



**REQUEST FOR APPLICATIONS FOR  
CATEGORY MANAGEMENT ANALYSIS AND VALIDATION**

**ISSUING OFFICE**

**PENNSYLVANIA LIQUOR CONTROL BOARD  
PURCHASING AND CONTRACT ADMINISTRATION DIVISION  
ROOM 312, NORTHWEST OFFICE BUILDING  
HARRISBURG, PENNSYLVANIA 17124**

**RFA NUMBER: 20221028**

**DATE OF ISSUANCE  
March 24, 2023**

**REQUEST FOR APPLICATIONS FOR**

**CATEGORY MANAGEMENT  
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## **APPENDICES**

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## CALENDAR OF EVENTS

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

Activity	Responsibility	Date
Questions pertaining to this RFA can be submitted as they arise via e-mail to Issuing Officer Betsy Novelli at <a href="mailto:enovelli@pa.gov">enovelli@pa.gov</a> from the date of issuance up to, and including, this date and time.	Interested Applicants	All questions must be submitted by 12:00PM ET on 04/07/23
Answers to questions from interested Applicants will be posted on an ongoing basis to the Department of General Services eMarketplace website at <a href="http://www.emarketplace.state.pa.us/Search.aspx">http://www.emarketplace.state.pa.us/Search.aspx</a> with final posting no later than this date.	Issuing Office	All answers will be provided by 5:00PM ET on 04/21/23
Monitor eMarketplace website for all communications regarding the RFA.	Interested Applicants	Regularly until Application due date.
Applications must be electronically submitted via upload into a designated One Drive folder for which access will be granted by contacting the Issuing Officer.	Applicants	Applications must be received at PLCB by 10:00AM ET on 05/05/23

## PART I

### GENERAL INFORMATION

- I-1. Purpose.** This Request for Applications (“RFA”) provides to those interested in submitting Applications for the subject procurement (“Applicants”) sufficient information to enable them to prepare and submit applications for the Pennsylvania Liquor Control Board’s (“PLCB”) consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for **Category Management Analysis and Validation** (“Project”). This RFA contains instructions governing the requested applications, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Applicants must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFA. Awards will be made to selected Applicants who submit applications that meet all requirements as listed.
- I-2. Issuing Office.** The PLCB (“Issuing Office”) has issued this RFA on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFA shall be the Issuing Officer Betsy Novelli, Purchasing and Contract Administration Division, Room 312 Northwest Office Building, 910 Capital Street, Harrisburg, PA 17124, e-mail: [enovelli@pa.gov](mailto:enovelli@pa.gov). Please refer all inquiries to the Issuing Officer.
- I-3. Overview of Project.** The PLCB is the Commonwealth’s wholesaler and primary retailer of wine and spirits and the agency responsible for regulatory control of beverage alcohol in Pennsylvania. As such, the PLCB seeks Applicants to assist the PLCB in analyzing category management practices, policies and procedures; evaluating store clusters; considering, executing and evaluating merchandising tests; and ensuring that beverage alcohol and retail industry best practices are exercised to enable the PLCB to reduce cost, improve performance, maximize the use of shelf space and increase customer satisfaction.
- I-4. Scope.** This RFA contains instructions governing the requested applications, including requirements for the information and material to be included; a description of the services to be provided; requirements which Applicants must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFA.
- I-5. Problem Statement.**

This RFA is divided into two Lots, each of which has two Categories:

- Lot 1 – Category Management Captain services to be performed by Wine Category Captains and Spirits Category Captains.
- Lot 2 – Category Management Validator services to performed by Wine Category Validators and Spirits Category Validators.

Four different contracts will be awarded as a result of this RFA:

- One Category Captain for Wines.
- One Category Captain for Spirits.
- One Category Validator for Wines.
- One Category Validator for Spirits.

Applicants must submit complete applications for each Lot and Category for which they wish to be considered. Applicants may submit for either, or both, Lot 1 and Lot 2 and for wine and/or spirits categories, but can only be selected for one Lot and one Category. Additional detail is provided in **Part IV** of this RFA.

- I-6. Type of Contract.** It is proposed that if the Issuing Office enters into a contract as a result of this RFA, **it will be a no cost agreement.** The contract will include the Terms and Conditions as shown in **Part V.**
- I-7. Rejection of Applications.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any or all applications received as a result of this RFA.
- I-8. Incurring Costs.** The Issuing Office is not liable for any expenses the Applicant incurs in preparation and submission of its application(s), in participating in the RFA process, or in anticipation of award of the contract.
- I-9. Questions & Answers.** If an Applicant has any questions regarding this RFA, the Applicant must submit the questions by e-mail (**with the subject line “RFA 20221028 Question”**) to the Issuing Officer named in **Part I-2** of the RFA. If the Applicant has questions, they may be submitted as they arise via e-mail, but **no later than** the date indicated on the Calendar of Events. The Applicant shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions to eMarketplace at <http://www.emarketplace.state.pa.us/Search.aspx> on an ongoing basis until the deadline stated on the Calendar of Events.

All questions and responses as posted to eMarketplace are considered as an addendum to, and part of, this RFA in accordance with **Part I-9.** Each Applicant shall be responsible to monitor eMarketplace for new or revised RFA 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 RFA 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 in **Part I-26.**

- I-10. Addenda to the RFA.** If the Issuing Office deems it necessary to revise any part of this RFA before the agreement response date, the Issuing Office will post an addendum to eMarketplace at <http://www.emarketplace.state.pa.us/Search.aspx>. It is the Applicant’s responsibility to periodically check eMarketplace for any new information or addenda to the RFA. Answers to the questions asked during the Questions & Answers period also will be posted to eMarketplace as addenda to the RFA.

**I-11. Response Date.** To be considered for selection, electronic applications as described in **Part I-12** must be received by the Issuing Officer on or before the time and date specified in the RFA Calendar of Events. The Issuing Office **will not** accept any physical submissions such as hard copy paper applications nor any digital media such as flash drives. The Issuing Office will reject (unopened) any late applications.

