

**REQUEST FOR PROPOSALS FOR
MOTORCYCLE SAFETY PROGRAM**

ISSUING OFFICE

**PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
BUREAU OF OFFICE SERVICES
COMMONWEALTH KEYSTONE BUILDING
400 NORTH STREET, 5th FLOOR
HARRISBURG, PENNSYLVANIA 17120-0041**

RFP NUMBER

3516R09

DATE OF ISSUANCE

JUNE 26, 2017

**REQUEST FOR PROPOSALS FOR
MOTORCYCLE SAFETY PROGRAM**

TABLE OF CONTENTS

CALENDAR OF EVENTS	iv
Part I – GENERAL INFORMATION	1
Part II – CRITERIA FOR SELECTION	13
Part III – TECHNICAL SUBMITTAL	18
Part IV – COST SUBMITTAL	53
Part V – SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL	54
Part VI – STANDARD CONTRACT TERMS AND CONDITIONS	59

APPENDICES

APPENDIX A	PROPOSAL COVER SHEET
APPENDIX B	SAMPLE CONTRACT
APPENDIX C	IRAN FREE PROCUREMENT CERTIFICATION
APPENDIX D	TRADE SECRET CONFIDENTIAL PROPRIETARY INFORMATION NOTICE
APPENDIX E	COST SUBMITTAL
APPENDIX F	SERVICE LEVEL AGREEMENTS
APPENDIX G	CUSTOMER SERVICE POLICY
APPENDIX H	SAMPLE WORK ORDER AUTHORIZATION PAGE
APPENDIX I	WORK ORDER REQUIREMENTS
APPENDIX J	SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL FORM
APPENDIX K	SMALL DIVERSE AND SMALL BUSINESS LETTER OF INTENT
APPENDIX L	MODEL FORM OF SMALL DIVERSE BUSINESS AND SMALL BUSINESS SUBCONTRACT AGREEMENT
APPENDIX M	CONFIRMATION OF SERVICES FORM (OS-501)
APPENDIX N	POLICIES & PROCEDURES (6-2017)
APPENDIX O	SHED INVENTORY (6-2017)
APPENDIX P	SITE EQUIPMENT INVENTORY (6-2017)
APPENDIX Q	TRAINING SITES (6-2017)
APPENDIX R	PENNDOT FLOOR PLAN (6-2017)
APPENDIX S	PA REGIONAL MAP (6-2017)
APPENDIX T	DOMESTIC WORKFORCE UTILIZATION CERTIFICATION
APPENDIX U	ADDITIONAL OFFICE AND OTHER EQUIPMENT (6-2017)

APPENDIX V	CONFIDENTIALITY AGREEMENT
APPENDIX W	MOTORCYCLE INVENTORY (6-2017)
APPENDIX X	ENHANCED MINIMUM WAGE PROVISION

CALENDAR OF EVENTS

The Commonwealth will make every effort to adhere to the following schedule:

Activity	Responsibility	Date
Deadline to submit Questions via email to PDRFPQuestions@pa.gov .	Potential Offerors	Wednesday July 5, 2017
Pre-proposal Conference Location – Optional Pennsylvania Department of Transportation Keystone Building 400 North Street, 5 th Floor, Bid Room Harrisburg, PA 17120-0041	Issuing Office/Potential Offerors	Wednesday July 12, 2017 at 9:30 am
Answers to Potential Offeror questions posted to the DGS website at http://www.emarketplace.state.pa.us/Search.aspx no later than this date.	Issuing Office	Friday July 14, 2017
Please monitor website for all communications regarding the RFP.	Potential Offerors	On-going
Sealed Proposal must be received by the Issuing Office at Pennsylvania Department of Transportation Bureau of Office Services ATTN: Holly Zeiders, Issuing Officer Keystone Building 400 North Street, 5 th Floor Harrisburg, PA 17120-0041	Offerors	Friday July 28, 2017 by 12:00pm

*Note: Due to increased security requirements in the Commonwealth's mail processing operations, all incoming mail to the Keystone Building is routed, scanned and sorted at an off-site location prior to delivery. This includes overnight deliveries. Be aware when submitting Proposal documents via overnight delivery services, there is no guarantee that the Proposal documents will be received in the Issuing office when required. Proposals which are received late will be rejected regardless of the reason for late arrival. Offerors are advised to allow extra time to ensure timely delivery.

PART I

GENERAL INFORMATION

- I-1. Purpose.** This request for proposal (“RFP”) provides to those interested in submitting Proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit Proposals for the Pennsylvania Department of Transportation’s (“PennDOT”) consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for a Motorcycle Safety Program (“Program”). This RFP contains instructions governing the requested Proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.
- I-2. Issuing Office.** PennDOT (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be **Holly Zeiders, 400 North Street, 5th Floor, Harrisburg, PA 17120-0041; PDRFPQuestions@pa.gov**, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.
- I-3. Overview of Project.** PennDOT is seeking an Offeror to comprehensively and effectively administer the Program. In March 1984, Chapter 79 – Motorcycles were added to the Pennsylvania Vehicle Code, 75 Pa. C.S. Chapter 79, which required PennDOT to establish a motorcycle safety program throughout the Commonwealth. Since 1985, more than 502,000 riders in Pennsylvania have been trained through the Program.
- I-4. Objectives.**

A. General.

PennDOT is in need of a Contractor to administer the Program. The Contractor’s responsibilities include but are not limited to the following:

- develop an implementation plan to include on-boarding (transition) activities;
- forecast public demand for training and delivering an annual training program to meet the public demand;
- secure the services of instructors to deliver the training and train and certify the instructors;
- identify and/or develop training curriculum, deliver training, and conduct and report end of course testing;
- obtain and maintain training facilities and equipment;
- develop and/or implement promotion and publicity activities;
- provide web-based scheduling and registration for classes;
- provide customer service and support;
- develop and implement a quality assurance program;
- develop turnover plan and activities; and

- report Program results.

The tasks and deliverables are outlined in **Part III, Section III-6. Work Plan.**

- I-5. Type of Contract.** If the Issuing Office enters into a contract as a result of this RFP, it will be a **Deliverable Based, Fixed Price Contract, except as otherwise described in this RFP**, containing the Standard Contract Terms and Conditions as shown in **Part VI**. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose Proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Program.
- I-6. Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any Proposal received as a result of this RFP.
- I-7. Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its Proposal, in participating in the RFP process or in anticipation of award of the Contract.
- I-8. Pre-proposal Conference.** The Issuing Office will hold a Pre-proposal Conference as specified in the Calendar of Events. The purpose of this conference is to provide opportunity for clarification of the RFP. Offerors should forward all questions to the Issuing Officer in accordance with **Part I, Section I-9. Questions and Answers** to ensure adequate time for analysis before the Issuing Office provides an answer. Offerors may also ask questions at the conference. In view of the limited facilities available for the conference, Offerors should limit their representation to two (2) individuals per Offeror. The Pre-proposal Conference is for information only. Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. All questions and written answers will be posted on the Department of General Services' (DGS) website as an addendum to, and shall become part of, this RFP. Attendance at the Pre-proposal Conference is optional.
- I-9. Questions & Answers.** If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line "RFP #3516R09 Question"**) to the Issuing Officer named in **Part I, Section I-2. Issuing Office** of the RFP. The questions must be submitted in Microsoft Word or Microsoft Excel format. Questions should not be submitted in PDF format. If the Offeror has questions, they must be submitted via email **no later than** the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions on the DGS website by the date stated on the Calendar of Events. An Offeror who submits a question *after* the deadline date for receipt of questions indicated on the Calendar of Events assumes the risk that its Proposal will not be responsive or competitive because the Commonwealth is not able to respond before the Proposal receipt date or in sufficient time for the Offeror to prepare a responsive or competitive Proposal. When submitted after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the

RFP. To the extent that the Issuing Office decides to respond to a non-administrative question *after* the deadline date for receipt of questions indicated on the Calendar of Events, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the DGS website are considered as an addendum to, and part of, this RFP in accordance with RFP **Part I, Section I-10, Addenda to the RFP**. Each Offeror shall be responsible to monitor the DGS website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements with PennDOT can be found in **Part I, Section I-27, RFP Protest Procedure** to this RFP.

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

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

I-12. Proposal Requirements.

A. Proposal Submission: To be considered, Offerors should submit a complete Proposal to the Issuing Office, using the format provided in this **Section I-12. Proposal Requirements**. An official authorized to bind the Offeror to its provisions must sign the Proposal by signing the **Proposal Cover Sheet, Appendix A** to this RFP. If the Issuing Office selects the Offeror's Proposal for award, the contents of the selected Offeror's Proposal will become contractual obligations. Offerors must submit a Proposal in the format, including heading descriptions, outlined in **Part III-1, Requirements** of this RFP. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the Proposal. Offeror's Proposal submissions shall consist of the following **three (3)** separately sealed submittals:

1. Provide eight (8) complete and exact paper copies of the Technical Submittal. Offerors must submit at least one (1) submittal containing an original signature identified as the “ORIGINAL”.
2. Provide two (2) complete and exact paper copies of the Cost Submittal, along with all requested documents, clearly marked as “ORIGINAL”.
3. Provide two (2) complete and exact paper copies of the Small Diverse Business and Small Business Participation Submittal Form, clearly marked as “ORIGINAL”.
4. Provide two (2) complete and exact electronic copies of the “ORIGINAL” Technical and Cost Submittals, along with all requested documents, clearly marked as “ORIGINAL” and must be on two (2) separate Flash drives in Microsoft Office or Microsoft Office-compatible format. The electronic copies must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. The Offerors may not lock or protect any cells or tabs. The Flash drive should clearly identify the Offeror and include the name and version number of the virus scanning software that was used to scan the Flash drive before it was submitted.

For this RFP, and any changes accepted by the Issuing Office through Clarification Requests and the Offeror’s Clarification Responses (refer to **Section I-15. Discussions for Clarification** of this RFP), **Best and Final Offers** (refer to **Section I-19** of this RFP), and/or Negotiations (refer to **Section I-25. A. Contract Negotiations** of this RFP) **must remain valid for 180 days** or until a contract is fully executed. If the Issuing Office selects the Offeror’s Proposal for award, the contents of the selected Offeror’s Proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

Each Offeror submitting a Proposal specifically waives any right to withdraw or modify it, except that the Offeror may withdraw its Proposal by written notice received at the Issuing Office’s address for Proposal delivery prior to the exact hour and date specified for Proposal receipt. An Offeror or its authorized representative may withdraw its Proposal in person prior to the exact hour and date set for Proposal receipt, provided the withdrawing person provides appropriate identification and signs a receipt for the Proposal. An Offeror may modify its submitted Proposal prior to the exact hour and date set for Proposal receipt only by submitting a new sealed Proposal or sealed modification which complies with the RFP requirements.

B. Proposal Format: Offerors must submit their Proposals in the format, including heading descriptions, outlined below. To be considered, the Proposal must respond to all Proposal requirements. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the Proposal. All cost data and Small Diverse Business and Small Business Participation Submittal data relating to this Proposal should be kept separate from and not included in the Technical Submittal. Offerors should not reiterate technical information in the

cost submittal. Each Proposal shall consist of the following three (3) separately sealed submittals:

1. Technical Submittal, in response to **Part III**:
 - a. Complete, sign and include **Appendix T – Domestic Workforce Utilization Certification**;
 - b. Complete, sign and include **Appendix C – Iran Free Procurement Certification**;
 - c. Complete, sign and include **Appendix V – Confidentiality Agreement**.
2. Cost Submittal, in response to RFP **Part IV**; and
3. Small Diverse Business and Small Business Participation Submittal Form in response to **Part V**:
 - a. Complete and include **Appendix J – Small Diverse Business and Small Business Participation Submittal Form**; and
 - b. Complete and include **Appendix K - Small Diverse Business and Small Business Letter of Intent**. Offeror must provide a Letter of Intent for each SDB and SB listed on the SDB/SB Participation Submittal Form

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

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

I-13. Economy of Preparation. Offerors should prepare Proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP. The Proposal should not exceed 50 pages. This excludes table of contents, dividers, appendices (both supportive and required which includes financial documents, plans, drawings, etc.). Duplex printing is acceptable and suggested.

I-14. Alternate Proposals. The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate Proposals.

- I-15. Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their Proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.
- I-16. Oral Presentations.** Offerors may be required to make oral presentations to the Issuing Office. The Issuing Office reserves the right to request oral presentations, establish the agenda for such presentations, and to coordinate such presentations on-site at Commonwealth offices.
- I-17. Prime Offeror Responsibilities.** The selected Offeror must perform at least 50% of the total contract value. Nevertheless, the Contract will require the selected Offeror to assume responsibility for all services offered in its Proposal whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact regarding all contractual matters.
- I-18. Proposal Contents.**
- A. Confidential Information.** The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate Proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label Proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its Proposal must submit the signed written statement described in subsection C. below and must additionally provide a redacted version of its Proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.
 - B. Commonwealth Use.** All material submitted with the Proposal shall be considered the property of the Commonwealth of Pennsylvania and may be returned only at the Issuing Office's option. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any Proposal regardless of whether the Proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained on Proposals, the Commonwealth shall have the right to make copies and distribute Proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.
 - C. Public Disclosure.** After the award of a contract pursuant to this RFP, all Proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a Proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b) (11) from public records requests. Refer to **Appendix D** of the RFP for a

Trade Secret Confidential Proprietary Information Notice that may be utilized as the signed written statement, if applicable. If financial capability information is submitted in response to **Part III. Technical Submittal** of this RFP such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b) (26).

