (1) year periods.

The order of precedence is:

1. The contract
2. Terms and conditions.
3. The RFP dated 04/24/2012.
4. Addendum No. 1 dated 06/07/2012.
5. Addendum No. 2 dated 06/12/2012.
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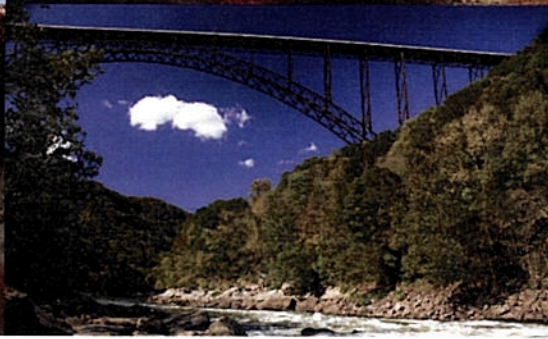
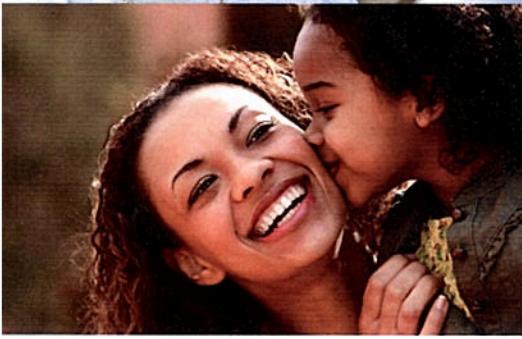
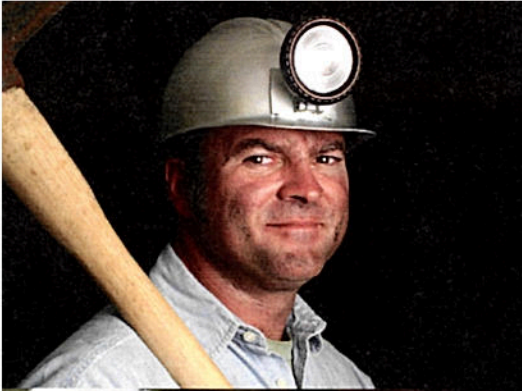
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					OPEN END
Renewals Remaining: Two (2).					





June 21, 2012

Folder 1 of 1

Cost  
Proposal Original

# Molina Medicaid Solutions

*Response to State of West Virginia Request for Proposal MED13006  
Medicaid Management Information System Re-procurement*





**Response to:**

The State of West Virginia  
Bureau for Medical Services  
Medicaid Management Information  
Systems (MMIS)  
Re-procurement  
Request for Proposal MED13006

**200 Oceangate, Suite 100  
Long Beach, CA 90802**

A handwritten signature in blue ink that reads "Norm Nichols".

---

**Norm Nichols**

President

Molina Medicaid Solutions

225.216.6010  
8591 United Plaza Boulevard  
Baton Rouge, LA 70809

06-13-12

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Date

Some of the information furnished in this proposal in response to RFP MED13006 is submitted in confidence and contain trade secrets and/or privileged or confidential information and such information shall only be disclosed for evaluation purposes. Provided that if a contract is awarded to this Proposer as a result of or in connection with the submission of this proposal, the State of West Virginia shall have the right to use or disclose the information therein to the extent provided in the Contract. This restriction does not limit the State of West Virginia's right to use or disclose information obtained from any source, including the Proposer, without restrictions. This information is proprietary or confidential and contains trade secret information that is privileged and is therefore exempt from disclosure under the provisions of West Virginia Code 29B-1-4. Pages containing such proprietary or confidential trade secret information are appropriately marked.








## SECRETARY'S CERTIFICATE

Molina Information Systems, LLC, a California limited liability company doing business as Molina Medicaid Solutions ("Molina Medicaid Solutions"), is the wholly owned subsidiary of Molina Healthcare, Inc., a Delaware corporation. I serve as the Senior Vice President- General Counsel of Molina Healthcare, Inc. and all of its subsidiaries, and am the Secretary of Molina Medicaid Solutions.

