

**AUDIT REQUIREMENTS****I. INTRODUCTION**

The Department of Health (Department) provides Federal and state financial assistance to a variety of entities. Audit requirements may be either a Federal mandate or a Department mandate. **The audit requirements that are applicable to this contract are determined by the source(s) of the contract's funding as described in the following Sections of this Appendix.**

General audit provisions that are applicable to ALL contracts are described in Section VI of this Appendix.

**II. CONTRACTS FUNDED 100 PERCENT BY FEDERAL FUNDS - (Federally Mandated Audits)**

The audit requirement for contracts that are 100 percent federally funded is federally mandated and prescribed by *The Single Audit Act Amendments of 1996; Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (OMB Circular A-133), as amended*; and any other applicable law or regulation, and any amendment to such other applicable law or regulation which may be enacted or promulgated by the Federal government. The specific audit requirements of *OMB Circular A-133* are as follows:

**A. General Requirements**

If the contractor is a local government or non-profit organization and expends total Federal awards of \$500,000 or more during its fiscal year, received either directly from the Federal government or indirectly from a recipient of Federal funds, the contractor is required to have an audit made in accordance with the provisions of *OMB Circular A-133*.

**B. Minimum Audit Reporting Requirements**

The contractor must submit an electronic copy of the audit report package to the Commonwealth, which shall include:

1. Auditor's reports.
  - a. Independent auditor's report on the financial statements, which expresses an opinion on whether the financial statements are presented fairly in all material respects with conformity with the stated accounting policies.
  - b. Independent auditor's report on the supplementary Schedule of Expenditures of Federal Awards (SEFA), which should determine and provide an opinion on whether the SEFA is presented fairly in all material respects in relation to the subrecipient's financial statements taken as a whole. This report can be issued separately or combined with the independent auditor's report on the financial statements.
  - c. Report on internal control over financial reporting, compliance and other matters based on an audit of financial statements performed in accordance with Government Auditing Standards.
  - d. Report on compliance with requirements applicable to each major program and report on internal control in accordance with the circular.
  - e. Schedule of findings and questioned costs.
2. Financial statements and notes to the financial statements.
3. SEFA and notes to the SEFA.
4. Summary schedule of prior audit findings.
5. Corrective action plan (if applicable).
6. Data collection form.

7. Management letter (if applicable).

While not required by *OMB Circular A-133*, it is recommended that either the SEFA or the notes to the SEFA provide the following information to make the schedule easier to use:

- Grant Period Beginning/Ending Date
- Program or Award Amount
- Total Received During the Year
- Accrued or (Deferred) Revenue at Beginning of Year
- Revenue Recognized
- Accrued or (Deferred) Revenue at End of Year

In instances where a Federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide and *OMB Circular A-133*.

**C. Submission of Audit Reports**

Effective July 1, 2009, the Office of the Budget, Office of Comptroller Operations, Bureau of Audits will begin accepting electronic submission of single audit/program-specific audit reporting packages. Electronic submission is required for the fiscal year ending December 31, 2008 and subsequent years. Instructions and information regarding submission of the single audit/program-specific audit reporting package are available to the public on Single Audit Submissions page of the Office of the Budget website (<http://www.budget.state.pa.us>). The reporting package must be submitted electronically in single Portable Document Format (PDF) file to **[RA-BOASingleAudit@state.pa.us](mailto:RA-BOASingleAudit@state.pa.us)**.

**Steps for submission:**

1. Complete the Single Audit/Program Specific Audit Reporting Package Checklist available on the Single Audit Submissions page of the Office of the Budget website (<http://www.budget.state.pa.us>). The Single Audit/Program Specific Audit Reporting Package Checklist ensures that the contractor's reporting package contains all required elements.
2. Upload the **completed** Single Audit/Program-Specific Audit Reporting Package along with the Single Audit/Program-Specific Audit Reporting Package Checklist in a **single** PDF file to an e-mail addressed to **[RA-BOASingleAudit@state.pa.us](mailto:RA-BOASingleAudit@state.pa.us)**. In the subject line of the e-mail the contractor must identify the exact name on the Single Audit/Program-Specific Audit Reporting Package and the period end date to which the reporting package applies.

The contractor will receive an e-mail to confirm the receipt of the Single Audit/Program-Specific Audit Reporting Package, including the completed Single Audit/Program Specific Audit Reporting Package Checklist.

**III. CONTRACTS FUNDED 100 PERCENT BY STATE FUNDS - (Department Mandated Audits)**

The audit requirement for contracts that are 100 percent state funded is Department mandated. The specific audit requirements of Department mandated audits are as follows:

**A. General Requirements**

The contractor shall have an audit performed when it expends \$500,000 or more of state funds under this contract during the state fiscal year (i.e., July 1 through June 30), unless notified in writing by the Department prior to the termination of the applicable audit period that the audit requirement has been waived. If the contract or any successive period is for a period shorter than the state fiscal year, but the contract amount expended by the contractor during said period includes \$500,000 or more of state funds, the contractor is also required to have an audit performed for the entire contract or successive period, unless notified in writing by the Department prior to the termination of the applicable audit period that the audit requirement has been waived.

When the contractor is required to have a Department mandated audit performed, it must be a financial audit made in accordance with the provisions of generally accepted government auditing standards (GAGAS) issued in the U.S. Government Accountability Office's *Government Auditing Standards* ("Yellow

Book”), latest revision as of the time of the audit; the audit requirements of the laws and regulations governing the program(s) in which the contractor participates; and the terms of this contract. With the written consent of the Department, the contractor may be permitted to vary the audit period for these audits.

The costs of Department mandated audits shall be reimbursed by the Department **when said costs are specifically budgeted in the contract’s budget as audit expenses.**

## **B. Minimum Audit Reporting Requirements**

When a program-specific audit is performed, the audit report must include the following at a minimum:

1. A separate Schedule of Contractual Performance, which shall reflect the contract's budget and reporting period and include a comparison of budgeted to actual expenditures/services, must be prepared for each contract the contractor includes in the program-specific audit. Said schedule(s) must reconcile to the state fiscal year(s) affected.
2. Notes to the financial schedule(s). The following must be included:
  - a. Definition of the reporting entity
  - b. Summary of significant accounting policies used in preparing the schedule(s)
  - c. Other informative disclosures (as necessary)
3. Auditor's report on the financial schedule(s) and any additional schedules required in the terms of this contract. The report must identify each contract included in the program-specific audit by its Department contract number.
4. Auditor's report on internal control, including (where applicable) references to contract requirements and Department audit guidance. The report must identify each contract included in the program-specific audit by its Department contract number. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate Schedule of Findings and Questioned Costs described below.
5. Auditor's report on compliance with laws, regulations, and the provisions of this contract, noncompliance with which could have a material effect on the financial schedules. The report must identify each contract included in the program-specific audit by its Department contract number. This report shall include (where applicable) references to contract requirements and Department audit guidance.
6. Schedule of Findings and Questioned Costs (if applicable). This schedule shall include the views of responsible officials of the contractor concerning the auditors' findings, conclusions, and recommendations. This schedule shall contain all findings and questioned costs for the financial schedules which are required to be reported in accordance with GAGAS. Specifically, the auditor shall report the following as audit findings in this schedule:
  - a. Reportable conditions in internal control over the program(s) (state and/or Federal) that provide funding under this contract. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.
  - b. Material noncompliance with the provision of laws, regulations, and the provisions of this contract.
  - c. Questioned costs specifically identified by the auditor (known questioned costs). In evaluating the effect of questioned costs on the opinion on compliance, the auditor shall consider the best estimate of total costs questioned (likely questioned costs), not just the known questioned costs. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.
  - d. Known fraud that affects a program (state and/or Federal) that provides funding under this contract. The auditor is not required to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.
7. Corrective Action Plan (if applicable). At the completion of the audit, the contractor shall prepare a

corrective action plan (CAP) to address each audit finding included in the audit report. The CAP shall provide the name(s) of the contact person(s) responsible for corrective action(s), the corrective action(s) planned, and the anticipated completion date(s) for the corrective action(s) planned. Further, if the contractor does not agree with an audit finding, it must clearly and completely explain the nature of its disagreement with the finding in the CAP. Finally, if the contractor believes that corrective action is not required, it must provide the specific reason(s) in the CAP.