I-19. Best and Final Offers (BAFO).

- A.** While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining “best and final offers.” To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following, in any combination and order:
1. Schedule oral presentations;
 2. Request revised Proposals;
 3. Conduct a reverse online auction; and
 4. Enter pre-selection negotiations.
- B.** The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer:
1. Those Offerors, which the Issuing Office has determined to be not responsible or whose Proposals the Issuing Office has determined to be not responsive.
 2. Those Offerors, which the Issuing Office has determined in accordance with **Part II, Section II-5. Offeror Responsibility**, from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the Contract.
 3. Those Offerors whose score for their technical submittal of the Proposal is less than 70% of the total amount of technical points allotted to the technical criterion.
- The issuing office may further limit participation in the best and final offers process to those remaining responsible offerors which the Issuing Office has, within its discretion, determined to be within the top competitive range of responsive Proposals.
- C.** The **Evaluation Criteria** found in **Part II, Section II-4**, shall also be used to evaluate the Best and Final offers.
- D.** Price reductions offered through any reverse online auction shall have no effect upon the Offeror’s Technical Submittal.

E. Any reduction to commitments to Small Diverse Businesses and Small Businesses must be proportional to the reduction in the total price offered through any BAFO process or contract negotiations unless approved by DGS' Bureau of Diversity, Inclusion & Small Business Opportunities (BDISBO).

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

I-21. Restriction of Contact. From the issue date of this RFP until the Issuing Office selects a Proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror's Proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror's Proposal or rescind its contract award. Offerors must agree not to distribute any part of their Proposals beyond the Issuing Office. An Offeror who shares information contained in its Proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.

I-22. Issuing Office Participation. Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in this **Part I, Section I-22**. PennDOT shall appoint a Project Manager as the primary point of contact to the selected Offeror for coordination and delivery of these services.

PennDOT will provide motorcycles and other specified equipment, except as set forth in this RFP as well as storage sheds. Office space at the Riverfront Office Center (Harrisburg) will be provided to include desks and chairs, office supplies, photocopy and fax machines, telephone system, computers and slip document printers (known as WID printers), filing cabinets, approximately 10 parking spaces, postage and freight for the Program items (including but not limited to sheds, motorcycles and equipment), graphic services and printing as approved by PennDOT, access to the Commonwealth's e-mail system and internet access with Commonwealth restrictions.

I-23. Term of Contract. The term of the Contract will commence on the Effective Date and will end sixty (60) months later. A **Sample Contract** is attached as **Appendix B**. The Issuing Office will fix the Effective Date after the Contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the Contract and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the Contract. There is a renewal option at the discretion of the Issuing Office by letter signed by the Contract Administrator, upon the same terms and conditions, incrementally or in one step, for a period of sixty (60) months.

The costs set forth in the Contract may be increased up to a maximum of three percent (3%) for the life of the renewal period at the discretion of the Issuing Office.

The Commonwealth reserves the right, upon notice to selected Offeror, to extend the term of the Contract for up to three (3) months at the then-current pricing under the same terms and conditions, in addition to any renewal period. This may be utilized to prevent a lapse in Contract coverage.

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

- A.** All the Offeror's information and representations in the Proposal are material and important, and the Issuing Office may rely upon the contents of the Proposal in awarding the Contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.
- B.** The Offeror has arrived at the price(s) and amounts in its Proposal independently and without consultation, communication, or contract with any other Offeror or potential Offeror.
- C.** The Offeror has not disclosed the price(s), the amount of the Proposal, nor the approximate price(s) or amount(s) of its Proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the Proposal submission deadline specified in the Calendar of Events of this RFP.
- D.** The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a Proposal on this contract, or to submit a Proposal higher than this Proposal, or to submit any intentionally high or noncompetitive Proposal or other form of complementary Proposal.
- E.** The Offeror makes its Proposal in good faith and not pursuant to any contract or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Proposal.
- F.** To the best knowledge of the person signing the Proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four (4)** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its Proposal.
- G.** To the best of the knowledge of the person signing the Proposal for the Offeror and except as the Offeror has otherwise disclosed in its Proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to,

any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.

- H.** The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its Proposal a written explanation of why it cannot make such certification.
- I.** The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its Proposal or the specifications for the services described in the Proposal.
- J.** Each Offeror, by submitting its Proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
- K.** Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.
- L.** The Offeror 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-25. Notification of Selection.

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

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

I-27. RFP Protest Procedure. Any protest arising from the award or non-award of a Contract by PennDOT as a result of this RFP must be filed in writing with the Secretary of the

Department of Transportation and follow the procedures set forth in Section 1711.1 of the procurement Code, 62 PA. CS. § 1711.1.

A protest by a party not submitting a Proposal must be filed within **seven (7)** days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the Proposal submission deadline specified in the Calendar of Events of the RFP. Offerors may file a protest within **seven (7)** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event, may an Offeror file a protest later than **seven (7)** days after the date the notice of award of the Contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

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

I-29. Information Technology Policies. This RFP is subject to the Information Technology Policies (ITPs) {formerly known as Information Technology Bulletins} issued by the Office of Administration, Office for Information Technology (OA-OIT). ITPs may be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.

All Proposals must be submitted on the basis that all ITPs are applicable to this procurement. It is the responsibility of the Offeror to read and be familiar with the ITPs. Notwithstanding the foregoing, if the Offeror believes that any ITP is not applicable to this procurement, it must list all such ITPs in its technical response, and explain why it believes the ITP is not applicable. The Issuing Office may, in its sole discretion, accept or reject any request that an ITP not be applicable to the procurement. The Offeror's failure to list an ITP will result in its waiving its right to do so later, unless the Issuing Office, in its sole discretion, determines that it would be in the best interest of the Commonwealth to waive the pertinent ITP.

I-30. Work Order Requirements

1. The selected Offeror may be required to perform work using Work Orders negotiated with the selected Offeror throughout the term of the Contract to address additional Program needs and/or legislative changes, if necessary. PennDOT's Project Manager will initiate a Work Order by following the steps outlined in **Appendix I, Work Order Requirements**.
2. Each Work Order shall identify specific individuals and their position required to complete the scope of work outlined on the Work Order. The Hourly Rate for each specified individual per position may be negotiated for each Work Order.

3. The work to be completed through a Work Order shall be deliverable based and will establish payment benchmarks. All Work Orders will be negotiated and once established and accepted by PennDOT, a Purchase Order or a Purchase Order Change Order will be executed, and reimbursement under the Contract will be based on the agreed upon fixed price of each deliverable. Work Orders shall clearly define the deliverable and a lump sum payment will be made upon completion and acceptance by PennDOT of the defined deliverable. Benchmarks will be identified during negotiation when a single Work Order provides for more than one (1) clearly defined benchmark. Each identified benchmark within a Work Order will be considered a separate deliverable with a lump sum payment made upon completion and acceptance by PennDOT of the identified benchmark.
4. **Work Order Authorization Page** (see **Appendix H** for sample) is required to be signed by the selected Offeror, PennDOT's Project Manager, and PennDOT's Contract Administrator. PennDOT's Issuing Officer will become PennDOT's Contract Administrator after a contract is executed. Upon acceptance by the selected Offeror, PennDOT's Project Manager, and PennDOT's Contract Administrator, a fully executed Purchase Order will be issued as the Notice to Proceed.
 - a. NO WORK CAN BE AUTHORIZED BEFORE A FULLY EXECUTED PURCHASE ORDER IS ISSUED OR AN A FULLY EXECUTED PURCHASE ORDER CHANGE ORDER BY PENNDOT AND RECEIVED BY THE SELECTED OFFEROR.
5. Each Work Order is required to contain a clearly defined scope of work for each deliverable and must fall into one of the tasks as listed in **Part III-6, Work Plan** of this RFP.
6. Work Orders shall be consecutively numbered.
7. Work Orders may be done concurrently.

I-31. Confirmation of Services Form (OS-501)

1. The selected Offeror must submit a **Confirmation of Services Form (OS-501)**, **Appendix M** to PennDOT's Project Manager to confirm services have been rendered. All supporting invoice documentation should be submitted with the OS-501.
2. All charges on a submitted invoice must be directly related to work performed on all identified tasks. All invoices must be mailed to the "Bill To" address on the Purchase Order.
3. The invoice shall reflect line items as shown on the fully executed Purchase Order. Invoices shall be capable of being photocopied legibly.

PART II

CRITERIA FOR SELECTION

- II-1. Mandatory Responsiveness Requirements.** To be eligible for selection, a Proposal must:
- A. Be timely received from an Offeror (see **Part I, Section I-11, Response Date**); and
 - B. Be properly signed by the Offeror (see **Part I, Section I-12A, Proposal Submission**).
- II-2. Technical Nonconforming Proposals.** The two (2) Mandatory Responsiveness Requirements set forth in **Section II-1, Mandatory Responsiveness Requirements** above (A-B) are the only RFP requirements that the Commonwealth will consider to be *non-waivable*. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror's Proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's Proposal.
- II-3. Evaluation.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted Proposals. Independent of the committee, BDISBO will evaluate the Small Diverse Business and Small Business Participation Submittal and provide the Issuing Office with a rating for this component of each Proposal. The Issuing Office will notify the selected Offeror in writing of its selection for negotiation as the responsible Offeror whose Proposal is determined to be the most advantageous to the Commonwealth 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 Proposal:
- A. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **50 %** of the total points. Evaluation will be based upon the following in order of importance: The final Technical scores are determined by giving the maximum number of technical points available to the Proposal with the highest raw technical score. The remaining Proposals are rated by applying the Technical Scoring Formula set forth at the following webpage:

<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.
 - i. **Soundness of Approach.** Emphasis here is on the overall approach to implementation of this statewide Program, data collection, and methods for managing the tasks to meet the requirements and objectives of this RFP.
 - ii. **Offeror Qualifications.** This refers to the ability of the Offeror to meet the terms of this RFP by detailing experiences on similar projects completed by the Offeror within the past five (5) years. This also includes the Offeror's financial

ability to undertake a project of this size on tax returns and/or documentation that demonstrates solvency of the company to function throughout the term of the Contract.

- iii. **Personnel Qualifications.** This refers to the competence of personnel who would be assigned to the Program by the Offeror. Qualifications will be measured by experience and education with particular reference to experience on studies/services similar to that described in the RFP. Particular emphasis is placed on the qualifications of the Offeror's Project Manager.
- iv. **Understanding the Problem.** This refers to the Offeror's understanding of PennDOT's objectives in asking for the services or undertaking the study, and of the nature and scope of the work involved. This also includes the Offeror's responsiveness to the RFP, including quality criteria.

B. Cost: The Issuing Office has established the weight for the Cost criterion for this RFP as **30 %** of the total points. The cost criterion is rated by giving the Proposal with the lowest total cost the maximum number of Cost points available. The remaining Proposals are rated by applying the Cost Formula set forth at the following webpage: <http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

C. Small Diverse Business and Small Business Participation:

BDISBO has established the minimum evaluation weight for the Small Diverse Business and Small Business Participation criterion for this RFP as **20 %** of the total points.

1. The Small Diverse and Small Business point allocation is based entirely on the percentage of the Contract cost committed to Small Diverse Businesses and Small Businesses.
2. A total combined SDB/SB commitment less than one percent (1%) of the total contract cost is considered de minimis and will receive no Small Diverse Business or Small Business points.
3. Two thirds (2/3) of the total points are allocated to Small Diverse Business participation (SDB %).
4. One third (1/3) of the total points is allocated to Small Business participation (SB %).
5. Based on a maximum total of 200 available points for the Small Diverse Business and Small Business Participation Submittal, the scoring mechanism is as follows:

Small Diverse Business and Small Business Raw Score =

$$200 (\text{SDB}\% + (1/3 * \text{SB } \%))$$

6. Each Offeror's raw score will be pro-rated against the Highest Offeror's raw score by applying the formula set forth on the following webpage: http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx.
7. The Offeror's prior performance in meeting its contractual obligations to Small Diverse Businesses and Small Businesses will be considered by BDISBO during the scoring process. To the extent the Offeror has failed to meet prior contractual commitments, BDISBO may recommend to the Issuing Office that the Offeror be determined non-responsible for the limited purpose of eligibility to receive Small Diverse Business and Small Business points.

D. Domestic Workforce Utilization: Any points received for the Domestic Workforce Utilization criterion are bonus points in addition to the total points for this RFP. The maximum amount of bonus points available for this criterion is 3% of the total points for this RFP.

To the extent permitted by the laws and treaties of the United States, each Proposal will be scored for its commitment to use domestic workforce in the fulfillment of the Contract. Maximum consideration will be given to those Offerors who will perform the Contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. See the following webpage for the Domestic Workforce Utilization Formula: <http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

E. Iran Free Procurement Certification and Disclosure. Prior to entering a contract worth at least \$1,000,000 or more with a Commonwealth entity, an offeror must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by DGS pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e). All Offerors must complete and return the Iran Free Procurement Certification form, (**Appendix C, Iran Free Procurement Certification Form**), which is attached hereto and made part of this RFP. The completed and signed Iran Free Procurement Certification form must be submitted as part of the Technical Submittal.

See the following web page for current Iran Free Procurement list:

<http://www.dgs.pa.gov/Documents/Procurement%20Forms/IranFreeProcurementCertificationForm.pdf>

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

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

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

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

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

II-6. Final Ranking and Award.

