



**FULLY EXECUTED - REPRINT**

**Contract Number: 4400002326**

Contract Effective Date: 04/18/2008

Valid From: 05/08/2008 To: 11/25/2009

All using Agencies of the Commonwealth, Participating Political Subdivision, Authorities, Private Colleges and Universities

Your SAP Vendor Number with us: 132450

**Purchasing Agent**

Name: Halbleib Jean

Phone: 717-346-3834

Fax: 717-346-3820

**Supplier Name/Address:**

GENERAL HEALTHCARE RESOURCES INC

2250 HICKORY RD STE 240

PLYMOUTH MEETING PA 19462-1047 US

**Please Deliver To:**

To be determined at the time of the Purchase Order unless specified below.

Supplier Phone Number: 6108341122

Supplier Fax Number: 610-834-7525

**Contract Name:**

General Healthcare Resources

**Payment Terms**

NET 30

Solicitation No.:

Issuance Date:

Supplier Bid or Proposal No. (if applicable):

Solicitation Submission Date:

This contract is comprised of: The above referenced Solicitation, the Supplier's Bid or Proposal, and any documents attached to this Contract or incorporated by reference.

Item	Material/Service Desc	Qty	UOM	Price	Per Unit	Total
1	Per Diem Nursing	0.000		0.00	1	0.00

**General Requirements for all Items:**

**Information:**

Supplier's Signature \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Date \_\_\_\_\_



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**Supplier Name:**

GENERAL HEALTHCARE RESOURCES INC

**Header Text**

April 8, 2008:

Per Diem Nurse Services. DGS Contact person: Jean Halbleib, 717-346-3834 or [Jhalbleib@state.pa.us](mailto:Jhalbleib@state.pa.us)

This is the second supplemental bid (6100002584) under parent contract 4400001325.

General Healthcare Resources is the 3rd low cost bidder for the second supplemental bid 6100002584, Cumberland County for parent contract 4400001325. This is the first contract award for GHR under the per diem contract and bid #6100002584.

Contact information can be found by viewing the "contact sheet" attached to this contract under the Header data tab and then under "documents".

For Agency specific list and locations view the "List of Suppliers awards by County" under the header data tab and then under "documents".

Costars not within the scope of the contract.

**Insurance Info Text**

Professional Liability Insurance required before services are performed. Contact Jean Halbleib, Commodity Specialist, for up to date Insurance coverage of this particular supplier.

[Jhalbleib@state.pa.us](mailto:Jhalbleib@state.pa.us) or 717-346-3834

No further information for this Contract

**Information:**

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### **I.1 IFB-001.1 Purpose (Oct 2006)**

The Commonwealth of Pennsylvania (Commonwealth) is issuing this Invitation for Bids (IFB) to meet the needs of DEPARTMENT OF PUBLIC WELFARE AND DEPARTMENT OF MILITARY AND VETERANS AFFAIRS to satisfy a need for **PER DIEM NURSING SERVICES** .

### **I.2 IFB-005.1 Type of Contract (Oct. 2006)**

If the Issuing Office enters into a contract as a result of this IFB, it will be a ESTABLISHED PRICE CONTRACT contract containing the Contract Terms and Conditions as shown in Part V of this IFB.

### **I.3 IFB-008.1C No Pre-bid Conference (Oct. 2006)**

There will be no pre-bid conference for this IFB. If there are any questions, please forward them to the Issuing Office prior to the bid opening date and time.

### **I.4 IFB-009.1 Questions (Nov. 2006)**

Any questions concerning conditions and specifications must be directed to the Issuing Office.

### **I.5 IFB-010.1 Addenda to the IFB (Oct. 2006)**

If the Issuing Office deems it necessary to revise any part of this IFB before the bid response date, the Issuing Office will post an addendum to its website at [WWW.DGS.STATE.PA.US](http://WWW.DGS.STATE.PA.US) it is the Bidder's responsibility to periodically check the website for any new information or addenda to the IFB.

### **I.6 IFB-011.1B Submission of Bids – Electronic Submittal (Dec 12 2006)**

- a. Bids are requested for the item(s) described in the Invitation For Bids and all the documents referenced in the form (collectively called the IFB). Bidders must submit their bids through the Commonwealth's electronic system (SRM).
- b. It is the responsibility of each bidder to ensure that its Bid is received through the electronic system prior to the date and time set for the opening of bids ("Bid Opening Time"). No Bid shall be considered if it arrives after the Bid Opening Time, regardless of reason for the late arrival.

