



**REQUEST FOR PROPOSALS FOR**

**CONSOLIDATION AND DELIVERY SERVICES FOR  
INTERNATIONAL MERCHANDISE**

**ISSUING OFFICE**

**PENNSYLVANIA LIQUOR CONTROL BOARD  
BUREAU OF PURCHASING AND CONTRACT ADMINISTRATION  
ROOM 316, NORTHWEST OFFICE BUILDING  
HARRISBURG, PENNSYLVANIA 17124**

**RFP NUMBER 20141107**

**DATE OF ISSUANCE**

**May 6, 2015**

**REQUEST FOR PROPOSALS FOR  
CONSOLIDATION AND DELIVERY SERVICES FOR INTERNATIONAL  
MERCHANDISE**

**TABLE OF CONTENTS**

<b>CALENDAR OF EVENTS</b>	<b>PAGE iii</b>
<b>PART I—GENERAL INFORMATION</b>	<b>PAGES 1-9</b>
<b>PART II—PROPOSAL REQUIREMENTS</b>	<b>PAGES 10-15</b>
<b>PART III—CRITERIA FOR SELECTION</b>	<b>PAGES 16-20</b>
<b>PART IV—WORK STATEMENT</b>	<b>PAGES 21-32</b>
<b>APPENDIX A, STANDARD CONTRACT TERMS AND CONDITIONS</b>	
<b>APPENDIX B, SPECIAL CONTRACT TERMS AND CONDITIONS</b>	
<b>APPENDIX C, LIQUOR CODE SECTION, LAWS OF PENNSYLVANIA</b>	
<b>APPENDIX D, SAMPLE CONTRACT</b>	
<b>APPENDIX E, COST SUBMITTAL TEMPLATE</b>	
<b>APPENDIX F, PROPOSAL COVER SHEET</b>	
<b>APPENDIX G, CORPORATE SIGNATORY DELEGATION AUTHORIZATION</b>	
<b>APPENDIX H, SMALL DIVERSE BUSINESS LETTER OF INTENT</b>	
<b>APPENDIX I, TRADE SECRET/CONFIDENTIAL PROPRIETARY INFORMATION NOTICE</b>	
<b>APPENDIX J, PROJECT REFERENCES</b>	
<b>APPENDIX K, SAMPLE SPECIFIC PERFORMANCE BOND</b>	
<b>APPENDIX L, STANDARD DATA REQUIREMENTS AND REPORTS</b>	

**APPENDIX M, SAMPLE MANIFEST**

**APPENDIX N, LABELING PROCEDURES**

**APPENDIX O, CURRENT PLCB DESTINATIONS**

## CALENDAR OF EVENTS

The Pennsylvania Liquor Control Board will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Deadline to submit Questions via email to: <a href="mailto:josgrecne@pa.gov">josgreene@pa.gov</a>	Potential Offerors	10:00am May 13, 2015
Pre-proposal Conference Room 117, Northwest Office Building, 910 Capital Street, Harrisburg, PA 17124.	Issuing Office/Potential Offerors	1:00pm May 19, 2015
Answers to Potential Offeror questions posted to the Pennsylvania Department of General Services (DGS) website ( <a href="http://www.emarketplace.state.pa.us/Search.aspx">http://www.emarketplace.state.pa.us/Search.aspx</a> ) no later than this date.	Issuing Office	May 27, 2015
Please monitor website for all communications regarding the RFP.	Potential Offerors	Regularly until proposal due date
Sealed proposals must be received by the Issuing Office at the Pennsylvania Liquor Control Board, Bureau of Purchasing and Contract Administration, Room 316 Northwest Office Building, Harrisburg, PA 17124	Offerors	1:00pm June 9, 2015

## PART I

### GENERAL INFORMATION

**I-1. Purpose.** This request for proposals (“RFP”) provides to those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the Pennsylvania Liquor Control Board’s (“PLCB”) consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need **for Consolidation and Delivery Services for International Merchandise** (“Project”).

**I-2. Issuing Office.** The PLCB (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be Joshua Greene, Bureau of Purchasing and Contract Administration, Room 316 Northwest Office Building, 910 Capital Street, Harrisburg, PA 17124, [josgreene@pa.gov](mailto:josgreene@pa.gov), the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.

**I-3. Scope.** This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.

**I-4. Problem Statement.** The PLCB is a multi-faceted agency responsible for the sale and control of beverage alcohol throughout the Commonwealth and is one of the largest purchasers of wine and spirits in the country. The PLCB wishes to continue consolidating international beverage alcohol products (“Merchandise”) and transporting them from the following locations, including but not limited to, Europe, South America, Australia, New Zealand, and South Africa, to the PLCB’s Distribution Centers. Currently, the PLCB utilizes three (3) Distribution Centers for the receipt, processing, and storage of PLCB merchandise. DC#1, operated by XTL, Inc. (XTL) in Philadelphia; DC#2, operated by Kane is Able (Kane) in Taylor; and DC#4, operated by General Commodities Company, Inc. (Genco) in Pittsburgh. Additional detail is provided in **Part IV** of this RFP, and also in **Appendix O**, Current PLCB Destinations.

**I-5. Type of Contract.** It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be an Established Price Contract (*i.e.*, a firm, fixed price contract in which price is not subject to an adjustment by reason of the cost experience of the contractor in the performance of the contract). The Contract will include the Standard Contract Terms and Conditions as shown in **Appendix A**, as well as Special Contract Terms and Conditions as shown in **Appendix B** and the Liquor Code Section as shown in **Appendix C**. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

**I-6. Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any or all proposals received as a result of this RFP.

**I-7. Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

**I-8. Questions & Answers.** If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line "RFP 20141107 Question"**) to the Issuing Officer named in **Part I, Section I-2** of the RFP. If the Offeror has questions, they must be submitted via email **no later than** the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Officer by any other means and questions may not be submitted through any other method. In accordance with **Part I, Section I-21**, the Offeror shall not contact any other employee of the PLCB regarding the RFP. The Issuing Officer shall post the answers to the questions on the [DGS website](#) by the date stated on the Calendar of Events.

All questions and responses as posted on the DGS website are considered as an addendum to, and part of, this RFP in accordance with RFP **Part I, Section I-10**. Each Offeror shall be responsible to monitor the DGS website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is described on the DGS website

<http://www.dgsweb.state.pa.us/comod/ProtestProcedures.doc>.

**I-9. Pre-proposal Conference.** The Issuing Office will hold a Pre-proposal conference as specified in the Calendar of Events. The purpose of this conference is to provide opportunity for clarification of the RFP. Offerors should forward all questions to the Issuing Office in accordance with **Part I, Section I-8** to ensure adequate time for analysis before the Issuing Office provides an answer. Offerors may also ask questions at the conference. In view of the limited facilities available for the conference, Offerors should limit their representation to two (2) individuals per Offeror. The Pre-proposal conference is for information only. **Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office.** All questions and written answers will be posted on the DGS website as an addendum to, and shall become part of, this RFP. Attendance at the Pre-proposal Conference is optional.

**I-10. Addenda to the RFP.** If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the DGS website. It is the Offeror's responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the

questions asked during the **Part I, Section I-9 Pre-proposal Conference** will be posted to the website as an addendum to the RFP.

**I-11. Response Date.** To be considered for selection, hard copies of proposals must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. The Issuing Office will **not** accept proposals via email or facsimile transmission. Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject unopened, any late proposals.

**I-12. Proposals.** To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in **Part II**, providing **twelve (12) paper copies [one marked "ORIGINAL"] of the Technical Submittal and two (2) paper copies of the Cost Submittal and two (2) paper copies of the Small Diverse Business (SDB) participation submittal.** In addition to the paper copies of the proposal, Offerors shall submit two (2) CD-ROMs or flash drives in Microsoft Office or Microsoft Office-compatible format, each containing **complete and exact** copies of the entire proposal (Technical, Cost and SDB submittals, along with all requested documents). For ease of reference, each proposal page should be consecutively numbered.

The electronic copy must be an exact image of the paper copy and any spreadsheets must be in Microsoft Excel. Offerors may not lock or protect any cells or tabs. Offerors should ensure that there is no costing information in the technical submittal. Offerors should not reiterate technical information in the cost submittal. The CDs or flash drives should clearly identify the Offeror and include the name and version number of the virus scanning software that was used to scan the CDs or flash drives before they were submitted. The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant.

**An official authorized to bind the Offeror to its provisions must sign the proposal.** If the official signs the Proposal Cover Sheet (**Appendix F**) and the Proposal Cover Sheet is attached to the Offeror's proposal, the requirement will be met. For this RFP, the proposal must remain valid until a contract is fully executed. If the Issuing Office selects the Offeror's proposal for award, the contents of the Selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

Each Offeror submitting a proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its proposal by written notice received at the Issuing Office's address for proposal delivery prior to the exact hour

and date specified for proposal receipt. An Offeror or its authorized representative may withdraw its proposal in person prior to the exact hour and date set for proposal receipt, provided the withdrawing person provides appropriate identification and signs a receipt for the proposal. An Offeror may modify its submitted proposal prior to the exact hour and date set for proposal receipt only by submitting a new sealed proposal or sealed modification which complies with the RFP requirements.

**I-13. Small Diverse Business Information.** The Issuing Office encourages participation by small diverse businesses as prime contractors, and encourages all prime contractors to make a significant commitment to use small diverse businesses as subcontractors and suppliers.

A Small Diverse Business is a DGS-verified minority-owned business, woman-owned business, veteran-owned business or service-disabled veteran-owned business.

A small business is a business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than \$7 million in gross annual revenues for building design, \$20 million in gross annual revenues for sales and services and \$25 million in gross annual revenues for those businesses in the information technology sales or service business.

Questions regarding this Program can be directed to:

Department of General Services  
Bureau of Small Business Opportunities  
Room 611, North Office Building  
Harrisburg, PA 17125  
Phone: (717) 783-3119  
Fax: (717) 787-7052  
Email: [gs-bsbo@pa.gov](mailto:gs-bsbo@pa.gov)  
Website: [www.dgs.state.pa.us](http://www.dgs.state.pa.us)

The Department's directory of BSBO-verified minority, women, veteran and service disabled veteran-owned businesses can be accessed from:  
<http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx>

**I-14. Economy of Preparation.** Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP.

**I-15. Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.



**I-16. Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

**I-17. Prime Contractor Responsibilities.** The contract will require the Selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. The Issuing Office will consider the Selected Offeror to be the sole point of contact with regard to contractual matters.

**I-18. Proposal Contents.**

- A. Confidential Information.** The PLCB is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection C. below and must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.
- B. Commonwealth Use.** All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania and may be returned only at the Issuing Office's option. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained on proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.
- C. Public Disclosure.** After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect (**Appendix I**) must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Financial capability information submitted in response to **Part II, Section II-7** of this RFP is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

**I-19. Best and Final Offers.**

- A.** While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining “Best and Final Offers.” To obtain Best and Final Offers from Offerors, the Issuing Office may do one or more of the following, in any combination and order:
1. Schedule oral presentations;
  2. Request revised proposals; and
  3. Enter into pre-selection negotiations.
- B.** The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer:
1. Those Offerors determined by the Issuing Office to be not responsible or whose proposals the Issuing Office has determined to be not responsive.
  2. Those Offerors which the Issuing Office has determined, in accordance with **Part III, Section III-5**, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.
  3. Those Offerors whose score for their technical submittal of the proposal is less than seventy percent (70%) of the total amount of technical points allotted to the technical criterion.

The Issuing Office may further limit participation in the Best and Final Offer process to those remaining responsible Offerors which the Issuing Office has, within its discretion, determined to be within the top competitive range of responsive proposals.

- C.** The Evaluation Criteria found in **Part III, Section III-4**, shall also be used to evaluate the Best and Final offers.
- D.** Dollar commitments to Small Diverse Businesses can be reduced only in the same percentage as the percent reduction in the total price offered through negotiations.

**I-20. News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

**I-21. Restriction of Contact.** From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact

concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror's proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.

**I-22. Issuing Office Participation.** Offerors shall provide all services, supplies, pallets, forklifts, trucks, vans and trailers, facilities, and other support necessary to complete the identified work in the manner described by the contract..

**I-23. Term of Contract.** The term of the contract will commence on the Effective Date and will end five (5) years from the Effective date, with one (1) two (2)-year renewal option to be exercised at the PLCB's discretion. The Issuing Officer may renew the contract incrementally or in one (1) two (2)-year step with written notification to the Selected Offeror. The Issuing Office will fix the Effective Date after the contract has been fully executed by the Selected Offeror and by the PLCB and all approvals required by PLCB contracting procedures have been obtained.

The Selected Offeror shall not start the performance of any work prior to the Effective Date of the contract and the PLCB shall not be liable to pay the Selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.

**I-24. Offeror's Representations and Authorizations.** By submitting its proposal, each Offeror understands, represents, and acknowledges that:

1. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The PLCB shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.
2. The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential Offeror.
3. The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential Offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.

4. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
5. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
6. To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four (4)** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.
7. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.
8. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
9. The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.
10. Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
11. Until the Selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.

## **I-25. Notification of Selection.**

- 1. Contract Negotiations.** The Issuing Office will notify the Offeror selected for negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.
- 2. Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contract signed by the Selected Offeror.

**I-26. Debriefing Conferences.** Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest (see **Section I-27** of this RFP).

