



# Legislative Budget and Finance Committee

A JOINT COMMITTEE OF THE PENNSYLVANIA GENERAL ASSEMBLY

Offices: Room 400 • Finance Building • Harrisburg • Tel: (717) 783-1600

Mailing Address: P.O. Box 8737 • Harrisburg, PA 17105-8737

Facsimile (717) 787-5487

## REQUEST FOR PROPOSAL (RFP #2014-1)

for

A Study to Determine the Feasibility and Cost Effectiveness of  
Merging Public School District Health Care Plans

To Be Conducted in Response to Senate Resolution 2013-250

Issued by  
The Pennsylvania Legislative Budget and Finance Committee

April 9, 2014

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### EXECUTIVE DIRECTOR

PHILIP R. DURGIN

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Note: General Instructions have been prepared that pertain to this RFP. The General Instructions, which are attached, must be read in conjunction with the RFP. The RFP contains only a "project description" and statement of "required product"; all other pertinent information is set forth in the General Instructions.

## **Request for Proposal 2014-1** (Continued)

### **A. Project Description**

The Pennsylvania Senate has directed the Legislative Budget and Finance Committee to conduct a study to determine the feasibility and cost effectiveness of merging public school districts under the same group health benefits package. For purposes of this study, health benefits include medical, dental, vision, and prescription drug programs. A copy of Senate Resolution 250 is included as Appendix A.

The study is to include:

1. A detailed analysis of the specific health benefits, policies, and contracts currently provided or operated by at least 50% of the school entities throughout this Commonwealth, the premium costs related thereto, and the pattern of growth in these costs.
2. Cost of current benefits for the next five years.
3. Cost of current school employee contribution or average per employee.
4. Impact on the Public School Employees' Retirement System and State Employees' Retirement System.
5. Comparison of coverage with average taxpayer in the relevant region.
6. Regionalization versus one health care plan.
7. Cost savings realized with consortiums compared to prior consortiums.
8. Administrative, staffing, and technology costs associated with forming mergers.
9. Comparison of school employees versus Commonwealth employees.
10. Cost of least used benefits by school employees.
11. Cost impact of the Patient Protection and Affordable Care Act (Public Law 111-148, 124 Stat. 119).

In compiling this report, the Contractor must seek input from the Department of Education, the State Board of Education, the Pennsylvania Association of School Business Officials, the Pennsylvania School Boards Association, the Pennsylvania State Education Association, the Pennsylvania Federation of Teachers, the Governor's Office of Administration, group insurance providers, and any other groups or individuals who may have information relevant to this study.

## **Request for Proposal 2014-1**

(Continued)

### **B. Required Products**

The Contractor's report should include, at a minimum, the required analysis set forth above under the Project Description. Deliverables from the Contractor include the following:

1. On or before the close of business on September 30, 2014, the Contractor shall provide the LB&FC with a written outline of the report indicating preliminary findings and the materials collected to date to support those findings, and a progress report on the eleven (11) required study items listed above, and, if requested, provide an oral report of preliminary findings.
2. On or before the close of business on November 15, 2014, a confidential draft of the report shall be delivered to the LB&FC offices as a Microsoft Word document and PDF and hard copy for review and discussion with LB&FC staff.
3. On or before the close of business on November 30, 2014, a final report shall be delivered to the LB&FC offices electronically as a Microsoft Word document and PDF and hard copy.
4. As part of the contract price, the Contractor must be available to provide oral testimony and make a presentation before the Pennsylvania General Assembly, likely through the Legislative Budget and Finance Committee.
5. If requested, the Contractor must also be available to make up to two additional presentations to legislative committees. The cost of these additional presentations will be separately negotiated as needed.
6. At any time during the project, the contractor will provide oral progress reports within seven days of an LB&FC request.



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## GENERAL INSTRUCTIONS FOR THE COMPLETION OF A REQUEST FOR PROPOSAL

for

A Study to Determine the Feasibility and Cost-Effectiveness of Merging  
Public School District Health Care Plans

(RFP #2014-1)