- A. After any best and final offer process conducted, the Issuing Office will combine the evaluation committee's final technical scores, BDISBO's final Small Diverse Business and Small Business Participation Submittal scores, the final cost scores, and (when

applicable) the domestic workforce utilization scores, in accordance with the relative weights assigned to these areas as set forth in this Part.

- B.** The Issuing Office will rank responsible Offerors according to the total overall score assigned to each, in descending order.
- C.** The Issuing Office must select for contract negotiations the Offeror with the highest overall score.
- D.** The Issuing Office has the discretion to reject all Proposals or cancel the request for Proposals, at any time prior to the time a contract is fully executed, when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the Contract file.

PART III

TECHNICAL SUBMITTAL

General. The Issuing Office is seeking an Offeror to comprehensively and effectively administer the Program. Pursuant to Chapter 79 of the Vehicle Code, 75 Pa. C.S. Chapter 79, requires the Issuing Office to establish a motorcycle safety program throughout the Commonwealth. In addition, Pennsylvania law requires that anyone age 16 or 17 who would like to obtain a motorcycle license complete a PennDOT designated motorcycle safety program course.

Specific. Motorcycle riders are at a much higher risk of severe injuries or fatalities when involved in a crash than operators of any other type of motor vehicle. In fact, 88% of motorcycle crashes result in rider injury. Findings from the *1981 Hurt Study* revealed that many motorcyclists involved in accidents were essentially without training – 92% were either self-taught, or learned from family members or friends. Motorcycle operator training experience reduces crash involvement, and is related to reducing injuries resulting from crashes, due to riders learning how to anticipate and avoid the hazards causing crashes. For these reasons, it is imperative that a comprehensive program be made available to as many motorcyclists as possible. Through training, motorcyclists' skills and awareness will increase, thereby ultimately reducing the frequency and severity of traffic accidents.

In 2016, there was a total of 3,454 motorcycle crashes in Pennsylvania. Of those, 720 motorcyclists were seriously injured and 192 were killed. The number of motorcycle crashes that resulted from hitting a fixed object was 568, which is an indicator of motorcycle operator error as no other vehicle was involved. This points to a need for motorcycle training as a means of developing and enhancing skills in an effort to reduce crashes and fatalities in Pennsylvania.

Toward this end, PennDOT is seeking an Offeror which will use a data driven approach (crash statistics) to effectively provide motorcycle training and education which is aimed at eliminating crashes and fatalities of motorcyclists.

Since 1985, more than 502,000 riders in Pennsylvania have been trained through the Program. From 2011 until 2016 there was an annual average of approximately 20,000 individuals who participated in the training program.

Currently, four (4) courses, identified in the table below, are offered to motorcycle riders and are described in detail in **Part III-4, Task B – Identify and/or Develop Curriculum and Provide Training**. The Program currently utilizes Motorcycle Safety Foundation motorcycle training curriculum. The total number of students trained, per course since 2011 is as follows:

<u>Basic Rider Course (Introductory Course)</u>	<u>Basic Rider Course 2 (Intermediate Course)</u>	<u>3 Wheel Basic Rider Course (Introductory Course)</u>	<u>Advanced Rider Course</u>
2016 = 15,121	2016 = 1,259	2016 = 99	2016 = 194
2015 = 16,104	2015 = 1,648	2015 = 108	2015 = 370
2014 = 16,163	2014 = 1,628	2014 = 97	2014 = 292
2013 = 19,058	2013 = 1,722	2013 = 97	2013 = 319
2012 = 21,362	2012 = 2,144	2012 = 81	2012 = 334
2011 = 20,729	2011 = 2,233	2011 = 62	

In 2016, the total number of registered students, including walk-ins, was 21,980. Of those, 852 were repeat students, 5,565 were no-shows, and 594 were rescheduled from one class to another. From 2015 to 2016, there was an average of 383 instructors.

III-1. Requirements. Offerors must demonstrate proven capabilities, requisite skills, past performance and customer satisfaction across the requirements listed below and within **Part III-6 – Work Plan.**

A. Service Level Agreements.

PennDOT has developed a set of minimum Service Level Agreements (SLA) which the selected Offeror must agree to meet, or exceed, in order to be in good standing with the Contract. Offerors shall take the SLA’s into consideration for the technical Proposal response to this RFP. PennDOT expects that the selected Offeror shall propose a solution that provides services above the minimum requirements. Refer to **Appendix F, Service Level Agreements.**

Offeror Response

B. Disaster Recovery.

Offerors shall include with their Proposal a disaster recovery plan for the Program. Disaster Recovery plans must include an alternate site for the Disaster Recovery system with the ability to have the Program conducting business within 24 hours of a disaster scenario. The plan shall include evidence that it has been tested and shall include a regular test plan that will be implemented, at a minimum, twice per year and be coordinated with PennDOT.

Offeror Response

C. Emergency Preparedness.

To support continuity of operations during an emergency, including a pandemic, the Commonwealth needs a strategy for maintaining operations for an extended period of time.

One part of this strategy is to ensure that essential contracts that provide critical business services to the Commonwealth have planned for such an emergency and put contingencies in place to provide needed goods and services.

1. Describe how you anticipate such a crisis will impact your operations.
2. Describe your emergency response continuity of operations plan. Please attach a copy of your plan, or at a minimum, summarize how your plan addresses the following aspects of pandemic preparedness:
 - a. Employee training (describe your organization's training plan, and how frequently your plan will be shared with employees)
 - b. Identified essential business functions and key employees (within your organization) necessary to carry them out
 - c. Contingency plans for:
 - i. How your organization will handle staffing issues when a portion of key employees are incapacitated due to illness.
 - ii. How employees in your organization will carry out the essential functions if contagion control measures prevent them from coming to the primary workplace.
 - d. How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc.
 - e. How and when your emergency plan will be tested, and if the plan will be tested by a third party.

Offeror Response

D. Implementation Plan. Offerors shall include within their Proposal a Project Implementation Plan. Refer to **Task A – Provide Implementation Plan and Transition Activities**.

Offeror Response

E. Program Policies and Procedures. PennDOT developed the current set of policies and procedures for the Program in an effort to assist Offerors in understanding the Program. Offerors are strongly encouraged to review these policies and procedures in detail at **Appendix N – Policies & Procedures (6-2017)**. Offerors may propose any suggested changes to the Program policies and procedures for the conduct of the Program, which may differ from **Appendix N – Policies & Procedures (6-2017)**, for

PennDOT's consideration. PennDOT reserves the right to accept or reject any or all suggested changes submitted at the time of the Proposal submission and after the Contract award to the selected Offeror. All suggested changes throughout the life of the Contract are subject to PennDOT's review and approval prior to being implemented.

Offeror Response

F. Forecasting Public Demand for Training. Offerors shall include within their Proposal their proposed methodology for determining and continually reassessing and meeting public demand for motorcycle safety training.

Offeror Response

G. Securing and Retaining Qualified Instructors. Offerors shall include within their Proposal their approach and plan for securing and retaining qualified instructors to ensure a successful motorcycle safety training program.

Offeror Response

H. Customer Information Security. Offerors shall include within their Proposal their approach and plan to maintain the security of all customer information.

Offeror Response

I. Quality Assurance. Offerors shall include within their Proposal their approach for ensuring a comprehensive and effective quality assurance program that timely identifies risks and opportunities for Program improvement. Refer to **Task K, Quality Assurance Program**.

Offeror Response

J. Enhanced Minimum Wage Provision. The selected Offeror must comply with the requirements outlined in **Appendix X, Enhanced Minimum Wage Provisions**.

Offeror Response

III-2. Statement of the Project. State in succinct terms your understanding of the project presented or the service required by this RFP.

Offeror Response

III-3. Qualifications.

A. Company Overview. Include an overview of company and organization structure and how it will support this Program.

Offeror Response

B. **Prior Experience.** Include the Company's experience in:

- Providing or administering a motorcycle safety program.
- Dealing with state vehicle-related regulations and/or other government regulatory requirements.
- Developing and conducting motorcycle rider training courses designed to teach skills necessary for the safe operation of a motorcycle.

Experience shown should be work done by individuals who will be assigned to this Program as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

Submit **three (3)** references of contact persons who can discuss the nature and scope of projects, which were completed by your company. Please ensure that the name of the reference company is included and that the contacts listed are current. Contact information must include the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

If subcontractor staff is used, then describe prior experience and reference contact information for all subcontractors utilized for at least one (1) project per subcontractor. Describe prior experience for subcontractors with specific attention to the role they will play in this project.

PennDOT reserves the right to review, approve, and/or request information from any and all subcontractors at any time during the term of the Contract. Any and all subcontractors shall be held to the requirements and deliverables as described in this RFP and/or any all Contracts/Purchase Orders issued as a result of this RFP.

Offeror Response

C. **Personnel.** Include the number of executive and professional personnel, and consultants, who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Program. For key personnel, include the employee's name and, through a resume or similar document, the Program personnel's education and experience in motorcycle safety programs. Indicate the responsibilities each individual will have in this Contract and how long each has been with your company.

Program Management Office: The selected Offeror is required to maintain a program management office, which will be housed in space provided by PennDOT at the Riverfront Office Center, 1101 South Front Street, Harrisburg. This is the

location of the headquarters for PennDOT's Driver and Vehicle Services, which manages this Contract. Up to 2,000 square feet will be made available. Refer to **Appendix R, PennDOT Floor Plan (6-2017)**.

Minimum Staff Requirements: The selected Offeror must provide staff for the below positions who must reside in Pennsylvania or re-locate to Pennsylvania within sixty (60) days of assignment.

- One (1) full-time Project Manager.
- One (1) full-time Assistant Project Manager.
- Three (3) full-time Regional Managers – Refer to **Appendix S – PA Regional Map (6-2017)**.
- Quality Assurance Manager.
- Training Coordinator.
- Appropriate number of Site Coordinators assigned to each training location within the three (3) regions. Site Coordinators would be responsible for tasks such as handling any needs of the training locations, staffing concerns at each location, etc.
- One (1) full-time Community Relations Coordinator
- An appropriate number of administrative office staff.
- An appropriate number of Customer Service Representatives (CSRs).
- An appropriate number of state certified motorcycle mechanics to properly maintain the program fleet.
- Any additional staff that is appropriate to effectively run the program.

Staffing Changes: The selected Offeror may not transfer or replace any personnel without approval of PennDOT and in accordance with the following procedures. Offeror will be required to provide a description of how they will meet the following requirements as part of its technical Proposal. All requests to add or remove a position must first be approved by PennDOT.

The selected Offeror must provide notice of a proposed transfer or replacement to the PennDOT Project Manager at least ten (10) days in advance and provide the Staff Clearance documentation described below. This includes all full-time employees and anyone whose primary work location is at the PennDOT Riverfront Office Center. PennDOT will notify the selected Offeror within five (5) days of

the transfer/replacement notice whether the proposed transfer/replacement is approved.

Advance notification is not required for changes in personnel due to resignation, death, disability, termination, or any other cause that is beyond the control of the selected Offeror. If any of these occurs, the selected Offeror will have ten (10) days to fill the vacancy with a staff person subject to PennDOT's approval.

PennDOT may request that the selected Offeror remove any selected Offeror's staff person from the Program at any time. In the event that the selected Offeror's staff person is removed from the Program, the selected Offeror will have ten (10) days to fill the vacancy with a staff person subject to PennDOT's approval.

Staff Clearances: The selected Offeror must adhere to the following requirements which supplement the Background Checks provision contained in **Part VI, Standard Contract Terms and Conditions**, of this RFP. The following requirements apply to all Contract and subcontractor employees who will be providing services under the Contract resulting from this RFP. Before the Commonwealth will permit any Contract employee or subcontracted employee to work on this Contract, the selected Offeror must provide a copy of each required clearance demonstrating the clearance has been conducted and the staff member meets the requirements of the Contract. Additionally, all Contract employees and subcontracted employees must sign the necessary policies outlined below before being permitted to work on this Contract. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.

- **Resume.** Proposed staff member's resume or similar document, to include the employee's name, the staff member's education and experience in motorcycle safety programs. Indicate the responsibilities the staff member will have in this Program and how long he/she has been with your company.
- **Pennsylvania State Police (PSP) Clearance.** The selected Offeror must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>. The background check must be conducted prior to initial access for providing services and on an annual basis thereafter.
- **Federal Bureau of Investigation (FBI) Clearance-Data Entry Employees Only.** Upon hire it will be the responsibility of the selected Offeror to ensure any employee who will have access to make a change to a drivers record obtain a fingerprint-based FBI criminal history check to determine if they have been convicted of a criminal offense. There is a fee

associated with the service and PennDOT will invoice your company for this fingerprinting and background check service.

- **Confidentiality and Customer Service Policies.** Upon hire it will be the responsibility of the selected Offeror to ensure that every employee complete the PennDOT Record Information **Confidentiality Agreement (Appendix V)** and the **Customer Service Policy (Appendix G)** forms. Additionally, all subcontracted employees must complete both policies annually thereafter.
- **Child Abuse Clearance Requirement.** The Commonwealth should include these clearance requirements in the RFP for individuals who will be working directly with persons under the age of 18. 23 Pa. C.S. § 6344(a)(5)&(b). Section 6344(b) requires prior to commencement of employment shall submit to an employer or other person responsible for employment decisions, a criminal history report (18 Pa. C.S. Chapter 91), a certification from the Pennsylvania Department of Human Services as to whether or not the applicant is named as a perpetrator in the Statewide database, and a Federal criminal history record information through submission of finger prints to the FBI by PSP or another authorized agent.
- **Capitol Complex Building Access.** Access to state office buildings including the Riverfront Office Center, 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, The Issuing Agency (PennDOT) becomes the Contracting Agency after a contract is executed. 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 selected Offeror for contracted personnel photo identification or access badges.

http://www.oa.pa.gov/Policies/md/Documents/625_10.pdf

If, at any time, it is discovered that a selected Offeror's 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 concerned about building, system or personal security or is otherwise job-related, the selected Offeror shall not assign that employee to any Commonwealth service program, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the agency consents to the access, in writing, prior to access. The Commonwealth may withhold its consent in its complete discretion. Failure of the selected Offeror to comply with the terms of this paragraph may result in default of the selected Offeror under its contract.

