



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES**

Bureau of Procurement
Forum Place, 6th Floor
555 Walnut Street
Harrisburg, Pennsylvania 17101

March 16, 2009

TO ALL INTERESTED CONTRACTORS:

You are invited by the Commonwealth of Pennsylvania, Department of General Services (Department), to submit a proposal in response to the attached Invitation to Qualify (ITQ) for the procurement of Truck Mix Cement/Concrete and Cement/Concrete Products to the Commonwealth of Pennsylvania (Commonwealth). Those contractors that respond to this ITQ, who are qualified by the Department and receive an awarded contract, will be eligible to provide quotes for the procurement of Truck Mix Cement/Concrete and Cement/Concrete Products to the Commonwealth by submitting prices in response to Requests for Quotes (RFQs).

The Department will qualify contractors for the provision of Truck Mix Cement/Concrete and Cement/Concrete Products in this document. Those contractors who qualify through this ITQ process will receive a copy of the signed contract.

Sincerely,

Lori Vessella
Commodity Specialist
Bureau of Procurement

INVITATION TO QUALIFY (ITQ)

Commonwealth of Pennsylvania
Department of General Services

**PROCUREMENT OF TRUCK MIX CEMENT/CONCRETE AND CEMENT/CONCRETE
PRODUCTS**

Contract Enrollment Period:

The initial enrollment period will close **April 15, 2009**.

Enrollment for the remainder of the contract period will be accepted again starting **June 1, 2009** and will continue to be accepted at the address below through **November 1, 2013**.

Contact Person:

Lori Vessella, Commodity Specialist, Bureau of Procurement, (717) 705-5794.

Response Mailing Address:

Pennsylvania Department of General Services
Bureau of Procurement
Attn: Lori Vessella
555 Walnut Street, 6th Floor
Harrisburg, PA 17101
E-mail Address: LVessella@state.pa.us.

**WHEN MAILING YOUR RESPONSE, PLEASE ALLOW FOR SUFFICIENT TIME TO
PROCESS YOUR APPLICATION.**

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PART I

INSTRUCTIONS FOR COMPLETION OF PROPOSAL SUBMISSION

1. **Application Submission:** Your submitted response **must** be completed on the documents provided and **must** include the completed Contract Signature Page. **All ITQ contract documentation must be returned to the Issuing Office.** A copy of all documents should be made for your records.
2. **Completion of the Signature Page:** The contractor's signature shall be in ink. If any information is handwritten or changed in any manner, it must be referenced as shown on the Contract Signature Page, (page 19) and the contractor's authorized signatory must initial and date immediately following the statement.

Except for signatures, please print legibly or type all required information.

The contractor must initial and date any error made while completing information. **Do not alter the form.** Adding anything other than information specifically required by the Department may be interpreted as a contractor "conditioning" the ITQ (which may cause the ITQ to be rejected by the Department).

All contractors must be registered on the Pennsylvania Supplier Portal. Contractors can register at the following website <https://www.pasupplierportal.state.pa.us/irj/portal/anonymous/>.

- a. **For Corporations:** Only the signature of a senior officer is required. Senior officers include Chairman, President, Vice-President, Senior Vice-President, Executive Vice-President, Assistant Vice-President, Chief Executive Officer and Chief Operating Officer.
- b. **For Limited Liability Company (LLC):** The signature of the Manager or Member is required. No other titles will be accepted unless the contractor provides proof that the signatory has been delegated signature authority.
- c. **For Sole Proprietorships:** The signature of the Owner is required. A sole proprietorship doing business as (d/b/a) or trading as (t/a) another name—should indicate such. For example:
John Brown d/b/a or t/a
Brown's Janitorial Service
- d. **For Partnerships:** The signature of the General Partner is required. If signature authority has been delegated by any required principal (as cited above) to another official, (i.e., the Office Manager, the Comptroller, the Sales Manager, etc.), a copy of the resolution (for corporations) or power of attorney (for Partnerships and Sole Proprietorships) signed by the required principal delegating that signature authority to that specific individual must be provided prior to execution of the Contract. For a municipality or an authority, the delegation document must be either a resolution of the governing body or delegation provided by the organization's by-laws.

The ITQ may be rejected if not signed by an individual authorized to contractually bind the organization.

3. **Areas to be covered by the contract:** This is a contract for use by the Commonwealth to be used to obtain Truck Mix Cement/Concrete and Cement/Concrete Products for any of their statewide requirements.

4. **Completion of the Truck Mix Cement/Concrete and Cement/Concrete Products – Counties of Interest:** By placing an (X) in the boxes on the Truck Mix Cement/Concrete and Cement/Concrete Products, Counties of Interest, suppliers indicate which counties they wish to supply Truck Mix Cement/Concrete and Cement/Concrete Products.

Additional counties may be added upon written request from the supplier and concurrence from the Commodity Specialist.