I hereby certify and affirm that Norman Nichols is the duly appointed President of Molina Medicaid Solutions, and has full power and authority to enter into binding contracts on behalf of Molina Medicaid Solutions.

Executed this 5<sup>th</sup> day of January, 2012.

  
\_\_\_\_\_  
Jeff Barlow, Senior Vice President, Secretary and General Counsel



## INTRODUCTION

Molina understands the critical assessment that the Bureau must perform to ensure that the overall bid price and individual schedules submitted by all vendors are correct and realistically provide for the services outlined in the RFP MED13006. It is the integrity and reliability of each vendor's bid price, as much as the price itself, which requires careful analysis. West Virginia should be able to rely on a price commitment from its selected vendor which is *equally realistic and certain*. The recent experiences of other states' MMIS implementations, including Alaska, New Hampshire, North Carolina, North Dakota, South Dakota, and Washington, stand as examples of what can transpire – post-selection budget uncertainties.

With proposing Health PAS, a proven COTS-based solution which is significantly compliant “right out of the box” as well as operational in three states, Molina provides West Virginia with realistic costing and price reliability. Molina's Health PAS meets the standard for maximizing West Virginia's price reliability while providing the State with a superior, CMS certified solution set to perform fiscal agent operations.

Most importantly, Health PAS continues to provide price reliability throughout the contract period since, by design, it can be readily reconfigured to reflect policy and benefit changes without writing new lines of programming code. Thus, when changes are required, BMS will experience the quicker, less costly “configuration” approach of Health PAS rather than the longer, more expensive “coding” approach of other systems in today's marketplace. No other vendor can offer the “configuration” versus “coding” advantages that Molina can.

Our overall pricing was developed by projecting operational staffing levels, technical capacity, system infrastructure, facility needs, and all other costs necessary to implement and operate a solution that meets or exceeds all RFP requirements. Molina has the distinct advantage of experience – knowing what it takes and how these costs apply to West Virginia. With our COTS-based solution, we have formulated an overall price that offers BMS a superior MMIS solution that will remain an industry leader into the future. We have included “economies of scale” cost savings attributed to the projected increase in Medicaid eligibles beginning in January, 2014 as a result of the Affordable Care Act of 2009.

### Phase 1 MMIS Replacement DDI and CMS Certification Planning Costs

A risk factor in evaluating the reliability and integrity of any vendor's pricing is the soundness of the DDI Phase approach. The Molina cost proposal reflects the high value we place on providing West Virginia with a seamless transition. We believe a seamless transition can only be accomplished by leveraging proven staff, partners, vendors, and software which are already in place and working well for BMS. Knowledge of the operations, understanding of West Virginia's benefit and program rules, and a lengthy historical perspective eliminates the learning curve (and associated pricing risk) that a new vendor inherently brings.

Molina developed a cost estimate for design, development, and implementation that encompassed a 20-month schedule. The estimate was constructed using similar implementation approaches developed for our recent Idaho and Maine MMIS implementations as well as the West Virginia 5010 project. This approach has as its framework the cost methodology and project management guidelines as referenced in the PMBOK 4<sup>th</sup> edition and realizes the inherent flexibility and configurability of our COTS-based solution. Our DDI estimate is based on an efficient replacement of the existing MMIS with an extremely attractive and realistic price that was developed using a bottoms-up basis and driven by the major variables that typically comprise an overall DDI project:

- Schedule
- Type and quantity of resources
- Data conversion complexity





- Infrastructure needs
- Operations-based costs.

2,268 of the 2,289 business and technical requirements can be configured which provides a significantly more predictable level of effort to estimate, preventing cost variances. Nothing drives cost overruns like a delayed implementation. Molina is committed to working closely with BMS to ensure a timely and successful Health PAS implementation. Our experience in West Virginia has provided invaluable lessons that we will leverage for our continued work in the State and consequently will save BMS staff a significant amount of time and money.