Issued by  
The Pennsylvania Legislative Budget and Finance Committee

April 9, 2014

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## PART I

### General Information for the Contractor

1. **Purpose** - These General Instructions, when read in conjunction with the Request for Proposal (RFP), provide interested contractors with sufficient information to enable them to prepare and submit proposals for consideration by the Pennsylvania Legislative Budget and Finance Committee to satisfy a need for a study to examine the practicability and potential cost-effectiveness of placing public school employees under the same group health benefits package provided for employees of the Commonwealth of Pennsylvania.
2. **Issuing Office** - The RFP (RFP #2014-1) is issued by the Pennsylvania Legislative Budget and Finance Committee. The issuing office is the sole point of contact in the Commonwealth for the RFP.
3. **Scope** - These General Instructions pertain to the proposals to be submitted in response to the RFP and the materials to be included therein, requirements which must be met to be eligible for consideration, general evaluation criteria, and other requirements to be met by each proposal.
4. **Problem Statement** - The purpose of this project for which proposals are being requested is to examine the practicability and potential cost-effectiveness of merging public school district health care plans. This study must include:
  - a. A detailed analysis of the specific health benefits, policies and contracts currently provided by or operated by at least 50% of the school entities throughout this Commonwealth, the premium costs related thereto and the pattern of growth in these costs.
  - b. Cost of current benefits for the next five years.
  - c. Cost of current school employee contribution or average per employee.
  - d. Impact on the Public School Employees' Retirement System and State Employees' Retirement System.
  - e. Comparison of coverage with average taxpayer in the relevant region.
  - f. Regionalization versus one health care plan.
  - g. Cost savings realized with consortiums compared to prior consortiums.
  - h. Administrative, staffing, and technology costs associated with forming mergers.
  - i. Comparison of school employees versus Commonwealth employees.
  - j. Cost of least used benefits by school employees.
  - k. Cost impact of the Patient Protection and Affordable Care Act (Public Law 111-148, 124 Stat. 119).

In compiling this report, the Contractor must seek input from the Department of Education, the State Board of Education, the Pennsylvania Association of School Business Officials, the Pennsylvania School Boards Association, the Pennsylvania State Education Association, the Pennsylvania Federation of Teachers, the Governor's Office of Administration, group insurance providers and any other groups or individuals who may have information relevant to this study.

5. **Type of Contract** - It is proposed that if a contract is entered into as a result of the RFP it will be a fixed cost contract. Negotiations may be undertaken with contractors whose proposals as to price and other factors show them to be qualified, responsible, and capable of performing the work.
6. **Rejection of Proposals** - The Legislative Budget and Finance Committee reserves the right to reject any and all proposals received as a result of this request or to negotiate separately with competing contractors.
7. **Incurring Costs** - The Legislative Budget and Finance Committee is not liable for any cost incurred by contractors prior to issuance of a contract.
8. **Pre-proposal Conference** – A pre-proposal conference may be held if determined necessary by the LB&FC. LB&FC will notify potential bidders of the specific time and place. The purpose of this conference would be to clarify any points in the RFP which may not be clearly understood by potential proposers. If held, questions must be forwarded to the LB&FC offices prior to the conference to ensure that sufficient analysis can be made before an answer is supplied. Questions will not be accepted after the pre-proposal conference closing. In view of the limited facilities available for the conference, it is requested that representation be limited to two representatives from each potential proposer. The pre-proposal conference is for information purposes only. Answers furnished during the conference will not be official until verified in writing by the LB&FC
9. **Amendment to the RFP** - If it becomes necessary to revise any part of the RFP, an amendment will be issued to all contractors who received the basic RFP.
10. **Response Date** - To be considered, **proposals must arrive at the offices of the Legislative Budget and Finance Committee on or before noon on May 16, 2014 (receipt by email is acceptable)**. Contractors mailing proposals should allow sufficient mail delivery time to ensure timely receipt of their proposals.
11. **Proposals** - Contractors are to submit a complete response to the RFP, using the format provided in Part II of these General Instructions. Each proposal must be submitted in three (3) copies to the issuing office (if submitted electronically only one copy is needed.) No other distribution of proposals will be made by the contractor. Proposals must be signed by an official authorized to bind the contractor to its provisions. For RFP #2014-1, the proposal must remain valid for at least 90 days. Moreover, the contents of the proposal of the successful bidder will become contractual obligations if a contract is entered into.

12. **Economy of Preparation** - Proposals should be prepared simply and economically, providing a straightforward, concise description of the contractor's ability to meet the requirements of the RFP.
13. **Oral Presentation** - Contractors who submit proposals may be required to make an oral presentation of their proposal to the Legislative Budget and Finance Committee and/or members of its staff. Such presentations provide an opportunity for the contractor to clarify his/her proposal to ensure thorough mutual understanding. If necessary, the Legislative Budget and Finance Committee will schedule these presentations.
14. **Prime Contractor Responsibilities** - The selected contractor will be required to assume responsibility for all services offered in his/her proposal whether or not he/she produces them. Further, the Legislative Budget and Finance Committee will consider the selected contractor to be the sole point of contact with regard to contractual matters.
15. **Disclosure of Proposal Contents** - The total bid price may be publicly disclosed; however, detailed cost and price information provided in proposals will be held in confidence and, except for the one selected, will not be revealed or discussed with competitors. All other material submitted becomes the property of the Legislative Budget and Finance Committee and may be returned only at the Committee's option. Proposals submitted may be reviewed and evaluated by any person other than competing bidders at the discretion of the Committee. The Legislative Budget and Finance Committee has the right to use any or all ideas presented in any reply to the RFP. Selection or rejection of the proposal does not affect this right.
16. **Conflict of Interest** - The proposer certifies that to its knowledge it has no undisclosed public or private interest, direct or indirect, and shall not acquire directly or indirectly any such interest, and that the proposer has no association, direct or indirect, which interest or association does conflict in any manner with the performance of the services or obligations under the proposed contract.
17. **Standard Contract** - The selected contractor will be expected to enter into a contractual agreement with the Legislative Budget and Finance Committee. The contract shall not become effective until it has been signed by the Legislative Budget and Finance Committee Executive Director and at least a majority of the Legislative Budget and Finance Committee Officers. All contracts, once executed, shall be a matter of public record and available to interested members of the public.
18. **Ownership of Reports Produced** - In regard to any contract that is let as a result of the RFP, all written reports that are produced by the contractor during and as a part of fulfillment of the contract will be the property of the Legislative Budget and Finance Committee. Additionally, news releases pertaining to this project will not be made without prior approval of the Legislative Budget and Finance Committee, and then only in coordination with the Committee.