**I-27. RFP Protest Procedure.** The RFP Protest Procedure is on the DGS website at <http://www.dgsweb.state.pa.us/comod/ProtestProcedures.doc>. A protest by a party not submitting a proposal must be filed within **seven (7)** days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the proposal submission deadline specified in the Calendar of Events of the RFP. Offerors may file a protest within **seven (7)** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than **seven (7)** days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

**I-28. Use of Electronic Versions of this RFP.** This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

## PART II

### PROPOSAL REQUIREMENTS

Offerors must submit their proposals in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the proposal. All cost data relating to this proposal and all Small Diverse Business cost data should be kept separate from and not included in the Technical Submittal. Each proposal shall consist of the following **three (3) separately sealed** (each enclosed in a taped or glued envelop of appropriate size) submittals:

- A. Technical Submittal**, which shall be a response to RFP **Part II, Sections II-1 through II-8**;
- B. Small Diverse Business participation submittal**, in response to RFP **Part II, Section II-9**; and
- C. Cost Submittal**, in response to RFP **Part II, Section II-10**.

The Issuing Office reserves the right to request additional information which, in the Issuing Office's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP.

The Issuing Office may make investigations as deemed necessary to determine the ability of the Offeror to perform the Project, and the Offeror shall furnish to the Issuing Office all requested information and data. The Issuing Office reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Offeror fails to satisfy the Issuing Office that such Offeror is properly qualified to carry out the obligations of the RFP and to complete the Project as specified.

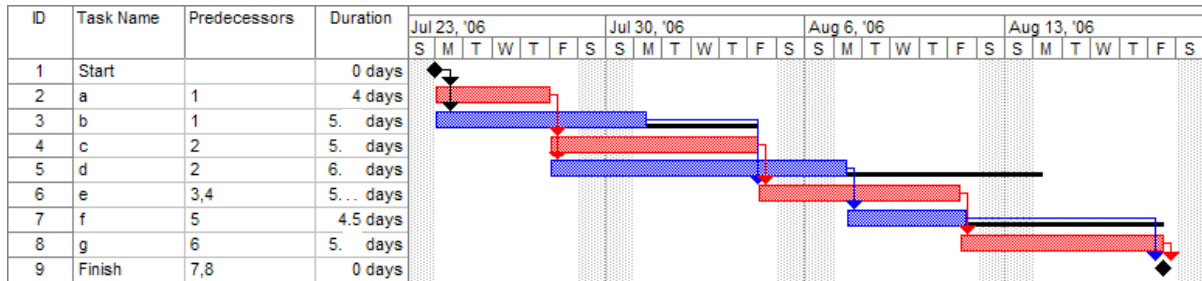
**II-1. Statement of the Problem.** State in succinct terms your understanding of the problem presented or the service required by this RFP.

**II-2. Management Summary.** Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided.

**II-3. Work Plan.** Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in **Part IV** of this RFP as your reference point. Modifications of the task descriptions are permitted, but must be clearly noted. Reasons for changes should be fully explained.

Please provide a milestone schedule or GANTT chart that will identify all of the significant and major milestones that are required to ensure that, once merchandise is ordered, delivery to the final destination will occur within the required seventy-five (75) days. This should include processing purchase orders,

picking up and receiving merchandise, verifying vintage and product, handling, shipping container and less-than-container loads, and delivering merchandise to PLCB Distribution Centers. An example is provided below.



**II-4. Implementation Plan.** Include a project plan that includes timing to implement the PLCB technology, process requirements, employee training, and the set-up of your facilities. See also Part IV-5.

**II-5. Prior Experience.** Include specific organizational operating experience with emphasis on international consolidating, storing, handling, shipping, receiving, and securing beverage alcohol or other high value or high velocity merchandise. The size of any facility(ies) operated shall be included along with volumes and types of merchandise handled.

Include the date your company was founded, principal ownership, scope of operations, and general data regarding experience. Also note any special expertise that would enhance your company's qualifications, such as membership in professional organizations and/or certifications, etc. List any current contracts with the PLCB and/or any other parties that may present a conflict of interest. If there are none, provide a statement to that effect. The Selected Offeror must not be listed as an [entity](#) that U. S. parties cannot do business with through the U. S. Office of Foreign Asset Controls.

Experience shown should be work done by individuals who will be assigned to this Project, as well as experience of your company. Studies or projects referred to must 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.

Using the form at **Appendix J**, provide at least three (3) references for each of the prime contractor and any/all subcontractors relative to **PART IV** of this RFP, including the name, address, e-mail address and telephone number of the responsible official of the customer, company, or agency who may be contacted. There should be one (1) completed Appendix J for each reference. **References to current or former PLCB employees will not be considered.** In addition, prime contractors shall not serve as references for any proposed subcontractors.

**II-6. Personnel.** The PLCB wishes to have one (1) main point of contact (“PoC”) with whom all issues concerning the contract can be addressed. This PoC will be considered “key personnel” for the duration of the contract, unless a substitution is approved in writing by the PLCB. This PoC may be an Account Manager or similar, but should have sufficient authority to resolve issues and to direct activities of others engaged in the contract, including subcontractors, as needed for issue resolution. Offerors shall identify the proposed main PoC by name and title. Please provide contact information for all modes of communications with this PoC (mailing address, physical location, telephone numbers, facsimile number(s), and e-mail address(es)), and a resume for this PoC.

Also include an organizational chart that depicts names, titles and contact information of the chain of command above this PoC, to be used for purposes of escalation of issues in the event the PoC cannot or does not adequately address issues.

Also, identify by name any subcontractors you intend to use and provide a narrative description of the services each such subcontractor will perform.

**II-7. Financial Capability.** Describe your company’s financial stability and economic capability to perform the contract requirements. Provide your company’s financial statements (audited, if available) for the past three (3) fiscal years. Financial statements must include the company’s Balance Sheet and Income Statement or Profit/Loss Statements. Also include a recognized business credit report and a Dun & Bradstreet Comprehensive Report, if available. If your company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The PLCB reserves the right to request additional information it deems necessary to evaluate an Offeror’s financial capability.

**II-8. Objections and Additions to Standard and/or Special Contract Terms and Conditions.** The Offeror will identify which, if any, of the terms and conditions (contained in **Appendices A and B**) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions.

The Offeror’s failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office’s sole discretion, would be in the best interest of the PLCB. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard or special contract terms and conditions. Furthermore, an Offeror may not condition a proposal on the negotiation of terms or the acceptance of Offeror assumptions, whether identified in the technical submittal or not.

The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Appendices A and B**. All terms and conditions must appear in one integrated



contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in **Appendices A and B**. The Issuing Office will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in **Appendices A and B** or to other provisions of the RFP as specifically identified above.

#### **II-9. Small Diverse Business Participation Submittal.**

- A.** To receive credit for being a Small Diverse Business or for subcontracting with a Small Diverse Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Small Diverse Business qualification in the Small Diverse Business participation submittal of the proposal, as indicated below:

A Small Diverse Business verified by BSBO as a Small Diverse Business must provide a photocopy of its DGS issued certificate entitled "Notice of Small Business Self-Certification and Small Diverse Business Verification" indicating its diverse status.

- B.** In addition to the above certificate, the Offeror must include in the Small Diverse Business participation submittal of the proposal the following information:

- 1. All** Offerors must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Offeror and not by subcontractors and suppliers.
- 2. All** Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Diverse Businesses (SDBs) as subcontractors. To support its total percentage SDB subcontractor commitment, Offeror must also include:
  - a)** The percentage and dollar amount of each subcontract commitment to a Small Diverse Business;
  - b)** The name of each Small Diverse Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Diverse Business.
  - c)** The services or supplies each Small Diverse Business will provide, including the timeframe for providing the services or supplies.
  - d)** The location where each Small Diverse Business will perform services.

- e) The timeframe for each Small Diverse Business to provide or deliver the goods or services.
  - f) A subcontract or letter of intent (**Appendix H**) signed by the Offeror and the Small Diverse Business (SDB) for each SDB identified in the SDB Submittal. The subcontract or letter of intent must identify the specific work, goods or services the SDB will perform, how the work, goods or services relates to the Project, and the specific timeframe during the term of the contract and any option/renewal periods when the work, goods or services will be performed or provided. In addition, the subcontract or letter of intent must identify the fixed percentage commitment and associated estimated dollar value that each SDB will receive based on the total value of the initial term of the contract as provided in the Offeror's Cost Submittal. Attached is a letter of intent template which may be used to satisfy these requirements (**Appendix H**).
  - g) The name, address and telephone number of the primary contact person for each Small Diverse Business.
- 3. The total percentages and each SDB subcontractor commitment will become contractual obligations once the contract is fully executed.
  - 4. The name and telephone number of the Offeror's Project (contact) person for the Small Diverse Business information.
- C. The Offeror is required to submit **two (2)** copies of its Small Diverse Business participation submittal. The submittal shall be clearly identified as Small Diverse Business information and sealed in its own envelope, separate from the remainder of the proposal.
- D. A Small Diverse Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.
- E. An Offeror that qualifies as a Small Diverse Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

**II-10. Cost Submittal.** The information requested in this section shall constitute the Cost Submittal (**Appendix E**). **The Cost Submittal shall be placed in a separate sealed envelope** within the sealed proposal, separated from the Technical Submittal. Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal.

Offerors should direct any questions about whether a cost or other component is included or applies. Questions must be submitted in writing to the Issuing Office pursuant to **PART 1, Section I-8** of this RFP. All Offerors will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on

the same basis. The total proposed cost shall be broken down into the following components:

**A. Total Consolidation Services Cost.** The rates submitted by the Offeror to provide consolidation and door-to-door delivery service (as described in Part IV-4, Task A) from the following countries of origin to the named PLCB Distribution Centers:

1. Northern Europe (Germany)
2. Western Europe (France)
3. Eastern Europe (Croatia, Slovenia, Bulgaria, Hungary)
4. Southern Europe/Mediterranean (Spain, Portugal, Italy, Greece)
5. South America (West Coast)
6. South America (East Coast)
7. Australia and New Zealand
8. South Africa

At its sole option and discretion, the PLCB may change the volume(s), delivery day(s), delivery time(s) and/or the location of individual delivery or pick-up points. The PLCB may request that additional countries be added to the above list.

The Selected Offeror may be required to submit an additional cost proposal for renewal options.

**B. Labeling Services.** The Offeror's per case rate to provide labeling merchandise in accordance with **Appendix N, Labeling Procedures**. It is anticipated that nearly all cases will require labelling. The Selected Offeror is responsible for providing all materials and labor needed to perform labeling.

## PART III

### CRITERIA FOR SELECTION

**III-1. Mandatory Responsiveness Requirements.** To be eligible for selection, a proposal must be:

- A. Timely received by the Issuing Office;
- B. Properly signed by the Offeror. For guidance on proper signatory protocol in Pennsylvania procurements, please go to:  
[http://www.portal.state.pa.us/portal/server.pt/document/642846/pt\\_i\\_ch\\_3\\_1\\_contract\\_signatures\\_pdf](http://www.portal.state.pa.us/portal/server.pt/document/642846/pt_i_ch_3_1_contract_signatures_pdf). **Appendix G, Corporate Signatory Delegation** Authorization should be used if a resolution exists to grant signature authorization to the person signing the proposal.

**III-2. Technical Nonconforming Proposals.** The two (2) Mandatory Responsiveness Requirements set forth in **Section III-1 (A-B)** above are the only RFP requirements that the PLCB will consider to be *non-waivable*. The Issuing Office reserves the right, in its sole discretion, to: (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal.

**III-3. Evaluation.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BSBO will evaluate the Small Diverse Business participation submittal and provide the Issuing Office with a rating for this component of each proposal. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to the PLCB as determined by the Issuing Office after taking into consideration all of the evaluation factors.

**III-4. Evaluation Criteria.** Except as specifically requested in **Part II-7** of this RFP as it relates to corporate financial records, references to outside information, such as links to websites contained in any submittal will not be accessed or included in the evaluation process. The following criteria will be used in evaluating each proposal:

- A. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **fifty percent (50%)** of the total points. Evaluation will be based upon the following in order of importance:

- 1. **Understanding the Problem/Soundness of Approach.** This refers to the Offeror's understanding of PLCB's need to continue consolidating international beverage alcohol products and transporting them from international points of origin to the PLCB's

distribution centers. Emphasis here is also on the techniques for consolidation and delivery services for international beverage alcohol products, sequence and relationship of major steps detailed in the work plan, and methods for managing services. Of equal importance is whether the technical approach is completely responsive to all written specifications and requirements contained in this RFP and if it appears to meet PLCB objectives.

**2. Infrastructure.** Physical and technical infrastructure will be evaluated in this criterion.

a. Physical infrastructure will be evaluated based on, but not limited to, the suitability of all properties (foreign and domestic) used to support consolidation services as contained in the RFP, facility locations, and site security plans to safeguard merchandise.

b. Technical infrastructure includes, but is not limited to, the identification and explanation of systems and business partners used, the ability to process electronic purchase orders, track and manage inventory, report on all activities, and system security.

**3. Offeror Qualifications.** This refers to the ability of the Offeror and its sub-contractors to meet all requirements of the RFP, including delivery lead times, transportation capabilities, facilities, time constraint, and security. The quality, relevancy, and recency of projects completed by the Offeror and its sub-contractors will be considered. This category also includes an analysis of the Offeror's financial ability to undertake a project of this size.

The final Technical scores are determined by giving the maximum number of technical points available to the proposal with the highest raw technical score. The remaining proposals are rated by applying the Technical Scoring Formula set forth at the following webpage: [http://www.portal.state.pa.us/portal/server.pt/community/rfp\\_scoring\\_formulas\\_overview/20124](http://www.portal.state.pa.us/portal/server.pt/community/rfp_scoring_formulas_overview/20124).