8. Status of Prior Audit Findings and Recommendations (if applicable). The auditor shall report the status of uncorrected material findings and recommendations from prior audits that affect the current audit.
9. Management Letter (if applicable). If a letter is issued to management disclosing non-reportable conditions or other matters involving the internal control structure, it must be furnished with the audit report.
10. Subcontractor Audit Requirements. As applicable, the contractor shall have subcontractors obtain audits of their contracts in accordance with Section III of this Appendix. The contractor shall make the requirements of Section III of this Appendix applicable to any subcontractor expending \$500,000 or more of state funds under this contract during the state fiscal year (i.e., July 1 through June 30), or expending \$500,000 or more of state funds under this contract within any successive state fiscal year. If the subcontract or any successive period is for a period shorter than the state fiscal year, but the subcontractor expends \$500,000 or more of state funds under this contract during said period, the contractor is also required to make the requirements of Section III of this Appendix applicable to the subcontractor. The contractor, NOT the Department, shall be responsible for the receipt, review, and resolution of such audits. The contractor shall follow up on all findings disclosed in the audit report(s). The contractor shall retain such audits for a period of time which is the greater of four years after termination of the contractor's contract with the subcontractor or until resolution of any audit exceptions or other claims or actions involving a subcontract.

#### **C. Submission of Audit Reports**

When the contractor is responsible for obtaining a Department mandated audit, the audit report must be completed and submitted within 120 days of the end of the state fiscal year (i.e., June 30) or 120 days following the end of each state fiscal year in case of a contract lasting more than twelve months. The contractor shall submit three (3) copies of the audit report to the Department of Health, at:

Pennsylvania Department of Health  
Bureau of Administrative and Financial Services  
Division of Contracts, Audit Resolution Section  
Room 824 Health and Welfare Building  
625 Forster Street  
Harrisburg, PA 17120-0701

Phone: (717) 787-1022  
Fax: (717) 783-3794

Technical assistance with respect to Department mandated audits will be provided by the Department's Audit Resolution Section at the above-listed address and telephone number.

## **IV. CONTRACTS FUNDED BY FEDERAL AND STATE FUNDS**

### **A. Conditions Requiring an Audit**

- The contractor is required to have a Department mandated audit made in accordance with the requirements of Section III of this Appendix when the contractor expends less than \$500,000 of total Federal awards received from ALL sources during its fiscal year; AND the contractor expends \$500,000 or more of State funds received under this contract during the state fiscal year.
- The contractor is required to have a Federally mandated audit made in accordance with the requirements of Section II of this Appendix when the contractor expends \$500,000 or more of total Federal awards received from ALL sources during its fiscal year, regardless of the amount of State funds received under this contract during the state fiscal year.

## V. AUDIT EXEMPTION CONDITIONS

Unless stated otherwise in the terms of this contract, the contractor is not required to have an audit performed of this contract when EITHER of the following conditions is applicable:

- The contractor expends less than \$500,000 of state funds received under this contract during the state fiscal year (i.e., July 1 through June 30) (for Department mandated audits) AND it expends total Federal awards of less than \$500,000 received from ALL sources (i.e., any and all other Federal awards expended during the contractor's fiscal year, received either directly from the Federal government or indirectly from a recipient of Federal funds) during its fiscal year.
- The contract is funded by either state or Federal funds, and all contract monies expended during either the contractor's fiscal year (for Federally mandated audits) or during the state fiscal year (i.e., July 1 through June 30) (for Department mandated audits) are received on a strictly fee for service basis.

However, even if the contractor is not required to have an audit performed, the contractor is required to maintain auditable records of Federal awards and any state funds which supplement such awards, and to provide access to such records by Federal and state agencies or their designees.

## VI. GENERAL AUDIT PROVISIONS

### A. Auditor Selection

The contractor is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of Federal awards.

The Office of the Budget, Office of Comptroller Operations, Bureau of Audits may decide to perform those audits that are Department mandated. The contractor will be given written notification if the Office of the Budget, Office of Comptroller Operations, Bureau of Audits makes this decision. In the event that the Office of the Budget, Office of Comptroller Operations, Bureau of Audits does perform the audit, any audit costs included in the contract will revert to the Department. However, unless notified as provided above, the contractor is required to arrange for the audit as described above.

### B. Questioned Costs

Any questioned costs identified as such in audit reports of either the contractor or its subcontractors shall be returned to the cognizant Federal and/or state agencies providing the financial assistance, unless resolved to the satisfaction of said entities.

### C. Sanctions (Remedies for Noncompliance with Audit Requirements)

The contractor's failure to comply with performance, reporting, and resolution requirements for audits of Commonwealth-funded programs in accordance with the requirements of this Appendix may result in the Department implementing remedial actions toward the contractor including, but not limited to, the following:

1. Withhold a portion of the contract funding until the problem is resolved.
2. Withhold or disallow overhead costs until the problem is resolved.
3. Suspend the contract until the problem is resolved.

### D. Additional Audits

The Commonwealth reserves the right for Federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by Commonwealth or Federal agencies. Any such additional audit work will rely on work already performed by the contractor's auditor, and the costs for any additional work performed by the Federal or state agencies will be borne by those agencies at no additional expense to the contractor.

### E. Audit Documentation and Audit Reports

Audit documentation and audit reports must be retained by the contractor's auditor for a minimum of five years from the date of issuance of the audit report, unless the contractor's auditor is notified in writing by the Commonwealth, the cognizant Federal agency for audit, or the oversight Federal agency for audit to extend

the retention period. Audit documentation will be made available upon request to authorized representatives of the Commonwealth, the cognizant Federal agency for audit, the oversight Federal agency for audit, the Federal funding agency, or the Government Accountability Office.

**F. Records Retention**

The contractor is required to maintain records of state funds and Federal awards. The contractor shall preserve all books, records and documents related to this contract for a minimum of four years from the date of final payment under this contract; or until all findings, questioned costs or activities have been resolved to the satisfaction of the Commonwealth; or as required by applicable Federal laws and regulations, whichever is longer, unless this contract elsewhere provides for a shorter period; or unless the Department otherwise separately agrees in writing to a shorter period. The contractor shall provide Federal and state agencies or their designees access to such books, records and documents for inspection, audit or reproduction.