D. **Subcontractors:** A subcontractor is an individual, business, university, governmental entity, or nonprofit organization contracting to perform part, or all, of another entity's contract. Provide a subcontracting plan for all subcontractors, including small diverse business and small business subcontractors, who will be assigned to the Project. The selected Offeror is prohibited from subcontracting or outsourcing any part of this Project without the express written approval from the Commonwealth. Upon award of the Contract resulting from this RFP, subcontractors included in the Proposal submission are deemed approved. For each position included in your subcontracting plan provide:

1. Name of subcontractor;
2. Address of subcontractor;
3. Number of years worked with the subcontractor;
4. Number of employees by job category to work on this Program;
5. Description of services to be performed;
6. What percentage of time the staff will be dedicated to this Program;
7. Geographical location of staff; and
8. Resumes (if appropriate and available).

The Offeror's subcontractor information shall include (through a resume or a similar document) the employees' names, education and experience in the services outlined in this RFP. Information provided shall also indicate the responsibilities each individual will have in this Program and how long each has been with subcontractor's company.

Offeror Response

III-4. Training. Indicate recommended training of PennDOT personnel. Include the agency personnel to be trained, the number to be trained, duration of the training place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

Offeror Response

III-5. Financial Capability. Describe your company's financial stability and economic capability to perform the Contract requirements. Provide your company's financial statements (audited, if available) for the past three (3) fiscal years. Financial statements must include the company's Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report, if available. If your

company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The Commonwealth reserves the right to request additional information it deems necessary to evaluate an Offeror’s financial capability.

Offeror Response

III-6. Work Plan. Describe in narrative form your technical plan for accomplishing the work using the task descriptions as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of hours by employee position allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

The selected Offeror will accomplish the RFP objectives through a variety of tasks. The principal task is to provide motorcycle rider classes designed to teach skills necessary for the safe operation of a motorcycle at designated sites throughout Pennsylvania. All Program courses will require review and approval by PennDOT prior to implementation by the selected Offeror.

Task A – Provide Implementation Plan and Transition Activities

	Subtasks
Task A	Subtask A.1 – Implementation Plan
	Subtask A.2 –Transition Activities

Subtask A.1 – Implementation Plan

The selected Offeror shall provide an Implementation Plan outlining in detail the requirements set forth in **Part III-6, Work Plan** to successfully transition the Program and ensure the Program is available to the public prior to January 29, 2018. The plan must include a Program Evaluation and Review Technique (“PERT”) or similar display, time related, showing each event. It also must describe how confidential information will be transferred securely. PennDOT’s approval must be obtained before taking any action on transition activities. PennDOT reserves the right to negotiate the final Implementation Plan with the selected Offeror. Refer to **Appendix F, Service Level Agreements**.

Subtask A.2. – Transition Activities

The selected Offeror shall conduct transition activities, which may include, but not be limited to, working with PennDOT and/or the current contractor for the exchange of information, resources, and equipment. The selected Offeror shall provide a summary of all activities associated with the transition to the PennDOT Project Manager weekly. PennDOT reserves the right to schedule a meeting at any point during the transition at PennDOT’s discretion to discussion transition activities. Refer to **Appendix F, Service Level Agreements**.

Task B – Identify and/or Develop Curriculum and Provide Training

	Subtasks
Task B	Subtask B.1 – Identify and/or Develop Course Curriculum
	Subtask B.2 – Conduct Courses
	Subtask B.3 – Validate Student Learner Permit or License
	Subtask B.4 – Data Enter Test Results

The following standards must be maintained at all times throughout the life of the Contract by the selected Offeror to ensure the quality of the Program:

1. The selected Offeror is responsible for selection and maintenance of classroom and ranges where training is conducted. Details are outlined in **Task F – Establish Program Course Training Sites**.
2. Only trained and certified motorcycle safety instructors may conduct the training program.
3. Two (2) instructors are required to conduct range exercises when there are six (6) or more students in a class; five (5) or less students in a class will be at the discretion of the selected Offerors. Refer to **Appendix F – Service Level Agreements**.
4. The selected Offeror must provide an introductory course, immediately upon PennDOT’s request, to any PennDOT employee who is required to obtain a Class M license in order to fulfill the duties of their employment at PennDOT. Such courses may vary in student participation from one (1) up to twelve (12) students per class, as designated by PennDOT.
5. All students and instructors must meet minimum standards for wearing protective gear, which includes, but may not be limited to:
 - a) helmet designed to meet U.S. DOT standards (3/4 or full-faced helmets required for all introductory courses);
 - b) above-ankle footwear;
 - c) full-fingered gloves;
 - d) long pants;
 - e) long sleeves; and
 - f) protective eyewear (if a face shield is not part of the helmet).
6. The selected Offeror must ensure that the Program instructors and staff are kept informed of all Program expectations and changes. The selected Offeror must ensure that the Program instructors maintain a focus on motorcycle safety.

Subtask B.1 – Identify and/or Develop Course Curriculum

This task requires the development of, or use of, a performance-based training program focusing on providing quality rider education and instruction for both novice and experienced

riders. Currently, four (4) courses are offered, but the expectation is that the selected Offeror will provide the following five (5) courses to motorcycle riders:

1. **Pre-Basic Course:** This course uses the PennDOT SKIDBIKES, motorcycle simulator, and the current standard two-wheel motorcycle training fleet. This course serves as an initial entry point for individuals interested in motorcycling, who may or may not eventually seek licensing through Pennsylvania's motorcycle safety course. This course will provide potential motorcyclists with an opportunity to learn basic riding skills before enrolling in the introductory course. Students taking this course are provided with a motorcycle or SKIDBIDES and helmet; however, students are responsible for providing all other protective gear.
2. **Introductory Course:** This course consists of in-classroom instruction and on-range practical riding experience. It provides valuable training for new riders and gives experienced riders the opportunity to polish their skills and correct any unsafe riding habits they may have developed. Students taking this course are provided with a motorcycle and helmet; however, students are responsible for providing all other protective gear.
3. **Intermediate Course:** This course allows new and experienced riders to enhance their safety knowledge and hone their on-road skills. Riders taking this course are permitted to carry a passenger while practicing balance and steering techniques in a controlled environment. Students taking this course must provide their own motorcycle and protective gear.
4. **Advanced Course:** This course provides a licensed motorcyclist an opportunity to enhance their safety skills through attitude and enhanced awareness. The course provides both a classroom instruction and practical riding experience. Participants in this course are required to use their own motorcycle and protective gear.
5. **3 Wheel Introductory Course:** This course consists of in-class instruction and practical riding experience on a 3 wheel motorcycle. It provides valuable training for new 3 wheel riders and gives experienced 3 wheel riders the opportunity to polish their skills and correct any unsafe riding habits they may have developed. Students must provide their own 3 wheel motorcycle and protective gear.

Currently, the Program instructors teach the Motorcycle Safety Foundation (MSF) curriculum. The selected Offeror may propose to use MSF curriculum or they may propose other curricula for PennDOT's consideration. The MSF Basic Rider Course-Updated version is not currently used by the Program. By the beginning of the 2020 riding season, the selected Offeror must implement the MSF Basic Rider Course-Updated version or another curriculum acceptable to PennDOT.

During the life of the Contract, PennDOT may designate and require a curriculum of its own choosing for all courses listed above or any new courses PennDOT chooses to add to the Program. Refer to **Task E – Develop Additional Motorcycle Safety Courses**.

Subtask B.2 – Conduct Courses

The selected Offeror will be responsible for meeting the public demand for each course offered beginning March 1st of each year, weather permitting. Weather permitting, courses must continue through the riding season and up to the end of each calendar year. Any courses which have a classroom component may continue through the winter season (January, February and any month not suitable for range activities), however, each student completing the classroom portion of that course must be given the opportunity to schedule the practical riding experience portion of that course no later than May 1st of the following riding season.

Any introductory course must provide, at a minimum, classroom and on-cycle instruction. Intermediate and advanced courses must, at a minimum, provide on-cycle instruction. These components must be scheduled in an integrated sequence providing riding practice for each basic skill. Each course, excluding the pre-basic course, must include a post-instruction motorcycle licensing skills evaluation approved by PennDOT.

Any course that is cancelled for weather conditions must be rescheduled within 45 days. The PennDOT Project Manager must be informed of any course cancellations, the reason for the cancellation, and the date the course has been rescheduled to occur.

The selected Offeror shall not charge Pennsylvania residents for any course offered through the Program. Individuals currently in possession of an out-of-state driver's license are required to pay a fee, to be determined by PennDOT, to take any Program course. The selected Offeror shall deduct the fees collected from out-of-state drivers from the invoice for the month in which the out-of-state driver was trained. This information must be provided on the **OS-501, Confirmation of Services Form, Appendix M** with the fee collected by student name for audit purposes.

Subtask B.3 – Validate Student Learner Permit or License

The selected Offeror is responsible for verifying that the driver has a proper and valid (not expired) motorcycle learner permit/license prior to the beginning of the first classroom session in a pre-basic course or an introductory course, and prior to the first range session in an intermediate or advanced course. The selected Offeror is also responsible for verifying the identity of the learner permit/license holder using procedures established by PennDOT. In the case of learner permit holders who are ages 16 and 17, the selected Offeror is responsible for ensuring that all additional learner permit requirements pursuant to Pennsylvania's Young Driver Law have been met prior to issuing a Class M license. For more information on Pennsylvania's Young Driver Law see:

<http://www.dot.state.pa.us/Public/DVSPubsForms/BDL/BDL%20Fact%20Sheets/fs-wy.pdf>

Subtask B.4 – Data Enter Test Results

A driver's successful completion of a PennDOT approved course serves as demonstration of the required skills and knowledge necessary for the safe operation of a motorcycle. Therefore,

a driver, who successfully completes an approved course, will be issued a Class M (motorcycle) license or update card. The selected Offeror is responsible for data entering the test results and/or training results into PennDOT’s system within 45 days of the driver’s completion of the training. Data entry will be performed at PennDOT’s Riverfront Office Center using PennDOT provided software and hardware and/or at designated training locations using PennDOT approved devices, at PennDOT’s discretion.

Task C –Instructor Training Program

	Subtasks
Task C	Subtask C.1 – Deliver Training Courses for Instructor Certification
	Subtask C.2 – Deliver Training for Instructor Recertification
	Subtask C.3 – Provide Additional Instructor Training

The selected Offeror must provide a suitable number of instructors for each course that is offered through the Program to meet public demand for each type of course offered.

The selected Offeror will be responsible for identifying requirements and training for motorcycle safety instructors (“instructors”). Instructors are responsible for providing the training courses, as outlined in **Task B, Identify and/or Develop Curriculum and Provide Training**. All instructors must attend a PennDOT approved instructor update before the beginning of each riding season, provided by the selected Offeror. Final agenda and content of each instructor update must be approved by PennDOT no less than thirty (30) days prior to the scheduled instructor update.

Standards and Requirements to Become an Instructor

The selected Offeror to identify and comply with the standards and requirements for the Program instructors. Refer to **Appendix F, Service Level Agreements**. The selected Offeror must ensure that the following minimum requirements are met before allowing an instructor to provide training:

- a. Confirm the instructor possesses a valid motorcycle (Class M) license and has a minimum of two (2) years riding experience.
- b. Obtain a PSP criminal history check before the instructor is permitted to instruct students begins and each year thereafter at selected Offeror’s cost. Refer to **Part III - Requirements**, for background check requirements. The PSP Criminal History Request Form is located at: <http://www.psp.pa.gov/Pages/Request-a-Criminal-History-Record.aspx>
- c. Perform a driving record check of the instructor each year prior to instruction at selected Offeror’s cost. This can be accomplished by accessing PennDOT’s website.
- d. The Instructor’s criminal history and driving record must reflect a history that is not inconsistent with the goals of the Program, i.e., no theft or fraudulent activities. The

criminal history and driving record must reflect that within the last five (5) years, the instructor did not have any problems with violence, major traffic violations or driver's license suspensions. In addition, within the last seven (7) years, an instructor cannot have any driver's license revocations or alcohol related driving convictions. This is not an all-inclusive list of convictions that disqualify an instructor from providing instruction under this Program. Each case will be handled on a case by case basis and decisions on questionable records are at the sole discretion of PennDOT.

- e. The instructor must successfully complete a rider education course.
- f. The instructor must successfully complete a motorcycle instructor course.
- g. The instructor must be able to communicate effectively and be customer service oriented.
- h. The instructor must possess a valid certification in CPR/First Aid.
- i. The instructor must sign the required **Confidentiality Agreement, Appendix V** and the **Customer Service Policy, Appendix G**.
- j. Before the instructor may instruct students under the age of 18, the selected Offeror must complete the Child Abuse Clearance Requirement. Refer to **Part III-3, Qualifications**, for clearance requirements and the website below for more information:
<http://dhs.pa.gov/publications/findaform/childabusehistoryclearanceforms/index.htm>

Subtask C.1 – Deliver Training Courses for Instructor Certification

This task requires the selected Offeror to conduct instructor training based upon minimum Program standards particular to the given PennDOT approved curriculum in use at any time. The all instructors must be certified in the appropriate curriculum before instruction of students in the subject curriculum begins.