**I-12. Application Requirements.**

**A. Application Submission:** To be considered, Applicants must contact the Issuing Officer identified in **Part I-2** to be granted access to a OneDrive folder that will be created for the submission of application to this RFA. Access can only be granted to a single designated email address. After being granted access to the OneDrive folder, the Applicant must upload a single electronic copy of the Technical Submittal using the format provided in **Part I-12B**. The electronic files must be in Microsoft Office or Microsoft-Office-compatible format and any spreadsheets must be in Microsoft Excel. The Applicants may not lock or protect any cells or tabs.

The Applicant shall make no other distribution of its application to any other Applicant or Commonwealth official or Commonwealth consultant. Each application page should be numbered for ease of reference. An official authorized to bind the Applicant to its provisions must sign the **Application Cover Sheet (Appendix A)** and **Corporate Signatory Delegation Authorization Form (Appendix B)**, if needed. See also **Part II-1B**.

For this RFA, the application must remain valid until a contract is fully executed. If the Issuing Office selects the Applicant's application for award, the contents of the selected Applicant's application will become contractual obligations.

Each Applicant submitting an application specifically waives any right to withdraw or modify it, except that the Applicant may withdraw its application by written notice received by the Issuing Office prior to the exact hour and date specified for application receipt.

**B. Application Format:** Applicants must submit their applications in the format, including heading descriptions, outlined below. To be considered, the application must respond to all application requirements. The electronic files must be in Microsoft Office or Microsoft-Office-compatible format and any spreadsheets must be in Microsoft Excel. The Applicants may not lock or protect any cells or tabs. **DO NOT IMBED LINKS TO DOCUMENTS OR WEBSITES WITHIN A TECHNICAL SUBMITTAL**; rather, all information to be considered by the Evaluation Committee must be set forth in narrative fashion, including the following complete, signed Appendices in separate electronic files:

**1. Appendix A, Application Cover Sheet**

2. **Appendix B, Corporate Signatory Delegation Authorization Form** (if applicable)
3. **Appendix C, Trade Secret, Confidential, Proprietary Information Notice Form** (if applicable)
4. **Appendix D, Worker Protection and Investment Certification Form**

Applicants should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the application.

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

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

- I-13. Economy of Preparation.** Applicants should prepare applications and associated requirement documents simply and economically, providing a straightforward, concise description of the Applicant's ability to meet the requirements of the RFA.
- I-14. Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Applicants to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.
- I-15. Discussions for Clarifications.** Applicants may be required to make written clarification of their applications to the Issuing Office to ensure thorough mutual understanding and Applicant 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-16. Prime Contractor Responsibilities.** The contract will require the selected Applicant to assume responsibility for all services offered in its application whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Applicant to be the sole point of contact with regard to all contractual matters.
- I-17. Application Contents.**
  - A. Confidential Information.** Neither the PLCB nor the Commonwealth is requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Applicants' submissions in order to evaluate applications submitted in response to this RFA. Accordingly, except as provided



herein, Applicants should not label applications as confidential or proprietary or trade secret protected. Any Applicant who determines that it must divulge such information as part of its application must submit the signed written statement described in **Part I-17C** below and must additionally provide a redacted version of its application, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes. *If a written statement and redacted version of the application is not submitted at the time of the application submission, the application will be subject to release as submitted with only the financial capability redacted.*

**B. Commonwealth Use.** All material submitted with the application shall be considered the property of the Commonwealth of Pennsylvania and its agencies. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any application regardless of whether the application becomes part of a contract. Notwithstanding any Applicant copyright designations contained in applications, the Commonwealth shall have the right to make copies and distribute applications 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 RFA, all application 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 an application contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered for exemption under 65 P.S. § 67.708(b)(11) from public records requests. Refer to **Appendix C Trade Secret Confidential Proprietary Information Notice Form** that may be utilized as the signed written statement, if applicable. If financial capability information is submitted in response to **Part III** of this RFA, such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

**I-18. News Releases.** Applicants 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-19. Restriction of Contact.** From the issue date of this RFA until the Issuing Office selects applications for award, the Issuing Officer is the sole point of contact concerning this RFA. Any violation of this condition may be cause for the Issuing Office to reject the offending Applicant's application. If the Issuing Office later discovers that the Applicant has engaged in any violations of this condition, the Issuing Office may reject the offending Applicant's application or rescind its contract award. Applicants must agree not to distribute any part of their applications beyond the Issuing Office. An Applicant who shares information contained in its application with other Commonwealth personnel

and/or competing Applicant personnel may be disqualified.

- I-20. Performance Assumptions.** Applicants shall provide all services, supplies, facilities, and other support necessary to complete the identified work. The selected Applicant will have direct access to key decision makers and other personnel throughout the PLCB during the course of this engagement.
- I-21. Cost Data.** There shall be **no cost** to the PLCB associated with this RFA.
- I-22. Term of Contract.** The term of each contract will be one year. The Issuing Officer may renew the Contract, for any increments(s) of an additional four-year period after the initial one-year period, upon written notice to the selected Applicant and in the Issuing Officer's sole discretion. The Issuing Office will fix the Effective Date after a contract has been fully executed by the selected Applicant and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. No selected Applicant shall start the performance of any work prior to the Effective Date of the contract.
- I-23. Applicant's Representations and Authorizations.** By submitting its application, each Applicant understands, represents, and acknowledges that:
- A.** The Applicant 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 application or the specifications for the services described in the application. That is, the Applicant understands and acknowledges the applicability of the State Adverse Interest Act, 71 P.S. § 776.1, and warrants its compliance with same.
  - B.** All of the Applicant's information and representations in the application are material and important, and the Issuing Office may rely upon the contents of the application in awarding the contract(s). The PLCB shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the application submission, punishable pursuant to 18 Pa. C.S. § 4904.
  - C.** The Applicant has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting an application on this contract, or to submit an application higher than this application, or to submit any intentionally high or noncompetitive application or other form of complementary application.
  - D.** The Applicant makes its application 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 application.
  - E.** To the best knowledge of the person signing the application for the Applicant, the Applicant, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four 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 Applicant has disclosed in its application.