Additional materials that are reasonably construed to be within the scope of ITQ may be added to the ITQ by the Department of General Services Commodity Specialist.

All materials are to be delivered in accordance with the Department of Transportation PUB 408 current edition. The Counties of Interest form assists in the identification of suppliers within a geographical location.

PART II

INFORMATION REQUIRED FROM CONTRACTORS

1. **Statement of Qualifications:** Contractors must submit properly executed Contract Signature Page and a county interest page.
2. **Mandatory Requirements:** By executing this Contract, the contractor acknowledges the following:
 - a. You have submitted a complete response to this ITQ.
 - b. Your proposal contains the Contract Signature Page with an **ORIGINAL SIGNATURE** of an official of your company authorized to bind your company to its provisions and the provisions of this ITQ.
 - c. You agree that the contents of your proposal will become part of any Truck Mix Cement/Concrete and Cement/Concrete Products contract that may be entered into as a result of this ITQ and any subsequent RFQs.
 - d. You agree that your proposal will remain valid during the entire contract period.
 - e. You agree that, unless your proposal arrives by 1:30 PM on April 15, 2009, it may not be considered for the full contract period beginning May 1, 2009.
 - f. If your firm is selected for receipt of the Request for Quote(s), you agree to comply with the contract terms and conditions of this ITQ and to furnish the required materials and equipment as specified in the RFQ.
 - g. You agree that you must maintain your status as an approved contractor in order to remain eligible to receive an RFQ.

PART III
CRITERIA FOR QUALIFICATION

1. **Mandatory Requirements:** The Department will review proposals to determine if each contractor complies with the Mandatory Requirements found in Part II, Paragraph 2. A contractor's non-acceptance of, or noncompliance with any of these mandatory requirements shall result in the disqualification of the proposal.
2. **Responsible and Responsive:** The Department will then evaluate proposals to determine contractor responsibility and responsiveness.
3. **Award of Contracts:** All responsible and responsive contractors that have met the Mandatory Requirements found in Part II, Paragraph 2, and which meet the above qualifications, will receive a signed Contract and are eligible to receive RFQs.

Prequalification: Truck Mix Cement/Concrete and Cement/Concrete Products must be furnished from a source approved by the Pennsylvania Department of Transportation, Materials and Testing Division, 82 Dogwood Avenue, Harrisburg, PA 17110, prior to time of enrollment and identified as it is listed in the Pennsylvania Department of Transportation Bulletin #42 and Bulletin 15, if applicable.

Failure to maintain approval in the Pennsylvania Department of Transportation Bulletin # 42 and Bulletin 15, if applicable, will result in suspension of the Supplier from the ITQ until such time as when approval has been re-secured.

Information on the Pennsylvania Department of Transportation, Materials and Testing Division, Bulletin approval process is available at:

<http://www.dot.state.pa.us/Internet/ConstrBulletins.nsf/frmBulletin42?openframeset>

Additional materials that are reasonably construed to be within the scope of ITQ may be added to the ITQ by the Department of General Services Commodity Specialist.

Additional counties and sources of supply may be added to the ITQ by the Department of General Services Commodity Specialist

**PART IV
SPECIAL TERMS AND CONDITIONS**

1. **Purpose:** The purpose of this Invitation to Qualify (ITQ) is to qualify responsible and responsive contractors for the procurement of Truck Mix Cement/Concrete and Cement/Concrete Products for the Commonwealth of Pennsylvania for various locations throughout the Commonwealth of Pennsylvania.

This ITQ will result in a contract that is the first step in a two-step procurement process. Only those contractors that respond to this ITQ and that the Department of General Services (“Department”) determines to be qualified (“Qualified Contractors”) will be eligible to participate in the second step.

The second step involves the issuance of Requests for Quotes (“RFQ”) to the Qualified Contractors. Through this two-step process, the Commonwealth will offer Qualified Contractors the opportunity to submit prices for specific needs for Truck Mix Cement/Concrete and Cement/Concrete Products to be supplied to Commonwealth locations. Materials for PennDOT must be provided in conformance with PennDOT, Publication 408 current edition and all supplements thereto. All suppliers who can provide materials in conformance with PennDOT, Publication 408 current edition will receive an RFQ.

The Qualified Contractors selected through the RFQ process (“Selected Contractors”) for procurements in excess of \$5,000 will receive a Purchase Order and will supply materials and equipment if necessary to meet specific requirements of the Commonwealth as indicated in the RFQ.

This ITQ is required on procurements of Truck Mix Cement/Concrete and Cement/Concrete Products. Procurements over \$5,000 will be made by issuance of a Purchase Order. Procurements \$5,000 and less may be made using the Commonwealth Purchasing Card. The Commonwealth may issue blanket orders covering a quantity used over a period of time.

Non-PennDOT users of this contract may procure materials not meeting Publication 408 requirements upon that Agency’s specific request.