To maintain course certification, all instructors must teach a minimum of three (3) courses per year in each course that instructor is certified to teach.

Subtask C.2 – Deliver Training for Instructor Recertification

Additionally, instructors must also follow a certification maintenance schedule to maintain their certification, including participating in a formal curriculum-related professional development opportunity offered by the selected Offeror and completing at least one personal learning activity of one's own choice. The personal learning activity may include any experience in which an instructor learned something new or was participating as a student. The goal is for an instructor to be placed in the position of a learner to aid themselves in seeing a student perspective when it comes to learning something new.

The selected Offeror must establish a procedure for documenting that the requirements of this section are met for each instructor as part of their recertification and provide that procedure

and supporting documentation demonstrating these requirements have been met to PennDOT before that instructor may begin teaching students each riding season.

All instructor training courses must be taught by certified instructor trainers or others approved by PennDOT and must include a comprehensive curriculum approved by PennDOT.

Subtask C.3 – Provide Additional Instructor Training

The selected Offeror must provide ad-hoc training that meets the changing needs of the Program.

Task D – Oversee Other Third Party Motorcycle Safety Programs

Task	
Task D	Provide oversight, monitoring, and training to third party motorcycle safety programs.

The selected Offeror must provide training and oversight to motorcycle manufacturers that administer their own internal motorcycle training and testing programs. PennDOT recognizes that there are currently several motorcycle manufacturers that provide training programs similar to the Program. The selected Offeror will be expected to be well-versed on the content of existing third party programs and, where deemed appropriate by PennDOT, coordinate training, oversight and monitoring of such third party programs in tandem with the Program offered by PennDOT.

The selected Offeror shall indicate the approach that will be used to ensure that the third-party programs are following the same instructor, curriculum, and security requirements outlined in this Contract.

Task E – Develop Additional Motorcycle Safety Courses – Optional Task

Task	
Task E	Develop Additional Program Courses

The selected Offeror may be required to provide additional Program courses upon PennDOT’s request. The selected Offeror will be required to develop an implementation plan and additional Program course for PennDOT’s approval within 120 days of PennDOT’s written request. Once PennDOT approves the plan the selected Offeror will be expected to implement the plan within the timeframes described in the plan.

If upon review of the implementation plan for any additional course, PennDOT desires to move forward with any additional training courses, PennDOT will work with the selected Offeror to develop a Work Order that describes the work necessary to create the additional training course. Each Work Order shall be prepared in accordance with **Part I-30, Work Order Requirements**.

Task F – Establish Program Course Training Sites

Task F	Task
	Establish Training Sites

The selected Offeror must establish training sites that meet the following requirements:

A minimum of one (1) site per county must be operational throughout the Commonwealth throughout the life of the Contract unless waived by PennDOT in writing for the Introductory course all other courses must be available as deemed necessary by PennDOT. Refer to **Appendix F, Service Level Agreements**. In order to meet public demand, the selected Offeror may be required to have more than one (1) site per county. The training sites must be located strategically to provide customers with reasonable access to courses (in terms of course offerings as well as distance traveled to the course site).

The selected Offeror is required to continually evaluate the number of sites and the site locations necessary to meet public demand for the courses. Any change to the use of a site or sites must be reviewed and approved in writing by PennDOT’s Project Manager prior to the change. The selected Offeror must maintain a current list of training sites and provide an updated list to the Program Manager as the sites change.

A list of current training sites as well as a listing of the equipment kept at each site (excluding motorcycles) is attached as **Appendix Q – Training Sites (6-2017)** and **Appendix P - Site Equipment Inventory (6-2017)**. There is no guarantee that the current sites will continue to be available.

The selected Offeror will be responsible for contracting and maintaining the sites with the exception of PennDOT sites which must be coordinated through the PennDOT Project Manager. PennDOT approval is required for all site locations or any re-location or termination of existing sites. The selected Offeror will provide the PennDOT Project Manager with a copy of the executed subcontract covering the use of each site by February 1st of each year. Training must begin during the month of March as weather permits with 45 sites being fully operational and offering courses by April 15th of each year with all sites being fully operational by May 15th of each year. Any new sites that are added throughout the riding season must be approved by the PennDOT Project Manager and a copy of the written agreement covering the use of that site must be provided to the PennDOT Project Manager before the site can be used. Refer to **Appendix F, Service Level Agreements**.

All sites must meet the following minimum requirements:

Classroom Requirements:

1. Within five (5) miles of the course riding area unless prior approval is provided by PennDOT.
2. Accommodate the maximum enrollment scheduled at the training site,

3. Must meet all Federal, State, and Local building codes.

Riding/Range Area Requirements:

1. A riding area that is paved, flat, smooth, riding area and meets curriculum standards for a standard or modified course.
2. All ranges must be free from pedestrian, animal, and vehicular traffic. No debris, barriers, obstacles or hazardous terrain should be present that would present an unsafe environment.
3. Instructors must ensure that the pavement is suitable for riding maneuvers such as: sharp turns, braking and safe vehicle travel.
4. The selected Offeror must have a range certification process that ensures that each range meets with tested and established specifications for both motorcycle safety and effective rider training. A procedure must be in place for the approval of ranges and modification of range standards including required documentation for the addition of new sites or modification of existing sites.

Task G - Purchase and/or Maintain Equipment

	Subtasks
Task G	Subtask G.1 – Purchase of Motorcycles, SKIDBIKES, and Simulators
	Subtask G.2 – Purchase of Additional Office and Other Equipment
	Subtask G.3 – Storage Sheds for Sites (Ranges)
	Subtask G.4 – Motorcycle and Other Equipment Maintenance
	Subtask G.5 – Central Storage for Equipment

Subtask G.1 – Purchase of Motorcycles, SKIDBIKES, and Simulators

1. PennDOT will retain ownership and titles of all motorcycles, SKIDBIKES, and simulators used by the Program, regardless of how the motorcycles, SKIDBIKES and simulators are purchased. For a list of all motorcycles, SKIDBIKES, and simulators used by the program see **Appendix W, Motorcycle Inventory (6-2017)**.
2. The Motorcycle Replacement Plan developed by the selected Offeror and approved by PennDOT must be used when identifying motorcycles to purchase, trade or salvage. If a motorcycle has been identified to be salvaged or traded, the selected Offeror will be responsible for working with PennDOT to ensure the motorcycles are properly handled through the Commonwealth’s Surplus Program. Refer to the Department of General Services website for additional information:

<http://www.dgs.pa.gov/State%20Government/Surplus%20Supplies%20and%20Equipme nt/State-Surplus-Property/Pages/default.aspx#>

3. The recommended size of motorcycles for training novices is 100cc to 500cc.
4. The procurement of all equipment including motorcycles, SKIDBIKES, and simulators may not be made without the prior written approval of PennDOT. The selected Offeror must submit a list which includes the make, model, and Vehicle Identification Number (VIN) of each motorcycle, SKIDBIKE, and simulator proposed to be purchased. PennDOT will reimburse the selected Offeror the purchase price of the new motorcycles, SKIDBIKES, and simulators. The selected Offeror is required to obtain multiple quotes and award must be made to the lowest responsible quote obtained by the selected Offeror. A lump sum will be added to the resulting Contract and purchase order for this purpose. PennDOT reserves the option to purchase any equipment to be used in the Program, including but not limited to motorcycles, through means other than this Contract.
5. The selected Offeror is responsible to ensure that there is an appropriate number of motorcycles, SKIDBIKES, and simulators and that they are in good working order for all scheduled courses.
6. Motorcycle loaner programs may only be used when a written contract, signed by the selected Offeror and the loaning entity, is in place and approved by PennDOT. It shall be noted that PennDOT will not be held liable for any damages to loaned motorcycles and the loaning entity will assume all responsibility for damages or insurance required.

Subtask G.2 – Purchase of Additional Office and Other Equipment

1. PennDOT will provide equipment detailed on **Appendix U – Additional Office and Other Equipment and Appendix P – Site Equipment Inventory (6-2017)**, and said equipment will remain the property of PennDOT for the duration of the Contract.
2. Any such equipment considered as no longer adequate for the services provided through this Contract, including but not limited to helmets, cones, paint, hand tools, gas cans, etc., shall be identified by the selected Offeror and a list provided to PennDOT for review. The selected Offeror will be responsible for working with PennDOT to ensure the items are properly handled through the Commonwealth’s Surplus Program. Refer to the Department of General Services website for additional information:

<http://www.dgs.pa.gov/State%20Government/Surplus%20Supplies%20and%20Equipment/State-Surplus-Property/Pages/default.aspx#>
3. If PennDOT determines that additional equipment should be purchased for the Program and the selected Offeror purchases the additional equipment for the Program, PennDOT will reimburse the selected Offeror the purchase price of any such additional equipment. The selected Offeror is required to obtain multiple quotes and award must be made to the lowest responsible quote obtained by the selected Offeror. A lump sum will be added to the resulting Contract and purchase order for this purpose. PennDOT reserves the option to purchase any equipment to be used in the Program, including but not limited to additional equipment, through means other than this Contract.

Subtask G.3 – Storage Sheds for Sites (Ranges)

1. PennDOT will provide to the selected Offeror storage sheds to be located at approved sites (ranges) to store Program equipment needed for course instruction. Refer to **Appendix O – Shed Inventory (6-2017)** for the listing of the storage sheds owned by PennDOT and the sites where the storage sheds are currently located.
2. The selected Offeror will be responsible for all costs to relocate the storage sheds from existing sites to their approved sites, should the locations change.
3. If a storage shed has been identified to be no longer needed or useable, the selected Offeror will be responsible for working with PennDOT to ensure the storage shed are properly handled through the Commonwealth’s Surplus Program. Refer to the Department of General Services website for additional information:

<http://www.dgs.pa.gov/State%20Government/Surplus%20Supplies%20and%20Equipment/State-Surplus-Property/Pages/default.aspx#>

4. If PennDOT determines additional storage sheds should be purchased for the Program and the selected Offeror purchases the storage sheds, a lump sum will be added to the resulting Contract and purchase order for this purpose. PennDOT will reimburse the selected Offeror the actual cost to purchase the storage shed. The selected Offeror must obtain quotes and award to the lowest responsible vendor. PennDOT reserves the option to purchase any storage sheds to be used in the Program through means other than this Contract.
5. The selected Offeror must provide a detailed plan as to how they will ensure all storage sheds are accessible only to authorized Program personnel. The selected Offeror must document and report to PennDOT any unauthorized access immediately.
 - a. All equipment must be secured inside the storage facility that has an effective locking system. Storage shed codes and duplicate keys must be promptly given to PennDOT.
 - b. Storage sheds must be meet local fire codes and safety requirements, be easily accessible to the range(s) and located outside of a flood plain.

Task G.4 – Motorcycle and Other Equipment Maintenance

The selected Offeror will be responsible for maintenance and repair of all motorcycles, SKIDBIKES, and Simulators owned by the program. PennDOT will reimburse the selected Offeror the actual cost for parts and repairs for motorcycles, SKIDBIKES, and Simulators used by the Program and owned by PennDOT. The selected Offeror is required to provide a list of the maintenance performance criteria, as part of the Motorcycle Replacement Plan, that will be used to track equipment mechanical maintenance, work order history of the equipment’s reliability, availability, utilization and replacement schedule.

Task G.5 – Central Storage for Equipment

1. The selected Offeror must provide storage, located within the central Pennsylvania region, for all motorcycles, SKIDBIKES and simulators and all other Program equipment during the winter season. Storage is also required throughout the Contract period for motorcycles, SKIDBIKES, and simulators and other Program equipment that has not been deployed to the sites.
2. The selected Offeror must provide a detailed plan as to how they will ensure all storage facilities are accessible only to authorized Program personnel. The selected Offeror must document and report to PennDOT any unauthorized access immediately.
 - a. All equipment must be secured inside the storage facility that has an effective locking system. Storage codes and/or duplicate keys must be promptly given to PennDOT.
 - b. Storage must be meet local fire codes and safety requirements, be easily accessible to the site(s) and located outside of a flood plain.

Task H – Promotion/Publicity

Task H	Task
	Develop Promotional Materials or Promotional Ideas.

1. The selected Offeror shall provide the PennDOT Project Manager with any proposed promotional materials or promotional ideas for approval before use or implementation.
2. All proposed promotional materials or promotional ideas by the selected Offeror should identify methods of achieving the following objectives:
 - a. Assist PennDOT in promoting the Program to the motorcycling public, including novice, 3-wheel, and experienced riders and those considering purchasing a motorcycle.
 - b. Assist PennDOT in disseminating Program information to persons and organizations who have a special interest in motorcycle safety, including motorcyclists, prospective motorcycle owners, and special interest groups.
 - c. Elicit support and involvement from motorcycle dealers and associations in promoting the Program.
 - d. Provide input into PennDOT’s development and/or revision of manuals and publications pertaining to motorcycle operation and safety.
 - e. At PennDOT’s direction provide assistance in the training of PennDOT personnel such that relevant PennDOT employees understand the Program.
 - f. At PennDOT’s request participate in events promoting motorcycle safety. For example, PennDOT has previously requested participation events such as Johnstown’s Thunder in the Valley, Erie’s Roar on the Shore, Pocono Race’s Bikes Nights.