- F. To the best of the knowledge of the person signing the application for the Applicant and except as the Applicant has otherwise disclosed in its application, the Applicant 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 Applicant that is owed to the Commonwealth.
- G. The Applicant is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Applicant cannot so certify, then it shall submit along with its application a written explanation of why it cannot make such certification.
- H. Each Applicant, by submitting its application, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Applicant's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
- I. Until each selected Applicant receives its fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Applicant shall not begin to perform.
- J. The Applicant is not currently engaged and will not during the duration of the contract engage, in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

**I-24. Notification of Selection.**

- A. **Notice of Selection for Contract Negotiations.** The Issuing Office will notify the Applicants selected for negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the applications that are the most advantageous to the Issuing Office.
- B. **Notice of Award of Contract.** Applicants whose applications are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contracts signed by the selected Applicants.

**I-25. Debriefing Conferences.** Upon notification of award, Applicants whose applications were not selected will be given the opportunity to be debriefed. The Issuing Office will not accept requests for debriefing more than 30 days after the Notice of Award of Contract has been sent. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Applicant with other Applicants, other than the

position of the Applicant's application in relation to all other applications. An Applicant's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest (See **Part I-26** of this RFA).

- I-26. RFA Protest Procedure.** The Protest Procedure is on the DGS website at <https://www.dgs.pa.gov/Documents/Procurement%20Forms/Handbook/Pt1/Pt%20I%20Ch%2058%20Bid%20Protests.pdf> A protest by a party not submitting an application must be filed within **seven** days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the application submission deadline specified in the Calendar of Events of the RFA. Applicants may file a protest within **seven** days after the protesting Applicant knew or should have known of the facts giving rise to the protest, but in no event may an Applicant file a protest later than **seven** days after the date the notice of award of the contract is sent by the Issuing Officer. 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-27. Use of Electronic Versions of this RFA.** This RFA is being made available by electronic means. If an Applicant electronically accepts the RFA, the Applicant acknowledges and accepts full responsibility to ensure that no changes are made to the RFA. In the event of a conflict between a version of the RFA in the Applicant's possession and the Issuing Office's version of the RFA, the Issuing Office's version shall govern.
- I-28. TTB Regulatory Compliance.** All responses to this RFA and all work done by each selected Applicant are expected to fully comply with 27 U.S.C. 205(b) and 27 C.F.R. Chapter 6 (See TTB Ruling 2016-1).
- A.** Data provided by the PLCB during the term of the contract will not include any data or information considered trade secret, proprietary or confidential to the PLCB's industry member third-party contractors. The term "industry member" is used here as it is used in 27 CFR Chapter I.
  - B.** The PLCB is not requesting, and does not require, anything of value as defined in 27 C.F.R. 6.21(c). The PLCB's intention is to maintain independence from any and all Applicants responding to this RFA. Furthermore, the PLCB retains the right to make any and all free economic choices regarding product selection and quantity. This RFA prohibits any involvement by Applicants in the day-to-day operations of the PLCB. Any seminars given by Applicants to the PLCB during the term of the contract will be educational in nature and must comply with 27 C.F.R. § 6.94.
  - C.** Any and all Applicants who respond to this RFA assume sole responsibility for compliance with the above stated regulations. Any violation of this condition may be cause for the Issuing Office to reject the offending Applicant's application.

## PART II CRITERIA FOR SELECTION

### II-1. Mandatory Responsiveness Requirements.

To be eligible for selection, each application must:

- A. Be timely received from an Applicant (see **Part I-10**); and
- B. Include a properly signed **Appendix A Cover Sheet** and **Appendix B Corporate Signatory Delegation Authorization** or similar supporting documentation as needed. Be properly signed by the Applicant as follows:
  1. If the Applicant is a corporation, **Appendix A Cover Sheet** must be signed by corporation's president or a vice president *and* a secretary, assistant secretary, treasurer, or assistant treasurer. If the two above-listed signatures are not provided, then the application must include a copy of a corporate resolution and/or a formal delegation document which provides proper evidence of signature authority.
  2. When the Applicant is a limited liability company, the **Appendix A Cover Sheet** must be signed by a duly identified member of the LLC.
  3. When the Applicant is a limited partnership, the **Appendix A Cover Sheet** must be signed by a duly identified general partner. Any other signatory must be substantiated with a valid power of attorney signed by a general partner.

**II-2. Technical Nonconforming Applications.** The two Mandatory Responsiveness Requirements set forth in **Part II-1** are the only RFA 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 Applicant's application, (2) allow the Applicant to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Applicant's application.

**II-3. Evaluation.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted applications. The Issuing Office will notify in writing of its selection the responsible Applicants whose applications are determined to be the most advantageous to the PLCB as determined by the Issuing Office after taking into consideration all of the evaluation factors.

**II-4. Evaluation Criteria.** The following criteria will be used in evaluating each application:

- A. **Understanding of the Problem/Soundness of Approach** refers to, but is not limited to, a determination of whether the Applicant has an accurate assessment of the scope and complexity of the services needed for this project and the Applicant's proposed approach to providing the services requested in **Work Statement Part IV-3 Lot 1 Category Captain Services** and/or **Part IV-4 Lot 2 Category Management Validator Services**.

- B. **Work Plan.** Emphasis here is on evidence of the Applicant's ability to meet the requirements of **Part IV Work Statement** as described in the Applicant's **Part III-3 Work Plan**.
- C. **Applicant Qualifications** refers to, but is not limited to, an assessment of the Applicant's experience in providing services similar to those requested in **Part IV-3 Lot 1 Category Captain Services** and/or **Part IV-4 Lot 2 Category Management Validator Services** within other control states and private industry retailers.
- D. **Personnel Qualifications** refers to, but is not limited to, the proposed personnel's qualifications and experience in performing the services identified in **Work Statement Part IV-3 Lot 1 Category Captain Services** and/or **Part IV-4 Lot 2 Category Management Validator Services**.