Bids that are timely received in the Bid Opening Room prior to the Bid Opening Time shall be opened publicly in the presence of one or more witnesses at the time and place designated in this IFB for the Bid opening.

- c. Bids must be firm. If a Bid is submitted with conditions or exceptions or not in conformance with the terms and conditions referenced in the IFB Form, it shall be rejected. The Bid shall also be rejected if the items offered by

the Bidder are not in conformance with the specifications as determined by the Commonwealth.

- d. The Bidder, intending to be legally bound hereby, offers and agrees, if this Bid is accepted, to provide the awarded items at the price(s) set forth in this Bid at the time(s) and place(s) specified.

**I.7 IFB-013.1A Non-Discrimination Program – Services Exceeding \$50,000 (Nov 2006)**

Bidders must include with their bid submittals a completed *MBE/WBE Subcontractor and Supplier Solicitation and Commitment Form*, (STD-168). Failure to complete the form and submit it with the bid may result in rejection of the bid as non-responsive

**I.8 IFB-024.1 Bid Protest Procedure (Oct 2006)**

- a. **Who May File the Protest.** Any Bidder or prospective bidder who is aggrieved in connection with the IFB or award of the contract solicitation or award of a contract may file a protest. Protests relating to cancellation of invitations for bids and protests relating to the rejection of all bids are not permitted. A Bidder is a person that submits a bid in response to the IFB. A prospective bidder is a person that has not submitted a bid in response to the IFB.

**b. Time for Filing.**

- 1) If a protest is submitted by a prospective bidder, the protest must be filed before bid opening time or proposal receipt date.
- 2) If a protest is filed by a Bidder, the protest must be filed within seven days after the protesting Bidder knew or should have known of the facts giving rise to the protest EXCEPT THAT IN NO EVENT MAY A PROTEST BE FILED LATER THAN SEVEN (7) DAYS AFTER THE DATE THE CONTRACT OR PURCHASE ORDER WAS AWARDED. Date of filing is the date of receipt of protest.
- 3) Untimely filed protests shall be disregarded.

**c. Form of Protest.**

- 1) A protest must be in writing and filed with the agency head (or designee) of the purchasing agency.
  - 2) A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal.
  - 3) The protesting party may submit with the protest any documents or information deemed relevant.
- d. **Notice of Protest** If award has been made, the agency head (or designee) shall notify the successful Bidder or contractor of the protest. If the protest is received before award and substantial issues are raised by the protest, all Bidders who appear to have a substantial and reasonable prospect of winning the award shall be notified and may file their agreement/disagreement with the purchasing agency within three (3) days after receipt of notice of the protest.

e. **Stay of Procurement.** The head of the purchasing agency (or designee) shall immediately decide, upon receipt of the protest, whether or not the solicitation or award shall be stayed, or if the protest is timely received after the award, whether the performance of the contract should be suspended. The Issuing Office shall not proceed further with the IFB or with the award of the contract, and shall suspend performance under the contract if awarded, unless the agency head of the purchasing agency makes a written determination that the protest is clearly without merit or that award of the contract/purchase order without delay is necessary to protect the substantial interests of the Commonwealth.

f. **Procedures.**

1) **Contracting Officer Response.** Within fifteen (15) days of the receipt of a protest, the contracting officer may submit a written response to the head of the purchasing agency (or designee). The response may include any documents or information that the contracting officer deems relevant to the protest.

2) **Protesting Party Reply.** Within ten (10) days of the date of the contracting officer response, the protesting party may file a written reply.

3) **Review.** The head of the purchasing agency (or designee) shall:

a) Review the protest and any response or reply.

b) Request and review any additional documents or information he deems necessary to render a decision.

c) Give the protesting party and the contracting officer reasonable opportunity to review and address any additional documents or information requested by the agency head.

d) In his sole discretion, conduct a hearing.

e) Within sixty (60) days of the receipt of the protest, issue a written determination stating the reasons for the decision.

f) If additional time is required to investigate the protest, inform the protesting party of the additional time needed to render a determination and obtain the protesting party's consent.