## **Phases 2a 2b, and 3 Routine Fiscal Agent Operations, CMS Certification, Close-Out and Turnover Costs**

Our routine fiscal agent operations costs are based on actual quantities of paper and EDI claims, correspondence, call center inquiries, enrollment applications, and other metrics that we have collected and reported on in our role as the current fiscal agent in West Virginia. Our operation is appropriately sized to handle the member volumes depicted in the cost sheets and not sized based on aggressive, alternative volumes that project to extremely low staffing models. We have taken into account the projected increases in volumes that will be attributable to the increases in the West Virginia Medicaid membership base. We conducted detailed productivity estimates to calculate how the increased member levels will drive staffing levels. Our MCO PMPM rates reflect the expectation that MCO members will not require as much operational support. We built into our business approach a plan to continuously improve our operation by achieving efficiencies and productivity, and we have passed the savings to BMS in the form of attractive PMPM rates over the life of the contract. This approach provides the benefit of effectively offsetting annual inflation factors that drive up costs over time.

We have included into the operations PMPM rates the requirement to periodically replace and refresh our technical infrastructure. Due to the number of years covered in the contract, we have incorporated two complete technical refreshes. These refreshes are in addition to the technical investment made during the DDI Phase to completely replace our current technical infrastructure. Furthermore, we have estimated supplemental refreshes of selected hardware more frequently based on overall reductions in technology cost over time and to ensure our operation is supported by an infrastructure that remains current through the life of the contract.

As required by RFP Section 4.1.14.2, we have estimated operations costs for year 1 and year 2 at zero dollars, and we have calculated a full year of operations beginning in year 3. Postage costs are considered a pass-through reimbursement and are not included in the cost proposal.

Operations costs to support the certification and turnover perform similar opportunities as well as the West Virginia RFP requirements. The estimated costs are reflected in the PMPM rates.

## **Phase 2c MMIS Modification and Enhancements Costs**

Our composite billing rate for MMIS modification and enhancements is based on the BMS-approved hours for systems analysts and programmers only. Our rates assume designated modification and enhancement work will be done at our Charleston facility as required by RFP Section 3.2.4, Project Facilities, and includes costs associated with general and administrative resources and travel.

## **Drug Rebate Optional Services Costs**

The costs associated with supporting the optional drug rebate services were estimated based on experience we have derived from our Florida Medicaid contractual history. Our rates for program management include drug rebate analyst resources to address current and historical drug rebate dispute resolution. Our rates for accounts receivable management are based on providing sufficient clerical staff





capable of handling drug manufacturers' rebate payments from receipt to posting. We acknowledge that the prices submitted for optional drug rebate services will be included in the cost bid scoring evaluation.

### **Total Not to Exceed Cost of Contract**

Our price proposed for Phases 1, 2, and 3 for each of the 10 base years of the contract and each of the two one-year contingency periods contains all direct and indirect costs including administrative, travel, training, and out-of-pocket expenses necessary to perform all services described in RFP Section 3.2. We understand that the total of these prices being offered will be used for the cost bid scoring evaluation.

### **Summary**

Molina provides West Virginia with realistic costing and price reliability based on the RFP requirements and our long-term, recent experience in West Virginia. Molina's Health PAS meets the standard for maximizing West Virginia's price reliability while providing the State with a superior, CMS certified solution set to perform fiscal agent operations for the life of the contract. Molina is pleased to provide this cost proposal to BMS and to continue our relationship.