## PART II

### Information Required From the Contractor

Contractor proposals must be submitted in the format outlined below. To be considered, the proposal must respond to all requirements in this part of the General Instructions. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal.

1. **Statement of the Problem** - State in succinct terms your understanding of the problem presented and the services required by the RFP.
2. **Management Summary** - Include a narrative description of the proposed effort and a list of the items to be delivered and services to be provided.
3. **Work Plan** - Describe briefly your technical plan for accomplishing the work. We are particularly interested in your approach to identifying possible cost reductions as a result of such a merger, the impact on collective bargaining, and the possible effect on the Public School Employees' Retirement System and State Employees' Retirement System.
4. **Prior Experience** - Include experience analyzing cost benefits to be realized by consolidation of multiple large scale health benefit contracts particularly in the public sector. Include experience in analysis of health care costs and collective bargaining issues particularly in the public sector. Include experience with the Patient Protection and Affordable Care Act and the development of plan offerings under that act. Include all relevant studies. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Relevant studies or projects referred to should be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.
5. **Personnel** - Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where personnel will be physically located during the time they are engaged in the work. Include education and relevant experience. Include whether the personnel are members in good standing of the American Academy of Actuaries. Indicate the responsibilities each will have in this project and how long each has been with your company.
6. **Cost and Price Analysis** - The information requested in this section is required to support the reasonableness of your quotation and is for internal Legislative Budget and Finance Committee use only. This portion of the proposal must be bound and sealed separately from the remainder of the proposal.
  - a. **Direct Labor Costs** - Itemize so as to show the following for each category of personnel with a different rate per hour:

- (1) Category (e.g., partner, project manager, analyst, senior auditor, research associate)
  - (2) Estimated hours
  - (3) Rate per hour
  - (4) Total cost for each category and for all direct labor costs
- b. Other Direct Costs - Itemize
  - c. Overhead and Indirect Costs - Itemize
  - d. Total Cost
7. **Conflict of Interest** – List any and all contracts your company has had with any Pennsylvania school district, the Pennsylvania State Education Association, and the Pennsylvania Federation of Teachers in the last six years. Briefly describe the services provided under the contracts.

## PART III

### Criteria for Selection

1. All proposals received from contractors will be reviewed and evaluated by an evaluation committee composed of Legislative Budget and Finance Committee staff. During this review process the staff shall have the authority to meet with bidders as necessary for purposes of clarification of the proposals submitted. The staff shall not be permitted, however, to discuss the proposals submitted by one bidder with any other bidder. The LB&FC evaluation committee will recommend for selection the proposal which most closely meets the requirements of the RFP and satisfies the needs of the study project.
2. The following areas of consideration will be used in making the selection:
  - a. **Responder Qualifications** - This criterion includes the ability of the responder to meet the terms of the RFP, especially the time constraint, and the quality, relevancy, and recency of studies and projects completed by the responder.
  - b. **Experience** - Emphasis here is on experience with analyzing large scale consolidations of health benefit contracts particularly in the public sector.
  - c. **Professional Personnel** - This refers to the competence of professional personnel who would be assigned to the job by the responder. Qualifications of professional personnel will be measured by education and experience, with particular preference to experience with study activities similar to that described in the RFP.
  - d. **Soundness of Approach** - Emphasis here is on the planned approach to meet the study requirements of Senate Resolution 250.
  - e. **Cost** - While this area will be weighed heavily, it will not necessarily be the deciding factor in the selection process.
  - f. **Demonstrated Adherence to Nondiscrimination and Equal Opportunity Requirements** - In order to be considered for selection, responders must be in compliance with 16 Pa. Code §49.1 et seq. Responders must provide information indicating compliance and acceptance as a precondition to the contract.
  - g. **Availability Required** - In order to be considered for selection, a responder must have sufficient and appropriate resources available to fully complete the work required by the RFP by November 30, 2014. The Contractor shall also be expected to provide a draft report no later than November 15, 2014, and meet with the Legislative Budget and Finance Committee staff to discuss its findings, conclusions, and recommendations to be included in the contractor's final report.