4) **"Clearly Without Merit" Determinations.** If the head of the purchasing agency (or designee) determines, upon receipt, that the protest is clearly without merit and does not stay the procurement, the head of the purchasing agency (or designee) shall immediately issue the decision as required by Subparagraph h below.

g. **Settlement.** The Issuing Office has the authority to settle and resolve bid protests.

h. **Decision.** The head of the purchasing agency (or designee) shall promptly, but in no event later than sixty (60) days from the filing of the protest, issue a written decision. The decision shall:

1) State the reasons for the decision.

2) If the protest is denied, inform the protesting party of its right to file an appeal in Commonwealth Court within fifteen (15) days of the mailing date of the decision.

3) If it is determined that the solicitation or award was contrary to law, enter an appropriate order.

The agency head (or designee) shall send a copy of the decision to the protesting party and any other person determined by the agency head (or designee) to be affected by the decision.

#### **I.9 IFB-025.1 Electronic Version of this IFB (Oct 2006)**

This IFB is being made available by electronic means. If a Bidder electronically accepts the IFB, the Bidder acknowledges and accepts full responsibility to insure that no changes are made to the IFB. In the event of a conflict between a version of the IFB in the Bidder's possession and the Issuing Office's version of the IFB, the Issuing Office's version shall govern.

#### **I.10 IFB-029.1 Prices (Dec 6 2006)**

The bid submitted by the successful Bidder will be incorporated into any resulting Contract and the Bidder will be required to provide the awarded item(s) at the prices quoted in its Bid.

#### **I.11 IFB-031.1 Alternates (Nov 2006)**

A Bidder who wants to offer an alternate must notify the Issuing Office in writing, at least five (5) days prior to the scheduled Bid opening, that the Bidder intends to offer an alternate in its Bid. An "alternate" is a product that deviates from the requirements of the specifications in its composition, qualities, performance, size dimension, etc. The written notification from the Bidder must include a complete description of the alternate and must identify the product's deviations from the specifications. Upon receipt of the notification, the Issuing Office will determine whether the alternate is acceptable. If the Issuing Office, in its discretion, determines that the alternate is acceptable, the Issuing Office will issue a change notice to the invitation for bids that revises the specifications. If no change notice is issued revising the specification, a Bid offering the alternate will not be considered for award.

#### **I.12 IFB-032.1 New Equipment (Nov 2006)**

Unless otherwise specified in this invitation for bids, all products offered by Bidders must be new or remanufactured. A 'new' product is one that will be used first by the Commonwealth after it is manufactured or produced. A 'remanufactured' product is one which: 1) has been rebuilt, using new or used parts, to a condition which meets the original manufacturer's most recent specifications for the item; 2) does not, in the opinion of the Issuing Office, differ in appearance from a new item; and 3) has the same warranty as a new item. Unless otherwise specified in this invitation for bids, used or reconditioned products are not acceptable. This clause shall not be construed to prohibit Bidders from offering products with recycled content, provided the product is new or remanufactured.

#### **I.13 I-IFB-033.1 Modification or Withdrawal of Bid (Nov 2006)**

a. Bid Modification Prior to Bid Opening. Bids may be modified only by written notice or in person prior to the



exact hour and date specified for Bid opening.

- 1) If a Bidder intends to modify its Bid by written notice, the notice must specifically identify the Bid to be modified and must be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the modification to modify the Bid on behalf of the Bidder. The Bid modification must be received in a sealed envelope. The sealed envelope must identify the assigned Collective Number and the Bid Opening Time, and should state that enclosed in the envelope is a Bid modification
- 2) If a Bidder intends to modify its Bid in person, the individual who will modify the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to modify the Bid on behalf of the Bidder. If a Bidder intends to modify its Bid in person, the Bidder may do so only in the presence of an agency employee. (The agency employee will observe the actions taken by the individual to modify the Bid, but will not read the Bid or the modification).

b. Bid Withdrawal Prior to Bid Opening. Bids may be withdrawn only by written notice or in person prior to the exact hour and date specified for Bid opening.