## ATTACHMENT I: COST SUMMARY BID SHEET

Phase 1 Costs <i>(Phase 1. MMIS Replacement DDI)</i>					
Item	Total				
<b>Total Phase 1 Costs</b> <i>(See Appendix C: Deliverables, Milestones and Payments)</i>	<b>\$ 21,977,564.00</b>				
Phases 2a and 2b, and Phase 3 Costs <i>(Phase 2a. Routine Fiscal Agent Operations; Phase 2b. CMS Certification; Phase 3. Close-Out and Turnover)</i>					
Period	Estimated FFS Member Months	Estimated MCO Member Months	FFS PMPM Fee <sup>1</sup>	MCO PMPM Fee <sup>1</sup>	Total <sup>2</sup>
Year 1 <sup>3</sup>	172,477	165,853	NA <sup>3</sup>	NA <sup>3</sup>	NA <sup>3</sup>
Year 2 <sup>3</sup>	162,097	178,318	NA <sup>3</sup>	NA <sup>3</sup>	NA <sup>3</sup>
Year 3 <sup>3</sup>	174,545	213,255	\$ 5.77	\$ 2.54	\$ 18,585,508.20
Year 4	229,765	215,269	\$ 5.17	\$ 1.84	\$ 19,007,760.12
Year 5	231,419	217,313	\$ 5.08	\$ 1.81	\$ 18,827,340.60
Year 6	233,063	219,389	\$ 5.05	\$ 1.79	\$ 18,836,093.52
Year 7	234,696	221,496	\$ 4.99	\$ 1.76	\$ 18,731,592.00
Year 8	236,316	223,636	\$ 5.02	\$ 1.77	\$ 18,985,704.48
Year 9	237,925	225,808	\$ 5.16	\$ 1.81	\$ 19,636,865.76
Year 10	239,546	228,014	\$ 5.13	\$ 1.80	\$ 19,671,554.16
Contingency Year 1	241,177	230,254	\$ 5.04	\$ 1.76	\$ 19,449,349.44
Contingency Year 2	242,820	232,528	\$ 4.85	\$ 1.69	\$ 18,847,791.84
<b>Total Phases 2a, 2b, &amp; 3 Costs</b> <i>(Sum of Years 1 through 10 Totals + Contingency Years 1 and 2 Totals)</i>	<b>\$ 190,579,560.12</b>				

<sup>1</sup> Vendors are required to submit the PMPM rate in the FFS PMPM Fee and MCO PMPM Fee columns.

<sup>2</sup> Yearly Total calculated as follows:  
 $(Estimated\ FFS\ Member\ Months * FFS\ PMPM\ Fee * 12) + (Estimated\ MCO\ Member\ Months * MCO\ PMPM\ Fee * 12)$

<sup>3</sup> For purposes of proposal and evaluation, all vendors should estimate operations costs for Year 1 and Year 2 at zero dollars (\$0). In order to provide consistent evaluation of all cost bids, vendors should also assume a full year of operating cost beginning at Year 3.



**Phase 2c Costs**  
(Phase 2c. MMIS Modifications and Enhancements)

<b>Period</b>	<b>(A) All Inclusive Hourly Rate</b>	<b>(B) Maximum Hours</b>	<b>(C) Total</b> <i>(Column A * Column B)</i>
Year 1	\$ 0.00 / hr		N/A
Year 2	\$ 0.00 / hr		N/A
Year 3	\$ 94.00 / hr	<b>25,000</b>	\$ 2,350,000.00
Year 4	\$ 97.00 / hr	<b>25,000</b>	\$ 2,425,000.00
Year 5	\$ 100.00 / hr	<b>25,000</b>	\$ 2,500,000.00
Year 6	\$ 103.00 / hr	<b>25,000</b>	\$ 2,575,000.00
Year 7	\$ 106.00 / hr	<b>25,000</b>	\$ 2,650,000.00
Year 8	\$ 109.00 / hr	<b>25,000</b>	\$ 2,725,000.00
Year 9	\$ 112.00 / hr	<b>25,000</b>	\$ 2,800,000.00
Year 10	\$ 116.00 / hr	<b>25,000</b>	\$ 2,900,000.00
Contingency Year 1	\$ 119.00 / hr	<b>25,000</b>	\$ 2,975,000.00
Contingency Year 2	\$ 123.00 / hr	<b>25,000</b>	\$ 3,075,000.00
Year 3	N/A	N/A	\$ 50,000.00
Year 4	N/A	N/A	\$ 50,000.00
Year 5	N/A	N/A	\$ 50,000.00
Year 6	N/A	N/A	\$ 50,000.00
Year 7	N/A	N/A	\$ 50,000.00
Year 8	N/A	N/A	\$ 50,000.00
Year 9	N/A	N/A	\$ 50,000.00
Year 10	N/A	N/A	\$ 50,000.00
Contingency Year 1	N/A	N/A	\$ 50,000.00
Contingency Year 2	N/A	N/A	\$ 50,000.00
<b>Total Phase 2c Costs</b> <i>(Sum of Years 1 through 10 Totals + Contingency Years 1 and 2 Totals + 50,000 for each year 3 through 10 + 50,000 for Contingency Years 1 and 2 )</i>			<b>\$ 27,475,000.00</b>