Additional materials that are reasonably construed to be within the scope of ITQ may be added to the ITQ by the Department of General Services Commodity Specialist.

Additional counties and sources of supply may be added to the ITQ by the Department of General Services Commodity Specialist

2. **Issuing Office:** This ITQ is issued for Commonwealth using agencies by the Department’s Bureau of Procurement. The Issuing Office is the sole point of contact in the Department for this ITQ. Please refer all inquiries to:

Lori Vessella, Commodity Specialist
Bureau of Procurement
555 Walnut Street, 6th Floor
Harrisburg, Pennsylvania 17101
Telephone No. (717) 705-5794
E-Mail: L.Vessella@state.pa.us

3. **Scope:** This ITQ contains instructions for preparing and submitting a proposal, mandatory requirements to be eligible for consideration, contract terms and conditions, COSTARS Response, Contract Signature page and a Counties of Interest page.
4. **Proposals:** To be considered, a proposal must consist of a complete response using the format provided in Part II of this ITQ. The Contract Signature Page must be included with the proposal and have an original signature of an official authorized to bind the bidder to the provisions of the proposal and ITQ. The contents of the proposal of a Qualified Contractor and this ITQ will become contractual obligations when the contract is executed. For this ITQ, the proposal, as submitted, must remain valid during the entire execution process.
5. **Bid Security:** Contractors are not required to submit bid security with their proposals. However, performance security may be required from the Selected Contractor. When performance security is required, the requirements will be set forth in the RFQ.
6. **Addenda to the ITQ:** If it becomes necessary to revise any part of this ITQ, addenda will be posted to the Department's website <http://www.emarketplace.state.pa.us> for viewing by all contractors who downloaded the original ITQ.
7. **Alternate Proposals:** The Department will not accept alternate proposals. Alternate proposals are those that are provided in a form other than that specified by the Department. The Department will not accept proposals wherein a contractor alters any of the forms provided in the application.
8. **Rejection of Proposals:** The Department reserves the right to reject any and all proposals received as a result of this ITQ.
9. **Incurring Costs:** The Department is not liable for any costs or expenses incurred in the preparation and submission of the proposals.
10. **Submission Due Date:** The initial submission deadline for this ITQ is 1:30 PM on April 15, 2009. It is in the best interest of all contractors to submit the required information by the initial submission date in order to qualify for the full contract period.

Enrollment for the remainder of the contract period will be accepted again starting June 1, 2009.

To be considered for RFQ's during the initial enrollment period, all required documentation must be received at the address below no later than 1:30 PM, April 15, 2009. Responses **MUST** be delivered or mailed to the address below:

Department of General Services
Bureau of Procurement
Attn: Bid Room
555 Walnut Street – Forum Place – 6th Floor
Harrisburg PA 17101-1914

It is the responsibility of each contractor to ensure that its proposal is received at the Proposal Receipt Location prior to the Response Date and Time regardless of medium used. If a contractor decides to mail its proposal, the contractor should allow adequate time for delivery.

The Department may solicit additional contractors to be qualified for this ITQ. In no event will a contractor be permitted to submit quotes until the contractor has been qualified through the ITQ process and has received a fully executed contract.

11. **Definitions:** The following definitions apply to the words and phrases used in this Part, unless the text or usage clearly indicates otherwise:

Request For Quotes (RFQs): A document that describes the required materials, and operators, if applicable, and provides interested Qualified Contractors with sufficient information to enable them to prepare and submit quotes. At the Commonwealth's discretion, RFQs may be issued through mail or facsimile or electronic mail.

Contract: The contract executed as a result of this ITQ.

Contractor: The Qualified Contractor(s) selected as a result of the RFQ to furnish Truck Mix Cement/Concrete and Cement/Concrete Products to meet the requirements of Commonwealth locations.

12. **Contractor Duties:** Each Contractor, subject to the terms and conditions set forth in the Contract, the RFQ, and the Purchase Order, shall furnish Truck Mix Cement/Concrete and Cement/Concrete Products.

a) The Contractor shall be paid only for the materials as specified in the RFQ and then awarded on the Purchase Order issued by the Commonwealth.

b) It is understood that prices quoted and awarded are at FOB Destination terms to include all delivery, set-up, shipping and handling costs, unless otherwise specified in the RFQ.

c) Materials must pass on-site receiving inspections to ensure compliance with minimum specification requirements. If material is rejected in an inspection, the contractor shall receive no reimbursement.

13. **Term:** The Contract shall begin on May 1, 2009 or the date of the Contractor's receipt of the fully executed contract if later, and expire on April 30, 2014. In addition, the Contract or any part of the Contract may be renewed for one additional five-year term by mutual agreement of the Department and the contractor(s).

14. **Contractor Selection:** Qualified Contractors will be selected for receipt of an RFQ from the list of Qualified Contractors on the Invitation to Qualify. When the Commonwealth requests quotes, all Qualified Contractors who can provide the materials in accordance with the Department of Transportations PUB 408 (latest edition) will be invited to submit a quote.