- 1) If a Bidder intends to withdraw its Bid by written notice, the notice shall specifically identify the Bid to be withdrawn and shall be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the bid withdrawal to withdraw the bid on behalf of the Bidder. Except as provided in Subparagraph c, below, bid withdrawals received after the exact hour and date specified for the receipt of Bids shall not be accepted.
- 2) If a Bidder intends to withdraw its Bid in person, the individual who will withdraw the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to withdraw the Bid on behalf of the Bidder.

c. Bid Withdrawal After Bid Opening. Bidders are permitted to withdraw erroneous Bids after Bid opening only if the following conditions are met:

- 1) The Bidder submits a written request for withdrawal.
- 2) The Bidder presents credible evidence with the request that the reason for the lower Bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the Bid.
- 3) The request for relief and supporting evidence must be received by the Issuing Office within three (3) business days after Bid opening, but before award of the contract.
- 4) The Issuing Office shall not permit a Bid withdrawal if the Bid withdrawal would result in the award of the contract on another Bid of the same Bidder, its partner, or a corporation or business venture owned by or in which the bidder has a substantial interest.
- 5) If a Bidder is permitted to withdraw its Bid, the Bidder cannot supply any material or labor or perform any subcontract or other work agreement for the awarded contractor, without the written approval of the Issuing Office.

d. Firm Bid. Except as provided above, a Bid may not be modified, withdrawn, or cancelled by any Bidder for a

period of sixty (60) days following the time and date designated for Bid opening, unless otherwise specified by the Bidder in its Bid. If the lowest responsible Bidder, as determined by the Issuing Office, withdraws its Bid prior to the expiration of the award period or fails to comply with the requirements set forth in the IFB including but not limited to any requirement to submit performance or payment bonds or insurance certificates within the required time period, the Bidder shall be liable to the Commonwealth for all costs and damages associated with the re-award or re-bid including the difference between the Bidder's price and the actual cost that the Commonwealth pays for the awarded items.

e. Clarification and Additional Information. After the receipt of Bids, the Issuing Office shall have the right to contact Bidders for the purpose of seeking:

- 1) Clarification of the Bid which confirms the Issuing Office's understanding of statements or information in the Bid or;
- 2) Additional information on the items offered; provided the IFB does not require the rejection of the Bid for failure to include such information.

#### **I.14 I-IFB-034.1 Rejection of Bids (Nov 2006)**

The Issuing Office reserves the right to reject any and all Bids, to waive technical defects or any informality in Bids, and to accept or reject any part of any Bid if the best interests of the Commonwealth are thereby served.

#### **II.1 II-IFB-008.1b Lobbying Certification and Disclosure – Electronic Submission. (Oct 2006).**

With respect to an award of a federal contract, grant, or cooperative agreement exceeding \$100,000 or an award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000 all recipients must certify that they will not use federal funds for lobbying and must disclose the use of non-federal funds for lobbying by filing required documentation. Offerors must complete and return the Lobbying Certification Form and the Disclosure of Lobbying Activities Form, which are attached to and made a part of this IFB. The completed and signed Lobbying Certification Form and the Disclosure of Lobbying Activities Form should be submitted with the Bid Response. Commonwealth agencies will not contract with outside firms or individuals to perform lobbying services, regardless of the source of funds.

#### **II.2 II-IFB-016.1 POST-SUBMISSION DESCRIPTIVE LITERATURE (Dec 2006)**

The Commonwealth may, during its evaluation of the bids, require any bidder to submit cuts, illustrations, drawings, prints, test data sheets, specification sheets and brochures which detail construction features, design, components, materials used, applicable dimensions and any other pertinent information which the Issuing Office may require in order to evaluate the product(s) offered. The required information must be submitted within two (2) business days after notification from the Issuing Office. Failure to submit the required information prior to the expiration of the second business day after notification shall result in the rejection of the bid as non-responsive.

#### **III.1 III-IFB-001.1a Mandatory Responsiveness Requirements (Oct 2006)**

To be eligible for selection, a bid must be:

- a. Timely received from a Bidder;
- b. Properly signed by the Bidder.

### **III.2 III-IFB-006.1b Notification of Selection - By Lot (Oct 2006)**

It is the intent of the Commonwealth to award by lots established in the pricing spreadsheets. The Commonwealth reserves the right to award by line item or to award all lots to a single vendor if it determines that it is in the best interest of the Commonwealth to do so.