**Optional Drug Rebate Services Costs**  
(Refer to Section 3.2.9.2)

Period	(A) All Inclusive Hourly Rate	(B) Maximum Hours	(C) Total (Column A * Column B)
Program Management Year 1	\$ 0.00 / hr		N/A
Program Management Year 2	\$ 0.00 / hr		N/A
Program Management Year 3	\$ 206.00 / hr	4,500	\$ 927,000.00
Program Management Year 4	\$ 218.50 / hr	4,500	\$ 983,250.00
Program Management Year 5	\$ 113.00 / hr	4,500	\$ 508,500.00
Program Management Year 6	\$ 116.00 / hr	4,500	\$ 522,000.00
Program Management Year 7	\$ 120.00 / hr	4,500	\$ 540,000.00
Program Management Year 8	\$ 123.50 / hr	4,500	\$ 555,750.00
Program Management Year 9	\$ 127.00 / hr	4,500	\$ 571,500.00
Program Management Year 10	\$ 131.00 / hr	4,500	\$ 589,500.00
Program Mgt Contingency Year 1	\$ 135.00 / hr	4,500	\$ 607,500.00
Program Mgt Contingency Year 2	\$ 139.00 / hr	4,500	\$ 625,500.00
Accounts Receivable Mgt Year 1	\$ 0.00 / hr	N/A	N/A
Accounts Receivable Mgt Year 2	\$ 0.00 / hr	N/A	N/A
Accounts Receivable Mgt Year 3	\$ 47.00 / hr	4,500	\$ 211,500.00
Accounts Receivable Mgt Year 4	\$ 49.00 / hr	4,500	\$ 220,500.00
Accounts Receivable Mgt Year 5	\$ 51.00 / hr	4,500	\$ 229,500.00
Accounts Receivable Mgt Year 6	\$ 53.00 / hr	4,500	\$ 238,500.00
Accounts Receivable Mgt Year 7	\$ 55.00 / hr	4,500	\$ 247,500.00
Accounts Receivable Mgt Year 8	\$ 57.00 / hr	4,500	\$ 256,500.00
Accounts Receivable Mgt Year 9	\$ 59.00 / hr	4,500	\$ 265,500.00
Accounts Receivable Mgt Year 10	\$ 60.00 / hr	4,500	\$ 270,000.00
Accounts Rec Mgt Contingency Year 1	\$ 62.00 / hr	4,500	\$ 279,000.00
Accounts Rec Mgt Contingency Year 2	\$ 65.00 / hr	4,500	\$ 292,500.00
<b>Total Optional Drug Rebate Services</b>	<b>\$ 8,941,500.00</b>		





**Total Not to Exceed Cost of Contract**

**Total Not to Exceed Cost of Contract**

*[Where Total Not to Exceed Cost of Contract = (Total Phases 1 Costs) + (Total Phases 2a, 2b, and 3 Costs) + (Total Phase 2c Costs) + (Optional Drug Rebate Services*

\$ 248,973,624.12

**Note:**

1. Member months estimates were developed based on the best information available at the time of the solicitation. The member months are to be used for purposes of cost proposal and evaluation only.
2. The cost proposal will be evaluated based on the Total Not to Exceed Cost of Contract. The cost bid should include all anticipated training, travel and related expenses including supplies and general administrative expenses.
3. The Total Hours referenced in the Optional Drug Rebate Services are for purposes of cost proposal and evaluation only.
4. Vendors **shall not** alter Attachment I, Cost Summary Bid Sheet, in any way without explicit acceptance by the Bureau. The Cost Summary Bid Sheet must be completed and submitted using the form provided. Attachment I will **not** be provided in electronic format (Excel, Word, etc.). The vendor may **not** recreate Attachment I.

**Authorized Vendor signature:**

*Norm Richard*

**Date**

06-13-12

If applicable, sign and submit the attached Resident Vendor Preference Certificate with the proposal. The Cost Proposal will be evaluated based on the total phases 2a, 2b, and 3 Costs for the ten base year period plus two additional one year contingency periods submitted on the Cost Summary Bid Sheet.