**B. Cost:** The Issuing Office has established the weight for the Cost criterion for this RFP as **thirty percent (30%)** of the total points. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage:

[http://www.portal.state.pa.us/portal/server.pt/community/rfp\\_scoring\\_formulas\\_overview/20124](http://www.portal.state.pa.us/portal/server.pt/community/rfp_scoring_formulas_overview/20124)

**C. Small Diverse Business Participation:** BSBO has established the weight for the Small Diverse Business (SDB) participation criterion for

this RFP as **twenty percent (20%)** of the total points. Each SDB participation submittal will be rated for its approach to enhancing the utilization of SDBs in accordance with the below-listed priority ranking and subject to the following requirements:

1. A business submitting a proposal as a prime contractor must perform sixty percent (60%) of the total contract value to receive points for this criterion under any priority ranking.
2. To receive credit for an SDB subcontracting commitment, the SDB subcontractor must perform at least fifty percent (50%) of the work subcontracted to it.
3. A significant subcontracting commitment is a minimum of five percent (5%) of the total contract value.
4. A subcontracting commitment less than five percent (5%) of the total contract value is considered nominal and will receive reduced or no additional SDB points depending on the priority ranking.

**Priority Rank 1:** Proposals submitted by SDBs as prime Offerors will receive 150 points. In addition, SDB prime Offerors that have significant subcontracting commitments to additional SDBs may receive up to an additional 50 points (200 points total available).

Subcontracting commitments to additional SDBs are evaluated based on the proposal offering the highest total percentage SDB subcontracting commitment. All other Offerors will be scored in proportion to the highest total percentage SDB subcontracting commitment within this ranking. *See formula below.*

**Priority Rank 2:** Proposals submitted by SDBs as prime contractors, with no or nominal subcontracting commitments to additional SDBs, will receive 150 points.

**Priority Rank 3:** Proposals submitted by non-small diverse businesses as prime contractors, with significant subcontracting commitments to SDBs, will receive up to 100 points. Proposals submitted with nominal subcontracting commitments to SDBs will receive points equal to the percentage level of their total SDB subcontracting commitment.

SDB subcontracting commitments are evaluated based on the proposal offering the highest total percentage SDB subcontracting commitment. All other Offerors will be scored in proportion to the highest total percentage SDB subcontracting commitment within this ranking. *See formula below.*

**Priority Rank 4:** Proposals by non-small diverse businesses as prime contractors with no SDB subcontracting commitments shall receive no points under this criterion.

To the extent that there are multiple SDB Participation submittals in Priority Rank 1 and/or Priority Rank 3 that offer significant subcontracting commitments to SDBs, the proposal offering the highest total percentage SDB subcontracting commitment shall receive the highest score (or additional points) available in that Priority Rank category and the other proposal(s) in that category shall be scored in proportion to the highest total percentage SDB subcontracting commitment. Proportional scoring is determined by applying the following formula:

$$\frac{\text{SDB \% Being Scored}}{\text{Highest \% SDB Commitment}} \times \frac{\text{Points/Additional}}{\text{Points Available}^*} = \frac{\text{Awarded/Additional}}{\text{SDB Points}}$$

*Priority Rank 1 = 50 Additional Points Available*

*Priority Rank 3 = 100 Total Points Available*

Please refer to the following webpage for an illustrative chart which shows SDB scoring based on a hypothetical situation in which the Commonwealth receives proposals for each Priority Rank:

<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

**III-5. Offeror Responsibility.** To be responsible, an Offeror must submit a responsive proposal and possess the capability to fully perform the contract requirements in all respects, as well as the integrity and reliability to assure good faith performance of the contract.

In order for an Offeror to be considered responsible for this RFP and therefore eligible for selection for best and final offers or selection for contract negotiations:

- A.** The total score for the technical submittal of the Offeror's proposal must be greater than or equal to **seventy percent (70%)** of the **available technical points**; and
- B.** The Offeror's financial information must demonstrate that the Offeror possesses the financial capability to assure good faith performance of the contract. The Issuing Office will review the Offeror's previous three (3) financial statements, any additional information received from the Offeror, and any other publicly-available financial information concerning the Offeror, and assess each Offeror's financial capacity based on calculating and analyzing various financial ratios, and comparison with industry standards and trends.

An Offeror which fails to demonstrate sufficient financial capability to assure good faith performance of the contract as specified herein may be considered by the

Issuing Office, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Offeror providing contract performance security for the first contract year cost proposed by the Offeror in a form acceptable to the Issuing Office. Based on the financial condition of the Offeror, the Issuing Office may require a certified or bank (cashier's) check, letter of credit, or a performance bond conditioned upon the faithful performance of the contract by the Offeror. The required performance security must be issued or executed by a bank or surety company authorized to do business in the Commonwealth. The cost of the required performance security will be the sole responsibility of the Offeror and cannot increase the Offeror's cost proposal or the contract cost to the Commonwealth.

Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

### **III-6. Final Ranking and Award.**

- A.** After any Best and Final Offer process conducted, the Issuing Office will combine the evaluation committee's final technical scores, BSBO's final Small Diverse Business participation scores, and the final cost scores, in accordance with the relative weights assigned to these areas as set forth in this Part.
- B.** The Issuing Office will rank responsible Offerors according to the total overall score assigned to each, in descending order.
- C.** The Issuing Office must select for contract negotiations the Offeror with the highest overall score; PROVIDED, HOWEVER, THAT AN AWARD WILL NOT BE MADE TO AN OFFEROR WHOSE PROPOSAL RECEIVED THE LOWEST TECHNICAL SCORE AND HAD THE LOWEST COST SCORE OF THE RESPONSIVE PROPOSALS RECEIVED FROM RESPONSIBLE OFFERORS. IN THE EVENT SUCH A PROPOSAL ACHIEVES THE HIGHEST OVERALL SCORE, IT SHALL BE ELIMINATED FROM CONSIDERATION AND AWARD SHALL BE MADE TO THE OFFEROR WITH THE NEXT HIGHEST OVERALL SCORE.
- D.** The Issuing Office has the discretion to reject all proposals or cancel the request for proposals, at any time prior to the time a contract is fully executed, when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the contract file.



## PART IV

### WORK STATEMENT

#### IV-1. Objectives.

- A. General.** The PLCB is a multi-faceted agency responsible for the sale and control of beverage alcohol throughout the Commonwealth and is one of the largest purchasers of wine and spirits in the country. The PLCB wishes to continue consolidating international beverage alcohol products and transporting them from the following, but not limited to, Europe, South America, Australia, New Zealand, and South Africa to the PLCB's distribution centers.
- B. Specific.** Currently, the PLCB utilizes three (3) Pennsylvania Distribution Centers for the receipt, processing, and storage of PLCB merchandise: DC#1, operated by XTL, Inc. (XTL) in Philadelphia; DC#2, operated by Kane is Able (Kane) in Taylor; and DC#4, operated by General Commodities Company, Inc. (Genco) in Pittsburgh.

The fragile nature of the glass, the liquid contents, and the high value associated with the merchandise requires a secure, stable, temperate environment, as well as responsible material handling.

The Selected Offeror shall optimize the use of Pennsylvania ports, while providing service consistent with the PLCB's need to have a timely, reliable, secure supply chain at a reasonable rate.

**IV-2. Nature and Scope of the Project.** The Selected Offeror of this door-to-door service shall receive, pick up, package, store, handle, maintain accurate and timely communication with the PLCB, ship, and deliver merchandise to PLCB Distribution Centers. The Selected Offeror must also ensure that each case delivered to the PLCB Distribution Centers is properly labeled. The Selected Offeror shall maintain accurate and detailed records. This Project will result in the successful completion of all tasks described in **Section IV-4**, Tasks. The Selected Offeror will be responsible for all the deliverables specified in that section.

#### IV-3. Requirements.

- A. Personnel.** The PLCB's Project Manager will approve/disapprove all key personnel assigned to this project. The Selected Offeror shall not subcontract with any person or entity that is not identified in the Technical Submittal to perform all or any part of the work to be performed without the prior written consent of the PLCB's Project Manager. During the contract period, personnel not previously identified in the Selected Offeror's Technical Submittal may only be substituted for another person or added to the team when approved in writing by PLCB's Project Manager.

**B. Public Health and Security.** The Selected Offeror shall at all contracted times be in compliance with all federal Food and Drug Administration regulations, including all aspects of the Public Health Security and Bio Terrorism Preparedness and Response Act [42 U.S.C. § 201 et seq.]. Additionally, the Selected Offeror shall be at all contracted times in compliance with all U.S. and foreign customs and border control requirements. Records of such compliance shall be retained and made available to the PLCB upon request.

**C. Employees.** All matters dealing with the health, welfare, and working condition of the Selected Offeror's employees are the responsibility of the Selected Offeror. The Selected Offeror agrees to comply with all local, state, federal, and international regulations governing health, welfare, and occupational safety standards.

**D. Security.** The Selected Offeror shall be responsible for all interior and exterior security of its facility at its own expense.

**E. Performance Bond.** The Selected Offeror shall be required to submit a renewable performance bond or other performance guarantee acceptable to the PLCB in the amount of one hundred twenty-five thousand dollars (\$125,000.00). This performance bond shall be submitted to the PLCB **within seven (7) calendar days of the date of the Notice to Proceed** letter sent to the Selected Offeror. Documented evidence that surety can be furnished shall accompany the Technical Submittal. The bond shall be for one (1) year and shall be renewable on an annual basis for the term of the contract and any additional option years. Please see **Appendix K** for a sample of a Performance Bond.

**F. Estimated Volumes.** Annual shipping volumes are based on the purchasing habits of the PLCB, which are influenced by both global and local trends in the beverage alcohol industry as well as consumer tastes and preferences. **Appendix E, Cost Submittal Template**, shows the anticipated volumes from each major geographic location that the PLCB sources product and is based on 2014 purchasing activity. Overall case growth for the PLCB as a whole has been about five percent (5%) per year.

Generally speaking, about fifty-four percent (54%) of the annual purchase volume comes from continental Europe, with approximately sixty-five percent (65%) being shipped as a full container load. The balance of the annual volume is generally shipped in less-than-container loads and is sourced twenty percent (20%) from Australia and New Zealand, sixteen percent (16%) from South America, and ten percent (10%) from South Africa. The estimated volumes and geographies in **Appendix E** are not to be construed as a guaranteed volume for the contracted period.

**G. Current unloading operations at the DCs.** Unloading times at the DCs will vary with the complexity of the consolidated load. Normal unloading

times are between one (1) and three (3) hours for well-loaded trailers using full layer loads. Unusual situations such as significant damage or mixed layers may extend the unloading time. The PLCB will not accept detention and demurrage charges.

Drivers are expected to unload the trailer and segregate merchandise on mixed pallet loads. Lumper services are usually available for hire at the DCs if the driver does not wish to perform this activity. The range of fees per load currently in place for lumper services at the DCs are: DC1 \$175 to \$325, DC2 \$100 to \$150 and DC4 \$150 to \$175. These fees are due and payable by the driver at the time of unloading and are not reimbursable by the PLCB.

**H. Emergency Preparedness.** To support continuity of operations during an emergency, such as a natural disaster (i.e. earthquakes) or a pandemic, or a disruption of service such as a port labor slowdown or temporary closure of a port debarkation, the Commonwealth needs a strategy for maintaining operations for an extended period of time. One part of this strategy is to ensure that essential contracts that provide critical business services to the Commonwealth have planned for such an emergency and put contingencies in place to provide needed goods and services.

1. Describe how you anticipate such a crisis will impact your operations.
2. Describe your emergency response continuity of operations plan. Please attach a copy of your plan, or at a minimum, summarize how your plan addresses the following aspects of pandemic preparedness:
  - a) Identify employee training (describe your organization's training plan, and how frequently your plan will be shared with employees)
  - b) Identify essential business functions and key employees (within your organization) necessary to carry them out
  - c) Identify contingency plans for:
    - (1) Short-term contingency planning – temporary interruption of normal business operations (e.g., electrical power outages).
    - (2) Short term contingency planning – temporary interruption of information technology operations
    - (3) Long-term contingency planning – several months disruption of normal business operations due to a catastrophic event (e.g., fire, tornado, etc.)
    - (5) An assessment of how various crises (e.g., natural disasters, weather conditions, labor strikes, etc.) would be managed to

reduce the impact on operations.

- (6) How employees in your organization will carry out the essential functions if contagion control measures prevent them from coming to the primary workplace.
3. How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc.
4. How and when your emergency plan will be tested, and if the plan will be tested by a third-party.

## I. Invoicing

1. Invoices must be submitted via email as follows:  
**RA-PLCB\_Invoices@pa.gov**
2. Invoices are placed into Liquor Control Board Invoice Processing Unit (LCBIP) workflow and processed on a first in, first out basis. All invoices submitted to this resource account must be in PDF format and contain only one invoice per PDF attachment. Invoices not submitted in a PDF format and/or an attachment with multiple invoices will be sent back to the sender requesting that they be resubmitted (which will result in delays in processing the invoices).
3. Invoices must be an exact copy of the approved PLCB Purchase Order. No additional charges will be paid.

**The Issuing Office will reimburse the Selected Offeror for work satisfactorily performed after execution of a written contract and the start of the contract term, in accordance with contract requirements, and only after the Issuing Office has issued a notice to proceed.**

**IV-4 Tasks.** At its sole option and discretion, the PLCB may change the volume(s), delivery day(s), delivery time(s) and/or the location of individual delivery or pick-up points. Except where modifications render impossible deliveries or pick-ups by the Selected Offeror, the PLCB may at any time make changes to the service required of the Selected Offeror, (e.g., add, delete or relocate pick-up or delivery points, increase or decrease volumes and codes handled, and change the items to be delivered by the Selected Offeror to each delivery point).