## Appendix A

PRIOR PRINTER'S NO. 1547

PRINTER'S NO. 1889

### THE GENERAL ASSEMBLY OF PENNSYLVANIA

# SENATE RESOLUTION

No. 250 Session of  
2013

INTRODUCED BY ARGALL, TEPLITZ, BREWSTER, HUGHES, PILEGGI,  
YUDICHAK, WAUGH, SCARNATI, MENSCH, ERICKSON, STACK,  
TARTAGLIONE, SMUCKER AND BROWNE, NOVEMBER 12, 2013

AS AMENDED, MARCH 31, 2014

#### A RESOLUTION

Directing the Legislative Budget and Finance Committee to conduct a study relating to the feasibility and cost-effectiveness of merging public school district health care plans.

WHEREAS, There is increasing concern among the citizen taxpayers of this Commonwealth over the rising cost of education in our public schools; and

WHEREAS, School board members and business managers have noted that the costs of benefits, particularly those related to health care, are among the fastest growing expenditures in a district's budget and this problem is particularly acute in rapidly growing and urban districts; and

WHEREAS, The size and composition of an insured group directly impacts the costs of coverage, with larger groups being afforded better rates; and

WHEREAS, The extent of health benefit coverage provided to school employees is currently negotiated locally, with the result that the State has no control over the growth in these expenditures; and

WHEREAS, It is critical to assure taxpayers that governmental agencies are providing services in an efficient and cost-effective manner BASED ON A THOROUGH EXAMINATION OF EXISTING SCHOOL ENTITY INSURANCE POLICIES AND CONTRACTS, INCLUDING REGIONAL DIFFERENCES, so as to provide maximum utilization of taxpayer dollars; therefore be it

RESOLVED, That the Legislative Budget and Finance Committee

be directed to conduct a study relating to the practicability and potential cost-effectiveness of merging public school employees under the same group health benefits package; and be it further

RESOLVED, That for the purposes of this study, health benefits include medical, dental, vision and prescription drug programs and that this study include:

(1) ~~AN~~ A DETAILED analysis of the specific health benefits, POLICIES AND CONTRACTS currently provided ~~by~~ OR OPERATED BY AT LEAST 50% OF THE school entities throughout this Commonwealth, the premium costs related thereto and the pattern of growth in these costs.

(2) Cost of current benefits for the next five years.

(3) Cost of current school employee contribution or average per employee.

(4) Impact on the Public School Employees' Retirement System and State Employees' Retirement System.

(5) Comparison of coverage with average taxpayer in the relevant region.

(6) Regionalization versus one health care plan.

(7) Cost savings realized with consortiums compared to prior consortiums.

(8) Administrative, staffing and technology costs associated with forming mergers.

(9) Comparison of school employees versus Commonwealth employees.

(10) Cost of least used benefits by school employees.

(11) Cost impact of the Patient Protection and Affordable Care Act (Public Law 111-148, 124 Stat. 119); and be it further

RESOLVED, That in compiling this report the Legislative Budget and Finance Committee seek input from the Department of Education, the State Board of Education, the Pennsylvania Association of School Business Officials, the Pennsylvania School Boards Association, the Pennsylvania State Education Association, the Pennsylvania Federation of Teachers, group insurance providers and any other groups or individuals who may have information relevant to this study; and be it further

RESOLVED, That the Legislative Budget and Finance Committee report its findings and recommendations to the Senate no later than ~~June~~ NOVEMBER 30, 2014.

## Appendix B

### Agreement

This Agreement made this \_\_\_\_\_ 2014 between the Pennsylvania LEGISLATIVE BUDGET AND FINANCE COMMITTEE, a statutorily created committee of the Pennsylvania Legislature, hereinafter referred to as the “LB&FC,” with principal offices in the Finance Building (mailing address is P.O. Box 8737) Harrisburg, PA 17105-8737, and \_\_\_\_\_, hereinafter referred to as the “CONTRACTOR,” with offices at \_\_\_\_\_.

#### WITNESSETH:

WHEREAS, Act 1959-195, as amended, 46 P.S. §70.1 *et seq.*, enacted on August 4, 1959, amended September 20, 1961, authorizes the LB&FC to request, receive, review, examine, study, ascertain, and compare fiscal information concerning the budget, the revenues, and expenditures of the Commonwealth; and

WHEREAS, Act 1959-195, as amended, 46 P.S. §70.3(8), enacted on August 4, 1959, amended September 20, 1961, authorizes the LB&FC to select and employ other personnel that it may deem necessary in the performance of its duties; and

WHEREAS, on March 31, 2014, the Pennsylvania Senate adopted Senate Resolution 250, calling on the LB&FC to conduct a study to determine the feasibility and cost-effectiveness of merging public school district health care plans;

WHEREAS, the LB&FC requires specialized/technical assistance in carrying out the requirements of Senate Resolution 250;

NOW, THEREFORE, the parties intending to be legally bound hereby agree as follows:

(1) **Term.** The term of the Agreement shall be from \_\_\_\_\_, 2014 through completion and release of the final report.