### **III.3 III-IFB-007.1 Awards (Nov 2006)**

Unless all Bids are rejected, and except as otherwise provided by law, award will be made, through the issuance of a Purchase Order, to the lowest responsible and responsive Bidder. Unless otherwise specified by the Issuing Office in the IFB form the Commonwealth reserves the right to award by item or on a total Bid basis, whichever is deemed more advantageous to the Commonwealth. In cases of discrepancies in prices, the unit price will be binding unless the unit price is obviously in error and the extended price is obviously correct, in which case the erroneous unit price will be corrected. As a condition for receipt of award of a contract/purchase order, the lowest responsible and responsive Bidder must be registered in the Commonwealth of Pennsylvania's Vendor Master file. In order to register, bidders must visit the vendor registration website, <http://www.vendorregistration.state.pa.us/>, or call the Central Vendor Management Unit toll free at 866-775-2868 or 717-214-2868.

### **III.4 III-IFB-008.1 Tie Bids (Nov 2006)**

All tie bids will be broken by the Issuing Office.

### **III.5 III-IFB-009.1 Prompt Payment Discounts (Nov 2006)**

Prompt payment discounts will not be considered in making an award. If prompt payment discounts are offered by any Bidder, however, the Issuing Office will take advantage of such offer.

### **III.6 III-IFB-010.1 OPTION FOR SEPARATE COMPETITIVE BIDDING PROCEDURE (NOV 2006)**

The Commonwealth reserves the right to purchase products or services covered under this Contract through a separate competitive bidding procedure, whenever Commonwealth deems it in the best interest of the Commonwealth. The right will generally be exercised only when a specific need for a large quantity of the product or service exists or when the price offered is significantly lower than the Contract price.

### **IV.1 IFB-001.1b STATEMENT OF WORK (Nov 2006)**

The Commonwealth is seeking bids to procure the services set forth in the attached document entitled "Statement of Work."

**V.1 CONTRACT-001.1b Contract Terms and Conditions (Nov 30, 2006)**

The Contract with the awarded bidder (who shall become the "Contractor") shall include the following terms and conditions:

**V.2 CONTRACT-002.1a Term of Contract – Contract (March 2007)**

a. The term of the Contract shall begin on the Commencement Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

b. The Commencement Date shall be the later of the "Valid from" date shown on the Contract output form or the Effective Date (as defined below).

c. The Effective Date shall be the Effective Date printed on the Contract output form after the Contract has been fully executed by the Commonwealth (fully executed by the Commonwealth means that it has been signed and approved as required by Commonwealth contracting procedures).

**V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006)**

The Contract may be renewed for a maximum of 3 additional year term(s), so long as Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter prior to the expiration of the term of the agreement, or any extension thereof. The Commonwealth may exercise the renewal as individual year or multiple year term(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

**V.4 CONTRACT-002.2g Renewal of Contract Term; Adjusted Prices - Custom (Oct 2006)**

See Work Statement

**V.5 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)**

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

**V.6 CONTRACT-003.1a Signatures – Contract (March 2007)**

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor. No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any

supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.

The Contract will not include an "ink" signature by the Commonwealth. The electronically-printed name of the Purchasing Agent represents the signature of that individual who has the authority, on behalf of the Commonwealth, to bind the Commonwealth to the terms of the Contract. If the Contract output form does not have "Fully Executed" at the top of the first page and does not have the name of the Purchasing Agent printed in the appropriate box, the Contract has not been fully executed.

The fully-executed Contract may be sent to the Contractor electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

#### **V.7 CONTRACT-004.1a Definitions (Dec 12 2006)**

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.

#### **V.8 CONTRACT-005.1b Agency Purchase Orders (Dec 12 2006)**

The Agency may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract

Purchase Orders will not include an "ink" signature by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the Contractor to proceed

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable
- b. The parties agree that no writing shall be required in order to make the order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the order or acknowledgement were not in writing or signed by the parties. A purchase order or acknowledgement shall be deemed to be for all purposes if it is transmitted to the location designated for such documents
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase Orders under five thousand dollars (\$5,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

#### **V.9 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)**

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.

#### **V.10 CONTRACT-007.01b Delivery of Services (Nov 30 2006)**

**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.**

#### **V.11 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)**

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.