Describe the standards you will use to measure performance and correct deficiencies for the specified tasks. Provide a full description of the facility(ies) you propose to use for the consolidation operation, including the street address, floor plan, security features, traffic flow and work flow. Describe merchandise protection techniques for temperature extremes. Hours of operations and types of shifts

should be included in the Technical Submittal to accomplish the RFP objectives through the following tasks:

**Task A: Consolidation and Delivery Services:** The Selected Offeror of this door-to-door service shall process purchase orders; receive and pick up merchandise; store, verify vintage and product; handle and ship container and less-than-container loads; and deliver merchandise to PLCB Distribution Centers. Services include, but are not limited to, the following:

- 1. Pick-ups/Deliveries from Vendors:** Purchase Orders will be sent to the Selected Offeror via the PLCB Vendor Collaboration Portal or Electronic Data Interchange (EDI). Based on the requested pick-up date, the Selected Offeror shall contact the vendors and schedule merchandise pick-up or vendor delivery to the Selected Offeror's facility(ies). Merchandise receipt from PLCB vendors is required no later than fifteen (15) days from the creation date of the purchase order. Delivery to PLCB facilities is required no later than seventy-five (75) days from the creation date of the purchase order. The Selected Offeror will not be held responsible for delays caused by the PLCB vendor. Provide clear and concise documentation of your network capabilities to demonstrate that the requirements can be met and describe the measures which will be taken to guarantee the results.

The Selected Offeror will verify that the merchandise to be picked up matches the purchase order in all respects. The PLCB must be notified of discrepancies of quantity, case pack, and/or vintage prior to consolidation and shipment to the PLCB Distribution Center(s). The PLCB reserves the right to resolve any discrepancies prior to consolidation and shipment. The Selected Offeror is responsible for ensuring proper labeling on all cases delivered to the PLCB.

The Selected Offeror shall inspect all merchandise for carton count and visible damage. Any merchandise that is damaged or not appropriately packaged for shipment will not be accepted from the vendor. Any damage discovered by the Selected Offeror after merchandise is accepted by the Selected Offeror shall be the responsibility of the Selected Offeror, unless the PLCB agrees, in writing, that the damage was concealed at the time of receipt by the Selected Offeror. The Selected Offeror may exercise any subrogation rights which it may have against third parties who are responsible for damaged merchandise.

- 2. Ocean Carriage, Inland Services, Deconsolidation, and Delivery:** The Selected Offeror will consolidate PLCB merchandise with other non-PLCB merchandise at the Selected Offeror's overseas facilities. The Selected Offeror will provide cargo booking and shipping arrangements with a common carrier to ship a container including the PLCB's merchandise packed and marked. The Selected Offeror is responsible for all foreign inland carriage, pier, terminal, and customs charges overseas,

as well as all inclusive common carrier ocean freight, accessorial, and U.S. terminal charges, and marine insurance at one hundred ten percent (110%) of the cost, insurance, and freight. The Selected Offeror is also responsible for the terminal charges, inland carriage of PLCB merchandise and deconsolidation of PLCB merchandise at a U.S. facility. After deconsolidation, the Selected Offeror shall deliver properly labelled cases to the appropriate PLCB Distribution Center as noted on the purchase order.

- 3. Ocean and Other Common Carrier Bills of Lading:** A completed Bill of Lading must be provided with all shipments of merchandise consigned to the Pennsylvania Liquor Control Board. The PLCB Purchase Order Number must be included on the U. S. Inland Carrier Bill of Lading.

The Selected Offeror shall provide and retain copies for up to five (5) years of export/import documentation, including but not limited to, foreign and domestic commercial invoices, signed Bills of Lading, certificates of label approval, FDA registration number, prior approvals and certificates of origin, and such other documentation as requested from time to time to the Pennsylvania Liquor Control Board Customs & Excise Office, 7116 Ridge Ave. Philadelphia, PA 19128.

**The Selected Offeror is required to provide all U.S. Customs-required documentation to the PLCB Customs and Excise Office.**

- 4. Importer Security Filing (ISF) Requirement:** To ensure compliance with ISF requirements, the Selected Offeror must file the ISF data elements for PLCB merchandise with U.S. Customs no later than seventy-two (72) hours prior to vessel loading at the port of export. ISF penalties resulting from late and/or incomplete submissions will be the responsibility of the Selected Offeror.
- 5. Staging Services:** The Selected Offeror shall have an adequate staging area at its facility(ies) in the United States. A layout of the staging area(s), including dimensions and heights, should be included in the Technical Submittal. Pallet and case capacities should also be included for staging and storage areas. A detailed layout diagram to scale and photos of the proposed facility(ies) should also be included in the Technical Submittal.

Offerors are responsible for obtaining and maintaining all necessary local, state, federal and international licensure and permits. For purposes of this section, please note that any facility intended to be used for storing and staging of PLCB merchandise must hold a valid bailee-for-hire license. Information may be found at <http://www.lcb.state.pa.us/PLCB/index.htm> under the tab for "Licensees."

- 6. Packaging Services:** All shipments of wine and spirits to the PLCB will be in case packs as specified on the Purchase Order. The shipping containers, including outer and inner packing, must meet carrier and PLCB acceptance for safe handling, stacking, transportation to, storage, and reshipment from PLCB Distribution Centers to PLCB retail stores. Packaging must comply in all respects with the governing classification of common carriers. The Selected Offeror shall ensure that all packaging is adequate to protect the merchandise throughout the full delivery cycle, and bring any issues of inadequate packaging to the attention of the PLCB. The PLCB will then provide instructions in writing of how to address the problem. Any merchandise damaged while in the control of the Selected Offeror will be repacked by the Selected Offeror at its expense.

The Selected Offeror shall electronically advise the PLCB via the PLCB Vendor Collaboration Portal at the time of shipment to PLCB Distribution Centers.

The Selected Offeror shall shrink-wrap/stretch-wrap all pallets and load in vehicle conveyance with appropriate load stabilization or air bags. All merchandise shall be shipped on a slip sheet or four (4)-way access, forty (40) inch by forty-eight (48) inch warehouse pallet.

The normal schedule for delivery to PLCB Distribution Centers shall be five (5) days per week, Monday through Friday. The Selected Offeror will discuss any change to or deviation from the established delivery schedule with the PLCB and the PLCB Warehouse Manager. The PLCB will advise the Selected Offeror, in writing, whenever it relocates or reassigns a pick-up or delivery point.

**7. Delivery Services:**

**a) Pallets**

The PLCB will not enter into any pallet exchange program. The Selected Offeror may contact the PLCB third party contractors that manage the Distribution Centers and establish such a program by mutual agreement.

**b) Temperature Control Materials**

The PLCB will not be responsible for blankets or enter into any blanket exchange programs. The Selected Offeror may contact the PLCB third party contractors that manage the Distribution Centers and make arrangements for the storage and retrieval of the blankets or establish a blanket exchange program by mutual agreement.

**c) Manifest of Liquor Shipments for Truck or Intermodal Shipments**

A Manifest of Liquor Shipment must be provided showing the PLCB Purchase Order number, Shipment Number, number of cases by PLCB

Code number/SCC, total cases, and required delivery date. (See **Appendix M, Sample Manifest.**)

The original manifest must accompany the merchandise to the Distribution Center to which the shipment is consigned. The manifest shall be attached to the last case loaded, to the rear door, or to the inside wall adjacent to the rear door of the trailer. Any truck arriving at a PLCB Distribution Center without a manifest will not be unloaded until a manifest is provided. The PLCB will not be responsible for detention or demurrage charges in such an instance. The driver should have two (2) copies of the manifest.

**d) Bill of Lading**

A completed Bill of Lading containing a PLCB Shipment Number and a scheduled delivery date must be provided with all shipments of merchandise to the PLCB. Delivery time must be prearranged with the appropriate Distribution Center up to ten (10) days prior to delivery.

**e) Licensing Requirements**

Offerors are responsible for obtaining and maintaining all necessary local, state, federal and international licensure and permits. For purposes of this section, please note that only Carriers that meet Commonwealth of Pennsylvania licensing requirements may deliver merchandise to PLCB facilities. Information regarding PA transporter-for-hire licenses may be found at <http://www.lcb.state.pa.us/PLCB/index.htm> under the tab for "Licensees". Carriers must be informed by the Selected Offeror of the delivery and licensure requirements as set forth in this RFP, as well as loading and unloading requirements. Direct rail delivery (box car) is not allowed to any Distribution Center.

**f) Loading Requirements**

The Selected Offeror must load all shipments using methods that assure safe transportation. Cases must be securely stacked and dunnaged. The use of glue or other adhesive material on the exterior of cases to secure unitized loads is not allowed.

Shipments containing multiple Codes should have all cases of the same Code loaded together contiguously with the case Code labels turned in the direction of the receiver. This procedure simplifies identification, speeds unloading, and enhances the tally process of counting cases as they are moved onto the receiving dock.

Pallets or slip sheets that contain more than one (1) Code on the same pallet must be segregated at the Distribution Center's receiving dock. This process will require additional unloading time. Carriers phoning in to make a Distribution Center delivery appointment should not tender the load as being unitized when there are multiple Codes per pallet. The



load should be scheduled as a floor load to ensure that sufficient unloading time is made available. All shipping paperwork should indicate when there are multiple Codes per pallet.

Drivers will not be authorized or permitted to use warehouse contractor equipment for unloading purposes. Any additional pallets needed when segregating mixed pallet loads will be provided by the DC at no charge.

The distribution environment is widely variable and depends on a range of factors, including points of origin and destination, merchandise and container sensitivities to cold, accidental freezing or heat, transit mode, and time, weather or season. The Selected Offeror should know and understand the available protective systems used for beverage alcohol (i.e., container liners, cargo blankets, bubble foil blankets, pallet covers, etc.) and shall utilize the systems to properly protect the merchandise in transit at no additional cost to the PLCB.

**8. Damage Handling:** Any merchandise ordered on a PLCB Purchase Order that is received at a PLCB Distribution Center in a damaged condition as a result of transportation damage must be processed as follows:

- a) In the event of excessive damages, the PLCB reserves the right to refuse receipt. The PLCB will contact the Selected Offeror prior to processing a claim or chargeback.
- b) If the damage affects only a portion of the shipment, the shipment will be received and a claim or chargeback for damage to the Selected Offeror will be processed. The Carrier driver will sign the Distribution Center Damage/Shortage Report and will be given a copy. If pictures of damages are required, it will be the responsibility of the Carrier for the Selected Offeror to obtain pictures. Any objection to a claim shall be made in writing within thirty (30) days of the claim to the PLCB. Failure to submit an objection to the claim with detailed documentation shall be considered the Selected Offeror's agreement to the propriety of the claim. Claims will reflect the total financial cost to the PLCB based upon the PLCB Purchase Order.
- c) Distribution Center contractors will make the damaged merchandise saleable at their respective damage reconditioning rates. It will be the responsibility of the Selected Offeror to contact the appropriate Distribution Center contractor for the applicable rate. A list of Distribution Center contractors, including contact information, will be given to the Selected Offeror.

**9. Inventory Control:** The Selected Offeror must establish controls to protect merchandise from damage, pilferage, misuse or unauthorized access. Commonwealth of Pennsylvania laws and regulations require one hundred percent (100%) accountability for all merchandise at all times.

The Selected Offeror shall maintain accurate inventory and order management records with audit trail capabilities.

These same inventory controls must also be used to control any merchandise that becomes damaged while in possession of the Selected Offeror and is repacked or destroyed. The Selected Offeror shall be financially responsible for any inventory shortages and damages for materials in its possession or control, including through delivery to the Distribution Centers. The value of any shortages or damages will be calculated at the actual cost of the items per the PLCB Purchase Order.

**10. Safeguarding Merchandise:** Notwithstanding any other provisions of this RFP, including terms and conditions, pricing or otherwise, the Selected Offeror shall be deemed to be in control of merchandise from the time that the merchandise is picked up through receipt at the Distribution Center(s). The Selected Offeror shall safeguard merchandise from loss, shortage, breakage, burglary, and theft while in the Selected Offeror's control. The Selected Offeror shall be financially responsible for any inventory shortages and damages which occur while in the Selected Offeror's control. The Selected Offeror shall provide insurance against loss in the amount of ten million dollars (\$10,000,000.00) and shall name the PLCB as an additional insured on all policies against loss, as set forth in Appendix B, Special Terms and Conditions.

**11. Standard Reports: Reports shall be supplied as set forth in Appendix L.**

**Task B: Labeling Services:** The Selected Offeror is required to ensure that all cases shipped to the PLCB Distribution Centers are properly labeled. If merchandise picked up at vendors or received from vendors does not meet labeling standards per **Appendix N, Labeling Procedures**, the Selected Offeror shall perform labeling services, including, but not limited to, printing and applying labels. These labels must be supplied by the Selected Offeror and contain the PLCB Code, SCC Bar Code, and item description.

**Task C: Special Services:** Upon request of the PLCB, the Selected Offeror shall perform special services related to, but not otherwise provided for, in this RFP at rates which will be mutually agreed upon. Special handling/expedited service could be part of this task. These services will be billed "at cost" and should not be incorporated into the Cost Submittal.

**IV-5 Project Control.** From the Notice to Proceed through ninety (90) days after start-up the Selected Offeror shall provide the following:

**A. Status Information.** Weekly status information covering activities, problems and recommendations.

**B. Issues Log.** The Issues log shall include:

1. A unique ID number.
2. Name of the reporting individual.
3. A clear description of the issue.
4. Date issue was reported.
5. Resource(s) assigned to resolve the issue.
6. Status of the issue (open, closed, deferred).
7. Priority (high, medium, low).
8. Due date specifying the date by which the issue must be resolved or conveyed to the PLCB Project Manager.
9. A resolution column with dated notes, including initials of the individual making the notation, detailing all actions taken through resolution of the issue.