### 14.12.1.1 MED Purchasing Affidavit

**West Virginia Code §5A-3-10a states:** No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owned is an amount greater than one thousand dollars in the aggregate.

**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.

“Debtor” means any individual, corporation, partnership, association, Limited Liability Company, or any other form or business association owing a debt to the state or any of its political subdivisions. “Political subdivision” means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. “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.

**EXCEPTION:** The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this 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.

Under penalty of law for false swearing (West Virginia Code §61-5-3), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

**WITNESS THE FOLLOWING SIGNATURE**

Vendor’s Name: Molina Medicaid Solutions,

Authorized Signature: *Norm Dubold* Date: 6/13/2012

State of LOUISIANA, to-wit:

Taken subscribed and sworn to before me this 13 day of JUNE, 2012.

My Commission expires AT DEATH, 2012.

**AFFIX SEAL HERE**

**NOTARY PUBLIC**

*Carey E. Messina*



**CAREY E. MESSINA**  
NOTARY PUBLIC  
LA. BAR ROLL #31872  
STATE OF LOUISIANA  
My Commission Expires  
At Death





### 14.12.1.2 MED 96 Agreement Addendum

In the event of conflict between this addendum and the agreement, this addendum shall control:

1. **DISPUTES** – Any references in the agreement to arbitration or to the jurisdiction of any court are hereby deleted. Disputes arising out of the agreement shall be presented to the West Virginia Court of Claims.
2. **HOLD HARMLESS** – Any clause requiring the Agency to indemnify or hold harmless any party is hereby deleted in its entirety.
3. **GOVERNING LAW** – The agreement shall be governed by the laws of the State of West Virginia. The provision replaces any references to any other State's governing law.
4. **TAXES** – Provisions in the agreement requiring the Agency to pay taxes are deleted. As a State entity, the Agency is exempt from Federal, State, and local taxes and will not pay taxes for any Vendor including individuals, now will the Agency file any tax returns or reports on behalf of Vendor or any other party.
5. **PAYMENT** – Any references to prepayment are deleted. Payment will be in arrears.
6. **INTEREST** – Should the agreement include a provision for interest on late payments, the Agency agrees to pay the maximum legal rate under West Virginia law. All other references to interest or late charges are deleted.
7. **RECOUPMENT** – Any language in the agreement waiving the Agency's right to set-off, counterclaim, recoupment, or other defense is hereby deleted.
8. **FISCAL YEAR FUNDING** – Service performed under the agreement may be continued in succeeding fiscal years for the term of the agreement, contingent upon funds being appropriated by the Legislature or otherwise being available for this service. In the event funds are not appropriated or otherwise available for this service, the agreement shall terminate without penalty on June 30. After that date, the agreement becomes of no effect and is null and void. However, the Agency agrees to use its best efforts to have the amounts contemplated under the agreement included in its budget. Non-appropriation or non-funding shall not be considered an event of default.
9. **STATUTE OF LIMITATION** – Any clauses limiting the time in which the Agency may bring suit against the Vendor, lessor, individual, or any other party are deleted.
10. **SIMILAR SERVICES** – Any provisions limiting the Agency's right to obtain similar services or equipment in the event of default or non-funding during the term of the agreement are hereby deleted.
11. **ATTORNEY FEES** – The Agency recognizes an obligation to pay attorney's fees or costs only when assessed by a court of competent jurisdiction. Any other provision is invalid and considered null and void.
12. **ASSIGNMENT** – Notwithstanding any clause to the contrary, the Agency reserves the right to assign the agreement to another State of West Virginia agency, board, or commission upon thirty (30) days written notice to the Vendor and Vendor shall obtain the written consent of the Agency prior to assigning the agreement.
13. **LIMITATION OF LIABILITY** – The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages to a certain dollar amount or to the amount of the agreement is hereby deleted. Limitations on special, incidental or consequential damages are acceptable. In addition, any limitation is null and void to the extent that it precludes any action for injury to persons or for damages to personal property.