#### **V.12 CONTRACT-008.1a Warranty. (Oct 2006)**

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.

#### **V.13 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2006)**

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.

#### **V.14 CONTRACT-009.1d Ownership Rights (Oct 2006)**

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.

#### **V.15 CONTRACT-010.1a Acceptance (Oct 2006)**

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.

#### **V.16 CONTRACT-011.1a Compliance With Law (Oct 2006)**



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

#### **V.17 CONTRACT-013.1 Environmental Provisions (Oct 2006)**

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. Section 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. Section 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. Section 693.1.

#### **V.18 CONTRACT-014.1 Post-Consumer Recycled Content (Oct 2006)**

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified on the Department of General Services website at [WWW.DGS.STATE.PA.US](http://WWW.DGS.STATE.PA.US) on the date of submission of the bid, proposal or contract offer.

#### **V.19 CONTRACT-014.3 Enforcement (Oct 2006)**

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.

#### **V.20 CONTRACT-015.1 Compensation (Oct 2006)**

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

#### **V.21 CONTRACT-015.2 Billing Requirements (Dec 5 2006)**

The Contractor shall include in all of its invoices the following minimum information:

- Vendor name and "Remit to" address, including SAP Vendor number;
- Bank routing information, if ACH;
- SAP Purchase Order number;
- Delivery Address, including name of Commonwealth agency;
- Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- Quantity provided;
- Unit price;
- Price extension;

- Total price; and
- 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.

#### **V.22 CONTRACT-015.3 Invoice Requirement – SAP Purchase Orders (Feb 2007)**

Unless otherwise specified or unless the Contractor has been authorized by the Commonwealth for Electronic Invoicing, Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall send an invoice itemized by purchase order line item to the address referenced on the Purchase Order promptly after the item(s) are delivered. The invoice should include only amounts due under the Purchase Order. The Purchase Order number must be included on all invoices. In addition, the Commonwealth shall have the right to require the Contractor to prepare and submit a "Work In Progress" sheet that contains, at a minimum, the tasks performed, number of hours, hourly rates and the Purchase Order or task order to which it refers.

#### **V.24 CONTRACT-016.1 Payment (Oct 2006)**

- 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.

#### **V.25 CONTRACT-017.1 Taxes (Dec 5 2006)**

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. 23-23740001-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.

#### **V.26 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)**

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.

#### **V.27 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)**

- 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.

#### **V.28 CONTRACT-020.1 Audit Provisions (Oct 2006)**

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.

#### **V.29 CONTRACT-020.2 Single Audit Act of 1984 (Dec 6, 2006)**

In compliance with the Single Audit Act of 1984, the Contractor agrees to the following:

- a. This Contract is subject to audit by federal and state agencies or their authorized representative in accordance with the auditing standards promulgated by the Comptroller General of the United States and specified in Government Auditing Standards, 1994 Revisions (Yellow Book).
- b. The audit requirement of this Contract will be satisfied if a single audit is performed under the provisions of the Single Audit Act of 1984, 31 U.S.C. Section 7501, et seq, and all rules and regulations promulgated pursuant to the Act.
- c. The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial/compliance, economy/efficiency, or program results nature, if deemed necessary.

The Contractor further agrees to comply with requirements that may be issued by the state agency upon receipt of additional guidance received from the federal government regarding the Single Audit Act of 1984.

### **V.30 CONTRACT-021.1 Default (Dec 12 2006)**

- 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.

### **V.31 CONTRACT-022.1 Force Majeure (Oct 2006)**

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.

### **V.32 CONTRACT-023.1b Termination (Dec 6 2006)**

#### **a. For Convenience**

(1) The Commonwealth may terminate this Contract without cause by giving Contractor thirty (30) days prior written notice (Notice of Termination) whenever the Commonwealth shall determine that such termination is in the best interest of the Commonwealth (Termination for Convenience). Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance under this Contract is terminated either in whole or in part and the date on which such termination becomes effective. In the event of termination hereunder, Contractor shall receive payment for the following:

(i) all services performed consistent with the terms of the Contract prior to the effective date of termination;

(ii) all actual and reasonable costs incurred by Contractor as a result of the termination of the Contract; and

In no event shall the Contractor be paid for any loss of anticipated profit (by the Contractor or any Subcontractor), loss of use of money, or administrative or overhead costs.