At a minimum, open/late issues in the Project Issue Log must be reviewed on a weekly basis by the PLCB's Project Manager; however, the review may be required more frequently depending on the number and type of open issues at any given time. This frequency of review will be mutually determined by the PLCB and the Selected Offeror.

**IV-6 Contract Requirements—Small Diverse Business Participation.** All contracts containing Small Diverse Business participation must also include a provision requiring the Selected Offeror to meet and maintain those commitments made to Small Diverse Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BSBO. All contracts containing Small Diverse Business participation must include a provision requiring Small Diverse Business subcontractors to perform at least **fifty (50%)** of the subcontracted work.

The Selected Offeror's commitments to Small Diverse Businesses made at the time of proposal submittal or contract negotiation shall, to the extent so provided in the commitment, be maintained throughout the term of the contract and through any renewal or extension of the contract. Any proposed change must be submitted to BSBO, which will make a recommendation to the Contracting Officer regarding a course of action.

If a contract is assigned to another Offeror, the new Offeror must maintain the Small Diverse Business participation of the original contract.

The Selected Offeror shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the Contracting Officer of the Issuing Office and BSBO within **ten (10)** workdays at the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to Small Diverse Business subcontractors and suppliers. Also, this information will serve as a record of fulfillment of the commitment the Selected Offeror made and for which it received Small Diverse Business participation points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF SMALL DIVERSE BUSINESS STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR SMALL DIVERSE BUSINESS UTILIZATION.

**APPENDIX A**

**STANDARD CONTRACT TERMS AND  
CONDITIONS**

The Pennsylvania Liquor Control Board uses the Oracle system instead of the SAP system used by other commonwealth agencies. The Selected Offeror, therefore, will be required to register with the PLCB's Supplier Unit. Registration information is available at the following link: [http://www.portal.state.pa.us/portal/server.pt/community/logistics/17480/supplier\\_registration/611701](http://www.portal.state.pa.us/portal/server.pt/community/logistics/17480/supplier_registration/611701). The references to SAP or SRM should be disregarded.

**STANDARD CONTRACT  
TERMS AND CONDITIONS – PAPER CONTRACT**

**1. TERM OF CONTRACT**

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract. The Effective Date shall be fixed by the Contracting Officer after the Contract has been fully executed by the Contractor and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The Contract shall not be a legally binding contract until after the Effective Date is affixed and the fully-executed Contract has been sent to the Contractor. The Contracting Officer shall issue a written Notice to Proceed to the Contractor directing the Contractor to start performance on a date which is on or after the Effective Date. The Contractor shall not start the performance of any work prior to the date set forth in the Notice to Proceed and the Commonwealth shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No agency employee has the authority to verbally direct the commencement of any work under this Contract.

**2. EXTENSION OF CONTRACT TERM**

The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to three (3) months upon the same terms and conditions.

**3. DEFINITIONS**

As used in this Contract, these words shall have the following meanings:

- a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days: Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services: All Contractor activity necessary to satisfy the Contract.

**4. INDEPENDENT PRIME CONTRACTOR**

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth. The Contractor will be responsible for all services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

**5. DELIVERY**

- a. **Supplies Delivery:** All item(s) shall be delivered F.O.B. Destination. The Contractor agrees to bear the risk of loss, injury, or destruction of the item(s) ordered prior to receipt of the items by the Commonwealth. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations. Except as otherwise provided in this contract, all item(s) must be delivered within the time period specified. Time is of the essence and, in addition to any other remedies, the Contract is subject to termination for failure to deliver as specified. Unless otherwise stated in this Contract, delivery must be made within thirty (30) days after the Effective Date.
- b. **Delivery of Services:** The Contractor shall proceed with all due diligence in the performance of the services with qualified personnel, in accordance with the completion criteria set forth in the Contract.

**6. ESTIMATED QUANTITIES**

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

**7. WARRANTY**

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

**8. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY**

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the commonwealth under the contract. The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged



patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract. This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same. As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization. The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract. If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

## **9. OWNERSHIP RIGHTS**

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

## **10. ACCEPTANCE**

No item(s) received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the item(s). Any item(s) which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the item(s) or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within fifteen (15) days after notification. Rejected item(s) left longer than fifteen (15) days will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the item(s). Upon notice of rejection, the Contractor shall immediately replace all such rejected item(s) with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such item(s), and deduct from any monies due or that may

thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

#### **11. PRODUCT CONFORMANCE**

The Commonwealth reserves the right to require any and all Contractors to:

- a. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
- b. Supply published manufacturer product documentation.
- c. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
- d. Complete a survey/questionnaire relating to the bid requirements and specifications.
- e. Provide customer references.
- f. Provide a product demonstration at a location near Harrisburg or the using agency location.

#### **12. REJECTED MATERIAL NOT CONSIDERED ABANDONED**

The Commonwealth shall have the right to not regard any rejected material as abandoned and to demand that the Contractor remove the rejected material from the premises within thirty (30) days of notification. The Contractor shall be responsible for removal of the rejected material as well as proper clean-up. If the Contractor fails or refuses to remove the rejected material as demanded by the Commonwealth, the Commonwealth may seek payment from, or set-off from any payments due to the Contractor under this or any other Contract with the Commonwealth, the costs of removal and clean-up. This is in addition to all other rights to recover costs incurred by the Commonwealth.

#### **13. COMPLIANCE WITH LAW**

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

#### **14. ENVIRONMENTAL PROVISIONS**

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including, but not limited to, the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. § 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. § 6018.101 et seq.; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. § 693.1.

#### **15. POST-CONSUMER RECYCLED CONTENT**

- a. Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the

Contract must meet the minimum percentage levels for total recycled content as specified on the Department of General Services website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) on the date of submission of the bid, proposal or contract offer.

- b. **Recycled Content Enforcement:** The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

## 16. COMPENSATION

- a. **Compensation for Supplies:** The Contractor shall be required to furnish the awarded item(s) at the price(s) quoted in the Contract. All item(s) shall be delivered within the time period(s) specified in the Contract. The Contractor shall be compensated only for item(s) that are delivered and accepted by the Commonwealth.
- b. **Compensation for Services:** The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

## 17. BILLING REQUIREMENTS

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall include in all of its invoices the following minimum information:

- a. Vendor name and "Remit to" address, including SAP Vendor number;
- b. Bank routing information, if ACH;
- c. SAP Purchase Order number;
- d. Delivery Address, including name of Commonwealth agency;
- e. Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- f. Quantity provided;
- g. Unit price;
- h. Price extension;
- i. Total price; and
- j. Delivery date of supplies or services.

If an invoice does not contain the minimum information set forth in this paragraph, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

## **18. PAYMENT**

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.
- c. The Commonwealth will make contract payments through Automated Clearing House (ACH).
  - 1) Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).
  - 2) The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of

Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.

- 3) It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

## **19. TAXES**

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

## **20. ASSIGNMENT OF ANTITRUST CLAIMS**

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

## **21. COMMONWEALTH HELD HARMLESS**

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

## **22. AUDIT PROVISIONS**

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

## **23. DEFAULT**

- a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:
- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
  - 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;
  - 3) Unsatisfactory performance of the work;
  - 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
  - 5) Improper delivery;
  - 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
  - 7) Delivery of a defective item;
  - 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
  - 9) Discontinuance of work without approval;
  - 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
  - 11) Insolvency or bankruptcy;
  - 12) Assignment made for the benefit of creditors;
  - 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any

amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

- 14) Failure to protect, to repair, or to make good any damage or injury to property;
  - 15) Breach of any provision of the Contract;
  - 16) Failure to comply with representations made in the Contractor's bid/proposal; or
  - 17) Failure to comply with applicable industry standards, customs, and practice.
- b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.
- c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.
- d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
- f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

#### **24. FORCE MAJEURE**

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental

entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

## **25. TERMINATION PROVISIONS**

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose
- c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under the Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under Subparagraph a.

## **26. CONTRACT CONTROVERSIES**



- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.
- b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

## **27. ASSIGNABILITY AND SUBCONTRACTING**

- a. Subject to the terms and conditions of this Paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

- e. For the purposes of this Contract, the term “assign” shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- g. A change of name by the Contractor, following which the Contractor’s federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

**28. OTHER CONTRACTORS**

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its work with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

**29. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

The Contractor agrees:

- a. 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 discriminate in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

- d. The Contractor and each subcontractor shall not discriminate in violation of PHRA and applicable federal laws against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers subject to Title VII of the Civil Rights Act of 1964, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- f. 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.
- g. The Contractor’s and each subcontractor’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 and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- h. 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.

### **30. 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 contracting and procurement process.

- 1. DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:
  - a. “Affiliate”** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

- 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 prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
  - c. **“Contractor”** means the individual or entity, that has entered into this contract with the Commonwealth.
  - d. **“Contractor Related Parties”** means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
  - e. **“Financial Interest”** means either:
    - (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.
  - f. **“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.
  - 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.
2. In furtherance of this policy, Contractor agrees to the following:
- a. 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 or procurement with the Commonwealth.
  - b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
  - c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other

published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

- d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, 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.
- e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
  - (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
  - (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
  - (3) had any business license or professional license suspended or revoked;
  - (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
  - (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract if becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- g. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity 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 the Office of the State Inspector General in writing.

- h.** 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, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the 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. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- i.** Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an 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 Office of the State 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 refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- j.** 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.

### **31. 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  
FAX No: (717) 787-9138

### **32. AMERICANS WITH DISABILITIES ACT**

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting 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. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania 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 subparagraph a above.

### **33. HAZARDOUS SUBSTANCES**

The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the “Worker and Community Right to Know Act” (the “Act”) and the regulations promulgated pursuant thereto at 4 Pa. Code Section 301.1 et seq.

- a. Labeling. The Contractor shall insure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the following substances (as defined by the Act and the regulations) supplied by the Contractor is clearly labeled, tagged or marked with the information listed in Paragraph (1) through (4):
  - 1) Hazardous substances:
    - a) The chemical name or common name,
    - b) A hazard warning, and
    - c) The name, address, and telephone number of the manufacturer.
  - 2) Hazardous mixtures:
    - a) The common name, but if none exists, then the trade name,
    - b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
    - c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
    - d) A hazard warning, and
    - e) The name, address, and telephone number of the manufacturer.
  - 3) Single chemicals:



- a) The chemical name or the common name,
  - b) A hazard warning, if appropriate, and
  - c) The name, address, and telephone number of the manufacturer.
- 4) Chemical Mixtures:
- a) The common name, but if none exists, then the trade name,
  - b) A hazard warning, if appropriate,
  - c) The name, address, and telephone number of the manufacturer, and
  - d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

A common name or trade name may be used only if the use of the name more easily or readily identifies the true nature of the hazardous substance, hazardous mixture, single chemical, or mixture involved.

Container labels shall provide a warning as to the specific nature of the hazard arising from the substance in the container.

The hazard warning shall be given in conformity with one of the nationally recognized and accepted systems of providing warnings, and hazard warnings shall be consistent with one or more of the recognized systems throughout the workplace. Examples are:

- NFPA 704, Identification of the Fire Hazards of Materials.
- National Paint and Coatings Association: Hazardous Materials Identification System.
- American Society for Testing and Materials, Safety Alert Pictorial Chart.
- American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

Labels must be legible and prominently affixed to and displayed on the product and the carton, container, or package so that employees can easily identify the substance or mixture present therein.

- b. Material Safety Data Sheet. The contractor shall provide Material Safety Data Sheets (MSDS) with the information required by the Act and the regulations for each hazardous substance or hazardous mixture. The Commonwealth must be provided an appropriate MSDS with the initial shipment and with the first shipment after an MSDS is updated or product changed. For any other chemical, the contractor shall provide an appropriate MSDS, if the manufacturer, importer, or supplier produces or possesses the MSDS. The contractor shall also notify the Commonwealth when a substance or mixture is subject to

the provisions of the Act. Material Safety Data Sheets may be attached to the carton, container, or package mailed to the Commonwealth at the time of shipment.

**34. COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**35. APPLICABLE LAW**

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

**36. INTEGRATION**

This Contract, including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

**37. ORDER OF PRECEDENCE**

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the solicitation; and the Contractor's response to the solicitation.

**38. CONTROLLING TERMS AND CONDITIONS**

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received from the Contractor are for obtaining firm pricing only. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor and not binding on the Commonwealth.

**39. CHANGES**

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through the Contract Controversies Provision.

#### **40. BACKGROUND CHECKS**

- a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf>. The background check must be conducted prior to initial access and on an annual basis thereafter.
- b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.
- c. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.
- d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in Enclosure 3 of Commonwealth Management Directive 625.10 Amended (January 30, 2008) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings. The

requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

#### **41. CONFIDENTIALITY**

- a. The Contractor agrees to guard the confidentiality of the Commonwealth's confidential information with the same diligence with which it guards its own proprietary information. If the Contractor needs to disclose all or part of project materials to third parties to assist in the work or service performed for the Commonwealth, it may do so only if such third parties sign agreements containing substantially the same provisions as contained in this Section. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this Contract. Each copy of such confidential information shall be marked by the party making the copy with all confidentiality notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only. Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default.
- b. The obligations stated in this Section do not apply to information:
  - 1) already known to the recipient at the time of disclosure other than through the contractual relationship;
  - 2) independently generated by the recipient and not derived from the information supplied by the disclosing party;
  - 3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
  - 4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
  - 5) required to be disclosed by the recipient by law, regulation, court order, or other legal process.
- c. There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

#### **42. NOTICE**

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is

confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

- a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.
- b. If to the Commonwealth: the address of the Issuing Office as set forth on the Contract.

#### **43. RIGHT TO KNOW LAW**

- 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.