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

In order for an Applicant to be considered responsible for this RFA and therefore eligible for selection for contract negotiations:

- A. The total score for the technical submittal of the Applicant's application must be greater than or equal to 75% of the **available technical points**; and
- B. The Issuing Office will award a contract only to an Applicant determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

## PART III

### INFORMATION REQUIRED FROM APPLICANTS FOR EACH APPLICATION

- III-1. Statement of the Problem.** State in succinct terms your understanding of the problem presented for the Lot and Category for which you are applying as described in this RFA.
- III-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, for the Lot and Category for which you are applying.
- III-3. Work Plan.** Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in **Part IV** as your reference point. Modifications of the task descriptions are permitted, but must be clearly noted. Reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Gantt chart or a similar type of display, time related, showing each event. If more than one approach is commonly used, comment on why you chose this approach.
- III-4. Prior Experience.** Include experience in category management or validation services and experience in the beverage alcohol industry. State your company's experience with shelf management software and identify the shelf management software package(s).

Experience shown should be work done by individuals who will be assigned to this project, as well as that of your company. Experience referred to should be identified by customer, including the name, current address and telephone number of the responsible official who may be contacted. The PLCB reserves the right to contact any and all persons listed by the Applicant concerning past work experience. Also note any special expertise that would enhance your company's qualifications, such as membership in professional organizations and/or certifications.

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 Applicant must not be listed as an [entity](#) that U.S. parties cannot do business with through the U.S. Office of Foreign Asset Controls.

<https://home.treasury.gov/policy-issues/financial-sanctions/specially-designated-nationals-and-blocked-persons-list-sdn-human-readable-lists>

Using **Appendix E, Project References Form**, provide at least three references for each primary Applicant and for each subcontractor relative to **Part IV** of this RFA, 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 completed **Appendix E, Project References Form** for each reference.

**References from current or former PLCB employees will not be considered. In**

addition, prime Applicants shall not serve as references for any subcontractors.

### III-5. Personnel.

- A. Organization Chart.** An organizational chart shall be included which identifies all key professional personnel who will be engaged in the delivery of the services requested by this RFA. Indicate where these personnel will be physically located while engaged in supporting the PLCB.
- B. Resumes/Qualifications.** The Applicant shall provide resumes for all key personnel planned to be involved in the delivery of these services. Each resume shall provide, for each person, their full name and current work site location; education and employment history; experience with Wine Category Captain Processes, Spirits Category Captain Processes, and/or Wine Validator or Spirits Validator Services (as applicable for the Lot and Category); and any experience with marketing or supply chain work.

Additionally, indicate the responsibilities each individual will have for this project, expected time to be allocated to PLCB business, and any additional helpful information to indicate the individual's ability to aid the Applicant in successfully performing the work identified in this RFA.

Resumes are not to include personal information that will, or will be likely to, require redaction prior to release of the application under the Right to Know Law. This includes home addresses and phone numbers, Social Security Numbers, Drivers' License numbers or numbers from state ID cards issued in lieu of a Drivers' License. If the PLCB requires any of this information for security verification or other purposes the information will be requested separately and as necessary.

- III-6. Continuing Education.** Indicate recommended training, seminars and support for PLCB personnel to accomplish **Part IV-3 Task 4 (a) and (b)**. Include agency personnel to be trained, the types of instructors or program leaders who will lead training or programs, the duration of the training or programs, and site for the training or programs. Include examples of training or program material.

- III-7. Worker Protection and Investment Certification.** Pursuant to Executive Order 2021-06, *Worker Protection and Investment* (October 21, 2021), the Commonwealth is responsible for ensuring that every Pennsylvania worker has a safe and healthy work environment and the protections afforded them through labor laws. To that end, contractors and grantees of the Commonwealth must certify that they are in compliance with all applicable Pennsylvania state labor and workforce safety laws. Such certification shall be made through the **Worker Protection and Investment Certification Form (Appendix D)** and submitted with the Applicant's application.



## PART IV

### WORK STATEMENT

#### IV-1. Objectives.

**A. General.** The PLCB seeks Applicants to assist it in analyzing category management practices, policies and procedures; evaluating store clusters; considering, executing and evaluating merchandising tests; and ensuring that beverage alcohol and retail industry best practices are exercised to enable the PLCB to reduce cost, improve performance, maximize the use of shelf space and increase customer satisfaction. The selected Applicants will conduct detailed category management analysis and will benchmark PLCB processes against proven industry standards and norms.

#### **B. Specific.**

This RFA is divided into two Lots, each of which has two Categories:

- Lot 1 – Category Management Captain services to be performed by Wine Category Captains and Spirits Category Captains.
- Lot 2 – Category Management Validator services to be performed by Wine Category Validators and Spirits Category Validators.

Four different contracts will be awarded as a result of this RFA:

- One Category Captain for Wines.
- One Category Captain for Spirits.
- One Category Validator for Wines.
- One Category Validator for Spirits.

Applicants must submit complete applications for each Lot and Category for which they wish to be considered. Applicants may submit for either, or both, Lot 1 and Lot 2 and for wine and/or spirits categories but can only be selected for one Lot and one Category.

**C. Nature and Scope of the Project.** The Project shall include the tasks as detailed in **Part IV-3 Lot 1 Category Management Captain Services** and **Part IV-4 Lot 2 Category Management Validator Services**.