**G. Funding Source(s)**

The audit report must identify the amounts of Federal and state funding that is included in the report. This identification must include the breakdown of Federal and state dollars provided and the related Federal and state financial assistance program name and number. This identifying information is provided in the paragraph entitled, FUNDING SOURCE(S), of the contract.

**PRO-CHILDREN ACT OF 1994**

The Contractor and all subcontractors shall agree to comply with the following certification required by P.L. 103-227 Sections 1041-1044, 20 U.S.C. Sections 6081-6084, also known as the Pro-Children Act of 1994, which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient hospital drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor certifies that it will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Pro-Children Act of 1994.

The Contractor agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children's services and that all subcontractors shall certify accordingly.

The Contractor further agrees that it will comply with, and require any subcontractors to comply with, the requirements of the Pro-Children Act of 1994 regardless of the source of funds for this contract.

## COMMONWEALTH TRAVEL AND SUBSISTENCE RATES

### I. GENERAL POLICY

Contractors shall be entitled to receive reimbursement for out-of-pocket expenses incurred in the performance of their duties within the prescribed maximums only when such expenses are provided for in contractor's Budget (Appendix C), and any subsequent amendments thereto. During the Agreement term **Transportation** (section II below) and **Subsistence** (section IV below) reimbursement rates shall be in accordance with the current Commonwealth transportation and subsistence reimbursement rates at the time the expense is incurred as set forth in the applicable Commonwealth Management Directive or other official Commonwealth notification and as posted on the Department's website at the following internet address:

[http://www.dsf.health.state.pa.us/health/lib/health/financial/Current\\_Travel\\_and\\_Subsistence\\_Rates.doc](http://www.dsf.health.state.pa.us/health/lib/health/financial/Current_Travel_and_Subsistence_Rates.doc). The Department will notify the Contractor by letter of the amount of any subsequent increase or decrease in the Commonwealth transportation and subsistence reimbursement rates and the effective date of any such increase or decrease. Should the Commonwealth's transportation and subsistence rates increase during the contract term, the Contractor may submit a budget revision to the Department to move existing funds from one budget category to another to cover these costs. Budget revisions must be in accordance with the Payment Provisions (Appendix B). **Lodging** reimbursement rates shall be in accordance with section III below.

Maximums established herein are not flat allowances and only amounts actually expended may be claimed. Contractors will not be eligible for reimbursement of meals or lodging when furnished by the Commonwealth without charge or when furnished free by friends, relatives, or any other source. Meals or lodging which are provided at no cost cannot be billed to the Commonwealth.

Contractors traveling on official business are expected to exercise the same care in incurring expenses that a prudent person would exercise.

### II. TRANSPORTATION

#### A. First Class Accommodations

Charges for first class accommodations on an airline or railroad will not be reimbursed.

#### B. Car Rentals

Use of rental cars will only be allowed when a private vehicle or public means of transportation is not available. All such expenses must be justified. Itemized receipts are required for rental cars, for gas and/or emergency repairs.

Collision Damage Waiver insurance will be reimbursed. Liability insurance supplemental, personal accident insurance, safe trip insurance, and personal effects coverage ARE NOT reimbursable.

#### C. Local Transportation

The use of taxicab in lieu of an airport limousine is allowable only when airport limousine service is not available or when the taxicab is less expensive.

Cash paid for local taxi, bus, streetcar, and subway fares, and the like, is reimbursable and no receipts will be required, unless the amount is \$15.00 or more.

Parking charges, either lot or meter, in reasonable amounts, as well as toll road, toll bridges, and ferry charges, are reimbursable to Contractors on Contract assignments. Reasonable charges for parking an automobile at an airline, bus or railroad terminal, or



other parking area while away from residence or headquarters on official business will be allowable. Receipts must be submitted.

**D. Mileage Allowance**

The mileage allowance shall be in accordance with the current Commonwealth transportation rate in effect at the time the expense is incurred as set forth in the applicable Commonwealth Management Directive or other official Commonwealth notification and as posted on the Department's website at the following internet address: [http://www.dsf.health.state.pa.us/health/lib/health/financial/Current\\_Travel\\_and\\_Subistence\\_Rates.doc](http://www.dsf.health.state.pa.us/health/lib/health/financial/Current_Travel_and_Subistence_Rates.doc). Only mileage incurred by the Contractor's employees driving their personal vehicle shall be reimbursed. Travel cost will only be allowed in the performance of this contract when a travel line item provides for such cost in the contract's budget. The Contractor may not bill for gasoline, only mileage.

**E. Air Travel**

The use of special lower fare airline tickets, such as supersavers, 30-day advance bookings, and senior citizen discounts, etc, is recommended when this type of ticket is practical and there is significant cost savings to the Commonwealth.

Cancellation fees resulting from the Commonwealth's decision to cancel a trip will be paid by the Commonwealth. Cancellation fees resulting from the Contractor's decision to cancel a trip will be the responsibility of the Contractor and not billable to the Commonwealth unless approved by the Department's Project Officer.

**F. Baggage Handling**

Reimbursement is allowable for baggage handling and gratuities when using public transportation or conveniences (e.g. taxi air porter services, or airport/rail curbside check-in), or when using a lodging facility that has portage (e.g. bell person) services, rather than a facility where travelers are expected to carry their own luggage. The gratuity for baggage handling is limited to \$1.50 per piece. Gratuities for baggage storage, as needed (e.g. between appointments or between hotels and meeting places) will be reimbursed at actual cost.

**G. Fines**

Parking fines or moving vehicle violation fines are not reimbursable.

**III. LODGING**

**A. General**

Lodging costs will only be allowed in the performance of this contract when a travel line item provides for such costs in the contract's budget.

Hotel charges will not be reimbursed if the Contractor is negligent in canceling reservations in accordance with the hotel's policy.

Lodging rate allowances are not flat allowances. Contractors will only be reimbursed for actual expenses incurred. Copies of hotel receipts must be provided with the invoice submitted to the Department.

In those instances when lodging cannot be secured within the established lodging rate allowance (See paragraph B, below), Contractors may exceed the allowance if written justification is provided to the Project Officer at the Department. Contractor must contact three hotels to receive price quotes. Written documentation of the solicitation of three bids must be provided with the invoice submitted to the Department for payment.

Lodging rate allowances may be exceeded when a Contractor must stay at a specific lodging facility where the Contractor's presence is required by the nature of the official business (e.g. location of conference, training course, convention). A written explanation must be provided on the invoice submitted to the Department for payment.

**B. Lodging Rate Allowances**

Lodging costs are limited to \$75.00 (plus tax) per night except when lodging within the cities of Philadelphia or Pittsburgh. Within the cities of Philadelphia and Pittsburgh, lodging costs are limited to \$100.00 (plus tax) per night.

**IV. SUBSISTENCE**

**A. General**

Subsistence allowances are not flat allowances and only amounts actually expended may be claimed. Subsistence receipts must be submitted with the request for reimbursement. Reimbursement for alcoholic beverages is prohibited.

**B. Overnight Travel**

Reimbursement for meals and other subsistence expenses for each 24 hour period spent in continuous overnight travel status is allowed in accordance with the current Commonwealth subsistence rate in effect at the time the expense is incurred as set forth in the applicable Commonwealth Management Directive or other official Commonwealth notification and as posted on the Department's website at the following internet address: [http://www.dsf.health.state.pa.us/health/lib/health/financial/Current\\_Travel\\_and\\_Subistence\\_Rates.doc](http://www.dsf.health.state.pa.us/health/lib/health/financial/Current_Travel_and_Subistence_Rates.doc). The 24 hour period begins at any time of day or night that the Contractor leaves headquarters or residence on official business.