## **APPENDIX B**

# **SPECIAL CONTRACT TERMS AND CONDITIONS**

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## **SPECIAL CONTRACT TERMS AND CONDITIONS**

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### **1. OTHER CONTRACTORS**

The CONTRACTOR, its agents and employees, shall fully cooperate with and not restrict facility access to other PLCB/Commonwealth contractors and/or employees inasmuch as the performance of work of such other contractors and/or Commonwealth employees is related to the operation of the PLCB's business. The CONTRACTOR, its agents and employees, shall not commit or permit any act which will interfere with the performance of work by any other PLCB/Commonwealth contractor and/or employees. This paragraph shall be included in any subcontracts. The PLCB shall equitably enforce this paragraph on all contractors to prevent the imposition of unreasonable burden upon any contractor. The CONTRACTOR shall be responsible for any costs incurred by the PLCB/Commonwealth or PLCB/Commonwealth contractors for violations of this paragraph.

### **2. OFFICIALS NOT TO BENEFIT**

No member of the General Assembly of the Commonwealth of Pennsylvania or any individual employed by the Commonwealth/PLCB on a full-time basis shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Contract if made with a corporation for the corporation's general benefit.

### **3. INSURANCE REQUIREMENTS**

a. CONTRACTOR shall procure and maintain at its expense the following types of insurance issued by companies and evidenced by policies, both of which are acceptable to the PLCB and authorized to conduct such business under the laws of the PLCB:

1) Worker's compensation insurance for all CONTRACTOR's employees engaged in work at the site of the \_\_\_\_\_ project in accordance with the Worker's Compensation Act of 1915 and \_\_\_\_\_ any supplements or amendments thereof.

2) Commercial General Liability, and Property Damage Insurance to protect the PLCB, CONTRACTOR, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death, and damage to property, including loss of use resulting from any property damage, which may arise out of the services performed under this Contract, whether such performance be by CONTRACTOR, by any subcontractor, or anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than one million dollars (\$1,000,000.00) for injury to or death of one person in a single occurrence; not less than three million dollars (\$3,000,000.00) for injury to or death of more than one person in a single occurrence; and



not less than ten million dollars (\$10,000,000.00) for a single occurrence of property damage. The insurance must cover, at a minimum, any loss, shortage, breakage, burglary or theft of PLCB merchandise or other Commonwealth property that occurs in the performance of this contract.

b. Any and all sub-contractors identified by CONTRACTOR in its Technical Submittal must also provide proof of the same insurance as defined in paragraph 3(a)(1) and (2) above, which proof shall be provided to the CONTRACTOR and then forwarded by the CONTRACTOR to the PLCB. All requirements of this paragraph 3 also apply to such sub-contractors.

c. All such policies shall be occurrence rather than claims-made policies and shall name the PLCB as an additional insured. The insurance shall not contain any endorsements or any other form designed to limit and restrict any action by the PLCB, as an additional insured, against the insurance coverage in regard to work performed for the PLCB.

d. Prior to commencement of work under this Contract, the CONTRACTOR shall provide the PLCB with current certificates of insurance for its own entity and for all sub-contractors. These certificates shall contain a provision that coverage afforded under the policies shall not be cancelled or changed until at least thirty (30) days prior written notice has been given the PLCB. Copies of such notification shall be sent to the PLCB Contract Administrator.

#### **4. DISCHARGE**

If during the term of the Contract, or any additional period or extension thereof, the PLCB is required to discontinue operations due to actions or inactions taken by the courts, the Federal government, the Legislature of the Commonwealth of Pennsylvania, or some other cause beyond the control of the PLCB, this Contract shall immediately expire and both parties are discharged from all terms, conditions, and covenants in this Contract. However, a final settlement of this Contract is required and shall survive expiration of this Contract.

#### **5. INSOLVENCY**

In addition to any other provisions of this Contract, regardless of any Order of Court and not be way of limitation, if at any time during the term of this Contract, pursuant to any statute either of the United States or of any State, bankruptcy proceedings, voluntary or involuntary, and including, Chapter XI – Reorganization of the Federal Bankruptcy Act; appointment of a receiver of all or a portion of the CONTRACTOR's property; or if the Contractor makes an assignment for the benefit of the creditors; or the CONTRACTOR assigns the Contract voluntarily or involuntarily by judicial sale or otherwise; and the same are not withdrawn, settled, or disposed within thirty (30) days of filing, appointment, or assignment, this Contract at the option of the PLCB exercised within a reasonable period of time from notice of the happening of

any one (1) or more such events may be cancelled and terminated and the CONTRACTOR shall be in default of the terms of this Contract. This provision shall in no way limit any other rights of the PLCB in the event of the CONTRACTOR's default of any other terms of this contract.

**6. VENDOR CODE OF CONDUCT**

For purposes of this Contract, the selected Contractor and all subcontractors, as well as employees and agents of the selected Contractor and all subcontractors, will be considered "vendors" such that compliance with the PLCB's Vendor Code of Conduct is mandatory: <http://www.lcb.state.pa.us/cons/groups/externalaffairs/documents/form/002458.pdf>.

## **APPENDIX C**

# **LIQUOR CODE SECTION, LAWS OF PENNSYLVANIA**

## **LIQUOR CODE SECTION, LAWS OF PENNSYLVANIA**

The Contractor shall comply with Liquor Code Sections 210 and 214 [47 P.S. §§ 2210, 2-214], which provide as follows:

### **Section 2-210. Restrictions on members of the board and certain employees of Commonwealth**

- (a) A member or employee of the board or enforcement bureau or a member of the immediate family of a member or employee of the board or enforcement bureau shall not be directly or indirectly interested or engaged in any other business or undertaking within the Commonwealth dealing in liquor, alcohol, or malt or brewed beverages, whether as owner, part owner, partner, member of syndicate, holder of stock exceeding five percent (5%) of the equity at fair market value of the business, independent contractor or manager of a licensed establishment required under 40 Pa. Code §5.23 (relating to appointment of managers), and whether for his own benefit or in a fiduciary capacity for some other person. For the purpose of this subsection only, "employee of the board or Enforcement Bureau" shall mean any individual employed by the board or Enforcement Bureau who is responsible for taking or recommending official action of a non-ministerial nature with regard to:
  - (1) Contracting or procurement;
  - (2) Administering or monitoring grants or subsidies;
  - (3) Planning or zoning;
  - (4) Inspecting, licensing, regulating or auditing any person; or
  - (5) Any other activity where the official action has an economic impact of greater than a de minimis nature on the interests of any person.
- (b) No member or employee of the board or enforcement bureau or a member of the immediate family of a member or employee of the board or enforcement bureau nor any employee of the Commonwealth shall solicit or receive, directly or indirectly, any commission, remuneration or gift whatsoever, from any person having sold, selling or offering liquor or alcohol for sale to the board for use in Pennsylvania Liquor Stores.
- (c) No person convicted of an infamous crime may be employed as a member or employee by the board or enforcement bureau.
- (d) No member or employee of the board or enforcement bureau may use his position with the board or enforcement bureau, or any confidential information received through his position with the board or enforcement bureau, to obtain financial gain, other than compensation provided by

law, for himself, a member of his immediate family or a business with which he is associated.

- (e) No person may offer or give to a member or employee of the board or enforcement bureau or a member of his immediate family or a business with which he is associated, and no member or employee of the board or enforcement bureau may solicit or accept anything of value, including a gift, loan, political contribution, reward or promise of future employment, based on an understanding that the vote, official action or judgment of the member or employee of the board or enforcement bureau would be influenced thereby.
- (f) No member or employee of the board or enforcement bureau or a member of his immediate family or any business in which the member or employee or a member of his immediate family is a director, officer or owner or holder of stock exceeding five percent (5%) of the equity at fair market value of the business may enter into any contract valued at five hundred dollars (\$500.00) or more to provide goods or services to the board or enforcement bureau unless the contract has been awarded to the lowest responsible bidder through an open and public process, including prior public notice and subsequent public disclosure of all proposals considered and contracts awarded.
- (g) No former member or employee of the board or enforcement bureau may represent a person, with or without compensation, on any matter before the board or enforcement bureau for one year after leaving the board or enforcement bureau.
- (h) No member or employee of the board or enforcement bureau or an advisor or consultant thereto having recommended to the board or enforcement bureau either the making of a contract or a course of action of which the making of a contract is an express or implied part, may, at any time thereafter, have an adverse interest in that contract.
- (i) No member or employee of the board or enforcement bureau may influence or attempt to influence the making of, or supervise or deal with, a contract with the board or enforcement bureau in which he has an adverse interest.
- (j) No member or employee of the board or enforcement bureau may have an adverse interest in a contract with the board or enforcement bureau.
- (k) No person having an adverse interest in a contract with the board or enforcement bureau may become an employee of the board or enforcement bureau until the adverse interest has been wholly divested.
- (l) No member or employee of the board or enforcement bureau, except in the performance of his duties as such employee, may, for remuneration,

directly or indirectly, represent a person upon a matter pending before the board or enforcement bureau.

(m) (1) Any person who violates the provisions of this section shall have his employment by the board or enforcement bureau immediately terminated by the appropriate person having the power to terminate and shall be liable to the board or enforcement bureau to reimburse the board or enforcement bureau for all compensation received by him from the board or enforcement bureau while employed in violation of subsection (c).

(2) Any person who violates the provisions of subsections (b), (d) or (e) shall be guilty of a felony and, upon conviction thereof, shall be sentenced to pay a fine of not more than ten thousand dollars (\$10,000.00) or to undergo imprisonment for not more than five (5) years, or both.

(3) Any person who violates the provisions of subsections (a) or (f) through (l) shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) or to undergo imprisonment for not more than one (1) year, or both.

(4) Any person who obtains financial gain from violating any provisions of this section, in addition to any other penalty provided by law, shall pay into the accounts of the board a sum of money equal to three (3) times the financial gain resulting from the violation.

(5) Any person who violates the provisions of this section shall be barred for a period of five (5) years from engaging in any business or contract with the board or enforcement bureau.

(6) The penalties and sanctions provided by this subsection shall supersede any similar penalties and sanctions provided by the act of July 19, 1957 (P.L. 1017, No. 451), known as the "State Adverse Interest Act" and the act of October 4, 1978 (P.L. 883, No. 170), referred to as the Public Official and Employee Ethics Law.

(n) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Business" shall mean a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust or legal entity organized for profit or as a not-for-profit corporation or organization.

"Immediate family" shall mean a spouse residing in the person's household and minor dependent children.

"Infamous Crime" shall mean a violation and conviction for an offense which would disqualify an individual from holding public office pursuant to section 6 of Article II of the Constitution of Pennsylvania; a conviction within the preceding ten (10) years for a violation of this section or of 18 Pa.C.S. § 4113 (relating to misapplication of entrusted property and property of government or financial institutions), Ch. 47 (relating to bribery and corrupt influence), Ch. 49 (relating to falsification and intimidation), Ch. 51 (relating to obstructing governmental operations) or Ch. 53 (relating to abuse of office); or a violation of the laws of this Commonwealth or another state or the Federal Government for which an individual has been convicted within the preceding ten (10) years and which is classified as a felony.

**Section 2-214. Prohibitions**

- (a) The board may not make a contract or otherwise do business with a corporation, vendor or service contractor that has not complied with the regulatory and statutory requirements of any other administrative agency.
- (b) The board may not make a contract or otherwise do business with a transportation carrier for hire of liquor, wine or malt or brewed beverages which (carrier) has not obtained the proper permits from the Pennsylvania Public Utility Commission under 66 Pa. C.S. Ch. 25 (relating to contract carrier by motor vehicle and broker).

# **APPENDIX D**

## **SAMPLE CONTRACT**

SAMPLE



## SAMPLE CONTRACT

**THIS CONTRACT** for "*Consolidation and Delivery Services for International Merchandise*" ("Contract") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the Commonwealth of Pennsylvania, acting through the Pennsylvania Liquor Control Board ("PLCB"), and \_\_\_\_\_ ("CONTRACTOR").

### WITNESSETH:

**WHEREAS**, the PLCB issued a Request For Proposals for the "*Consolidation and Delivery Services for International Merchandise*," RFP No. 20141107 ("RFP"); and

**WHEREAS**, CONTRACTOR submitted a proposal in response to the RFP; and

**WHEREAS**, the PLCB determined that CONTRACTOR's proposal was the most advantageous to the Commonwealth, after taking into consideration all of the evaluation factors set forth in the RFP, and selected CONTRACTOR for contract negotiations; and

**WHEREAS**, the PLCB and CONTRACTOR have negotiated this Contract as their final and entire agreement in regard to the Consolidation and Delivery Services for International Merchandise.

**NOW THEREFORE**, intending to be legally bound hereby, the PLCB and CONTRACTOR agree as follows:

1. CONTRACTOR shall, in accordance with the terms and conditions of this Contract, provide consolidation and delivery services for international beverage alcohol products ("Merchandise") from the following, but not limited to, Europe, South America, Australia, New Zealand, and South Africa, to the PLCB's Distribution Centers, as more fully defined in the RFP, which is attached hereto and made part of this Contract.
2. CONTRACTOR agrees that the services shall be performed during the contract period of to five (5) years following the date of the Notice to Proceed of this Contract by the PLCB. PLCB's Contracting Officer may renew the contract incrementally or in one step, for a period of up to two (2) years by written notification to the CONTRACTOR. This right to extend the Contract in no way minimizes the PLCB's right to the timely receipt of the project deliverables as specified in the RFP.
3. The PLCB shall pay the CONTRACTOR during the existence of this Contract for work completed in accordance with the terms and conditions of the Contract, the maximum amount of XXXXXXXX Dollars and XXXXX

Cents (\$\_\_\_\_\_) for the time period set forth in #2 above of this Contract.