14. **RIGHT TO TERMINATE** – Agency shall have the right to terminate the agreement upon thirty (30) days written notice to Vendor. Agency agrees to pay vendor for services rendered or goods received prior to the effective date of termination.
15. **TERMINATION CHARGES** – Any provision requiring the Agency to pay a fixed amount or liquidated damages upon termination of the agreement is hereby deleted. The Agency may only agree to reimburse a Vendor for actual costs incurred or income sustained during the current fiscal year due to wrongful termination by the Agency prior to the end of any current agreement term.
16. **RENEWAL** – Any reference to automatic renewal is hereby deleted. The agreement may be renewed only upon mutual written agreement of the parties.
17. **INSURANCE** – Any provision requiring the Agency to insure equipment or property of any kind and name the Vendor as beneficiary or as an additional insured is hereby deleted.
18. **RIGHT TO NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the Agency does recognize a right to repossession with notice.
19. **ACCELERATION** – Any reference to acceleration of payments in the event of default or non-funding is hereby deleted.
20. **CONFIDENTIALITY** – Any provision regarding confidentiality of the terms and conditions of the agreement is hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act.
21. **AMENDMENTS** – All amendments, modifications, alterations, or changes to the agreement shall be in writing and signed by both parties. No amendments, modifications, alterations, or changes may be made to this addendum without the express written approval of the Purchasing Division and the Attorney General.

**ACCEPTED BY DHHR OFFICE OF  
PURCHASING:**

Spending Unit: DHHR Office of Purchasing  
 Signed: Robert Price  
 Title: Buyer  
 Date: 12/17/2012

**VENDOR:**

Company Name: Molina Medicaid Solutions  
 Signed: Adam Dechols  
 Title: President  
 Date: 06-13-12



**GENERAL TERMS & CONDITIONS  
PURCHASE ORDER/CONTRACT**

1. **ACCEPTANCE:** Seller shall be bound by this order and its terms and conditions upon receipt of this order.
2. **APPLICABLE LAW:** The laws of the State of West Virginia and the BMS Purchasing Manual shall govern all rights and duties under the Contract, including without limitation the validity of this Purchase Order/Contract.
3. **NON-FUNDING:** All services performed or goods delivered under BMS Purchas Orders/Contracts are to be continued for the terms of the Purchase Order/Contract, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods, the Purchase Order/Contract becomes void and of no effect after June 30.
4. **COMPLIANCE:** Seller shall comply with all federal, state and local laws, regulations and ordinance including, but not limited to, the prevailing wage rates of the WV Division of Labor.
5. **MODIFICATIONS:** This writing is the parties' final expression of intent. No modification of this order shall be binding unless agreed to in writing by the Buyer.
6. **ASSIGNMENT:** Neither this Order or any monies due, or to become due hereunder may be assigned by the Seller without the Buyer's consent.
7. **WARRANTY:** The Seller expressly warrants that the goods and/or services covered by this order will: {a} conform to the specifications, drawings, samples or other description furnished or specified by the BUYER; {b} be merchantable and fit for the purpose intended; and/or {c} be free from defect in material and workmanship.
8. **CANCELLATION:** The director of the DHHR Office of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
9. **SHIPPING, BILLING & PRICES:** Prices are those stated in this order. No price increase will be accepted without written authority from the Buyer. All goods or services shall be shipped on or before the date specified in the Order.
10. **LATE PAYMENTS:** Payment may only be made after the delivery of goods or services. Interest may be paid on late payments in accordance with the West Virginia Code.
11. **TAXES:** The State of West Virginia is exempt from the federal and state taxes and will not pay or reimburse such taxes.
12. **RENEWAL:** Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon the mutual written agreement of both parties.
13. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
14. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at [www.state.wv.us/admin/purchase/vrc/hipaa.htm](http://www.state.wv.us/admin/purchase/vrc/hipaa.htm) and is hereby made part of the agreement provided that the Agency meets the definition of a Cover Entity (45 CFR § 160.103) and will be disclosing Protected Health Information (45 CFR § 160.103) to the vendor.
15. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedure, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admiin/purchase/privacy/noticeConfidentiality.pdf>.
16. **LICENSING:** Vendors much be licensed and in good standing in accordance with any and all state and local laws and requirement 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 Insurance Commission, or any other state agency or political subdivision. Furthermore, the vendor must provide all necessary releases to obtain information to enable the Director or spending unit to verify that the vendor is licensed and in good standing with the above entities.