Reimbursement for meals and other subsistence expenses for overnight travel that is not part of a full 24 hour period is allowed in accordance with the current Commonwealth subsistence rate in effect at the time the expense is incurred as set forth in the applicable Commonwealth Management Directive or other official Commonwealth notification and as posted on the Department's website at the following internet address: [http://www.dsf.health.state.pa.us/health/lib/health/financial/Current\\_Travel\\_and\\_Subistence\\_Rates.doc](http://www.dsf.health.state.pa.us/health/lib/health/financial/Current_Travel_and_Subistence_Rates.doc).

**C. Non-overnight Travel**

No subsistence payments will be made for non-overnight travel unless a contractor is on a travel assignment that takes the contractor 50 miles or more from both residence and headquarters and the contractor works more than 2 hours past scheduled quitting time with or without prior notice. Reimbursed in such cases will be made in accordance with the current Commonwealth subsistence rate in effect at the time the expense is incurred as set forth in the applicable Commonwealth Management or other official Commonwealth notification and as posted on the Department's website at the following internet address: [http://www.dsf.health.state.pa.us/health/lib/health/financial/Current\\_Travel\\_and\\_Subistence\\_Rates.doc](http://www.dsf.health.state.pa.us/health/lib/health/financial/Current_Travel_and_Subistence_Rates.doc).

**V. DOCUMENTATION**

Itemized receipts for all travel and subsistence must be on file to support reimbursement. Itemized receipts and an explanation must be submitted with invoices for every item of expense \$15.00 or more.

## **MINIMUM PERSONAL COMPUTER HARDWARE, SOFTWARE, AND PERIPHERALS REQUIREMENTS**

In accordance with the Department's Bureau of Information Technology standards:

1. The Contractor shall adhere to the minimum specifications for all personal Computer purchases or leases made with funds involved with this Contract. The Department's standards are specifically addressed in paragraph 4 below.
2. If the Contractor has an exclusive vendor, obtained through a competitive bidding process, from whom all office equipment and related items are purchased, the Contractor shall utilize said vendor. If such exclusive vendor is not used by the Contractor, then three competitive price estimates shall be procured and documented by the Contractor before the personal computer hardware and software shall be purchased. A letter stating which of the above methods is used to satisfy this requirement shall be forwarded to the program staff at the Department within 30 days of the aforementioned purchase. This section supersedes Paragraph 33A of the incorporated document entitled, "Standard General Terms and Conditions" (Grant Agreement) or Paragraph 25A of the incorporated document entitled, "Additional Contract Terms and Conditions" (Contract Agreement).
3. The Contractor shall be responsible for returning any personal computer hardware, software, and peripherals to the Department within 120 days of the Contract's termination. Should the parties agree to extend the Contract term, or enter into a new Contract, either of which shall only be evidenced by further written agreement, the Contractor may be allowed to continue to maintain possession of said equipment at the Department's discretion.
4. The parties agree that during the Contract term, the minimum computer configurations shall be in accordance with the current Commonwealth minimum personal computer configurations in effect at the time of the computer purchase to ensure compatibility with the Commonwealth network. The minimum personal computer configurations are as follows:

Pentium 2.33 gigahertz (GHz) processor or faster  
2 gigabytes (GB) of RAM  
160 Gigabyte (GB) hard drive  
256 megabyte (MG) graphic card  
22" Flat Panel monitor  
16x DVD +/-RW  
Intel 100 Mbps Network Interface Card  
Windows keyboard  
Laser mouse  
Speakers  
Windows XP Professional SP3

5. Contractor shall use Industry Best Practices to secure and protect personal computer systems including but not limited to the use of virus protection, firewall, spyware and intrusion detection software and keep such software up to date with current recommended updates.
6. Contractor shall keep all Personal Computer Operating Systems and third (3<sup>rd</sup>) Party Personal Computer Software patched with manufacturer recommended critical security patches.
7. Contractor shall use Industry Best Practices to backup, secure and protect all data collected on personal computer systems on behalf of the Commonwealth. Contractor shall ensure that for all confidential or protected data that the Commonwealth requirements for encryption of data are met. Refer to Commonwealth Information Technology Bulletins for Security at:

<http://www.portal.state.pa.us/portal/server.pt?open=512&objID=416&PageID=210791&mode=2>

**RIGHT TO KNOW LAW – CONTRACT PROVISIONS**  
**(Form # 8-K-1532)**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. 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, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions 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.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor’s failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, 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.
- i. The 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.

**LOBBYING CERTIFICATION FORM**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employe of any agency, a member of Congress, an officer or employe of Congress, or an employe of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employe of any agency, a member of Congress, an officer or employe of Congress, or an employe of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> a. contract b. Grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing b. material change  For Material Change Only:  year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b>  Prime _____ Subawardee Tier _____ <span style="margin-left: 200px;"><i>(if known)</i></span>  Congressional District, <i>if known</i> : _____	<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>  Congressional District, <i>if known</i> : _____	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>  \$ _____	
<b>10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):</b>	<b>b. Individual Performing Services (including address if different from 10a) (last name, first name, MI)</b>	
<b>11</b> Information requested through this form is authorized by title 31 U.S.C., section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____  Print Name: _____  Title: _____  Telephone No.: _____ Date: _____	
<b>Federal Use Only</b>		Authorized for Local Reproduction Standard Form - LLL

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to Title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make a payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include, but are not limited to, subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State, and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full name(s) of the individual(s) performing services, and include full address if different from 10(a). Enter the Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**APPENDIX L**  
**DOMESTIC WORKFORCE UTILIZATION CERTIFICATION**

To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. In order to be eligible for any consideration for this criterion, offerors must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the offeror for this criterion.

I, \_\_\_\_\_ **[title]** of \_\_\_\_\_ **[name of Contractor]** a \_\_\_\_\_ **[place of incorporation]** corporation or other legal entity, ("Contractor") located at

\_\_\_\_\_  
**[address]**, having a Social Security or Federal Identification Number of \_\_\_\_\_, do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check **one** of the boxes below):

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom

OR

\_\_\_\_\_ **percent ( \_\_\_\_\_ %)** **[Contractor must specify the percentage]** of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed:



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[Use additional sheets if necessary]

The Department of General Services [**or other purchasing agency**] shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

\_\_\_\_\_  
Corporate or Legal Entity's Name

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Printed Name/Title

**NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE [Contracts]**

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
3. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD-28, the "Monthly Contract Compliance Report for Construction Contractors", each month no later than the 15<sup>th</sup> of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD-21 within the past 12 months may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.
6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
7. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

**CONTRACTOR INTEGRITY PROVISIONS**

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process.