<http://www.dot.state.pa.us/Internet/Bureaus/pdDesign.nsf/ConstructionSpecs408and7?readForm>

15. **Request For Quote (RFQ):** For requirements in excess of \$5000, the Commonwealth will issue a Request for Quote to those suppliers on the ITQ who can provide the materials in accordance with the Department of Transportations PUB 408 (latest edition). The Request for Quote will include, but not be limited to, the type of material, quantity, delivery location, other special terms, conditions and specifications, and bid response requirements. Requests for quotes may be issued on an as-needed basis through mail or facsimile or electronic mail.

For requirements under \$5,000, the Commonwealth will contact at least one supplier on the ITQ who can provide the materials in accordance with the Department of Transportations PUB 408 (latest edition) for a quote by phone, facsimile or electronic mail.

Contractors must respond to each RFQ even with only a “NO BID.” Contractors that fail to respond to five (5) successive RFQs may be removed from the Contract.

RFQs responses must be signed by an authorized signatory of the company.

16. **Quote/Bid:** Contractors must submit quotes by the date and time specified in each RFQ to be considered for award. All prices are firm and must be prepared and submitted in accordance with the special terms and conditions of the request for quote.

17. **Award:** For requirements over \$5,000, the Commonwealth will issue a Purchase Order against the Contract to obtain the materials. This order will constitute authority to furnish the equipment and materials must be used when invoicing. Each RFQ and/or Purchase Order will be deemed to incorporate the terms and conditions set forth in this Contract.

For awards under \$5,000 the Commonwealth may issue a purchase order or may elect to pay via Commonwealth Purchasing Card.

18. **Debriefing Conference:** Contractors that are not qualified by the Department to participate will be notified and will be given an opportunity to be debriefed. The purpose of the debriefing is to provide information that may assist the individual contractors in preparing better quotes in the future. The Issuing Office will schedule the date, time and location of any and all debriefing conferences.

19. **Protest Procedures:** The protest procedures are set forth on the Department’s website at <http://www.dgs.state.pa.us/procurement>. Any protest arising from the award or non-award of a Contract by DGS as a result of this ITQ must be filed with the DGS Director for Procurement. Any protest arising from an RFQ or an award as a result of an RFQ issued by an Agency must be filed with the Secretary of that Agency.

20. **Claims:** Any claims against the Commonwealth must be filed in accordance with Paragraph 21 (Contract Controversies) of the *Standard Contract Terms and Conditions for Department of General Services Statewide Contracts for Supplies – SAP, GSPUR-12E (SAP), Rev. 12/17/07*. If a claim results from a Purchase Order based upon an RFQ issued by a using agency, the claim must be filed with the using agency. If such a claim is filed with DGS, it will be referred to the using agency for resolution.

21. **Installation:** In the event the ordering agency requires installation of the material, the agency should negotiate an installation price with the awarded supplier and add it to the purchase order as a separate line item. If installation is required certain statutory provisions maybe required based upon the total cost of the material and type of installation. The following chart indicates what clauses would be applicable based upon the total cost of the purchase order for materials and installation. The text of the clauses follows.

Total Dollar Value of the Purchase Order for Material and Installation	Applicable Clauses
\$0 to \$24,999	<ul style="list-style-type: none"> • Domestic Workforce Utilization Certification • Steel Products Procurement Act “A” • Prohibition Against the Use of Certain Steel and Aluminum Products • Insurance
\$25,000 to \$99,000	<ul style="list-style-type: none"> • Domestic Workforce Utilization Certification • Steel Products Procurement Act “A” • Prohibition Against the Use of Certain Steel and Aluminum Products • Insurance • Prevailing Minimum Wage • Performance Bond (Total Purchase Order Value Not Exceeding \$100,000)
\$100,000 and greater	<ul style="list-style-type: none"> • Domestic Workforce Utilization Certification • Steel Products Procurement Act “A” • Prohibition Against the Use of Certain Steel and Aluminum Products • Insurance • Prevailing Minimum Wage • Performance & Payment Bonds (Total Purchase Order Exceeding \$100,000)

Domestic Workforce Utilization Certification: To the extent that any services, such as design and consulting services could be performed outside of the geographical boundaries of the United States, the Contractor will be required to certify that those services will be performed exclusively within the geographical boundaries of the United States or specify the percentage of the direct labor that will be performed outside of the United States. The certification form will be included with the written solicitation for quotes and must be completed by the Contractor. The using agency will use the certification in making a best value selection.

Steel Products Procurement Act “A”: In the performance of any contract awarded pursuant to this invitation to bid, the contractor, subcontractors, materialmen, or suppliers shall use only Steel Products, rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. Steel Products include not only Cast Iron Products but also Machinery and Equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery, except electrical) and 37 (transportation equipment) and made of, fabricated from, or containing steel components. If a product contains both foreign and United States steel, such products shall be determined to be a United States Steel product only if at least 75% of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of Public Law 97-424 (96 Stat. 2136).