Failure to agree on any termination costs shall be a dispute handled in accordance with the Contract Controversies clause of this Contract.

(2) The Contractor shall cease work as of the date set forth in the Notice of Termination, and shall be paid only for such services as have already been satisfactorily rendered up to and including the cease work date set forth in said notice, or as may be otherwise provided for in said Notice of Termination, and for such services performed thereafter in the thirty (30) day period of termination, if such services are requested by the Commonwealth, for the collection, assembling, and transmitting to the Commonwealth of at least all materials, manuals, magnetic media, studies, drawings, computations, maps, supplies, and survey notes including field books, which were obtained, prepared, or developed as part of the work required under this Contract.

(3) The above shall not be deemed to limit the Commonwealth's right to terminate this Contract for any reason as permitted by the other provisions of this Contract, or under applicable law.

#### **b. Non-Appropriation**

Any payment obligation or portion thereof of the Commonwealth created by this Contract is conditioned upon the availability and appropriation of funds. When funds (state 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. The Contractor shall be reimbursed in the same manner as that described in this section related to Termination for Convenience to the extent that appropriated funds are available.

c. Default

A party may, in addition to its other rights under this Contract, terminate this Contract in whole or in part by providing written notice of default to the other party if the other party materially fails to perform its obligations under the Contract and does not cure such failure within thirty (30) days or, if a cure within such period is not practical, commence a good faith effort to cure such failure to perform within the specified period (or such longer period as the aggrieved party may specify in writing) after receipt of written notice from the aggrieved party specifying such failure. The Contracting Officer shall provide any notice of default or written cure notice for Contract terminations.

- (1) Subject to the Limitation of Liability clause of this Contract in the event the Commonwealth terminates this Contract in whole or in part as provided in this section, the Commonwealth may procure services similar to those so terminated, and the Contractor, in addition to liability for any liquidated damages, shall be liable to the Commonwealth, as the Commonwealth's sole and exclusive remedy for such default, for the difference between the Contract price for the terminated portion of the services and the actual and reasonable cost (but in no event greater than the fair market value) of producing substitute equivalent services for the terminated services, provided that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this section.
- (2) Except with respect to defaults of Subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control of the Contractor. Such causes may include, but are not limited to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, work stoppages, freight embargoes, acts of terrorism, and unusually severe weather. The Contractor shall notify the Contracting Officer immediately in writing of its inability to perform because of a cause beyond the control of the Contractor.
- (3) Nothing in this section shall abridge the Commonwealth's right to suspend, debar, or take other administrative action against the Contractor.
- (4) If it is later determined that the Commonwealth erred in terminating the Contract for default, then the Contract shall be deemed to have been terminated for convenience under Subsection (a).
- (5) If this Contract is terminated as provided by this section, the Commonwealth may, in addition to any other rights provided in this Subsection, and subject to the Ownership Rights clause of this Contract, require the Contractor to deliver to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such reports and other documentation as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Payment for such reports and documentation will be made consistent with the Contract.

**V.33 CONTRACT-024.1 Contract Controversies (Oct 2006)**

- 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.

- b. 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.

#### **V.34 CONTRACT-025.1 Assignability and Subcontracting (Oct 2006)**

- 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.

#### **V.35 CONTRACT-026.1 Other Contractors (Oct 2006)**

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.

#### **V.36 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (Oct 2006)**

During the term of the Contract, the Contractor agrees as follows:

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract on account of gender, race, creed, or color.
- c. The Contractor and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer or the Bureau of Contract Administration and Business Development.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
- g. 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.

#### **V.37 CONTRACT-028.1 Contractor Integrity Provisions (Oct 2006)**

- a. For purposes of this clause only, the words "confidential information," "consent," "contractor," "financial

interest," and "gratuity" shall have the following definitions.

- 1) **Confidential information** means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.
  - 2) **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 execution of this agreement.
  - 3) **Contractor** means the individual or entity that has entered into the Contract with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a five percent interest.
  - 4) **Financial interest** means:
    - a) Ownership of more than a five percent interest in any business; or
    - b) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
  - 5) **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
- b. The Contractor shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
- c. The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.
- d. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
- e. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
- f. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.
- g. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.