In furtherance of this policy, Contractor agrees to the following:

1. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.
2. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.
4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.
8. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest

is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

- 9.** Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:
- a.** Approved in writing by the Commonwealth prior to its disclosure; or
  - b.** Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
  - c.** Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
  - d.** Necessary for purposes of Contractor's internal assessment and review; or
  - e.** Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
  - f.** Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or
  - g.** Otherwise required by law.
- 10.** Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:
- a.** Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
  - b.** Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

- (1) obtaining;
- (2) attempting to obtain; or
- (3) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

- c. Violation of federal or state antitrust statutes.
- d. Violation of any federal or state law regulating campaign contributions.
- e. Violation of any federal or state environmental law.
- f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- g. Violation of the *Act of June 2, 1915 (P.L. 736, No. 338)*, known as the *Workers' Compensation Act, 77 P.S. 1 et seq.*
- h. Violation of any federal or state law prohibiting discrimination in employment.
- i. Debarment by any agency or department of the federal government or by any other state.
- j. Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:
- a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
  - b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

12. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and must be reported.
13. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.
14. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.
15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.
16. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.
17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph 17.
  - a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

- b.** “Consent” means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.
- c.** “Contractor” means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.
- d.** “Financial interest” means:
- (1)** Ownership of more than a five percent interest in any business; or
  - (2)** Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- e.** “Gratuity” means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor’s Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
- f.** “Immediate family” means a spouse and any unemancipated child.
- g.** “Non-bid basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- h.** “Political contribution” means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

### CONTRACTOR RESPONSIBILITY PROVISIONS

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- A. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- B. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- C. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- D. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- E. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- F. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No: (717) 783-6472



**APPENDIX P - PROPOSAL COVER SHEET  
COMMONWEALTH OF PENNSYLVANIA**

**Pennsylvania Department of Health**

RFP# 09-07-07

**Enclosed in three separately sealed submittals is the proposal of the Offeror identified below for the above-referenced RFP:**

<b>Offeror Information:</b>	
Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone Number	
Contact Person's Facsimile Number	
Contact Person's E-Mail Address	
Offeror Federal ID Number	

<b>Submittals Enclosed and Separately Sealed:</b>	
<input type="checkbox"/>	Technical Submittal
<input type="checkbox"/>	Disadvantaged Business Submittal
<input type="checkbox"/>	Cost Submittal

<i>Signature</i>	
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:	
Printed Name	
Title	

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM WITH THE OFFEROR'S PROPOSAL MAY RESULT IN THE REJECTION OF THE OFFEROR'S PROPOSAL**

## Appendix Q

### PROGRAM SPECIFIC PROVISIONS

#### I. **Agreement Addendum - Implementation of the American Recovery and Reinvestment Act of 2009**

##### Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, ("ARRA") was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases.

This agreement addendum addresses additional requirements applicable to ARRA funds. Subject to further guidance by the applicable Federal awarding agency, the following terms and conditions are consistent with the mandatory requirements for agreements funded by ARRA.

Be advised that ARRA funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of ARRA and related guidance. For projects funded by other sources in addition to ARRA funds, Contractors must keep separate records for ARRA funds and must ensure those records comply with the requirements of the ARRA.

The federal Government has not fully developed the implementing instructions of ARRA, particularly concerning specific procedural requirements for the new reporting requirements. The Contractor will be provided these details as they become available. The Contractor must comply with all requirements of ARRA. In the event there is any inconsistency between these ARRA requirements and current award terms and conditions, the ARRA requirements will take precedence.

Contractor agrees that in consideration of receipt of Federal ARRA Funds, it will comply with all of the terms, conditions, requirements and limitations set forth below:

##### Definitions

- A. "ARRA funds" means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5.
- B. "Contractor" is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant, or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

##### ARRA Terms & Conditions

1. **Revisions to Requirements.** Contractor acknowledges that this Addendum may be revised pursuant to ongoing guidance from the relevant Federal or Commonwealth agency regarding requirements for ARRA funds. Contractor agrees to abide by any such revisions upon receipt of written notification from

**the Commonwealth of the revisions, which will automatically become a material part of this Addendum, without the necessity of either party executing any further instrument.**

2. Reporting Requirements. Not later than 5 days after the end of each calendar quarter, the Contractor shall submit a report to the Commonwealth that contains:
  - (a) The total amount of ARRA funds received;
  - (b) The amount of ARRA funds received that were expended or obligated to projects or activities;
  - (c) A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
    - i) the name of the project or activity;
    - ii) a description of the project or activity;
    - iii) an evaluation of the completion status of the project or activity;
    - iv) an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
    - v) for infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under ARRA, and name of the person to contact at the agency if there are concerns with the infrastructure investment;
  - (d) Detailed information on any subcontracts or subgrants awarded by the Contractor must include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget;
  - (e) If required by the Commonwealth, Contractor agrees to separately identify the expenditures for each award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the Contractor reports required by ARRA;
  - (f) If required by the Commonwealth, Contractor shall submit backup documentation for expenditures of ARRA funds including such items as timecards and invoices. Contractor shall provide copies of backup documentation at the request of the Commonwealth.
3. Registrations and Identification Information
  - (a) Contractor must maintain current registrations in the Center Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have active federal awards funded with ARRA funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number ([www.dnb.com](http://www.dnb.com)) is one of the requirements for registration in the Central Contractor Registration.
  - (b) If applicable, the Contractor agrees to separately identify to each subcontractor and document at the time of award of contract or approval of application and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of ARRA funds.
4. Flow Down Requirement. Contractor must include these ARRA Terms and Conditions in any subcontract.

5. Prohibition on Use of Funds. No ARRA funds may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, or any other items prohibited by ARRA.
6. Required Job Posting. To ensure Pennsylvanians have the utmost opportunity to be hired for jobs created through the receipt of ARRA funding, all Contractors shall post jobs they create or seek to fill as a result of receiving ARRA funding to the PA CareerLink® system at [www.pacareerlink.state.pa.us](http://www.pacareerlink.state.pa.us). Contractors can locate their local PA CareerLink® office through the same website or by calling 1-866-858-2753. Staff at local PA CareerLinks® can assist Contractors with posting positions and explain how to retrieve resumes or applications within the system.
7. Wage Rate Requirements. Section 1606 of ARRA requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.
8. Whistleblower Provision.
  - (a) An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of:
    - (1) gross mismanagement of an agency contract or grant relating to covered funds;
    - (2) a gross waste of covered funds;
    - (3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
    - (4) an abuse of authority related to the implementation or use of covered funds;
    - or
    - (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.
  - (b) A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate U.S. Office of the Inspector General.
  - (c) Any employer receiving covered funds under ARRA, shall post notice of the rights and remedies as required by Section 1553 of ARRA. See [www.recovery.gov](http://www.recovery.gov).
9. Duty to Report Fraud. Contractors and subcontractors shall promptly refer to the U.S. Office of Inspector General and Commonwealth Office of Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person will or has: 1) submitted a false claim under the False Claims Act; 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, ethics or similar misconduct involving ARRA funds; or 3) engaged in misuse, gross waste, gross mismanagement or abuse of authority related to the use or award of ARRA funds.