(2) **Required Products and Services.**

(a) **Reports.** The CONTRACTOR shall deliver the required reports and other products set forth under Section B of the Request for Proposal (RFP #2014-1 hereinafter “RFP”) which is attached to this Agreement as Attachment A and incorporated herein. The required products shall be in the form and substance required by the RFP and be delivered on or before the dates specified below. The final report shall not include color pages unless expressly authorized by the LB&FC Executive Director.

- i. On or before the close of business on September 30, 2014, the CONTRACTOR shall provide the LB&FC with a written outline of the report indicating preliminary findings and the materials collected to date to support those findings and a progress report on the eleven (11) required study items as defined in the RFP, and, if requested, provide an oral report of preliminary findings.
- ii. On or before the close of business on November 15, 2014, a confidential draft of the report shall be delivered to the LB&FC offices electronically as a Microsoft Word document and PDF and hard copy for review and discussion with LB&FC staff. At any time during the project, the contractor will provide oral progress reports within seven days of an LB&FC request.
- iii. All required products must be delivered to the LB&FC offices in their final form no later than noon on November 30, 2014. The final report shall be delivered to the LB&FC offices electronically as a Microsoft Word document and PDF and hard copy.
- iv. The CONTRACTOR must be available to provide oral testimony and make a presentation before the Pennsylvania General Assembly, likely through the LB&FC.
- v. If requested, the CONTRACTOR must also be available to make up to two additional presentations to legislative committees. The cost of these additional presentation will be separately negotiated as needed.

(b) **Testimony.** Hearing dates will be after the delivery of the final report by the CONTRACTOR to the LB&FC. Notification will be provided to the CONTRACTOR by the LB&FC at least five (5) working days prior to the hearing dates.

(3) **General Terms.** All work performed in fulfillment of this Agreement shall be subject to the terms and conditions of this Agreement and shall be in conformity with:

(a) The General Instructions for the Completion of the RFP and made part of this Agreement and incorporated as Attachment A.

(b) Any express, written, signed modification or waiver of this Agreement which has been physically attached to the original of this Agreement.

(c) CONTRACTOR'S proposal dated \_\_\_\_ made in response to the RFP (hereinafter "Contractor's Proposal") which is made part of this Agreement and incorporated herein as Attachment B.

(4) **Payment.** The LB&FC agrees to pay the CONTRACTOR pursuant to this Agreement as follows:

(a) A total fee for completion of the report not to exceed \$\_\_\_\_: 10% on the contract execution date; 20% after delivery and acceptance by the LB&FC of a written draft outline of the contractor's report indicating preliminary findings and the materials collected to date to support those findings; 30% after delivery and acceptance by the LB&FC of the draft report; 30% after delivery and acceptance by the LB&FC of the final report; and 10% after CONTRACTOR'S testimony at the LB&FC hearing or no later than two months after the release of the report at the LB&FC public meeting. Acceptance of the report outline, draft and final reports is at the sole discretion of the LB&FC Executive Director. Such acceptance shall not be unreasonably withheld.

(b) **Availability of Data.** If after reasonable efforts and through no fault of its own, as determined in the sole discretion of the Executive Director, CONTRACTOR is unable to acquire the data necessary to complete all work to be performed in fulfillment of this Agreement, the total payment due under the contract may be reduced by an appropriate percentage as determined by the Executive Director. CONTRACTOR will remain responsible for completing all other requirements under this Agreement.

(5) **Entire Agreement.** This Agreement contains all the terms and conditions agreed upon by the parties. Any modifications or waivers of this Agreement shall only be valid when they have been reduced to writing, duly signed and attached to the original of this Agreement. Continuation of this Agreement is based on compliance with all its terms and conditions. No other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or to bind any of the parties hereto.

(6) **Disputes.** The parties may initiate a dispute concerning this Agreement by written notice to the dispute participants requesting a meeting of representatives of the LB&FC and CONTRACTOR to review the circumstances, resolve issues, and formalize a future course of action including modification of existing contractual agreements. Such a meeting will be held within 10 days following a receipt of said notice.

(7) **Access to Records and Confidentiality.** Pursuant to statutory authority, the LB&FC approaches this study with the expectation that it shall receive full



and unobstructed access to all files, records, and documents of the agencies involved, insofar as such are pertinent to matters being inquired into by the LB&FC as part of this study.