4. The PLCB and CONTRACTOR agree to be bound by the Standard Contract Terms and Conditions – BOP-1204, Publish Date: 03-03-2015 which is attached hereto and made part of this Contract.
5. The PLCB and CONTRACTOR agree to be bound by the Special Contract Terms and Conditions, which is attached and made part of this Contract.
6. The PLCB and CONTRACTOR agree to be bound by the Liquor Code Section, Laws of Pennsylvania, which is attached and made part of this Contract.
7. CONTRACTOR agrees to provide *“Consolidation and Delivery Services for International Merchandise”* as described in its Technical Submittal, which is attached hereto and made part of this Contract, at the prices listed in its Cost Submittal, which is attached hereto and made part of this Contract.
8. CONTRACTOR agrees to meet and maintain the commitments to Small Diverse Business Submittal, if applicable.
9. This Contract is comprised of the following documents, which are listed in order of precedence in the event of a conflict between these documents:
  - a. The Special Contract Terms and Conditions.
  - b. The Liquor Code Section, Laws of Pennsylvania
  - c. The Standard Contract Terms and Conditions – BOP-1204, Publish Date: 03-03-2015.
  - d. The CONTRACTOR’s Cost Submittal and any addenda, if applicable.
  - e. The RFP and any addenda, including all referenced Appendices.
  - f. The CONTRACTOR’s Technical Submittal and any addenda, if applicable.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the PARTIES to this Contract have executed it through their respective duly authorized officers.

**CONTRACTOR**

BY \_\_\_\_\_  
NAME DATE

TITLE \_\_\_\_\_

FEDERAL ID NO. \_\_\_\_\_

*If a Corporation, only the Chairman, President, Vice President, Senior Vice President, Executive Vice President, Assistant Vice President, Chief Executive Officer or Chief Operating Officer must sign; if one of these officers is not available, please attach a resolution. If a sole proprietorship, only the owner must sign; if a partnership, only one partner needs to sign; if a limited partnership, only a general partner may sign. If a Limited Liability Company ("LLC"), only one member needs to sign, unless it is a manager-based LLC, then a manager must sign. If a Municipality, Authority, or other entity, please attach a resolution.*

**DO NOT WRITE BELOW THIS LINE--FOR COMMONWEALTH USE ONLY**

**COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA LIQUOR CONTROL BOARD**

BY \_\_\_\_\_  
NAME DATE

TITLE \_\_\_\_\_

**APPROVED FOR FORM AND LEGALITY:**

BY \_\_\_\_\_  
OFFICE OF CHIEF COUNSEL (PLCB) DATE

BY \_\_\_\_\_  
OFFICE OF ATTORNEY GENERAL DATE

THIS DOCUMENT IS APPROVED FOR FISCAL RESPONSIBILITY AND BUDGETARY APPROPRIATENESS.

BY \_\_\_\_\_  
For Comptroller DATE

# **APPENDIX E**

## **COST SUBMITTAL TEMPLATE**

## INSTRUCTIONS

- 1.) Cost Submittal sheet must be filled out completely. Complete all yellow highlighted cells on worksheets.
- 2.) Total Per Case Rate = Per Case Consolidation Rate + Per Case Labeling Rate
- 3.) Total Projected Cost for Contract Period = [Total Per Case Rate x Projected Annual Case Volume] x 5 years.
- 4.) Formulas are imbedded in the worksheets. Offerors must verify that all calculations and costs are accurate.

**Please contact the Issuing Officer with any questions or concerns.**

**CONSOLIDATION AND DELIVERY SERVICES FOR INTERNATIONAL MERCHANDISE**

**PLCB RFP 20141107**

**OFFEROR NAME:**

<b>Geography</b>	<b>Projected Annual Case Volume*</b>	<b>Per Case Consolidation Rate (Door to Door Service)</b>	<b>Per Case Labeling Rate</b>	<b>Total Per Case Rate</b>	<b>Total Projected Cost for Contract Period (5 years)</b>
<b>Northern Europe (Germany)</b>	3,000			\$ -	\$ -
<b>Western Europe (France)</b>	40,000			\$ -	\$ -
<b>Eastern Europe (Croatia, Slovenia, Bulgaria, Hungary)</b>	32,000			\$ -	\$ -
<b>Southern Europe/Mediterranean (Spain, Portugal, Italy, Greece)</b>	63,000			\$ -	\$ -
<b>South America (West Coast)</b>	20,000			\$ -	\$ -
<b>South America (East Coast)</b>	20,000			\$ -	\$ -
<b>Australia &amp; New Zealand</b>	52,000			\$ -	\$ -
<b>South Africa</b>	25,000			\$ -	\$ -
<b>Grand Total</b>	255,000			\$ -	\$ -

**The list of geographies/countries above is based on historical purchase patterns and should be considered a reasonable estimate of future purchasing activities. However, new purchasing geographies and/or countries may be added/modified based on business need and the Selected Offeror will be expected to provide service to these areas.**

**\* Volume has been estimated for evaluation purposes only and is not a guarantee of work to be performed.**

**APPENDIX F**

**PROPOSAL COVER SHEET**

**PROPOSAL COVER SHEET  
COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA LIQUOR CONTROL BOARD  
RFP#20141107**

**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"/>	Small Diverse Business Submittal
<input type="checkbox"/>	Cost Submittal

<b><i>Signature</i></b>	
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 G**

## **CORPORATE SIGNATORY DELEGATION AUTHORIZATION**

**CORPORATE SIGNATORY DELEGATION AUTHORIZATION**

I, \_\_\_\_\_, of \_\_\_\_\_, City of \_\_\_\_\_,  
(Name) (Address)

County of \_\_\_\_\_, State of \_\_\_\_\_, certify that I am the  
\_\_\_\_\_ of \_\_\_\_\_, a corporation organized  
(Title/Capacity) (Name of Corporation)

under the laws of the State of \_\_\_\_\_, having its principal office at  
\_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_,  
(Address)

State of \_\_\_\_\_; and that the following is a true and complete copy of a  
resolution duly adopted by the Board of Directors of  
\_\_\_\_\_ at a meeting held by them on \_\_\_\_ day of  
(Name of Corporation)

\_\_\_\_\_, 20\_\_\_\_, at which a quorum was present; and that this resolution has not  
been altered, amended, repealed, rescinded or otherwise modified and that it is still in  
full force and effect. RESOLVED THAT

\_\_\_\_\_ of \_\_\_\_\_, City of \_\_\_\_\_,  
(Name) (Address)

County of \_\_\_\_\_, State of \_\_\_\_\_ is hereby  
authorized to execute contracts on behalf of the corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the  
corporation this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature of Certifying Official) (SEAL)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Title)

## **APPENDIX H**

# **SMALL DIVERSE BUSINESS LETTER OF INTENT**

[DATE]

[SDB Contact Name

Title

SDB Company Name

Address

City, State, Zip]

Dear [SDB Contact Name]:

This letter serves as confirmation of the intent of [Offeror] to utilize [Small Diverse Business (SDB)] on RFP 20141107, *Consolidation and Delivery Services for International Merchandise*, issued by the Pennsylvania Liquor Control Board.

If [Offeror] is the selected Offeror, [SDB] [identify the specific work, goods or services the SDB will perform, and the specific timeframe during the term of the contract and any option/renewal periods when the work, goods or services will be performed or provided].

These services represent [identify fixed numerical percentage commitment] of the total cost in the [Offeror's] cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that [SDB] will receive an estimated [identify associated estimated dollar value that the fixed percentage commitment represents] during the initial contract term.

[SDB] represents that it meets the small diverse business requirements set forth in the RFP and all required documentation has been provided to [Offeror] for its SDB submission.

We look forward to the opportunity to serve the Pennsylvania Liquor Control Board on this project. If you have any questions concerning our small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

Acknowledged,

Offeror Name

SDB Name

Title

Title

Company

Company

Phone number

Phone number

# **APPENDIX I**

**TRADE SECRET/CONFIDENTIAL  
PROPRIETARY INFORMATION NOTICE**

## **Trade Secret/Confidential Proprietary Information Notice**

Instructions:

The Commonwealth may not assert on behalf of a third party an exception to the public release of materials that contain trade secrets or confidential proprietary information unless the materials are accompanied, at the time they are submitted, by this form or a document containing similar information.

It is the responsibility of the party submitting this form to ensure that all statements and assertions made below are legally defensible and accurate. The Commonwealth will not provide a submitting party any advice with regard to trade secret law.

**Name of submitting party:**

**Contact information for submitting party:**

**Please provide a brief overview of the materials that you are submitting (e.g. bid proposal, grant application, technical schematics):**

**Please provide a brief explanation of why the materials are being submitted to the Commonwealth (e.g. response to bid #12345, application for grant XYZ being offered by the Department of Health, documents required to be submitted under law ABC)**

**Please provide a list detailing which portions of the material being submitted you believe constitute a trade secret or confidential proprietary information, and please provide an explanation of why you think those materials constitute a trade secret or confidential proprietary information. Also, please mark the submitted material in such a way to allow a reviewer to easily distinguish between the parts referenced below. (You may attach additional pages if needed)**

**Note:** The following information will not be considered a trade secret or confidential proprietary information:

- Any information submitted as part of a vendor's cost proposal
- Information submitted as part of a vendor's technical response that does not pertain to specific business practices or product specification
- Information submitted as part of a vendor's technical or disadvantaged business response that is otherwise publicly available or otherwise easily obtained
- Information detailing the name, quantity, and price paid for any product or service being purchased by the Commonwealth

<u>Page Number</u>	<u>Description</u>	<u>Explanation</u>
--------------------	--------------------	--------------------

## **Acknowledgment**

The undersigned party hereby agrees that it has read and completed this form, and has marked the material being submitted in accordance with the instructions above. The undersigned party acknowledges that the Commonwealth is not liable for the use or disclosure of trade secret data or confidential proprietary information that has not been clearly marked as such, and which was not accompanied by a specific explanation included with this form.

The undersigned agrees to defend any action seeking release of the materials it believes to be trade secret or confidential, and indemnify and hold harmless the Commonwealth, its agents and employees, from any judgments awarded against the Commonwealth in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives so long as the Commonwealth has possession of the submitted material, and will apply to all costs unless and until the undersigned provides a written statement or similar notice to the Commonwealth stating that it no longer wishes to exempt the submitted material from public disclosure.

The undersigned acknowledges that the Commonwealth is required to keep all records for at least as long as specified in its published records retention schedule.

The undersigned acknowledges that the Commonwealth reserves the right to reject the undersigned's claim of trade secret/confidential proprietary information if the Commonwealth determines that the undersigned has not met the burden of establishing that the information constitutes a trade secret or is confidential. The undersigned also acknowledges that if only a certain part of the submitted material is found to constitute a trade secret or is confidential, the remainder of the submitted material will become public; only the protected information will be removed and remain nonpublic.

If being submitted electronically, the undersigned agrees that the mark below is a valid electronic signature.

Signature

Title

Date



# **APPENDIX J**

## **PROJECT REFERENCES**

## Project Reference

<b>Contractor or sub-contractor entity Name:</b>		
<b>Proposed Role on Project:</b>		
<b>Client:</b>	<b>Contact Name:</b>	<b>Contact Title:</b>
<b>Address:</b>		<b>Contact Phone Number:</b>
<b>Project Title:</b>		<b>Contact Email Address:</b>
<b>Entity's Function on Referenced Project (Title, if applicable):</b>	<b>Beginning Date of Experience: Mo/Yr</b>	<b>Ending Date of Experience: Mo/Yr</b>
<b>Description of role played and services provided by entity:</b>		
<b>Description of how reference is similar in size, scope, or focus to this project:</b>		

## **APPENDIX K**

### **SAMPLE SPECIFIC PEFFORMANCE BOND**

### SPECIFIC PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_

(hereinafter called PRINCIPAL), as PRINCIPAL \_\_\_\_\_  
(address)

and State of \_\_\_\_\_ and \_\_\_\_\_  
a corporation duly organized under the laws of the State of \_\_\_\_\_ and authorized to act as a Surety  
in the Commonwealth of Pennsylvania (hereinafter called SURETY) as SURETY, are held and firmly bound to the  
COMMONWEALTH OF PENNSYLVANIA (herein after called OBLIGEE), in the sum of \_\_\_\_\_  
(\$ \_\_\_\_\_) Dollars for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors,  
administrators, successors and assigns, jointly and severally, firmly by these presents.  
Sealed with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_ A.D. Nineteen Hundred and \_\_\_\_\_

WHEREAS, the PRINCIPAL has offered to enter into Contract No. \_\_\_\_\_ for

\_\_\_\_\_ upon certain terms and conditions set forth in said PRINCIPAL'S proposal herewith submitted.

NOW, THEREFORE, the condition of these obligations are such that if the PRINCIPAL shall not withdraw its bid prior to the  
expiration of the award period after the opening of the bids; and shall comply with all requirements set forth in the "Proposal"  
and the "Instructions to Bidders"; and if awarded to the PRINCIPAL, and the PRINCIPAL shall well and faithfully do and perform,  
according to the true intent and meaning of said contract, all the obligations and conditions thereof specifically set forth in the  
proposal submitted herewith and said contract, for the period embraced in said contract, then this obligation shall be void and of  
no effect, otherwise it shall be and remain in full force and effect.

The SURETY hereby waives notice of any alteration or extension of time made by the OBLIGEE.

IN WITNESS WHEREOF, intending to be legally bound, the parties have hereunto set their hands and seals, the day and year  
above written.