3. The selected Offeror is not authorized without PennDOT approval to make public statements on issues related to motorcycle safety, serve as an expert witness on motorcycle safety issues, address the public on motorcycle safety curriculum, or other such matters. The selected Offeror will notify the PennDOT Project Manager prior to conducting any activities in the Commonwealth intended to influence any member, officer or employee of the Pennsylvania General Assembly, any motorcycle group or groups including those that lobby for legislative changes on any contracts, grants or state legislation related to motorcycle safety. The selected Offeror will contact PennDOT to discuss the scope and nature of the intended contact. The selected Offeror will be expected to ensure that language prohibiting this type of activity is incorporated into any of its subcontracts related to the Program.
4. The selected Offeror will provide any work related to **Task H** pursuant to a Work Order. Refer to **Part I – 30, Work Order Requirements**.

Task I – Fuel Purchase

Task	
Task I	Fuel Purchase

The selected Offeror will be responsible for the purchase of fuel for all Program-related PennDOT equipment. Payment will be based on actual costs and receipts must be provided for all fuel purchases prior to reimbursement. A lump sum will be added to the resulting Contract and purchase order for this purpose. PennDOT reserves the option to purchase the fuel through means other than this Contract.

Task J – Provide Web-based Scheduling and Registration System and Customer Service and Support

Subtasks	
Task J	Subtask J.1 – Provide Web-based Scheduling and Registration System
	Subtask J.2 – Provide Customer Service and Support

Subtask J.1 – Provide Web-based Scheduling and Registration System

The Program website, which is currently <http://www.pamsp.com>, includes an online registration and scheduling system, approved by PennDOT. The Program website must be hosted by the selected Offeror and updated throughout the duration of the Contract. PennDOT reserves the right to manage the website with its own staff or another chosen agency or third party. PennDOT also reserves the right to integrate the Program website into another PennDOT website during the term of this Contract.

Prior to using content on any website, the selected Offeror is required to obtain PennDOT’s approval of any content and any changes must be first approved by PennDOT before those changes can be made to the website. Additionally, all customer information that will be

collected through the online scheduling system shall be approved by PennDOT before data collection occurs.

The selected Offeror is required to provide the following and meet the following system requirements including, but not be limited to:

- a. The ability to register online, list class schedules, details and class locations. The website must also allow for tracking of individuals wanting to take a class that is currently full through a “stand-by” list.
- b. Assisting with the transition of the website should PennDOT elect to manage the website, with its own staff or another chosen agency or Contractor to integrate this site into another PennDOT website. If PennDOT chooses to manage the website or use another agency or Contractor to manage the website/scheduling system, the selected Offeror will be required to use the website/scheduling system required by PennDOT.
- c. Maintaining the security of all information entered into the selected Offeror’s website by the public. The website scheduling system shall conform to all Commonwealth IT Policies. Refer to **I-28, Information Technology Policies** and **Part III-8, Equipment and Systems Environments**.
- d. All class schedules outlined in the PennDOT approved Planning Report for the upcoming riding season (March through December, weather permitting) must be available for public scheduling on the website by February 15th of each year. Refer to **Section III-7** for more information regarding the Planning Report. The selected Offeror may add additional classes to the existing riding year schedule as needed during the riding season to meet public demand. No classes may be announced to the public without a confirmed instructor and site location.

Subtask J.2 – Provide Customer Service and Support

The selected Offeror will use the existing toll-free number of 1-800-845-9533, owned by PennDOT, to provide service to the public Monday through Friday, 8:00 A.M. – 4:30 P.M., EST, throughout the year, excluding state holidays. The selected Offeror must provide an appropriate number of available customer service representatives (CSRs) to cover varying seasonal call volumes at all times.

For information purposes only, in 2016, 13,323 calls to the toll-free number were answered. In order to be compliance with the Contract the selected Offeror must have at least a 95% daily access rate for calls to the toll-free number. In addition, the time callers wait in queue (average speed of answer) before speaking with a CSR, must average no more than 4 minutes. In the event a weekly access rate is less than 95% and/or the time callers wait in queue before speaking with a CSR averages more than four (4) minutes. Refer to **Appendix F, Service Level Agreements**. The selected Offeror will use a telephone system provided and maintained by PennDOT at the Riverfront Office Center.

The selected Offeror must meet customer service goals of timely and efficient registration, polite, and courteous behavior, quality of materials, quality of instructors, and other metrics, which will be measured using a PennDOT online survey tool. The selected Offeror must receive at a minimum score of three (3) out of a possible score of five (5). At the end of any customer training or instructor training (certification, recertification, etc.) the selected Offeror will provide to PennDOT’s Project Manager the email address and name of each participant, training location, date trained and the name of the instructor(s) conducting the training.

Task K – Quality Assurance Program

Task K	Subtasks
	Subtask K.1 – Instructor Quality Assurance
	Subtask K.2 – Site Quality Assurance
	Subtask K.3 – Equipment Control Quality Assurance

Subtask K.1 – Instructor Quality Assurance

The selected Offeror must submit a quality control plan detailing the procedures that will be in place to ensure that the classroom and riding course training courses are consistently administered in compliance with the terms and conditions of this Contract. This plan must address the method by which quality control will be implemented and conducted throughout the life of the Contract. This plan must include, but is not limited to, identifying the individuals responsible for conducting the quality control along with their qualifications and/or certifications which enable them to properly evaluate the skill levels of instructors and to assess the conduct of proper classroom and range procedures. Each instructor must receive, at a minimum, one (1) in-person evaluation per year, to be conducted at a training site where the instructor is conducting a class. This plan must also include the criteria by which each instructor will be measured and the action(s) which will be taken to provide feedback to each instructor to improve or enhance their performance. This plan shall include a tracking system to ensure that all instructors are evaluated each year. PennDOT reserves the right to approve the plan and for the life of the Contract.

PennDOT maintains a list of instructors. At this time the list contains the names of approximately 320 instructors.

Subtask K.2 – Site Quality Assurance

The selected Offeror will submit a quality control plan detailing the procedures that will be in place to ensure the Program site locations meet all applicable requirements within the Contract. Each Program site must receive, at a minimum, one (1) in-person evaluation per year. This plan must also include the criteria by which each site will be measured and the action(s) which will be taken to correct any deficiencies. This plan shall include a tracking system to ensure that all sites are evaluated each year. PennDOT reserves the right to approve the plan and for the life of the Contract.

Subtask K.3 – Equipment Control Quality Assurance

At a minimum, the selected Offeror must physically inventory all PennDOT owned equipment annually and the results of the inventory provided to PennDOT no later than January 1st of each year and at the end of the Contract. The physical inventory must be in accordance with Generally Accepted Accounting Principles.

Task L- Turnover Plan for Successor Contract

	Subtasks
Task L	Subtask L.1 – Turnover Planning
	Subtask L.2 – Service Turnover
	Subtask L.3 – Service Review and Final Turnover Report

Subtask L.1 – Turnover Planning: The selected Offeror must develop a turnover plan. The turnover plan must identify the critical tasks that need to occur to provide a smooth and orderly turnover of functions between the selected Offeror and the new Offeror and/or PennDOT staff with minimal disruption to business operations. This turnover plan must be submitted to PennDOT for final review and approval no later than nine (9) months from the planned Notice-to-Proceed for the successor contract, which will be identified in writing by PennDOT. The selected Offeror should anticipate the approved turnover plan will be published as part of the new procurement solicitation. The turnover plan should include, but not be limited to, identifying the system turnover objectives, work plan activities (Gantt chart) including timeframes and resources assigned. Resources required should include those required from PennDOT and the selected Offeror for the successor contract. The selected Offeror must meet all of the agreed upon completion dates within the PennDOT approved Final Turnover Plan. Refer to **Service Level Agreement, Appendix F**.

Subtask L.2 – Service Turnover: Ninety days prior to expiration of the Contract, the selected Offeror is responsible for initiating and completing services to ensure a smooth and orderly transition of functions, responsibilities, and services to PennDOT or to another entity specified by the Commonwealth.

Subtask L.3 – Service Review and Final Turnover Report: At the end of the turnover phase transition period, the selected Offeror must prepare a report that documents the completion of turnover activities, and provides status of each high-level task. The Final Turnover Plan will be reviewed by the selected Offeror and PennDOT at a meeting to occur no less than 90 days prior to the Contract end date. Accomplishments, lessons learned, and opportunities for improvement are to be documented in the Final Turnover Report.

III-7. Reports and Project Control: Following award, the selected Offeror will meet with the PennDOT contract management team, the members of which will be determined by PennDOT, whenever necessary as determined by PennDOT to assess the status of the tasks included in Part III-6 above. Meetings will cover, but are not limited to, regular status reports, the Motorcycle Replacement Plan for motorcycle purchases, any changes or expansion of the training courses, or any significant planned change to the Program. The PennDOT Project

Manager will schedule meetings and select the location. It is anticipated that most meetings will take place at the Riverfront Office Center, 1101 South Front Street, Harrisburg, PA.

The selected Offeror will be responsible for providing the following notifications and/or reports:

A. Accident / Injury Notification and Report – to be provided immediately or within two (2) business days as set forth below:

1. All accidents involving serious injury occurring during any part of the training program must be reported to PennDOT's Project Manager immediately by phone call to the phone number provided by PennDOT after the rider is placed in professional medical care, if professional medical care is required. The selected Offeror's Program Manger must follow up the phone call with a detailed email describing the accident and any details known within 24 hours of the accident. A serious injury is defined as one that involves a broken bone, major laceration, broken teeth, loss of consciousness, or other injury requiring admission to a hospital.
2. All other injuries must be reported to PennDOT within two (2) business days of the incident.
3. A refusal of medical attention by the injured party must be documented by the instructor on site and included in the report to PennDOT.
4. All incidents must be summarized in the Annual Report, described later.
5. The Proposal shall include an escalation process to be used when a serious accident occurs during the training. (The selected Offeror will be provided with PennDOT's contact information for the escalation process.)

B. Program Impact Notification and Report

1. PennDOT must be notified immediately in writing of any information/complaint that would reflect negatively on the Program.
2. Any customer service complaints must be fully investigated and a response provided back to PennDOT within three (3) business days including the details surrounding how the complaint was first made, what the complaint is about, how the complaint was handled and the final outcome of the complaint.

C. Security Breach or Theft Notification and Report – to be provided immediately as set forth below:

In the event of any incident of security breach, break-in, theft, fire, vandalism, etc., the selected Offeror shall immediately notify the PennDOT Project Manager by telephone

and shall within 24 hours provide to PennDOT, in writing a detailed report of the incident.

D. Customer Service Representative Phone Scheduling System Average Call Length and Access Rate Report – Due by the 15th of the month

A report detailing the date, number of inbound calls, number of outbound calls, wait time, hold time, the average call length, and access rate must be submitted monthly to PennDOT.

E. Equipment Maintenance Report – Due the 15th of the month following the end of each quarter (April 15th, July 15th, October 15th, January 15th) for the duration of the Contract.

A report on the condition of the motorcycles and maintenance schedule must be submitted to PennDOT quarterly.

F. Equipment Inventory Report – Due the 15th of the month following the end of each quarter (April 15th, July 15th, October 15th, January 15th) for the duration of the Contract.

A list of all equipment associated with the Program must be kept current at all times and submitted to PennDOT quarterly. Additionally, the selected Offeror shall provide a copy of the inventory report upon PennDOT's request.

G. Status Reports

1. **Scheduling and Training Information Report** – Due by the first business day of each week.

A report detailing scheduling and training information for each site must be submitted by the selected Offeror to PennDOT weekly. This report must detail information (to date) relating to number of training classes provided (by course), no-shows, alternates (if applicable), walk-ins, pass and fail information, number of classes scheduled and number of classes cancelled per week with the reason(s) for classes cancellations, and the number of people on standby list. Additionally, the selected Offeror must provide the number of classes and the number of seats available in each course by site for all future courses. PennDOT may also require additional course and class information to be submitted on an as-needed basis.

2. **Narrative Progress Report** – Due by the 15th of each month.

A narrative progress report must be submitted by the selected Offeror to PennDOT by the 15th day of each month. The report must cover the work performed by the selected Offeror during the preceding month. Included in each Narrative Progress Report shall be an updated schedule for project completion; a site-by-site status listing of all training sites, pending training sites, and potential training sites; a site-by-site accounting of number of classes scheduled, number of classes available to the

public for sign-up, number of classes cancelled, and justification(s) for unavailability of any classes for public sign-up and/or any class cancellations; a revised estimate of level of effort to complete pending projects; overview of all quality assurance program activities; an accounting of any and all community relations efforts; and an accounting of any problems encountered in the management of the Program.

Following submission of the Narrative Progress Report, a scheduled meeting, to be attended by the selected Offeror's representative(s) as specifically requested by PennDOT, the PennDOT Project Manager, and other PennDOT personnel deemed appropriate by PennDOT, shall be held to discuss the Narrative Progress Report. Expect all meetings to be held at PennDOT's Riverfront Office Center.

3. **Internal Communications Report** – Due by the 15th of each month.

An Internal Communications Report must be submitted by the selected Offeror to PennDOT by the 15th day of each month which details all proposed communications with any of the selected Offeror's Program personnel regarding any changes and/or updates which could impact the regular functioning of the Program. This report must identify the names of the individuals delivering the communications; the method by which the communications will be delivered (email, phone calls, meetings, etc.); the expected results of the communications; and any potential negative impacts the communications could cause. Likewise, this report must include a review of communications disseminated the previous month and the results thereof, including any feedback received from Program personnel. If any regular communications are sent out on a periodic basis (such as a newsletter) they are subject to PennDOT approval prior to distribution.

4. **Third-Party Motorcycle Safety Program Status Report** – Due by the 15th of each month.