When unidentified steel products are supplied under a contract, before any payment will be made, the contractor must provide documentation including, but not limited to, invoices, bills of lading and mill certification that the steel was melted and manufactured in the United States. If a steel product is identifiable from its face, the contractor must submit certification which satisfies the using agency that the contractor has fully complied with this provision. The Department shall not provide for or make any payment to any person who has not complied with the Act. Any such payments made to any person by the Department which should not have been made as a result of the Act shall be recoverable directly from the contractor, subcontractor, manufacturer or supplier who did not comply with the Act.

In addition to the withholding of payments, any person who willfully violates any of the provisions of the Act shall be prohibited from submitting any bids to any public agency for a period of five (5) years from the date of the determination that a violation has occurred. In the event the person who violates the provisions of the Act is a subcontractor, manufacturer or supplier, such person shall be prohibited from performing any work or supplying any materials to a public agency for a period of five (5) years from the date of the determination that a violation has occurred.

The contractor shall include the provisions of the Steel Products Procurement Act in any subcontract and supply contract, so that the provisions of the Act shall be binding upon each subcontractor and supplier.

Prohibition Against The Use Of Certain Steel And Aluminum Products: In accordance with the Trade Practices Act of July 23, 1968 P.L. 686 (71 P.S. Section 773.101 et seq.), the contractor cannot and shall not use or permit to be used in the work any aluminum or steel products made in a foreign country which is listed below as a foreign country which discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Brazil, South Korea, Spain and Argentina have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted.

1. **BRAZIL:** Welded carbon steel pipes and tubes; carbon steel wire rods; tool steel; certain steel products, including hot-rolled stainless steel bar; stainless steel wire rod and cold-formed stainless steel bar; pre-stressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet and cold-rolled carbon steel sheet.

2. **SPAIN:** Certain stainless steel products, including stainless steel wire rod, hot-rolled stainless steel bars and cold-formed stainless steel bars; pre-stressed concrete steel wire strands certain steel products, including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel bars and cold-formed carbon steel bars.

3. SOUTH KOREA: Welded carbon steel pipes and tubes; hot-rolled carbon steel plate; hot-rolled carbon steel sheet and galvanized steel sheet.
4. ARGENTINA: Carbon steel wire rod and cold-rolled carbon steel sheet.

Penalties for violations of this paragraph may be found in the Trade Practices Act, which penalties include becoming ineligible for public works contracts for a period of three years.

NOTE:

THIS PROVISION IN NO WAY RELIEVES THE CONTRACTOR OF ITS RESPONSIBILITY TO COMPLY WITH THOSE PROVISIONS OF THIS INVITATION TO BID WHICH PROHIBIT THE USE OF FOREIGN-MADE STEEL AND CAST IRON PRODUCTS.

Insurance - Contractor shall purchase and maintain at its expense the following types of insurance, issued by companies acceptable to the Department and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania.

- a. Worker's Compensation Insurance for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project in accordance with the Worker's Compensation Act of 1915 and any supplements or amendments thereof.
- b. Public liability and property damage insurance to protect the Commonwealth, the Contractor, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property, including loss of use resulting from any property damage, which may arise from operations under this contract whether such operation be by the Contractor, by any subcontractor or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than \$500,000 each person and \$2,000,000 each occurrence, personal injury and property damage combined. Such policies shall be occurrence rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured. The insurance shall not contain any endorsements or any other form designed to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to the work performed for the Commonwealth.
- c. Prior to commencement of work under this contract, the Contractor shall provide the Department with current certificates of insurance. These certificates shall contain a provision that coverages afforded under the policies will not be cancelled or changed until at least thirty (30) days' written notice has been given to the Department.
- d. Paragraph c. to be added to above when the purchase requisition calls for a complete in place where the vendor is using motor vehicles on Commonwealth Highways/property to apply the product.

e. Comprehensive Automobile Liability Insurance to protect the Commonwealth and the Contractor from claims for damages for personal injury (including bodily injury or death) and damage to property, including loss of use resulting from any property damage, which may arise from the use of Contractor owned or leased vehicles in the performance of this contract whether such operation be by the Contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than \$500,000 each person and \$2,000,000 dollars each occurrence, personal injury and property damage combined. Such policies shall be occurrence rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured.

Prevailing Minimum Wage: The contract with the awarded vendor is subject to the provisions, duties, obligations, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. Section 165-1 ET SEQ., which is incorporated herein by reference as if fully set forth herein. The contractor shall pay no less than the wage rates as determined by the Secretary of Labor and Industry (hereinafter referred to in this paragraph as "Secretary") for each craft or classification of all workmen needed to perform this contract during the term hereof for the locality in which the work is to be performed. In compliance with said Pennsylvania Prevailing Wage Act, the Prevailing Minimum Wage Predetermination, as approved by the Secretary, is attached hereto and made a part hereof.