WITNESS (OR ATTEST IF A CORPORATION)

\_\_\_\_\_

\_\_\_\_\_ (SEAL)  
(PRINCIPAL)

BY \_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(NAME) TYPED (TITLE)

PENNSYLVANIA RESIDENT AGENT FOR SURETY

\_\_\_\_\_ (SEAL)  
(SURETY)

\_\_\_\_\_ (SIGNATURE)

BY \_\_\_\_\_ (SIGNATURE)

\_\_\_\_\_ (NAME)

\_\_\_\_\_ (ADDRESS) (DATE)

\_\_\_\_\_ (NAME)  
(Attach Power of Attorney for the Surety)

# **APPENDIX L**

## **STANDARD DATA REQUIREMENTS AND REPORTS**

## **STANDARD DATA REQUIREMENTS AND REPORTS**

Standard data requirements and reports are to be maintained by the consolidator and provided to the PLCB for use in vendor shipment performance evaluations. The purpose of reporting is to provide as close-to-real time in-transit visibility of the product throughout all phases of the shipment. A minimum standard of a report should be provided in the format as described below. Reports are to be sent on a routine basis via e-mail to a centralized mailbox to be provided to the Selected Offeror.

### 1. Weekly Reports

- a. Listing of open and completed Purchase Orders for the week, based on pickups at vendor's facility(ies). Minimum data elements include PO Number, PLCB Code, number of cases received, and number of cases pending.
- b. Refused Pick-Ups Listing of vendor products that were damaged or not appropriately packaged for shipment.
- c. Delayed shipments – Provide information by Purchase Order and vendor of any delays.
- d. Activity Report which will provide the following information: Port of Embarkation, Vessel Name, Departure Date, Estimated Arrival Date, Port of Debarkation, Contractor Reference Number, Container Number, Purchase Order Number, and Case Quantity.
- e. Pre-shipment notices (Office of Customs & Excise)
- f. Entry Documents (Office of Customs & Excise)

### 2. Monthly Reports

- a. Listing of all cases labelled – PLCB CODE, PO/ASN, Total Cases
- b. Total Cases shipped – PLCB Code & Quantity

### 3. *Ad hoc* Reports

- a. Vendor Issues –“Vendor” means the company from which the Selected Offeror receives product from overseas.
- b. Pre-Alerts –Timely notification of projected temperature extremes and vessel delays which would have a deleterious effect on the product, as well as recommendation(s) for protection/shipment of the product.
- c. Transit Time Changes – Changes in transit times or routing that would affect the timely arrival of the product at the distribution centers.

### 4. Semi-Annual Process Reviews

- a. The Selected Offeror should be prepared to conduct, at a minimum, semi-annual reviews of contract performance and customer service issues.

**APPENDIX M**  
**SAMPLE MANIFEST**  
**CONSOLIDATION AND DELIVERY SERVICES FOR**  
**INTERNATIONAL MERCHANDISE**  
**PLCB RFP 20141107**

**XYZ, Ltd.**  
**1234 Main Street**  
**Anytown, OH 12345**

**SAMPLE MANIFEST**

**CONSIGN TO:** XYZ, Ltd.  
 C/O PLCB - PITTSBURGH DC  
 PAPER CRAFT INDUSTRIAL PARK  
 PITTSBURGH, PA 15238  
 USA

**PLCB PO#** 96627  
**SHIPMENT#:**  
**PERMIT#:** 13039  
**CONTAINER#:** MSCU4845614

**PAGE 1**

<b>PLCB Code</b>	<b>SCC</b>	<b>DESCRIPTION</b>	<b>PACK</b>	<b>SIZE</b>	<b>VINT</b>	<b>QTY</b>
1234	10000123400005	XYZ PROSECCO (3 pack sleeve)	24	187ML	2011	100
5678	10000567800003	XYZ CHARD	6	1.5L	2011	256
9876	10000987600009	XYZ MOSCATO	12	750ML	2010	280
1592	10000159200006	XYZ VODKA	6	1.75L	n/a	105
3572	10000357200006	XYZ PINOT GRIGIO	6	1.5L	2011	340
5698	10000569800001	XYZ TEQUILA, REPOSADO	12	750ML	n/a	300
<b>TOTAL</b>						<b>1,381</b>



**APPENDIX N**

**LABELING PROCEDURES**

## **LABELING PROCEDURES**

The information in these pages outlines the current and acceptable requirements for all products shipped to the PLCB. The PLCB retains the right to implement changes at any time. When changes occur, the Vendor of Record will be notified and the information will be posted on the PLCB web site ([www.lcb.state.pa.us](http://www.lcb.state.pa.us)).

New vendors are encouraged to confirm that their labeling is acceptable prior to shipment by contacting the PLCB SCC/Labeling Coordinator (information below).

The PLCB requires the following information to be on all cases of product received in any of its warehouses:

- The PLCB item number
- A brief description of the product (including name, size and vintage or proof)
- The Shipping Container Code (SCC) (barcode and readable; must appear on two adjacent sides, see "Label Placement" for details)

This information can be combined into one label if assembled and placed correctly. The information can be printed on the cartons in lieu of a label. In these instructions, reference will be made to "labels," but it is understood that the same information and requirements also refers to printed boxes.

For Further Information:

Contact the PLCB SCC/Labeling Coordinator at (717) 783-7343, fax at (717) 783-8821 or email [ra-lbSCC@pa.gov](mailto:ra-lbSCC@pa.gov)

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## **PLCB STANDARD CASE CODE LABEL REQUIREMENTS AND SPECIFICATIONS**

The PLCB standard case code label has been developed to identify the product being received. All information provided must be consistent with all other information on the label. For example, the PLCB item number cannot reflect a product different than the one described or the one represented by the UPC, and/or the SCC.

The label (if printed on paper as opposed to on the carton surface) must be printed on WHITE stock paper.



**NOTE:** The above label is representative of the information and location on a label combining the PLCB label and the SCC label. It DOES NOT meet size requirements for each element. See the following chart for actual size requirements.

A brief product description including: Product Name, Bottle Size, and Vintage or Proof.	
<p>UPC barcode and readable number.</p> <p style="text-align: center;">This code <b>MUST</b> be the same as appears on each bottle within the case.</p> <p>The symbology must be a minimum of 1 inch high and 1 ½ inches wide</p>	<p>PLCB ID number and PA identifier</p> <p>The ID number <b>MUST</b> be at least ¾ inches high. The PA must be at least half as high as the code (3/8 inches minimum) and must precede the code.</p>
<p>Although it is not necessary to combine the SCC and PLCB coding on the PLCB label, it is acceptable. If it is included, the SCC coding <b>MUST</b> be placed at the bottom of the label.</p> <p>For more detailed information regarding the SCC symbology, size, and</p>	

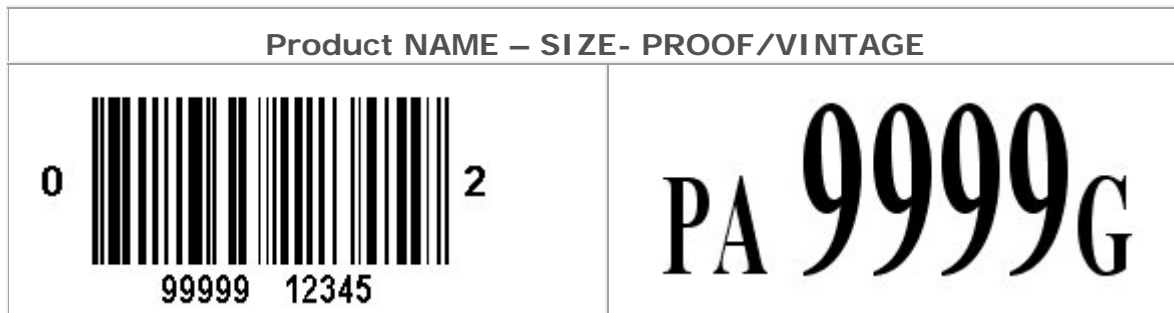
placement, please refers to the "SCC Labeling Requirements and Specifications".

As long as the information and the specifications of the label are consistent with the PLCB requirements, the PLCB will accept Multi-State and/or National Alcoholic Beverage Control Association (NABCA) labels in lieu of the PLCB label.

Holiday Packaged Merchandise (Pre-wraps):

In addition to the standard label requirements outlined above, all Holiday Packaged Merchandise (Pre-wraps) must have the suffix "G" added to the PLCB code as illustrated below.

Please review the notes on SCC codes and their application in regard to Holiday Packaged Merchandise.



*Sample of Holiday Gift Wrap Label*

*(Element sizes do not conform to standards in this sample)*

*(NOTE: that this label does not have the SCC barcode included)*

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**SCC LABEL REQUIREMENTS AND SPECIFICATION**

Pennsylvania accepts only 14-digit Shipping Container Codes at this time.

It is the responsibility of the vendor to develop the SCC numbers for its items. The vendor is also responsible for notifying the proper person(s) at the PLCB with all SCCs as they are established. If a product is received with an SCC that is not in the

PLCB's system, the product will be relabeled correctly and surcharged to the vendor.

For more information on the development of SCCs, go to the PLCB web site. Remember that you can apply multiple SCCs to any product: these would be used to distinguish Holiday Gift Wrap or other special packaging, vintage wines, proof change, vendor change, and/or unit pack changes. By assigning a new and unique SCC number, the vendor and the PLCB will be able to track and distribute inventory in a more efficient manner.

There is only one bar code symbology for the SCC-14 that the PLCB will accept. This is Interleaved 2-of-5. No other coding is currently scannable in the Pennsylvania warehouses.

The symbology must include a ¼ inch "quiet zone" (white space) on both sides of the bar code. This quiet zone is considered a required part of the bar code and all placement and printing should be done with respect to the outer edges of that quiet zone. Bearer Bars are acceptable, either on the top and bottom or encompassing the entire code as long as they do not interfere with the size and placement requirements.



*This sample shows the SCC barcode and readable with Bearer Bars.*

The Barcode MUST be 1 ¼ inches high and should be no shorter than 4 inches in length and no longer than 6 inches. The definition of the bars and clear unmarred white spaces is imperative in producing a clear and acceptable symbol. The readable figures are for visual confirmation of the bar coding if necessary and only need to be large enough as to be easily read.

More detailed information regarding the structure of the bar within these symbologies is available on the UCC web site. Many software packages are available for the printing of SCC and/or UPC bar coding.

### **LABEL PLACEMENT**

Placement of these labels is as important as the configuration.

#### **PLCB Label placement (excluding the SCC bar coding):**

Affix the PLCB case code label in the upper left-hand corner of the narrow side of the case approximately one-half (1/2) inch from the edges to prevent fringing.

**NOTE:** If the PLCB Label includes the SCC bar coding, the labels must be placed in accordance with the SCC label placement requirements, as summarized below.

#### **SCC Label placement:**

Proper placement and configuration of the SCC label will permit scanning by a conveyor belt scanning system.

The SCC barcode must be placed on two adjacent sides of each carton. The bottom edge of the bar code (not including the bearer bars) must be placed 1 ¼ inches (plus or minus 1/8 inch) from the container's natural bottom. The outer edge of the bar code (not including the bearer bars) shall be no closer than 1 ¼ inches to either vertical edge. Wrap-around SCC labels are permitted if they allow for the proper placement of the bar code in relation to the carton's edges. Proper placement not only allows for consistent scanning but it also protects the label from *edge crush*.

### **SURCHARGE/PENALTY FOR CORRECTIONS**

If a shipment is received by the PLCB from a vendor bearing a PLCB and/or SCC label that is not formatted according to the aforementioned requirements and specifications, one bearing unrecognized coding, and/or labels not properly affixed to each case, the distribution of the merchandise to the store locations will be

withheld until the cases are properly identified and labeled. Corrections will be made by the distribution center operator.

Surcharges, which will include an Administration fee and may also include penalties, will be levied for failure to comply with these requirements.

Because of differing wage scales and other restrictions at the various distribution centers, it is impractical for the PLCB to establish a single rate for the entire state to cover the cost of correctly identifying and labeling or coding improperly marked cases. Therefore, each contract operator will establish a schedule of fees that it will charge the vendor to correct improperly marked cases. The fee schedule may be based on an hourly rate with a minimum for each job, or a rate per case with a minimum for each job. **Requests for fee schedules should be made by vendor's communication directly with the various distribution center contractors.**

# **APPENDIX O**

## **CURRENT PLCB DESTINATIONS**



## CURRENT PLCB DESTINATIONS

<b>DISTRIBUTION CENTER</b>	<b>SCHEDULING HOURS/ RECEIVING HOURS</b>	<b>ADDRESS/PHONE</b>
#1 Southeastern Pennsylvania	6:00am – 1:00pm 4:00am – 12:00pm	XTL, Inc. PLCB Warehouse 8201 Enterprise Avenue Philadelphia, PA 19153-3896 (P): 215-937-1349 (F): 215-966-2674
#2 Central Pennsylvania	5:00am – 11:30am 6:00am – 2:30pm	Kane Warehousing, Inc. 1 Kane Lane Stauffer Industrial Park Taylor, PA 18517-9694 (P): 570-562-4704 (F): 570-562-4707
#4 Southwestern Pennsylvania	6:30am – 2:00pm 3:00am – 11:00am	General Commodities Warehouse and Distributing Co., Inc. Papercraft Building (Blawnox) 2 Papercraft Industrial Park Pittsburgh, PA 15238-3218 (P): 412-826-6560 (F): 412-820-0228

### **NOTES:**

1. Distribution Centers #2 and #4 have rail service. Distribution Center #1 has no railroad service.
2. All three (3) PLCB Distribution Centers are contractor-operated with on-site PLCB managers for contract oversight and administration. All day-to-day operations of the Distributions Centers should be addressed to the contractor's manager. Problems or questions beyond the contractor's ability to resolve should be brought to the attention of the PLCB Manager.