**D.** The most recent Annual Report, which might be of interest, may be found at the PLCB's public website: [https://www.lcb.pa.gov/About-Us/News-and-Reports/Documents/PLCB%20Fiscal%20Year%20Annual%20Report\\_2021\\_22\\_Web.pdf](https://www.lcb.pa.gov/About-Us/News-and-Reports/Documents/PLCB%20Fiscal%20Year%20Annual%20Report_2021_22_Web.pdf)

**IV-2. Requirements.** Each selected Applicant shall be expected to perform the tasks and produce the deliverables as described in **Part IV-3 Lot 1 Category Captain Services** or **Part IV-4 Lot 2 Category Management Validator Services** of this RFA as applicable. The selected Applicant shall furnish all software, materials, and any other necessary equipment needed for its employees

to perform its contractual requirements. Each selected Applicant shall adhere to all provisions of Contract Terms and Conditions as shown in **Part V**.

**A. Personnel.**

1. The PLCB's Project Manager will approve/disapprove all key personnel assigned to this project. The selected Applicant shall not subcontract with any person or entity that is not identified in this application to perform all or any part of the work to be performed without the prior written consent of the PLCB's Project Manager.

The PLCB must approve or disapprove all planned bid/proposed staffing substitutions and changes. During the contract period, personnel not previously identified in the selected Applicant's application may only be substituted for another person or added to the team when approved in writing by the PLCB's Project Manager.

2. Any planned key or lead staffing substitutions must be submitted to the PLCB's Project Manager **ten business days prior to the substituted or replaced staff starting work**. Substitutions for all other selected Applicant(s) personnel must be submitted to the PLCB's Project Managers at least **five business days prior to the substituted or replaced staff starting work**. The PLCB must not incur any project delays due to knowledge transfer to new personnel resulting from staffing substitutions or replacement. It is each selected Applicant's responsibility to train replacement staff.
3. Although use of subcontractors is allowable, each prime selected Applicant is wholly responsible for the performance of any subcontractor. Any use of subcontractors by a selected Applicant must be identified in the application. During the project period, the PLCB must pre-approve in writing the use of any subcontractors not previously identified in a selected Applicant's application. A selected Applicant may not transfer or subcontract any portion of the work covered by these specifications without prior written consent of the PLCB Project Manager.

- B. Employees.** All matters dealing with the health, welfare, and working condition of each selected Applicant's employees are the responsibility of that selected Applicant. The selected Applicants agree to comply with all local, state, federal and international regulations governing health, welfare, and occupational safety standards.

**IV-3. Lot 1 Category Captain Services.** Explain in detail how you will accomplish the following for the Wine or Spirits Category Captain roles. The PLCB reserves the right to review all proposed methodologies and recommendations and determine when, or if, implementation will occur.

**Task 1- Store Clustering Analysis and Recommendations**

- a. Review and analyze the PLCB's approximately 585 retail FW&GS stores, thirteen licensee service centers and one e-commerce fulfillment center and recommend a clustering strategy and approach for the PLCB. Include in the recommendation descriptions and rationales for clusters, customer segment demographics and an assignment of each PLCB location into an appropriate cluster. Applicant is responsible

for providing data, background and detail on methodologies, and tools informing the cluster recommendations.

- b. Provide annual information on sales performance within each cluster by product category, department, and class.

### **Task 2– Assortment**

- a. **Category Trend Review and Analysis**

In coordination with listing cycles and up to twice a year, report on product categories and sub-categories as they relate to industry trends. Include criteria, data and information considered to assign categories, sub-categories and/or products to indicators including emerging, drive, mature, decline, etc.

- b. **Evaluation of De-List Process**

Annually review the PLCB's de-list process and make recommendations for process improvement, including criteria and workflow. The PLCB will analyze results and make final determinations on which items are de-listed.

- c. **Core Assortment**

Annually provide recommendations for core, or mandatory, codes based on review of data, including but not limited to recommendations for items that may be carried in all stores. In addition, provide recommendations of items within each store cluster.

### **Task 3 – Space Allocation**

- a. **Plan-O-Gram Benchmarks**

In coordination with listing cycles and up to twice a year, update and/or develop plan-o-gram benchmarks based on assortment changes and data provided by the PLCB. Provide analytical briefs on industry trends, research, insights and testing that the PLCB can consider for updates to shelf set guidelines. Provide tabulation of items that were added to and removed from benchmarks based on PLCB's listing and delisting decisions.

- b. **Store-Specific Plan-O-Grams**

In collaboration with the PLCB and throughout the year, provide store-specific plan-o-grams and to-scale category layouts, inclusive of linear footage for approximately 585 retail FW&GS stores. The PLCB also seeks to develop and/or revisit store-specific plan-o-grams for its highest volume stores (approximately 320 stores) twice a year.

c. **Cold Box Evaluation and Set**

Twice a year and in anticipation of spring/summer and fall/winter merchandising, provide cold box shelf set recommendations in mid-February and mid-September.

d. **Facilities Support.**

As the PLCB identifies retail capital projects, provide space planning and assortment recommendations for each store construction and renovation project, using beverage alcohol and retail industry best practices. Upon request, also provide recommendations regarding shelving linear footage.

**Task 4 – Continuing Education**

a. **Consumer Insights and Industry Best Practices Educational Presentations.**

Upon PLCB request and/or as new information becomes available, offer educational presentations to PLCB staff regarding consumer insights and beverage alcohol and retail industry best practices.

b. **PLCB Employee Onboarding**

Educate new PLCB merchandising staff regarding the services provided by Category Captains and general category management principles in the wine and spirits industry.

**Task 5 – Optional Services**

a. **Miscellaneous Special Projects**

Propose special projects – for example new shelf sets, promotion space planning, new fixturing, new retail merchandising executions, etc. – for consideration and testing by PLCB.

**IV-4. Lot 2 Category Management Validator Services.** Explain in detail how you will accomplish the following for the Wine Validator or the Spirits Validator role. The PLCB reserves the right to review all proposed methodologies and recommendations and determine when or if implementation will occur.

**Task 1 – Space Allocation**

a. **Plan-o-Gram Benchmark Validation**

Twice annually and within two weeks of receiving plan-o-gram benchmarks from the PLCB, produce a report that validates and/or provides alternate points of view on the benchmarks developed by Category Captains.