(a) For the limited purpose of gaining access to such files, records, and documents, CONTRACTOR personnel authorized by the LB&FC will act in an agency capacity of the LB&FC. All such authorized CONTRACTOR personnel shall abide by all procedures and requirements applicable to LB&FC personnel in regard to confidentiality of information. The LB&FC shall provide the CONTRACTOR with written information regarding applicable procedures and requirements. The CONTRACTOR agrees to maintain all information developed and obtained during and at the completion of this contract in accordance with LB&FC's policy statement on the access, maintenance, and disclosure of records, published at 101 Pa. Code Chapter 401.

(b) The CONTRACTOR and its employees recognize the responsibility to properly handle and protect the confidentiality of all information which is protected by law from public disclosure. The CONTRACTOR and its employees also recognize the personal liability for penalties that are applicable to individuals who improperly or illegally disclose confidential information.

(c) The CONTRACTOR shall not use or disclose any information gained as a result of any aspect of this Agreement for any purpose not connected with its responsibilities under this Agreement, except with prior written approval of the LB&FC Executive Director.

(d) The CONTRACTOR shall not release the draft or final report prepared under this contract to any third party without the explicit written permission of the LB&FC Executive Director prior to the public release at the LB&FC meeting.

(8) **Subcontracts.** Except for any subcontractors specifically authorized by this Agreement, CONTRACTOR shall not enter into any subcontracts without obtaining prior written approval from the LB&FC Executive Director.

(9) **Records.** The CONTRACTOR agrees to maintain books, records, documents, and other evidence pertaining to the cost of this Agreement. The CONTRACTOR further agrees to make available at all reasonable times during normal business hours on reasonable advance written notice during the term of this Agreement any of the above evidence for inspection, audit, or reproduction by any authorized representative of the LB&FC.

(10) **Independent Contractor.** The CONTRACTOR shall perform its obligations under this Agreement as an independent contractor and shall provide all liability, property damage, workers' compensation, or any other insurance as required by law.

(11) **Construction and Severability.** Insofar as possible, this Agreement is to be governed by and construed according to the laws of the Commonwealth of Pennsylvania. If any part, term, or provision is held by the courts to be illegal or in conflict with the laws of Pennsylvania, then the terms of the Agreement that may conflict with the laws of the Commonwealth of Pennsylvania shall be deemed inoperative and null and void insofar as they may be in conflict therewith, and shall be deemed modified to conform to such rule of law unless the purpose of the Agreement would be frustrated in which case this Agreement would be deemed null and void.

(12) **Hold Harmless.** CONTRACTOR, being bound by all applicable state regulations, hereby expressly agrees to indemnify, defend, and hold the LB&FC harmless against any and all claims or losses arising from any act or omission of the CONTRACTOR, its employees, or agents, caused by CONTRACTOR's negligence or willful misconduct and arising directly out of the performance of this Agreement. CONTRACTOR shall not be required hereunder to indemnify, defend, or hold harmless the Commonwealth of Pennsylvania, in part or in whole, from any claim resulting solely from the negligent acts or omissions of the Commonwealth of Pennsylvania or any third party. The indemnity obligations contained herein are contingent upon LB&FC giving CONTRACTOR reasonably timely written notice of any such claim and reasonable cooperation in defense of any such claim.

(13) **Property Rights and Materials.** The materials developed by the CONTRACTOR during this Agreement and delivered to the LB&FC, as the final report(s) required by this Agreement shall be the property of the LB&FC.

(a) CONTRACTOR relinquishes any and all copyrights and/or privileges to the final report developed under this Agreement. CONTRACTOR shall not include in the final report any copyrighted matter without the approval of the LB&FC Executive Director or unless the CONTRACTOR provides the LB&FC with written permission of the copyright owner for the LB&FC to use such copyrighted matter in the manner provided herein.

(b) CONTRACTOR shall defend any suit or proceeding brought against the LB&FC on account of any alleged infringement of any copyright arising out of the performance of this Agreement provided that the LB&FC shall provide reasonably timely notification of such suit or proceeding, together with full right, authorization, and opportunity to conduct the defense thereof, and full information and all reasonable cooperation for the

defense of the same. The CONTRACTOR shall pay all damages and costs awarded therein against the LB&FC and shall bear any costs in the defense thereof. If any materials are held to constitute infringement, the CONTRACTOR shall, at its own expense and option, obtain the rights to use such materials, replace them or modify them so that they are no longer infringing.

(14) **Non-Discrimination Compliance.** During the term of this contract, CONTRACTOR agrees as follows:

(a) CONTRACTOR shall not discriminate against any employee, applicant for employment, independent contractor or any other person because of race, color, religious creed, handicap, ancestry, national origin, age or sex.

CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees or agents are treated during employment without regard to their race, color, religious creed, handicap, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training.

CONTRACTOR shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.

(b) CONTRACTOR shall in advertisements or requests for employment placed by it or on its behalf state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, handicap, ancestry, national origin, age or sex.

(c) CONTRACTOR shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this nondiscrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by CONTRACTOR.