10. Environmental and Preservation Requirements. The Contractor shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by the awarding Federal agency to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, the Clean Air Act, the Federal Water Pollution and Control Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898). Failure of the Contractor to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding. The Contractor shall not undertake any project having the potential to impact EHP resources without the prior approval of the awarding Federal agency, including but not limited to communication towers, physical security enhancements, new construction, and modification to buildings that are 50 years old or greater. The Contractor must comply with all conditions placed on the project as a result of the EHP review. Any change to the approved project scope of work will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the Contractor must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the Contractor will immediately cease construction in that area and notify the awarding Federal agency and the Pennsylvania Historical and Museum Commission. Any construction activities that have been initiated prior to the full environmental and historic preservation review will result in a non-compliance finding.
11. No Contracts with Debarred or Suspended Entities. The Contractor shall not enter into any contract or subcontract with any party that has been debarred or suspended from either:
- (a) contracting with the Federal Government or the Commonwealth; or
  - (b) participating in any Federal or Commonwealth assistance programs.
12. Prohibition on Lobbying.
- (a) The Contractor covenants and agrees that it will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any Agreement; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or Agreement.
  - (b) Section 319 of Public Law 101-121 (31 U.S.C. Section 1352) and any applicable regulations are incorporated by reference and the Contractor agrees to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.
13. Nondiscrimination Provisions. The Contractor covenants and agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Contractor's performance under this Agreement. Accordingly, and to the extent applicable, the Contractor covenants and agrees to comply with the following:
- (a) On the basis of race, color or national origin, in Title V I of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.) as implemented by applicable regulations.
  - (b) On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 (3 CFR, 1964-1965 Comp. pg. 339), as implemented by applicable regulations.

- (c) On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), as implemented by applicable regulations.
- (d) On the basis of age, in The Age Discrimination Act of 1975 (42 U.S.C. Section 6101 et seq.), as implemented by applicable regulations.
- (e) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by applicable regulations.

14. Creating Opportunities for Small and Disadvantaged Businesses.

***Please use one of the following subsections – I, II, III or IV as detailed below:***

***I. The following shall apply for Projects using ARRA funds associated with an established federal DBE program and the Commonwealth agency and the administering federal agency have determined that only the Federal DBE program requirements shall apply:***

Creating Opportunities for Small and Disadvantaged Businesses

The Contractor shall comply with all applicable federal Disadvantaged Business Enterprises (DBE) requirements related to the DBE program.

***II. The following shall be included in invitations for bid, requests for proposals, requests for quotes and other Commonwealth solicitations for Projects using ARRA funds and shall be incorporated (along with commitments made) in the resulting contract:***

Creating Opportunities for Small and Disadvantaged Businesses

- (a) The Governor, through Executive Order 2009-02, has established, as an overall Commonwealth aspirational goal that at least ten percent (10%) of the funds allotted to the Commonwealth of Pennsylvania through the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (“ARRA”) should go to small disadvantaged businesses as contractors, subcontractors, grantees, subgrantees, and suppliers.
- (b) To assist the Commonwealth in attaining this aspirational goal, each bidder/offeror/contractor is required to make reasonable and good faith efforts to reach out to small disadvantaged businesses to make them aware of subcontracting and supply opportunities and to encourage these businesses to participate as subcontractors and suppliers.
- (c) At a minimum, each bidder/offeror/contractor is required to:
  - (i) Contact the Department of General Services’ Bureau of Minority and Women Business Opportunities (“BMWBO”) by telephone (717-783-3119) to discuss potential opportunities for small disadvantaged businesses as subcontractors and suppliers; and
  - (ii) When notified by the Commonwealth agency or BMWBO, participate in outreach activities and events to increase small disadvantaged business interest and participation in ARRA opportunities; and
  - (iii) Use the Department of General Services website [www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx](http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx) to identify DGS-certified Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) as potential subcontractors and suppliers; and
  - (iv) Solicit identified MBEs and WBEs; and

- (v) Prepare and keep the following records:
  - a. Solicitations lists, specifically identifying all small, disadvantaged businesses that were solicited; and
  - b. Bid tabulations, specifically identifying all small, disadvantaged businesses that submitted a bid, quote or proposal, and the dollar amount of the bid, quote or proposal; and
  - c. Copies of all bids, quotes and proposals received; and
- (vi) If awarded the contract, provide monthly reports to the Department of General Services' Bureau of Minority and Women Business Opportunities on small disadvantaged business utilization.
- (d) Bidder/Offeror/Contractor shall comply with all applicable federal Disadvantaged Business Enterprises (DBE) requirements related to DBE programs. To the extent that federal DBE requirements conflict with the requirements of this Paragraph, the federal DBE requirements shall prevail. In the event that Contractor identifies a conflict, Contractor shall verify with the Commonwealth, which shall verify with the administering federal agency, that a conflict exists that would jeopardize ARRA funding.
- (e) For purposes of this paragraph, "small disadvantaged businesses" are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:
  - (i) Department of General Services-certified MBEs and WBEs that qualify as small businesses; and
  - (ii) United States Small Business Administration certified 8(a) small disadvantaged business concerns; and
  - (iii) Businesses that BMWBO determines meet the Small Business Administration criteria for designation as a small disadvantaged business.
  - (iv) Small businesses that have been certified as disadvantaged business enterprises ("DBEs").

"Small businesses" are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

**III. The following shall be included in contracts for Projects using ARRA funds where there was no solicitation document that included the clause is Subsection II above:**

Creating Opportunities for Small and Disadvantaged Businesses

- (a) The Governor, through Executive Order 2009-02, has established, as an overall Commonwealth aspirational goal that at least ten percent (10%) of the funds allotted to the Commonwealth of Pennsylvania through the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, ("ARRA") should go to small disadvantaged businesses as contractors, subcontractors, grantees, subgrantees, and suppliers.

- (b) To assist the Commonwealth in attaining this aspirational goal, Contractor is required to make reasonable and good faith efforts to reach out to small disadvantaged businesses to make them aware of subcontracting and supply opportunities and to encourage these businesses to participate as subcontractors and suppliers.
- (c) At a minimum, Contractor is required to:
  - (i) Contact the Department of General Services' Bureau of Minority and Women Business Opportunities ("BMWBO") by telephone (717-783-3119) to discuss potential opportunities that may exist for small disadvantaged businesses as subcontractors and suppliers; and
  - (ii) When notified by the Commonwealth agency or BMWBO, participate in outreach activities and events to increase small disadvantaged business interest and participation in subcontracting and supply contract opportunities; and
  - (iii) Use the Department of General Services website [www.dgsweb.state.pa.us/mbewbe/ VendorSearch.aspx](http://www.dgsweb.state.pa.us/mbewbe/ VendorSearch.aspx) to identify DGS-certified Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) as potential subcontractors and suppliers; and
  - (vi) Solicit identified MBEs and WBEs for subcontracting and supply contract opportunities; and
  - (vii) Prepare and keep the following records:
    - a. Solicitations lists, specifically identifying all small, disadvantaged businesses that were solicited; and
    - b. Bid tabulations, specifically identifying all small, disadvantaged businesses that submitted a bid, quote or proposal, and the dollar amount of the bid, quote or proposal; and
    - c. Copies of all bids, quotes and proposals received; and
  - (vi) Provide monthly reports to the Department of General Services' Bureau of Minority and Women Business Opportunities on small disadvantaged business utilization.
- (d) To the extent that this Contract imposes specific small, disadvantaged business solicitation and document submission requirements, Contractor shall comply with those requirements.
- (e) Contractor shall comply with all applicable federal Disadvantaged Business Enterprises (DBE) requirements related to DBE programs. To the extent that federal DBE requirements conflict with the requirements of this Paragraph, the federal DBE requirements shall prevail. In the event that Contractor identifies a conflict, Contractor shall verify with the Commonwealth, which shall verify with the administering federal agency, that a conflict exists that would jeopardize ARRA funding.
- (f) For purposes of this paragraph, "small disadvantaged businesses" are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:
  - (i) Department of General Services-certified MBEs and WBEs that qualify as small businesses; and



- (ii) United States Small Business Administration certified 8(a) small disadvantaged business concerns; and
- (iii) Businesses that BMWBO determines meet the Small Business Administration criteria for designation as a small disadvantaged business.
- (iv) Small businesses that have been certified as disadvantaged business enterprises ("DBEs").