## **Task 2 – Optional Validation Services**

### **a. Miscellaneous Special Projects**

As requested by the PLCB, review, validate and/or provide alternate points of view on the additional Category Captain tasks identified in **Part IV-3 Lot 1 Category Captain Services**.

**IV-5. Transition Plans.** There will be transition periods for the Wine Category and Spirits Category Captain roles and the Wine Validator and Spirits Validator roles at the beginning and conclusion of this contract. Typically, transition periods are not expected to exceed 30 days.

Selected Applicants shall work with the PLCB and any existing or future contractors to ensure smooth transitions. At the beginning of each contract, this may include but not be limited to receiving and, at the conclusion of the contract, transferring to the PLCB and a designated third party all history files, program files, tracking data, working files and the results of any research conducted for the PLCB. As part of the application, Applicants shall provide a sample transition plan for receiving materials from an existing contractor.

Applicants shall also include, as part of the application, a sample plan to transfer data and files, as described above, at the end of the contract period. Applicants will detail how they will fully cooperate with the PLCB and any of its contractors to assure the successful transition from the selected Applicant's service to the services of any other contractor(s) which the PLCB may engage.

**IV-6. Reports and Project Control.** Each selected Applicant shall submit reports, receipts, forms and/or controls as the PLCB shall require. Historical sales data will be provided by the PLCB.

- A. Project Plan.** Each selected Applicant must prepare and maintain a detailed plan as a Gantt chart or in a similar format for each task outlined in this RFA. The plan must clearly establish the work elements for each task and identify resources assigned, time allotted, task dependencies and deliverables.
- B. Progress Reports.** Each selected Applicant shall prepare progress reports on a mutually agreed cadence and format addressing project status, significant accomplishments during the reporting period, problems affecting schedule and recommendations for resolution. Reports will be reviewed in mutually agreed project meetings and future projects will be discussed.
- C. Project Meetings.** During regular business hours, each selected Applicant shall attend regularly scheduled and ad hoc management meetings. The purpose of these meetings may include but will not be limited to status reports on ongoing projects and tasks.
- D. Management Practices for Naming Conventions, and Data Formats.** Each selected Applicant will follow prescribed PLCB conventions and formats, to be provided to each selected Applicant, for data, file names, plan-o-gram labels and category names in all work product delivered under the Project.

**PART V**  
**CONTRACT TERMS AND CONDITIONS**

**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 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 Contractor is issued a Notice to Proceed 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 Board 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 PLCB reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to 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 Pennsylvania Liquor Control Board (“PLCB”).
- b. Contracting Officer: The person authorized to administer this Contract for the PLCB 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 PLCB. 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 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 PLCB and that the PLCB 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 PLCB. The PLCB reserves the right to purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever the PLCB 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 PLCB. 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 PLCB.

## **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 PLCB under the contract. The Contractor shall defend any suit or proceeding brought against the PLCB 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 PLCB 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 PLCB 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 PLCB 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 PLCB harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the PLCB 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 noninfringement 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 PLCB, only those items of equipment or software which are held to be infringing, and to pay the PLCB: 1) any amounts paid by the PLCB towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the PLCB 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 PLCB 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 PLCB as part of the



performance of the Contract.

## **10. ACCEPTANCE**

No item(s) received by the PLCB shall be deemed accepted until the PLCB 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 PLCB within 15 days after notification.

Rejected item(s) left longer than 15 days will be regarded as abandoned, and the PLCB 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 PLCB'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 PLCB 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 PLCB.

## **11. PRODUCT CONFORMANCE**

The PLCB 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 PLCB.
- b. Supply published manufacturer product documentation.
- c. Permit a PLCB 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 PLCB 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 PLCB, the PLCB may seek payment from, or set-off from any payments due to the Contractor under this or any other Contract with the PLCB, the costs of removal and clean-up. This is in addition to all other rights to recover costs incurred by the PLCB.

### **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. Intentionally omitted.
- b. Intentionally omitted.

### **16. COMPENSATION**

- a. Intentionally omitted.
- b. Intentionally omitted.

### **17. BILLING REQUIREMENTS**

Intentionally omitted.

### **18. PAYMENT**

Intentionally omitted.

### **19. TAXES**

The PLCB 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 PLCB 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 PLCB 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 PLCB. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the PLCB 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. HOLD HARMLESS PROVISION**

- a. The Contractor shall hold the PLCB harmless from and indemnify the PLCB 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 PLCB 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 PLCB may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

## **22. AUDIT PROVISIONS**

The PLCB shall have the right, at reasonable times and at a site designated by the PLCB, 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 3 years from date of final payment. The Contractor shall give full and free access to all records to the PLCB and/or their authorized representatives.

### **23. DEFAULT**

- a. The PLCB 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 PLCB terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the PLCB 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 PLCB 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 PLCB, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the PLCB 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 PLCB 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 PLCB shall be in an amount agreed upon by the Contractor and Contracting Officer. The PLCB 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 PLCB against loss.

- d.** The rights and remedies of the PLCB 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 PLCB's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the PLCB 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 PLCB orally within 5 days and in writing within 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 PLCB may reasonably request. After receipt of such notification, the PLCB 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 PLCB by notice to the Contractor, may suspend all or a portion of the Contract or Purchase Order.

## 25. TERMINATION PROVISIONS

The PLCB 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 PLCB shall have the right to terminate the Contract or a Purchase Order for its convenience if the PLCB 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 PLCB'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 PLCB 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 PLCB 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 PLCB 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 PLCB erred in terminating the Contract or a Purchase Order for cause, then, at the PLCB'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 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 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 PLCB shall compensate the Contractor pursuant to the terms of the Contract.

## **27. ASSIGNABILITY AND SUBCONTRACTING**

Subject to the terms and conditions of this Paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.