(d) It shall be no defense to a finding of noncompliance with the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this nondiscrimination clause that CONTRACTOR had delegated some of its employment practices to any union, training pro-

gram, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the CONTRACTOR was not on notice of the third-party discrimination or made a good faith effort to correct it; such factor shall be considered in mitigation in determining appropriate sanctions.

(e) Where the practices of a union or of any training program or other source of recruitment will result in the exclusion of minority group persons, so that CONTRACTOR will be unable to meet its obligations under the nondiscrimination clause, CONTRACTOR shall then employ and fill vacancies through other nondiscriminatory employment procedures.

(f) CONTRACTOR shall comply with all state and federal laws prohibiting discrimination in hiring or employment opportunities. In the event of CONTRACTOR's noncompliance with the nondiscrimination clause of this contract or with any such laws, this contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and CONTRACTOR may be declared temporarily ineligible for further Commonwealth contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.

(g) CONTRACTOR shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by the LB&FC and the Human Relations Commission, for purposes of investigating to ascertain compliance with the provisions of this clause. If CONTRACTOR does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting agency or the Commission.

(h) CONTRACTOR shall actively recruit minority and women subcontractors or subcontractors with substantial minority representation among their employees.

(i) CONTRACTOR shall include the provisions of this nondiscrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.

(j) The terms used in this nondiscrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49.

(k) CONTRACTOR obligations under this clause are limited to the CONTRACTOR's facilities within Pennsylvania or, where the contract is

for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.

(15) **ADA Compliance.** CONTRACTOR agrees to comply with the Americans with Disabilities Act provisions as follows:

(a) Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 C.F.R. §35.101 et seq., CONTRACTOR understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the CONTRACTOR agrees to comply with the “General Prohibitions Against Discrimination,” 28 C.F.R. §35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

(b) CONTRACTOR shall be responsible for and agrees to indemnify and hold harmless the LB&FC from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the CONTRACTOR’s failure to comply with the provisions of paragraph (a) above.

(16) **LB&FC Responsibilities.** The LB&FC will provide limited facilities and services to the CONTRACTOR including the following:

(a) General liaison services with the agencies identified for review by the CONTRACTOR.

(b) Work services and space in the LB&FC offices and limited clerical support and telephone and reproduction facilities.

(c) Ready access to LB&FC Executive Director and Contract Compliance Officer.

(d) Coordination and sharing of information services to prevent duplication.

Final typing and reproduction of the CONTRACTOR’s final report will be the CONTRACTOR’s responsibility.

(17) **Contract Integrity.** No officer, member or employee of the Commonwealth and no Member of the General Assembly who exercises any function or responsibilities under this Agreement, shall participate in any decision relating to the

Agreement which affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested, nor shall any such officer, member or employee of the Commonwealth or Members of the General Assembly have any interest, direct or indirect, in this Agreement or the proceeds thereof.

The CONTRACTOR covenants that it presently has no undisclosed public or private interest, direct or indirect, and shall not acquire any such interest directly or indirectly which would conflict in any manner or degree with the performance of its services or obligations hereunder. The CONTRACTOR further covenants that in the performance of this Agreement it shall not knowingly employ any person having such interest.

**(18) Breach and Termination.** If, through any cause, the CONTRACTOR shall fail in any material respect to fulfill in timely or proper manner its obligations under this Agreement or if the CONTRACTOR shall violate in any material respect any of the covenants or stipulations of this Agreement, the LB&FC shall thereupon have the right to terminate this Agreement by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In that event, all finished documents, data, studies, photographs, and reports or other material (including computer disks) prepared by the CONTRACTOR for delivery to the LB&FC under this Agreement shall become property of the LB&FC and be returned by the CONTRACTOR immediately to the LB&FC. The CONTRACTOR shall be entitled to receive just and equitable compensation for satisfactory completion of work prior to termination of the Agreement. Compensation for material prepared by the CONTRACTOR other than the completed final report shall be determined solely at the discretion of the LB&FC.

Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the LB&FC for damages sustained by the LB&FC by virtue, in any manner or degree, of the CONTRACTOR's performance of its services hereunder.

Without limiting the foregoing, the LB&FC and the CONTRACTOR agree that completion of the requirements of this Agreement by the completion dates is an essential requirement of this Agreement. Failure by the CONTRACTOR to provide the completed reports by the stated completion dates in this Agreement is a material breach of the Agreement by the CONTRACTOR.

The LB&FC and the CONTRACTOR reserve the right to waive any breach of this Agreement. Such waiver shall be in writing.

It is understood that providing oral testimony at public hearings after the delivery of the report is an essential requirement of this Agreement. Failure to provide such testimony will represent a material breach of this Agreement by the CONTRACTOR.

TOR. CONTRACTOR's maximum liability to the LB&FC arising for any reason relating to service rendered under this agreement shall be limited to two times the total fees under the contract.