A. The provisions of this paragraph shall apply to all work performed on the contract by the contractor and to all work performed on the contract by all subcontractors. The contractor shall insert in each of his subcontracts all of the stipulations contained in these required provisions and such other stipulations as may be required.

B. No workmen may be employed on the public work except in accordance with the classifications set forth in the decisions of the Secretary. In the event that additional or different classifications are necessary, the procedure set forth in section 7 of the regulations shall be followed.

C. All workmen employed or working on the public work shall be paid unconditionally, regardless of whether any contractual relationship exists or the nature of any contractor, subcontractor and workmen, not less than once a week without deduction or rebate, on any account, either directly or indirectly, except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in the contract, the Act or the Regulations shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary to any workman or public work.

D. The contractor and each subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of any changes thereof, in a prominent and easily accessible place or places at the site of the work and at such place or places used by them to pay workmen their wages. The posted notice of wage rates must contain the following information:

- a. Name of project.
- b. Name of public body of which it is being constructed.
- c. The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determinations for the particular project.
- d. The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.

- e. A statement advising workmen that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the contractor and/or subcontractor are not complying with the act or the regulations in any manner whatsoever, they may file a protest with the Secretary of Labor and Industry. Any workmen paid less than the rate specified in the contract shall have a civil right of action for the difference between the wage paid and the wages stipulated in the contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.
- E. The contractor and all subcontractors shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day, and the actual hourly rate of wage paid (including employee benefits) to each workman employed by him in connection with the public work and such record must include any deductions from each workman. The record shall be preserved for two years from the date of payment and shall be open at all reasonable hours to the inspection of the public body awarding the contract and to the Secretary or his duly authorized representatives.
- F. Apprentices shall be limited to such numbers as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with the provisions of the Apprenticeship and Training Act approved July 14, 1961 (Act No. 304) and the Rules and Regulations issued pursuant thereto shall be employed on the public work project. Any workman using the tools of a craft who does not qualify as an apprentice within the provisions of this subsection shall be paid the rate predetermined for journeymen in that particular craft and/or classification.
- G. Wages shall be paid without any deductions except authorized deductions. Employers not parties to a contract requiring contributions for employee benefits which the Secretary has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workmen.
- H. Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and the Regulations, regardless of the average hourly earnings resulting therefrom.
- I. Each contractor and each subcontractor shall file a statement each week and a final statement at the conclusion of the work on the contract with the using agency, under oath, and in form satisfactory to the Secretary, certifying that all workmen have been paid wages in strict conformity with the provisions these requirements. If any wages remain unpaid, the amount of wages due and owing to each workman respectively shall be included in the statement. A copy of the form entitled "Contractor's or Subcontractor's Weekly Payroll Certification for Public Works Projects" is attached hereto.

Before final payment is made, a final wage certification must be submitted by all contractors and subcontractors.

Performance Bond (Total Purchase Order Exceeding \$100,000): The awarded contractor must furnish within ten (10) days after award of the purchase order a performance bond at fifty percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The bond shall be solely for the protection of the contracting body which awarded the contract.

Failure to furnish the required performance bond within the required ten (10) days time frame shall be considered a failure to perform a contractual obligation which may result in termination of the purchase order and award to another bidder. In the event of termination and re-award for failure to provide payment and performance bonds, the contractor shall be responsible for any increase in cost to the Commonwealth. Where the contractor does not comply with the requirements of the purchase order, the amount of the performance bond shall be paid to the Commonwealth as liquidated damages for the contractor's failure to comply, or the Commonwealth may, at its sole option, sue the contractor or its surety for the damages it has suffered for any breach of contract.

Performance & Payment Bonds (Total Purchase Order Exceeding \$100,000): The awarded contractor must furnish within ten (10) days after award of the purchase order the following bonds:

(1) A performance bond at one hundred percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The bond shall be solely for the protection of the contracting body which awarded the contract.

(2) A payment bond at one hundred percent of the contract amount. The bond shall be solely for the protection of claimants supplying labor and materials to the awarded contractor, or to any of its subcontractors, in the performance of the work provided for in the contract, and shall be conditioned on the prompt payment for material furnished or labor supplied or performed in the performance of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for period when the equipment rented is actually used at the site.

Failure to furnish the required performance and payment bonds within the required ten (10) days time frame shall be considered a failure to perform a contractual obligation which may result in termination of the purchase order and award to another bidder. In the event of termination and re-award for failure to provide payment and performance bonds, the contractor shall be responsible for any increase in cost to the Commonwealth. Where the contractor does not comply with the requirements of the purchase order, the amount of the performance bond shall be paid to the Commonwealth as liquidated damages for the contractor's failure to comply, or the Commonwealth may, at its sole option, sue the contractor or its surety for the damages it has suffered for any breach of contract.