- a.** 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.
- b.** 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.
- c.** 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.
- d.** 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.
- e.** 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.
- f.** 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 PLCB may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and PLCB 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 PLCB employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The PLCB 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 by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or 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 by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or 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 in writing 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 contracted services are performed shall satisfy this requirement for employees with an established work site.
- d.** The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or 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, regulations and policies 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 Diversity, Inclusion and Small Business Opportunities 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.

**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 50% of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than 50% 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% or more interest in the Contractor.
- e. **“Financial Interest”** means either:
  - (1) Ownership of more than a 5% 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.

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 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 it 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. 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.pa.gov/> 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**

Intentionally omitted.

### **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 PLCB 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 PLCB. 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 PLCB.

### **39. CHANGES**

The PLCB 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 PLCB 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 [www.psp.pa.gov/pages/criminal-history-background-check.aspx](http://www.psp.pa.gov/pages/criminal-history-background-check.aspx). 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.

All data and information provided by, or collected, processed or created on behalf of, the Commonwealth is confidential information unless otherwise indicated in writing. Confidential information is information and data disclosed by any means, and includes, but is not limited to: non-public personal information; all forms and types of financial, business, technical, or economic information including oral presentations pertaining to services; marketing strategies; computer software, software designs and services; business plans and logic; computer hardware used by the Commonwealth; and other information, documents, and materials that pertain to operations, policies, procedures, and any other aspects of the business of the PLCB.

In order for Contractor information to be deemed to be confidential, the Contractor must designate the information as "confidential" in such a way as to give notice to the Commonwealth.

The parties agree that 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 appropriate confidentiality notices, including all those appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, a party holding the other party's confidential information will return to the other party all copies of the confidential information in the first party's possession, other than one copy, which may be maintained for legal or archival purposes only. All copies retained will be held as confidential.

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 PLCB's Supplier Registration system.
- b. If to the PLCB: 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 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 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 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.

#### **44. ADVERSE INTEREST ACT AND LIQUOR CODE**

The Contractor agrees to maintain compliance with the State Adverse Interest Act Sections 776.1 through 776.8 (71 P.S. Sections 776.1 – 776.8), and Liquor Code Sections 210 and 214 (47 P.S. §§ 2-210, 2-214).

#### **45. INSURANCE REQUIREMENTS**

Contractor shall procure and maintain at all times during the term of the Agreement the following:

- Comprehensive general liability insurance with minimum limits of not less than \$1 million for injury to or death of one person in a single occurrence and \$3 million for injury to or death of more than one person in a single occurrence and \$500,000.00 for a single occurrence of property damage.
- Auto liability insurance with a minimum combined single limit for bodily injury and property damage in the amount of \$5 million each accident.
- Workers' Compensation Insurance sufficient to cover all of the Contractor's employees working to fulfill this contract in accordance with the Worker's Compensation Act of 1915 and any supplements or amendments thereof.
- Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per occurrence shall not be less than \$500,000, or the equivalent. Annual aggregate limit shall not be less than \$3 million.
- Umbrella coverage in the sum of \$2 million shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Automobile Liability, Employers' Liability, and Professional Liability.

Contractor must provide annually proof of valid insurance coverage of the types and limits specified above. PLCB shall be endorsed as additional insured on the auto and general liability insurance policies in connection with the services performed under the Contract and to the extent provided for in the Contractor's indemnity. Valid certificates of insurance shall be issued to PLCB.

#### **46. 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.

#### **47. 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.

#### **48. 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.

#### **49. 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.pa.gov/Wine-and-Spirits-Suppliers/Documents/002458.pdf>

#### **50. INFORMATION TECHNOLOGY POLICIES.**

- a. General. The Contractor shall comply with the IT standards and policies issued by the Governor's Office of Administration, Office for Information Technology (located at <https://www.oa.pa.gov/Policies/Pages/itp.aspx>), including the accessibility standards set out in IT Policy [ACC001, Accessibility Policy](#). The Contractor shall ensure that Services and Supplies procured under the Contract comply with the applicable standards. In the event such standards change during

the Contractor's performance, and the Commonwealth requests that the Contractor comply with the changed standard, then any incremental costs incurred by the Contractor to comply with such changes shall be paid for pursuant to a change order to the Contract.

- b. Waiver. The Contractor may request a waiver from an Information Technology Policy (ITP) by providing detailed written justification as to why the ITP cannot be met. The Commonwealth may waive the ITP in whole, in part or conditionally, or require that the Contractor provide an acceptable alternative. Any Commonwealth waiver of the requirement must be in writing.

## **51. DATA BREACH OR LOSS.**

- a. The Contractor shall comply with all applicable data protection, data security, data privacy and data breach notification law and policy, including but not limited to the [\*Breach of Personal Information Notification Act\*](#), Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301—2329.
- b. For data and confidential information in the possession, custody, or control of the Contractor or its employees, agents, and/or subcontractors:
  - i. The Contractor shall report unauthorized access, use, release, loss, destruction or disclosure of data or confidential information (“breach incident”) to the Commonwealth within **two (2) hours** of when the Contractor knows of or reasonably suspects such Incident, and the Contractor must immediately take all reasonable steps to mitigate any potential harm or further access, use, release, loss, destruction or disclosure of such data or confidential information.
  - ii. The Contractor shall provide timely notice to all individuals that may require notice under any applicable law or regulation as a result of a breach incident. The notice must be pre-approved by the Commonwealth. At the Commonwealth's request, Contractor shall, at its sole expense, provide credit monitoring services to all individuals that may be impacted by any incident requiring notice.
  - iii. The Contractor shall be solely responsible for any costs, losses, fines, or damages incurred by the Commonwealth due to breach incidents.
- c. As to data and confidential information fully or partially in the possession, custody, or control of the Contractor and the Commonwealth, the Contractor shall diligently perform all of the duties required in this Contract in cooperation with the Commonwealth, until the time at which a determination of responsibility for the incident, and for subsequent action regarding the incident, is made final.