A monthly report must be submitted by the selected Offeror to PennDOT by the 15th day of each month which details all steps taken to comply with **Task D, Oversee Other Third-Party Motorcycle Safety Programs**, including the number of students trained by the third-party program and any issues encountered.

H. Motorcycle Replacement Plan – Due August 1st of each year

The selected Offeror is required to submit a Motorcycle Replacement Plan which must include the elements detailed in items 1 through 6 below:

1. Motorcycle model selection and cost considerations;
2. Motorcycle maintenance process and plan with estimated costs;
3. Fleet rotation plan;

4. Fleet status report;
5. Fleet replacement strategy; and
6. Listing of motorcycles needed per training site including reserve motorcycles.
7. The Motorcycle Replacement Plan must be submitted to PennDOT by August 1st of each year for PennDOT review and approval. Any deviation from the approved Motorcycle Replacement Plan will require written approval from the PennDOT Project Manager.
8. SKIDBIKE and simulators maintenance plans, status reports, additional needs and all estimated costs associated.

I. Planning Report for Upcoming Riding Season – Due November 1st of each year

The selected Offeror shall submit a Planning Report for Upcoming Riding Season to PennDOT, for PennDOT's approval, by November 1st of each year in advance of the upcoming riding season, detailing the following:

1. For the upcoming season, their course offering plan, including notification and justification of either an increase or a decrease in the number of class offerings per course (including pre-basic class, introductory, intermediate, advanced, 3 wheel and any other courses that may be offered) as well as notification and justification of any increase or decrease in the number of sites at which each course is offered and the locations of each.
2. A plan for conducting the annual instructor updates, when and where they will be conducted, the personnel who will be conducting them, a proposed written agenda, and an outline of proposed topics to be covered and any curriculum to be used.
3. An assessment of the previous training season including successes and areas for improvement in the delivery of the Program.
4. Recommendations for improvements and enhancements to the Program for the upcoming training season which includes any proposed changes in Program delivery and or course curriculum.

J. Annual Report – Due January 15th of each year.

The selected Offeror is required to deliver a bound Annual Report (in triplicate) and soft copy version to PennDOT by January 15th of each year. The Annual Report must include elements detailed in items 1 through 5 below. Data detailed in items 1 through 4 shall be summarized and analyzed to provide recommendations for improvements to the Program. The results should be summarized and presented in an executive summary. Recommendations should be categorized as short, median and long- term as appropriate.

1. Summarize the results of the Program in terminology that will be meaningful to PennDOT and others generally familiar with the subject areas.
2. Description of the method of program evaluation, data collection, and other techniques used.
4. Summarize research findings, conclusions, and recommendations for future Program development.
5. Information must include (but is not limited to):
 - a) Site information – Location, address, instructors, and other personnel responsible for coordination at each site, directions, and schedule.
 - b) Summary reports of riders trained – Report for each site concerning pass/fail/no-show rates, statistics for failed students, and total numbers trained by each type, and projected participant numbers to train for the following program year.
 - c) Summary of course offerings – Includes (but is not limited to) number of classes scheduled, number of classes conducted, number of classes cancelled, for each training site and for each course offering (introductory, intermediate, 3-wheel, advanced, and any other courses which may be offered).
 - d) Accident summary – Number of accidents reported per site, per exercise, with injury description and indication of whether medical assistance was required.
 - e) Data concerning instructors and other site personnel names, addresses, telephone numbers, criminal history check information, driving record check information, course requirements, evaluation reports, instructor training and certification reports, and instructor update reports.
 - f) Inventory Report – Includes all PennDOT equipment associated with the Program, its condition and location, and a listing of all equipment that has been disposed of and/or replaced.
 - g) Maintenance Report – include details of the maintenance on each motorcycle by PennDOT equipment number.
 - h) Stand-by list – the selected Offeror will maintain and submit to PennDOT a list of all stand-by student information to identify geographic areas with the most demand.
 - i) Out-of-State course instruction by location and type and fees collected and submitted to PennDOT.
 - j) List of instructors trained by date and location and type and fees collected and submitted to PennDOT.
 - k) Scheduling Report – Total number of students scheduled by-day using the Program’s online scheduling system and number of students scheduled by-day by calling the registration phone line and speaking to a CSR.
 - l) Report on all third-party training, testing, and oversight activities.

Offeror Response

8. **Objections and Additions to Standard Contract Terms and Conditions.** The Offeror will identify which, if any, of the terms and conditions (contained in **Part VI**) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Part VI**. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any Proposal.

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

Offeror Response

III-8. Equipment and Systems Environments

The following, for information purposes, are specifications for equipment that will be necessary to operate in PennDOT's systems environment. PennDOT reserves the right, in its sole discretion, to authorize the selected Offeror to utilize other technologies when the ability to use new technologies become available.

- PennDOT currently operates an IBM Mainframe computer system and connects workstations via Local Area Network (Ethernet) connected to personal computer (PC workstations) that are running 3270 emulation software.
- The Offeror's Proposals should indicate any software required to run on PennDOT supplied PCs and any electronic data storage requirements requested from PennDOT.

A. Data Cleansing:

At the end of the Contract the below data cleansing process must take place. Proof that this process has been successfully completed must be provided to PennDOT in writing and accordance to PennDOT/Commonwealth IT policies.

1. Commonwealth Guidelines:

As outlined within ITB-SYM009 "The Commonwealth of Pennsylvania Data Cleansing Policy" section III page 3 of 5 states the following:

Computers Owned by selected Offerors and Used on Behalf of the Commonwealth

The selected Offeror is required to comply with all applicable IT standards and policies issued by the Governor's Office of Administration. These standards and policies are contained in Information Technology Policies (ITPs), and are posted at:

<http://www.oa.pa.gov/Policies/Pages/itp.aspx>.

- a) Selected Offeror owned computers that are used to perform work for the Commonwealth are to be treated as confidential. Once a selected Offeror has completed his/her engagement, all computer equipment utilized for the engagement is to be securely erased in accordance with the steps below. This can be done by the selected Offeror, a Commonwealth employee or a third party, however, successful completion of this process is to be verified by a Commonwealth employee.

- b) **Cleansing of Electronic Media on Electronic Devices Owned by Offerors and Used on Behalf of the Commonwealth**

Offeror owned electronic devices that are used to perform work for the Commonwealth are to adhere to ITP-SEC019 *Policy and Procedures for Protecting Commonwealth Electronic Data*. If any Offeror owned electronic devices contain data that is classified in one of the classifications described in SEC019, once a Offeror has completed his/her engagement, the electronic media used for the engagement is to be securely erased by the disk wiping method described in the following paragraph. This can be done by the Offeror, a Commonwealth employee, or a verified third party; however, successful completion of this process is to be verified by a Commonwealth employee.

- c) **Wipe the electronic media.**

All data residing on electronic media is to be wiped by performing a DOD 5220.22-M where data is overwritten using the three-pass approach. *Do not use a degausser for this scenario.*

- d) If an Offeror has a "Statement of Destroyed Materials" or similar policy/program, the agency will not be required to pay for the replacement of the destroyed electronic media. This policy recognizes that electronic media contains confidential, sensitive data and cannot be returned. The Offeror will credit the Commonwealth as if the drive had been returned.

e) **Re-image Hard Drive.**

It is the responsibility of the selected Offeror to re-image or manually reinstall the OS and software applications.

2. **PennDOT Guidelines:**

- a) All licensing records and any records that contain personal identifiable information (PII) must be kept secure at all times. This includes, but is not limited to, individual test results, class schedules, and any forms. These records are to be kept separate and must not be made part of any personnel or training file. For any records maintained in electronic format, any PC/electronic device must be encrypted and password protected. Please refer to **III-8, Equipment and System Environments**, for further details regarding equipment and system environments.
- b) Upon a report or information of any kind, which indicates that a selected Offeror's employee or any person responsible for the operation, supervision or management of the Program operation may be party to the fraudulent use of equipment, materials, or information, the selected Offeror shall notify PennDOT immediately by phone and in writing within 24 hours. An email shall be sent to the PennDOT Project Manager. Proper notice shall contain but not be limited to, the following information:
- i. The names, addresses, social security numbers and dates of birth of all suspected personnel;
 - ii. A list of all times at which the suspected personnel has been or will be scheduled to perform his/her job duties;
 - iii. The names, addresses, and telephone numbers of the direct supervisor of the suspected personnel;
 - iv. A description of the nature of the suspected fraudulent activity;
 - v. A statement of the manner in which the selected Offeror gained knowledge of the alleged fraudulent activity;
 - vi. The names, addresses, and telephone numbers of all the informants and other persons having knowledge of the alleged fraudulent activity;
 - vii. Copies of all the reports, logs or other written information, which could document, clarify or in any manner assist in the investigation.
- c) In the event of any incident of a break-in, theft, fire, or vandalism, the selected Offeror shall immediately notify PennDOT by telephone or fax, and shall additionally provide to PennDOT, in writing, within 24 hours, a detailed account of the incident.
- d) The selected Offeror shall be required to shred all personal customer information prior to disposing of it in a trash receptacle. This shall include any customer's address, driver information, and training information. Please note that screen prints, employee notes that contain personal customer information and all copies of completed forms that are being discarded must also be shredded or placed in a

PennDOT “Burn-Bin”. Alternatives to on-site shredding of documents may be used only after discussed and approved in writing by PennDOT.

- e) In addition to the above guidelines the selected Offeror must be able to provide proof that the below steps have been completed.
 - i. PennDOT data that has been stored on backup systems is completely wiped.
 - ii. PennDOT data that may have been attached in an email correspondence must be removed from the mail system and the attachments permanently deleted.

Offeror Response

III-9. CONFIDENTIALITY

For purposes of this RFP, “Confidential Information” shall include all information or material that has or could have commercial value or other utility in the business in which the selected Offeror is engaged or any customer personal information. The selected Offeror shall hold and maintain the confidential information in strictest confidence for the sole and exclusive benefit of PennDOT and the Commonwealth. The selected Offeror shall carefully restrict access to confidential information to employees, the selected Offeror’s subcontractors and third parties reasonably required and only to those subject to nondisclosure restrictions at least as protective as those set forth in the Agreement.

- A. Access to PennDOT’s Driver Licensing System shall be limited to only that information necessary for the purposes outlined in this Agreement.
- B. The selected Offeror agrees that neither it, nor any of its agents, employees, subcontractors, shall sell, assign, or otherwise transfer any information or portions of information obtained pursuant to this Agreement to any other party.
- C. The selected Offeror agrees to file annually with PennDOT a Confidentiality Agreement on the form prescribed by PennDOT. The selected Offeror agrees to have all its employees and sub-contractors, who have been authorized access to PennDOT’s system, sign the prescribed form before working on this contract. See **Appendix V, Confidentiality Agreement**.
- D. Other than as provided in this Contract and in the Requirements, the selected Offeror agrees that it shall not sell, assign, or otherwise transfer any information or portions of information obtained pursuant to the Agreement to any other party. The selected Offeror shall not use any record information so obtained pursuant to this Agreement for any purpose other than those as specifically authorized by this Agreement; Title 75, Section 6114 of the Vehicle Code, 75 Pa. C.S. § 6114, Limitation on Sale, publication and disclosure of records; Title 67, Pennsylvania Code, Chapter 95, Sale, Publication or Disclosure of Driver, Vehicle and Accident Records and Information; the Federal Driver’s Privacy Protection Act, 18 U.S.C. §§2721 et seq.; and the Federal Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.

- E. Under no circumstances shall the selected Offeror use or permit others to use any information provided by PennDOT for direct mail advertising or any other type or types of mail or mailings. The selected Offeror shall not disclose or publish any information appearing in any record.
- F. Consistent with the provisions of this Contract and the Requirements, the selected Offeror will be the sole user of record information supplied by PennDOT. Record information supplied by PennDOT shall not be used to create or update a file to be used by the selected Offeror, or to develop their own source or record information. Record information shall not be retained, stored, combined, and/or linked in with any other data on any database by the selected Offeror, for any reason.
- G. The selected Offeror agrees not to disseminate or publish on the internet the record information obtained from PennDOT or to allow any other person to disseminate or publish any driver record information on the internet without the approval of PennDOT.
- H. PennDOT retains exclusive ownership of record information provided to the selected Offeror under this Contract.
- I. The selected Offeror shall at all times maintain the highest degree of security over information furnished by PennDOT and shall take all necessary steps to prevent the divulgence or use of such information in any form or manner not expressly permitted by this Agreement. Storage arrangements shall be subject to inspection or audit by PennDOT.

PART IV

COST SUBMITTAL

IV-1. Cost Submittal. The information requested in Section I-12 and **Appendix E – Cost Submittal** shall constitute the Cost Submittal. The Cost Submittal shall be placed in a separate sealed envelope within the sealed Proposal and kept separate from the technical submittal. The total cost you are proposing must be broken down into the components listed in **Appendix E – Cost Submittal**.

Offerors should not include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the Proposal. Offerors should direct in writing to the Issuing Office pursuant to **Part I, Section I-9** of this RFP, any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office's written answer so that all Proposals are submitted on the same basis.

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

PART V

SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL

V-1. Small Diverse Business and Small Business General Information. The Issuing Office encourages participation by Small Diverse Businesses and Small Businesses as prime contractors, and encourages all prime contractors to make significant commitments to use Small Diverse Businesses and Small Businesses as subcontractors and suppliers.