22. **Right to Know Law**

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, applies to this Contract.

b. Unless the Contractor provides the Commonwealth, in writing, with the name and contact information of another person, the agency shall notify the Contractor using the Contractor information provided by the Contractor in SRM [*or* "the legal contact information provided in this Contract"] if the agency needs the Contractor's assistance in any matter arising out of the Right to Know Law ("RTKL"). The Contractor shall notify the agency in writing of any change in the name or the contact information within a reasonable time prior to the change.

c. Upon notification from the Commonwealth that the Commonwealth requires the Contractor's assistance in responding to a RTKL request for records in the Contractor's possession, the Contractor shall provide the Commonwealth, within fourteen (14) calendar days after receipt of such notification, access to, and copies of, any document or information in the Contractor's possession which arises out of the Contract that the Commonwealth requests ("Requested

Information”) and provide such other assistance as the Commonwealth may request in order to comply with the RTKL. If the Contractor fails to provide the Requested Information within fourteen (14) calendar days after receipt of such request, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.

d. The Commonwealth’s determination as to whether the Requested Information is a public record is dispositive of the question as between the parties. Contractor agrees not to challenge the Commonwealth’s decision to deem the Requested Information a Public Record. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, the Contractor will immediately notify the Commonwealth, and will provide a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL within seven (7) calendar days of receiving the request. If, upon review of the Contractor’s written statement, the Commonwealth still decides to provide the Requested Information, Contractor will not challenge or in any way hold the Commonwealth liable for such a decision.

e. The Commonwealth will reimburse the Contractor for any costs associated with complying with this provision only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

f. Contractor agrees to abide by any decision to release a record to the public made by the Office of Open Records, or by the Pennsylvania Courts. The Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth’s disclosure of Requested Information pursuant to the RTKL. Contractor’s duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

23. **COSTARS Response**

COSTARS Purchasers. Section 1902 of the Commonwealth Procurement Code, 62 Pa.C.S. § 1902 (“Section 1902”), authorizes local public procurement units and state-affiliated entities (together, “COSTARS Purchasers”) to participate in Commonwealth procurement contracts that the Department of General Services (“DGS”) may choose to make available to COSTARS Purchasers. DGS has identified this Contract as one suitable for COSTARS Purchaser participation.

A. Only those COSTARS Purchasers registered with DGS may participate as COSTARS Purchasers in a Commonwealth contract. Several thousand COSTARS Purchasers are currently registered with DGS; therefore, the Contractor agrees to permit only to DGS-registered COSTARS members to make COSTARS purchases from this Contract.

1. A “local public procurement unit” is:
 - Any political subdivision;
 - Any public authority;
 - Any tax exempt, nonprofit educational or public health institution or organization;
 - Any nonprofit fire, rescue, or ambulance company; and

To the extent provided by law, any other entity, including a council of governments or an area government that expends public funds for the procurement of supplies, services, and construction.

2. A state-affiliated entity is a Commonwealth authority or other Commonwealth entity that is not a Commonwealth agency. The term includes the Pennsylvania Turnpike Commission, the Pennsylvania Housing Finance Agency, the Pennsylvania Municipal Retirement System, the Pennsylvania Infrastructure Investment Authority, the State Public School Building Authority, the Pennsylvania Higher Educational Facilities Authority and the State System of Higher Education.

B. COSTARS Purchasers have the option to purchase from a Contract awarded under this procurement, from any DGS contract established exclusively for COSTARS Purchasers in accordance with the requirements of Section 1902, from any other cooperative procurement contracts, or from their own procurement contracts established in accordance with the applicable laws governing such procurements. The Contractor understands and acknowledges that there is no guarantee that any prospective COSTARS Purchaser will place an order under this Contract, and that it is within the sole discretion of the registered COSTARS Purchaser whether to procure from this Contract or to use another procurement vehicle.

C. DGS is acting as a facilitator for COSTARS Purchasers who may wish to purchase under this Contract. Registered COSTARS Purchasers who participate in this Contract and issue purchase orders (“POs”) to Contractors are third party beneficiaries who have the right to sue and be sued for breach of this contract without joining the Commonwealth or DGS as a party. The Commonwealth will not intervene in any action between a Contractor and a Purchaser unless substantial interests of the Commonwealth are involved.

D. Registered COSTARS Purchasers electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.

E. The Contractor shall furnish to the DGS COSTARS Program Office a quarterly electronic Contract sales report detailing the previous quarter’s Contract purchasing activity, using the form and in the format prescribed by DGS. The Contractor shall submit its completed quarterly report no later than the fifteenth calendar day of the succeeding Contract quarter.