"Small businesses" are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

**IV. The following shall be included in grants for Projects using ARRA funds:**

Creating Opportunities for Small and Disadvantaged Businesses

- (a) The Governor, through Executive Order 2009-02, has established, as an overall Commonwealth aspirational goal that at least ten percent (10%) of the funds allotted to the Commonwealth of Pennsylvania through the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, ("ARRA") should go to small disadvantaged businesses as contractors, subcontractors, grantees, subgrantees, and suppliers.
- (b) To assist the Commonwealth in attaining this aspirational goal, Grantee is required to make reasonable and good faith efforts to reach out to small disadvantaged businesses to make them aware of subcontracting and supply opportunities and to encourage these businesses to participate as subgrantees, contractors, subcontractors and suppliers.
- (c) At a minimum, Grantee is required to:
  - (i) Contact the Department of General Services' Bureau of Minority and Women Business Opportunities ("BMWBO") by telephone (717-783-3119) to discuss potential opportunities that may exist for small disadvantaged businesses as subgrantees, contractors, subcontractors and suppliers; and
  - (ii) When notified by the Commonwealth agency or BMWBO, participate in outreach activities and events to increase small disadvantaged business interest and participation in subgrant, contract, subcontract and supply contract opportunities; and
  - (iii) Use the Department of General Services website [www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx](http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx) to identify DGS-certified Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) as potential subgrantees, contractors, subcontractors and suppliers; and
  - (iv) Solicit identified MBEs and WBEs for subgrant, contract, subcontract and supply contract opportunities; and
  - (v) Prepare and keep the following records:
    - a. Solicitations lists, specifically identifying all small, disadvantaged businesses that were solicited; and

- b. Bid tabulations, specifically identifying all small, disadvantaged businesses that submitted a bid, quote or proposal, and the dollar amount of the bid, quote or proposal; and
  - c. Copies of all bids, quotes and proposals received; and
- (vi) Provide monthly reports to the Department of General Services' Bureau of Minority and Women Business Opportunities on small disadvantaged business utilization.
- (d) To the extent that the grant imposes specific small, disadvantaged business solicitation and document submission requirements, Grantee shall comply with those requirements.
- (e) Grantee shall comply with all applicable federal Disadvantaged Business Enterprises (DBE) requirements related to DBE programs. To the extent that federal DBE requirements conflict with the requirements of this Paragraph, the federal DBE requirements shall prevail. In the event that Grantee identifies a conflict, Grantee shall verify with the Commonwealth, which shall verify with the administering federal agency, that a conflict exists that would jeopardize ARRA funding.
- (f) For purposes of this paragraph, "small disadvantaged businesses" are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:
- (i) Department of General Services-certified MBEs and WBEs that qualify as small businesses; and
  - (ii) United States Small Business Administration certified 8(a) small disadvantaged business concerns; and
  - (iii) Businesses that BMWBO determines meet the Small Business Administration criteria for designation as a small disadvantaged business.
  - (iv) Small businesses that have been certified as disadvantaged business enterprises ("DBEs").

"Small businesses" are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

15. Access to Records. Contractor agrees that with respect to each agreement using, in whole or in part, ARRA funds, any representative of an appropriate U.S. Inspector General appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the U.S. Comptroller General is authorized:
- (a) to examine any records of the Contractor, any of its subcontractors, or any state or local agency administering such contract that pertain to, and involve transactions relating to the contract; and
  - (b) to interview any officer or employee of the contractor, subcontractor or agency regarding such transactions.
16. Records Retention. The Contractor shall retain all such contract records intact in a form, if not original documents, as may be approved by the Federal Government, for

at least three (3) years following termination of a project funded by ARRA or for such longer period of time as required by the Commonwealth.

17. Access to Information. This contract and any records or expenditures related thereto may be subject to disclosure under the Pennsylvania Right to Know Law 65 P.S. 67.101 *et seq.* and the Freedom of Information Act, 5 U.S.C. §552.
18. Compliance. The Contractor shall comply with all applicable laws, regulations and program guidance. A **non-exclusive** list of statutes, regulations and/or guidance commonly applicable to Federal funds follows:

General

- Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 *et seq.*; 32 CFR part 26, Subpart B
- Copeland "Anti-Kickback Act", 18 U.S.C. Section 874; 29 CFR Part 3
- Contract Work Hours and Safety Standards Act, 40 U.S.C. §§327-330; 29 CFR Part 5
- Americans with Disabilities Act of 1990, as amended; 42 U.S.C. Chapter 126; 28 C.F.R. §35.101 *et seq.*

Administrative Requirements

- OMB Circular A-102, State and Local Governments (10/07/94, amended 08/28/07) (44 CFR Part 13)
- OMB Circular A-110, Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (11/19/93, amended 09/30/99) (2 CFR Part 215)

Cost Principles

- OMB Circular A-87, State and Local Governments (05/10/04) (2 CFR Part 225)
- OMB Circular A-21, Educational Institutions (5/10/04) (2 CFR Part 220)
- OMB Circular A-122, Non-Profit Organizations (5/10/04) (2 CFR Part 230)

Audit Requirement

- OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations (6/24/97, includes revisions published in the Federal Register 6/27/03)

19. Buy American - Use of American Iron, Steel, and Manufactured Goods.

***Please use subsections I and II in the alternative as detailed below:***

***I. The following shall apply for Projects using ARRA funds for the construction, alteration, maintenance, or repair of a public building or public work when:***

- ***the estimated value of the project is less than \$7,804,000; or***
- ***the procurement is being conducted by local governments and municipalities; or***
- ***the specific item being procured is not covered under the World Trade Organization Agreement on Government Procurement or other international procurement agreement. (e.g. mass transit or highway procurements, dredging service procurements, or national defense-related procurements).***

- (a) *Requirement.* All iron, steel, and other manufactured goods used as construction material for the construction, alteration, maintenance, or repair of a public building or public work must be produced in the United States. This requirement shall be applied in a manner that is consistent with the laws and agreements of the United States and the Commonwealth of Pennsylvania.

- (b) *Definitions.*

1. "Building or work" means construction, maintenance, alteration, or repair. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees,

canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not "building" or "work" within the meaning of this definition unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

2. "Construction material" means an article, material, or supply brought to the construction site by the recipient, subrecipient or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.
3. "Domestic construction material" means:
  - (i) An unmanufactured construction material mined or produced in the United States; or
  - (ii) A construction material manufactured in the United States.
4. "Foreign construction material" means a construction material other than a domestic construction material.
5. "Manufactured good or product" means a good or product used as construction material in a project that is the result of processing materials by way of machinery and/or labor that produce a substantially different article. Where the basic character, function, or kind of material processed remains the same, it is not manufactured.
6. "Manufactured construction material" means any construction material that is not unmanufactured construction material."
7. "Public building or public work" means building or work, the construction, alteration, maintenance, or repair of which, as defined in this award term, is carried on directly by authority of, or with funds of, a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.
8. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
9. "Unmanufactured construction material" means raw material brought to the construction site for incorporation into the building or work that has not been:
  - (i) Processed into a specific form and shape; or

- (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
10. "United States" means the 50 States, the District of Columbia, and outlying areas including:
- (i) Commonwealths: (a) Puerto Rico; (b) The Northern Mariana Islands;
  - (ii) Territories: (a) American Samoa; (b) Guam; (c) U.S. Virgin Islands; and
  - (iii) Minor outlying islands: (a) Baker Island; (b) Howland Island; (c) Jarvis Island; (d) Johnston Atoll; (e) Kingman Reef; (f) Midway Islands; (g) Navassa Island; (h) Palmyra Atoll; (i) Wake Atoll.