A Small Business must meet each of the following requirements:

- The business must be a for-profit, United States business;
- The business must be independently owned;
- The business may not be dominant in its field of operation;
- The business may not employ more than 100 full-time or full-time equivalent employees;
- The business, by type, may not exceed the following three-year average gross sales:
 - Procurement Goods and Services: \$20 million
 - Construction: \$20 million
 - Building Design Services: \$7 million
 - Information Technology Goods and Services: \$25 million

For credit in the RFP scoring process, a Small Business must complete the DGS/BDISBO self-certification process. Additional information on this process can be found at:

<http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Small-Diverse-Business-Procurement/Pages/default.aspx#>

A Small Diverse Business is a DGS-verified minority-owned small business, woman-owned small business, veteran-owned small business, service-disabled veteran-owned small business, LGBT-owned small business, Disability-owned small business, or other small businesses as approved by DGS, that are owned and controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages.

For credit in the RFP scoring process, a Small Diverse Business must complete the DGS verification process. Additional information on this process can be found at:

<http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Small-Diverse-Business-Procurement/Pages/default.aspx#>

An Offeror that qualifies as a Small Diverse Business or a Small Business and submits a Proposal as a prime contractor is not prohibited from being included as a subcontractor in separate Proposals submitted by other Offerors.

A Small Diverse Business or Small Business may be included as a subcontractor with as many prime contractors as it chooses in separate Proposals.

PennDOT's directory of self-certified Small Businesses and DGS/BDISBO-verified Small Diverse Businesses can be accessed from:

<http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Small-Diverse-Business-Procurement/Pages/default.aspx#>

Questions regarding the Small Diverse Business and Small Business Programs, including questions about the self-certification and verification processes can be directed to:

Department of General Services
Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO)
Room 601, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: RA-BDISBOVerification@pa.gov
Website: www.dgs.pa.gov

- V-2. Small Diverse Business and Small Business (SDB/SB) Participation Submittal.** All Offerors are required to submit **two (2)** copies of the Small Diverse Business and Small Business Participation Submittal Form contained in (**Appendix J**) and related Letter(s) of Intent (**Appendix K**). The submittal must be sealed in its own envelope, separate from the remainder of the Proposal, and must be provided on the Small Diverse Business and Small Business Participation Submittal form, with information as follows:
- A.** Offerors must indicate their status as a Small Diverse Business and as a Small Business through selection of the appropriate checkboxes.
 - B.** Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Diverse Businesses and Small Businesses as subcontractors.
 - C.** Offerors must include a listing of and required information for each of the Small Diverse Businesses and/or Small Businesses with whom they will subcontract to achieve the participation percentages outlined on the Small Diverse Business and Small Business Participation Submittal.
 - D.** Offerors must include a Letter of Intent (attached as **Appendix K** is a Letter of Intent template which may be used to satisfy these requirements) signed by both the Offeror

and the Small Diverse Business or Small Business for each of the Small Diverse Businesses and Small Businesses identified in the Small Diverse Business and Small Business Participation Submittal form. At minimum, the Letter of Intent must include the following:

1. The fixed numerical percentage commitment and associated estimated dollar value of the commitment made to the Small Diverse Business or Small Business; and
2. A description of the services or supplies the Small Diverse Business or Small Business will provide; and
3. The timeframe during the initial contract term and any extensions, options and renewals when the Small Diverse Business or Small Business will perform or provide the services and/or supplies; and
4. The name and telephone number of the Offeror's point of contact for Small Diverse Business and Small Business participation; and
5. The name, address, and telephone number of the primary contact person for the Small Diverse Business or Small Business.

E. Each Small Diverse Business and Small Business commitment which is credited by BDISBO along with the overall percentage of Small Diverse Business and Small Business commitments will become contractual obligations of the selected Offeror.

NOTE: Offerors will not receive credit for any commitments for which information as above is not included in the Small Diverse Business and Small Business Participation Submittal. Offerors will not receive credit for stating that after the Contract is awarded they will find a Small Diverse or Small Business.

NOTE: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of Small Diverse Business and/or Small Business Status or entitle an Offeror to receive credit for Small Diverse Business or Small Business participation.

V-3. Contract Requirements—Small Diverse Business and Small Business Participation.

All contracts containing Small Diverse Business and Small Business Participation must contain the following contract provisions to be maintained through the initial contract term and any subsequent options or renewals:

- A. Each Small Diverse Business and Small Business commitment which was credited by BDISBO and the total percentage of such Small Diverse Business and Small Business commitments made at the time of Proposal submittal, BAFO or contract negotiations,

as applicable, become contractual obligations of the selected Offeror upon execution of its contract with the Commonwealth.

- B.** All Small Diverse Business and Small Business subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.
- C.** The individual percentage commitments made to Small Diverse Businesses and Small Businesses cannot be altered without written approval from BDISBO.
- D.** Small Diverse Business and Small Business commitments must be maintained in the event the Contract is assigned to another prime contractor.
- E.** The selected Offeror and each Small Diverse Business and Small Business for which a commitment was credited by BDISBO must submit a final, definitive subcontract agreement signed by the selected Offeror and the Small Diverse Business and/or Small Business to BDISBO within 30 days of the final execution date of the Commonwealth contract. A Model Subcontract Agreement which may be used to satisfy this requirement is provided in **Appendix L – Model Form of Small Diverse and Small Business Subcontract Agreement**. The subcontract must contain:
 - 1.** The specific work, supplies or services the Small Diverse Business and/or Small Business will perform; location for work performed; how the work, supplies or services relate to the project; and the specific timeframe during the initial term and any extensions, options and renewals of the prime contract when the work, supplies or services will be provided or performed.
 - 2.** The fixed percentage commitment and associated estimated dollar value that each Small Diverse Business and/or Small Business will receive based on the final negotiated cost for the initial term of the prime contract.
 - 3.** Payment terms indicating that the Small Diverse Business and/or Small Business will be paid for work satisfactorily completed within 14 days of the selected Offeror's receipt of payment from the Commonwealth for such work.
 - 4.** Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the selected Offeror's contract with the Commonwealth and that do not place disproportionate risk on the Small Diverse Business and/or Small Business relative to the nature and level of the Small Diverse Business' and/or Small Business' participation in the project.
- F.** If the selected Offeror and a Small Diverse Business or Small Business credited by BDISBO cannot agree upon a definitive subcontract within 30 days of the final execution date of the Commonwealth contract, the selected Offeror must notify BDISBO.

- G.** The selected Offeror shall complete the Prime Contractor’s Quarterly Utilization Report and submit it to the Contracting officer of the Issuing Office and BDISBO within ten (10) business days at the end of each quarter of the Contract term and any subsequent options or renewals. This information will be used to track and confirm the actual dollar amount paid to Small Diverse Business and Small Business subcontractors and suppliers and will serve as a record of fulfillment of the Contractual commitment. If there was no activity during the quarter, the form must be completed by stating “No activity in this quarter.” A late fee of \$100.00 per day may be assessed against the selected Offeror if the Utilization Report is not submitted in accordance with the schedule above.
- H.** The selected Offeror shall notify the Contracting Officer of the Issuing Office and BDISBO when circumstances arise that may negatively impact the selected Offeror’s ability to comply with Small Diverse Business and/or Small Business commitments and to provide a corrective action plan. Disputes will be decided by the Issuing Office and DGS.
- I.** If the selected Offeror fails to satisfy its Small Diverse Business and/or Small Business commitment(s), it may be subject to a range of sanctions BDISBO deems appropriate. Such sanctions include, but are not limited to, one or more of the following: a determination that the selected Offeror is not responsible under the Contractor Responsibility Program; withholding of payments; suspension or termination of the Contract together with consequential damages; revocation of the selected Offeror’s Small Diverse Business status and/or Small Business status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.

PART VI

STANDARD CONTRACT TERMS AND CONDITIONS – PAPER CONTRACT

1. TERM OF CONTRACT

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

2. EXTENSION OF CONTRACT TERM

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

3. DEFINITIONS

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

- a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days: Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.

- e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services: All Contractor activity necessary to satisfy the Contract.

4. INDEPENDENT PRIME CONTRACTOR

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

5. DELIVERY

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

6. ESTIMATED QUANTITIES

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

7. WARRANTY

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

8. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

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

costs or expenses shall be incurred for the account of the Contractor without its written consent.

9. OWNERSHIP RIGHTS

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

10. ACCEPTANCE

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

11. PRODUCT CONFORMANCE

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

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

- f. Provide a product demonstration at a location near Harrisburg or the using agency location.

12. REJECTED MATERIAL NOT CONSIDERED ABANDONED

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

13. COMPLIANCE WITH LAW

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

14. ENVIRONMENTAL PROVISIONS

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

15. POST-CONSUMER RECYCLED CONTENT

- a. Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified on the Department of General Services website at www.dgs.state.pa.us on the date of submission of the bid, proposal or contract offer.
- b. Recycled Content Enforcement: The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

16. COMPENSATION

- a. Compensation for Supplies: The Contractor shall be required to furnish the

awarded item(s) at the price(s) quoted in the Contract. All item(s) shall be delivered within the time period(s) specified in the Contract. The Contractor shall be compensated only for item(s) that are delivered and accepted by the Commonwealth.

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

17. BILLING REQUIREMENTS

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

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

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

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and

match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

18. PAYMENT

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

- 2) The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of **Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.**
- 3) It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

19. TAXES

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

20. ASSIGNMENT OF ANTITRUST CLAIMS

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

21. COMMONWEALTH HELD HARMLESS

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third-party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may,

however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.

- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

22. AUDIT PROVISIONS

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

23. DEFAULT

- a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:
 - 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;
 - 3) Unsatisfactory performance of the work;
 - 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 5) Improper delivery;
 - 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;

- 7) Delivery of a defective item;
 - 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
 - 9) Discontinuance of work without approval;
 - 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
 - 11) Insolvency or bankruptcy;
 - 12) Assignment made for the benefit of creditors;
 - 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
 - 14) Failure to protect, to repair, or to make good any damage or injury to property;
 - 15) Breach of any provision of the Contract;
 - 16) Failure to comply with representations made in the Contractor's bid/proposal; or
 - 17) Failure to comply with applicable industry standards, customs, and practice.
- b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.
- c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as

provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.

- d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
- f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

24. FORCE MAJEURE

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

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

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

25. TERMINATION PROVISIONS

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

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

26. CONTRACT CONTROVERSIES

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have

waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

- b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

27. ASSIGNABILITY AND SUBCONTRACTING

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

from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

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

28. OTHER CONTRACTORS

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

29. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

- a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate in violation of the Pennsylvania Human Relations Act (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the

contract.

- c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- d. The Contractor and each subcontractor shall not discriminate in violation of PHRA and applicable federal laws against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers subject to Title VII of the Civil Rights Act of 1964, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- g. The Contractor’s and each subcontractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- h. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place

the Contractor in the Contractor Responsibility File.

30. CONTRACTOR INTEGRITY PROVISIONS

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

1. DEFINITIONS. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

- a. “Affiliate” means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- b. “Consent” means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.
- c. “Contractor” means the individual or entity, that has entered into this contract with the Commonwealth.
- d. “Contractor Related Parties” means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- e. “Financial Interest” means either:
 - (1) Ownership of more than a five percent interest in any business; or
 - (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- f. “Gratuity” means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [*Governor’s Code of Conduct, Executive Order 1980-18*](#), the 4 Pa. Code §7.153(b), shall apply.

g. “Non-bid Basis” means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or Offeror.

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

a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.

e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

(1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;

(2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;

- (3) had any business license or professional license suspended or revoked;
- (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract 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 of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:
Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472

32. AMERICANS WITH DISABILITIES ACT

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the “General Prohibitions Against Discrimination,” 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor’s failure to comply with the provisions of subparagraph a above.

33. HAZARDOUS SUBSTANCES

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

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

- b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
 - c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
 - d) A hazard warning, and
 - e) The name, address, and telephone number of the manufacturer.
- 3) Single chemicals:
- a) The chemical name or the common name,
 - b) A hazard warning, if appropriate, and
 - c) The name, address, and telephone number of the manufacturer.
- 4) Chemical Mixtures:
- a) The common name, but if none exists, then the trade name,
 - b) A hazard warning, if appropriate,
 - c) The name, address, and telephone number of the manufacturer, and
 - d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

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

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

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

- NFPA 704, Identification of the Fire Hazards of Materials.
- National Paint and Coatings Association: Hazardous Materials Identification System.

- American Society for Testing and Materials, Safety Alert Pictorial Chart.
- American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

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

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

34. COVENANT AGAINST CONTINGENT FEES

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

35. APPLICABLE LAW

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

36. INTEGRATION

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

37. ORDER OF PRECEDENCE

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

38. CONTROLLING TERMS AND CONDITIONS

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

39. CHANGES

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

40. BACKGROUND CHECKS

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

41. CONFIDENTIALITY

- a. The Contractor agrees to guard the confidentiality of the Commonwealth's confidential information with the same diligence with which it guards its own proprietary information. If the Contractor needs to disclose all or part of project materials to third parties to assist in the work or service performed for the Commonwealth, it may do so only if such third parties sign agreements

containing substantially the same provisions as contained in this Section. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this Contract. Each copy of such confidential information shall be marked by the party making the copy with all confidentiality notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only. Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default.

- b. The obligations stated in this Section do not apply to information:
 - 1) already known to the recipient at the time of disclosure other than through the contractual relationship;
 - 2) independently generated by the recipient and not derived from the information supplied by the disclosing party;
 - 3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
 - 4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
 - 5) required to be disclosed by the recipient by law, regulation, court order, or other legal process.
- c. There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

42. NOTICE

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, telecopy, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

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

43. RIGHT TO KNOW LAW

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth

determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.