(19) **Change in Circumstances.** If at any time there is a change in circumstances that makes the completion of this contract no longer necessary, the LB&FC agrees to pay the CONTRACTOR a fair and reasonable amount as determined by the Executive Director, based on the total amount of the contract, for work completed to date, and, at that time, the contract will be terminated.

(20) **Non-assignability.** The CONTRACTOR shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation), without the prior written approval of the LB&FC Executive Director thereto, which shall be attached to the original Agreement, and subject to such conditions and provisions as the LB&FC may deem necessary. No such approval by the LB&FC of any assignment shall be deemed in any event or in any manner to provide for the incurrence of any obligation of the LB&FC in addition to the total agreed-upon price.

(21) **Non-collusion.** The CONTRACTOR warrants that in the preparation of its bid proposal and cost estimates resulting in this Agreement, the CONTRACTOR did not collaborate, collude, or otherwise cooperate with any other bidder involved in the competitive bidding process with the LB&FC. For breach or violation of this warranty, the LB&FC shall have the right to annul this Agreement without liability.

(22) **Availability of Funds.** The obligations of the LB&FC under this Agreement are subject to the appropriation of funds by the General Assembly of Pennsylvania. However, CONTRACTOR shall be entitled to receive payment for services rendered.

(23) **Contractor Qualified.** The CONTRACTOR covenants that it is presently qualified to do business in the Commonwealth. The CONTRACTOR, therefore, certifies that all registrations and licenses necessary to perform the services or supply the items under this contract have been acquired prior to contracting with the LB&FC.

(24) **Access to Agencies.** The LB&FC staff will serve in a liaison role between CONTRACTOR personnel and the Commonwealth agencies identified for this project.

(a) The CONTRACTOR and its employees shall abide by all procedures and requirements applicable to LB&FC personnel in regard to the relationship with the Commonwealth agencies identified for this project. The LB&FC shall provide the CONTRACTOR with written information regarding applicable procedures and requirements.

(b) All CONTRACTOR personnel shall maintain appropriate identification at all times during performance of this Agreement. The LB&FC shall provide identification cards to CONTRACTOR personnel. All identification cards issued to CONTRACTOR personnel shall be returned to the LB&FC upon termination of this Agreement.

(c) All CONTRACTOR personnel shall continuously keep the LB&FC staff informed of developments in their contact with the Commonwealth agencies identified for this study. The LB&FC staff shall have the right to participate in any and all contacts between the CONTRACTOR and its employees and the Commonwealth agencies. The LB&FC shall have the right to review and receive all information of any type received from the agencies by the CONTRACTOR personnel during the performance of this Agreement at any time during the term of this Agreement.

(25) **Progress Reports.** The CONTRACTOR shall periodically keep the LB&FC staff informed of its progress in the performance of its study. This includes meetings to discuss CONTRACTOR progress and work activities with the LB&FC staff or any other periodic reporting and review as may be requested by the LB&FC Executive Director.

(26) **Incorporation of Documents.** In addition to the terms and conditions set forth in the 28 paragraphs to this document, the CONTRACTOR and the LB&FC expressly agree that:

(a) RFP and the General Instructions for its completion are hereby made part of this Agreement and incorporated as Attachment A.

(b) CONTRACTOR's Proposal is hereby made part of this Agreement and incorporated as Attachment B except to the extent that any provisions of such CONTRACTOR proposal are inconsistent with any of the terms and conditions of this Agreement. Any such inconsistent provision in Contractor's Proposal shall be null and void and shall in no manner affect CONTRACTOR's performance, rights, or obligations under this Agreement.

(27) **Conduct of Work.** In preparation of the required draft and final reports, CONTRACTOR shall perform all work in accordance with the provisions of Contractor's Proposal, except as provided in Paragraph 26(b) above.

(28) **Captions.** The captions used herein are for the convenience of reference only, shall not be deemed to be a part of this Agreement and shall not have independent significance.



IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their officials thereunto duly authorized.

**CONTRACTOR**

_____	_____	_____	_____
(Signature)	(Date)	(Signature)	(Date)
Name _____		Name _____	
Title _____		Title _____	

**LEGISLATIVE BUDGET AND FINANCE COMMITTEE**

**OFFICERS** (This Agreement shall not become effective until signed by a majority of LB&FC Officers.)

\_\_\_\_\_  
(Signature) (Date)

Honorable Robert Mensch  
Chairman

\_\_\_\_\_  
(Signature) (Date)

Honorable James R. Brewster  
Vice Chairman

\_\_\_\_\_  
(Signature) (Date)

Honorable Robert W. Godshall  
Secretary

\_\_\_\_\_  
(Signature) (Date)

Honorable Phyllis Mundy  
Treasurer

**EXECUTIVE DIRECTOR**

\_\_\_\_\_  
(Signature) (Date)

Philip R. Durgin

**COUNSEL**

\_\_\_\_\_  
(Signature) (Date)

Patricia A. Berger