## **52. CONTRACTOR HOSTED SECURITY, LOCATION, STATUS AND DISPOSITION OF DATA.**

Unless the Solicitation specifies otherwise:

- i. All data must be stored within the United States;

- ii. The Contractor shall be responsible for maintaining the privacy, security and integrity of data in the Contractor's or its subcontractors' possession;
- iii. All data shall be provided to the Commonwealth upon request, in a form acceptable to the Commonwealth and at no cost;
- iv. Any data shall be destroyed by the Contractor at the Commonwealth's request; and
- v. Any data shall be held for litigation or public records purposes by the Contractor at the Commonwealth's request, and in accordance with the security, privacy and accessibility requirements of this Contract



**APPENDIX A  
APPLICATION COVER SHEET  
COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA LIQUOR CONTROL BOARD  
RFA #20221028**

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

<b>Submittals Attached</b>	
Δ	Technical Submittal

<b>Signature(s)</b>		
<b>Signature of official(s) authorized to bind the Applicant to the provisions contained in the Applicant's Application</b>		
<b>Printed Name</b>		
<b>Title</b>		

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

**APPENDIX B**

**CORPORATE SIGNATORY DELEGATION  
AUTHORIZATION**

**PLCB RFP # 20221028**

**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  
(Name of Corporation)

them on day of \_\_\_\_\_, 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 C**

**TRADE SECRET/CONFIDENTIAL  
PROPRIETARY INFORMATION NOTICE**

**PLCB RFP # 20221028**

**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, application, proposal, grant application, technical schematics):**

**Please provide a brief explanation of why the materials are being submitted to the Commonwealth (e.g.: *Response to RFA #12345678. for XYZ being offered by XXXXXXXX. 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



## NOTICE

### **WORKER PROTECTION AND INVESTMENT**

On October 21, 2021, Governor Tom Wolf signed Executive Order 2021-06, *Worker Protection and Investment*. The Executive Order affirms that the Commonwealth is responsible for ensuring that every worker in Pennsylvania has a safe and healthy work environment and the protections afforded them through labor laws. To that end and in accordance with the Executive Order, prior to being awarded a contract or grant, contractors and grantees of the Commonwealth must certify that they are in compliance with all applicable Pennsylvania state labor and workforce safety laws including:

1. Construction Workplace Misclassification Act
2. Employment of Minors Child Labor Act
3. Minimum Wage Act
4. Prevailing Wage Act
5. Equal Pay Law
6. Employer to Pay Employment Medical Examination Fee Act
7. Seasonal Farm Labor Act
8. Wage Payment and Collection Law
9. Industrial Homework Law
10. Construction Industry Employee Verification Act
11. Act 102: Prohibition on Excessive Overtime in healthcare
12. Apprenticeship and Training Act
13. Inspection of Employment Records Law

Contractors and grantees must also certify compliance with Unemployment Compensation tax requirements and Workers' Compensation insurance requirements.

To ensure compliance with these statutes, Contractors and Grantees will be required to submit the Worker Protection and Investment Certification Form BOP-2201 in response to all procurement solicitations (invitations for bids, requests for proposals, requests for quotes, emergency procurements and sole source procurements) and grant applications and or requests for applications for grants. Contracts and grants will not be executed with prospective contractors or grantees until such certification form is received.

In addition, the Pennsylvania Department of Labor and Industry has created a public list of businesses that have been found to be non-compliant with Pennsylvania state labor and workforce safety law which will be published on its [public-facing website](#). Agencies are required to ensure that prospective contractors or grantees are not on the list prior to awarding any contract or grant. Contractors and grantees who appear on the list can be removed by remedying their statutory noncompliance. Contact information for addressing compliance status is available on the list website.

These requirements of the Executive Order are currently in effect. Questions should be directed to the contracting or granting agency.





**WORKER PROTECTION AND INVESTMENT CERTIFICATION FORM**

A. Pursuant to Executive Order 2021-06, *Worker Protection and Investment* (October 21, 2021), the Commonwealth is responsible for ensuring that every worker in Pennsylvania has a safe and healthy work environment and the protections afforded them through labor laws. To that end, contractors and grantees of the Commonwealth must certify that they are in compliance with Pennsylvania’s Unemployment Compensation Law, Workers’ Compensation Law, and all applicable Pennsylvania state labor and workforce safety laws including, but not limited to:

1. Construction Workplace Misclassification Act
2. Employment of Minors Child Labor Act
3. Minimum Wage Act
4. Prevailing Wage Act
5. Equal Pay Law
6. Employer to Pay Employment Medical Examination Fee Act
7. Seasonal Farm Labor Act
8. Wage Payment and Collection Law
9. Industrial Homework Law
10. Construction Industry Employee Verification Act
11. Act 102: Prohibition on Excessive Overtime in Healthcare
12. Apprenticeship and Training Act
13. Inspection of Employment Records Law

B. Pennsylvania law establishes penalties for providing false certifications, including contract termination; and three-year ineligibility to bid on contracts under 62 Pa. C.S. § 531 (Debarment or suspension).

**CERTIFICATION**

I, the official named below, certify I am duly authorized to execute this certification on behalf of the contractor/grantee identified below, and certify that the contractor/grantee identified below is compliant with applicable Pennsylvania state labor and workplace safety laws, including, but not limited to, those listed in Paragraph A, above. I understand that I must report any change in the contractor/grantee’s compliance status to the Purchasing Agency immediately. I further confirm and understand that this Certification is subject to the provisions and penalties of 18 Pa. C.S. § 4904 (Unsworn falsification to authorities).

<i>Signature</i>	<i>Date</i>
<i>Name (Printed)</i>	
<i>Title of Certifying Official (Printed)</i>	
<i>Contractor/Grantee Name (Printed)</i>	

**APPENDIX E**

**PROJECT REFERENCES**

**PLCB RFP #20221028**

## Project Reference

<b>Contractor or Subcontractor Entity Name:</b>		
<b>Proposed Role on Project:</b>		
<b>Client:</b>	<b>Contact Name:</b>	<b>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>		