1. Until such time as DGS may provide the Contractor written notice of automated report filing, the Contractor shall either e-mail the reports to GS-PACostars@state.pa.us or send the reports on compact disc via US Postal Service to the DGS COSTARS Program Office, Bureau of Procurement, 6th Floor Forum Place, 555 Walnut Street, Harrisburg, PA 17101. When DGS has instituted automated reporting, the Contractor shall comply with DGS’s written notice and instructions on automated Contract reports. DGS will provide these instructions with sufficient advance time to permit the Contractor to undertake automated reporting.

2. The Contractor shall include on each report the Contractor’s name and address, the Contract number, and the period covered by the report. For each PO received, the Contractor shall include on the report the name of each COSTARS-Registered Purchaser that has used the Contract along with the total dollar volume of sales to the specific Purchaser for the reporting period.

3. DGS may suspend the Contractor's participation in the COSTARS Program for failure to provide the Quarterly Sales Report within the specified time.

F. Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at www.dgs.state.pa.us/costars.

1. If the Contractor is aware of any qualified entity not currently registered and wishing to participate in the COSTARS Program, please refer the potential purchaser to the DGS COSTARS Website at www.dgs.state.pa.us/costars, where it may register by completing the online registration form and receiving DGS confirmation of its registration. To view a list of currently-registered COSTARS member entities, please visit the COSTARS website.

Direct all questions concerning the COSTARS Program to:
Department of General Services
COSTARS Program
555 Walnut Street, 6th Floor
Harrisburg, PA 17101
Telephone: 1-866-768-7827
E-mail GS-PACostars@state.pa.us

If your firm is awarded a Contract, does it agree to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Purchasers who elect to participate in the contract?

Please Answer: YES _____ NO _____

PART V
STANDARD CONTRACT TERMS AND CONDITIONS
FOR DEPARTMENT OF GENERAL SERVICES
STATEWIDE CONTRACTS FOR SUPPLIES – SAP

Any contract resulting from this ITQ shall be governed by the Terms and Conditions contained in *Standard Contract Terms And Conditions For Department Of General Services Statewide Contracts For Supplies – SAP, GSPUR-12E (rev 12-17-2007)*

http://www.dgsweb.state.pa.us/comod/CurrentForms/GSPUR12E_SAP.doc

COMMONWEALTH OF PENNSYLVANIA
Invitation to Qualify: Truck Mix Cement/Concrete and Cement/Concrete
Products
(Complete in INK or TYPE only – DO NOT use pencil)

READ ALL Directions/Instructions in Part I Before Completing This Page.

CONTRACTOR MUST COMPLETE ALL APPLICABLE AREAS

VENDOR NUMBER All vendors must register with the Commonwealth at https://www.pasupplierportal.state.pa.us/irj/portal/anonymous/ :	
CONTRACTOR NAME & ADDRESS: If SOLE PROPRIETOR is doing business as (d/b/a) another name, see instructions in Part II, attached:	
CONTRACTOR CONTACT PERSON:	
PHONE NUMBER:	()
FAX NUMBER:	()
E-MAIL ADDRESS:	

CONTRACTOR’S SIGNATURE(S), DATE AND TITLE REQUIRED (IN INK)		
CORPORATION: One Signature of a Senior Officer and Title Designation is Required. - Chairman, President, Vice-President, Senior Vice-President, Executive Vice-President, Assistant Vice-President, Chief Executive Officer, Chief Operating Officer. Any other signature must be accompanied by a resolution authorizing the individual to contractually bid the organization.		
_____ SIGNATURE	_____ DATE	_____ TITLE
LIMITED LIABILITY COMPANY – Manager or Member		
_____ SIGNATURE	_____ DATE	_____ TITLE
SOLE PROPRIETORSHIP – Owner Only		
_____ SIGNATURE	_____ DATE	OWNER TITLE
PARTNERSHIP – One General Partner Only		
_____ SIGNATURE	_____ DATE	GENERAL PARTNER TITLE

Counties of Interest

Supplier Name
Supplier Number

County	Service Areas Mark (X)
Adams	
Allegheny	
Armstrong	
Beaver	
Bedford	
Berks	
Blair	
Bradford	
Bucks	
Butler	
Cambria	
Cameron	
Carbon	
Centre	
Chester	
Clarion	
Clearfield	
Clinton	
Columbia	
Crawford	
Cumberland	
Dauphin	
Delaware	
Elk	
Erie	
Fayette	
Forest	
Franklin	
Fulton	
Greene	
Huntingdon	
Indiana	
Jefferson	

County	Service Areas Mark (X)
Juniata	
Lackawanna	
Lancaster	
Lawrence	
Lebanon	
Lehigh	
Luzerne	
Lycoming	
McKean	
Mercer	
Mifflin	
Monroe	
Montgomery	
Montour	
Northampton	
Northumberland	
Perry	
Philadelphia	
Pike	
Potter	
Schuylkill	
Snyder	
Somerset	
Sullivan	
Susquehanna	
Tioga	
Union	
Venango	
Warren	
Washington	
Wayne	
Westmoreland	
Wyoming	
York	