(c) *Domestic preference.*

1. This award term and condition implements Section 1605 of ARRA, by requiring that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States.
2. The recipient shall use only domestic construction material in performing this project, except as provided in paragraph (c)(3) and (c)(4) of this term and condition.
3. This requirement does not apply to the construction material or components listed by the Government as follows:

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*[Award official to list applicable excepted materials or indicate "none"]*

4. The award official may add other foreign construction material to the list in paragraph (c)(3) of this term and condition if the Federal government determines that—
  - (i) The cost of domestic construction material would be unreasonable. The cost of domestic iron, steel, or other manufactured goods used as construction material in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
  - (ii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
  - (iii) The application of the restriction of section 1605 of ARRA to a particular construction material would be inconsistent with the public interest.

(d) *Request for determination of inapplicability of Section 1605 of ARRA.*

1. (i) Any request to use foreign construction material in accordance with paragraph (c)(4) of this clause shall include adequate information for Government evaluation of the request, including—
  - (a) A description of the foreign and domestic construction materials;
  - (b) Unit of measure;
  - (c) Quantity;
  - (d) Price;
  - (e) Time of delivery or availability;
  - (f) Location of the construction project;

- (g) Name and address of the proposed supplier; and
  - (h) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(4) of this clause.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (e) of this clause.
  - (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty.
  - (iv) Any recipient request for a determination submitted after award shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before award. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
2. If the Federal government determines after award that an exception to section 1605 of ARRA applies, the award official will amend the award to allow use of the foreign construction material. When the basis of the exception is non-availability or public interest, the amended award shall reflect adjustment of the award amount or redistribution of budgeted funds, as appropriate, to cover costs associated with acquiring or using the foreign construction material. When the basis for the exception is the unreasonable price of a domestic construction material, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).
  3. Unless the Federal government determines that an exception to section 1605 of ARRA applies, use of foreign construction material is noncompliant with section 1605 of ARRA.
- (e) *Data.* To permit evaluation of requests under paragraph (d) of this clause based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

1. [List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]
2. [Include other applicable supporting information.]
3. [\* Include all delivery costs to the construction site.]

**II. The following shall, in addition to the Pennsylvania Steel Products Procurement Act, 73 P.S. Sections 1881-1887, apply for Projects using ARRA funds for the construction, alteration, maintenance, or repair of a public building or public work with an estimated value of \$7,804,000 or more:**

- (a) *Requirement.* All iron and steel used in the construction, reconstruction, alteration or repair of a public building or public work must be manufactured in the United States. All other manufactured goods used as construction material for the construction, alteration, maintenance, or repair of a public building or public work must be produced in the United States or a designated country. This requirement shall be applied in a manner that is consistent with the laws and agreements of the United States and the Commonwealth of Pennsylvania.
- (b) *Definitions.* As used in this award term and condition:
1. "Building or work" includes, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not "building" or "work" within the meaning of this definition unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.
  2. "Construction material" means iron, steel, and other manufactured goods used as construction material brought to the construction site by the recipient, subrecipient, or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.
  3. "Designated country" means: Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom.
  4. "Designated country construction material" means a construction material that
    - (i) Is wholly the growth, product, or manufacture of a designated country; or
    - (ii) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different construction material distinct from the materials from which it was transformed.
  5. "Domestic construction material" means:

- (i) An unmanufactured construction material mined or produced in the United States; or
  - (ii) A construction material manufactured in the United States.
- 6. "Foreign construction material" means a construction material other than a domestic construction material.
- 7. "Manufactured construction material" means any construction material that is not unmanufactured construction material."
- 8. "Public building or public work" means building or work, the construction, alteration, maintenance, or repair of which, as defined in this Subpart, is carried on directly by authority of, or with funds of, a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.
- 9. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
- 10. "Unmanufactured construction material" means raw material brought to the construction site for incorporation into the building or work that has not been--
  - (i) Processed into a specific form and shape; or
  - (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
- 11. "United States" means the 50 States, the District of Columbia, and outlying areas.

(c) *Construction materials.*

- 1. This award term and condition implements
  - (i) Section 1605(a) of the American ARRA, by requiring that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States; and
  - (ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of ARRA do not apply to designated country construction materials. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used as construction material in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services, or where the iron, steel or manufactured goods used as construction material in the project are from a least developed country. This obligation shall only apply to projects with an estimated value of \$7,804,000 or more.
- 2. The recipient shall use only domestic or designated country construction material in performing the work funded in whole or part with this award, except as provided in paragraphs (c)(3) and (c)(4) of this term and condition.



3. The requirement in paragraph (c)(2) of this term and condition does not apply to the construction materials or components listed by the Government as follows:

[Award official to list applicable excepted materials or indicate "none"]

4. The award official may add other construction material to the list in paragraph (c)(3) of this award term and condition if the Federal government determines that:

- (i) The cost of domestic construction material would be unreasonable. The cost of domestic iron, steel, or other manufactured goods used as construction material in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
- (ii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
- (iii) The application of the restriction of section 1605 of ARRA to a particular construction material would be inconsistent with the public interest.

- (d) *Request for determination of inapplicability of section 1605 of ARRA or the Buy American Act.*

1. (i) Any recipient request to use foreign construction material in accordance with paragraph(c)(4) of this term and condition shall include adequate information for Government evaluation of the request, including—
  - (a) A description of the foreign and domestic construction materials;
  - (b) Unit of measure;
  - (c) Quantity;
  - (d) Price;
  - (e) Time of delivery or availability;
  - (f) Location of the construction project;
  - (g) Name and address of the proposed supplier; and
  - (h) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph(c)(4) of this clause.

- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (e) of this clause.

- (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty.

- (iv) Any recipient request for a determination submitted after award shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before award. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

2. If the Federal government determines after award that an exception to section 1605 of ARRA applies and the award official will amend the award to allow use of the foreign construction material. When the basis of the exception is nonavailability or public interest, the amended award

shall reflect adjustment of the award amount or redistribution of budgeted funds, as appropriate, to cover costs associated with acquiring or using the foreign construction material. When the basis for the exception is the unreasonable price of a domestic construction material, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in paragraph (c)(4)(i) of this term and condition.

3. Unless the Federal government determines that an exception to the section 1605 of ARRA applies, use of foreign construction material other than designated country construction material is noncompliant with the applicable Act.

- (e) *Data.* To permit evaluation of requests under paragraph (d) of this clause based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction Material Description	Unit Measure	Quantity	Price (Dollars)*
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\* Include all delivery costs to the construction site.]