- h. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
- i. The Contractor, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.
- j. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract unless otherwise provided by law.
- k. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse 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.

#### **V.38 CONTRACT-029.1 Contractor Responsibility Provisions (Oct 2006)**

- a. The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers 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, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.
- 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 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, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be

responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services  
Office of Chief Counsel  
603 North Office Building  
Harrisburg, PA 17125  
Telephone No. (717) 783-6472  
FAX No. (717) 787-9138

**V.39 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)**

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 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. Section 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.

**V.40 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)**

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.

**V.41 CONTRACT-033.1 Applicable Law (Oct 2006)**

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.

**V.42 CONTRACT- 034.1b Integration (Nov 30 2006)**

This Contract, including the Invitation for Bids, the Contractor's bid, all referenced documents, and any Purchase Order 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.

#### **V.43 CONTRACT-034.2b Order of Precedence - IFB (Dec 6 2006)**

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 IFB; and the Contractor's Bid in Response to the IFB.

#### **V.44 CONTRACT-037.1b Confidentiality (Oct 2006)**

The Contractor agrees to protect the confidentiality of the Commonwealth's information. 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 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.

The obligations stated in this Section do not apply to information:

- i. already known to the recipient at the time of disclosure;
- ii. independently generated by the recipient and not derived from the information supplied by the disclosing party;
- iii. 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;
- iv. disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- v. required to be disclosed by the recipient by law, regulation, court order, or other legal process.

#### **V.45 CONTRACT-037.2a Sensitive Information (Oct 2006)**

The Contractor shall not publish or otherwise disclose, except to the Commonwealth and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a

publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the consent of such person or establishment. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Contract or Purchase Order for any purpose not connected with the parties' Contract or Purchase Order responsibilities except with the written consent of such recipient, recipient's attorney, or recipient's parent or guardian pursuant to applicable state and federal law and regulations.

Contractor will comply with all federal or state laws related to the use of information that constitutes personal health information (PHI) as defined by the Health Insurance Portability and Accountability Act (HIPAA). Further, in order to address the provision of PHI to the Contract, by signing this Contract or Purchase Order, the Contractor agrees to the terms of the Business Associate Agreement, which is attached to and made a part of this Contract or Purchase Order. If the Issuing Agency is a Covered Entity as defined in HIPAA, it will fill in the blanks in Business Associate Agreement as part of the Contract or Purchase Order. It is understood that the Business Associate Agreement is only applicable if PHI is provided to the Contractor.

Contractor will be responsible to remediate any improper disclosure of information. Such remediation may include, but may not be limited to, credit monitoring for individuals for whom information has been released and reimbursement of any costs incurred by individuals for whom information has been released. Costs for which Contractor is responsible under this paragraph are not subject to any limitation of liability set out in this Contract or Purchase Order.

**V.46 CONTRACT-037.2b Health Insurance Portability and Accountability Act (HIPAA) Compliance (Oct 2006)**

1. The Pennsylvania Department of Public Welfare and Department of Insurance (collectively, Covered Entity) and the Contractor intend to protect the privacy and provide for the security of certain Protected Health Information (PHI) to which Business Associate may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the HIPAA Privacy Rule (Privacy Rule), 45 CFR Parts 160 and 164, and the HIPAA Security Rule (Security Rule), 45 CFR Parts 160, 162 and 164.
2. The Contractor may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI can be used or disclosed only in accordance with this Appendix and the standards established by HIPAA and the Privacy Rule.
3. The Contractor may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, that is in electronic form, which PHI must be handled in accordance with this Appendix and the standards established by HIPAA and the Security Rule, beginning as soon as practicable but in no event later than the effective date of the Security Rule.
4. For purposes of this contract provision the following words as found in these provisions shall have the following definitions:
  - a) "Business Associate" shall have the meaning given to such term under the Privacy and Security Rules, including but not limited to, 45 CFR Section 160.103.
  - b) "Covered Entity" shall have the meaning given to such term under the Privacy and Security Rules, including, but not limited to, 45 CFR Section 160.103.
  - c) "HIPAA" shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
  - d) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164.
  - e) "Protected Health Information" or "PHI" means any information, transmitted or recorded in any form or

medium; (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA and the HIPAA Regulations at 45 CFR Parts 160, 162 and 164, including, but not limited to 45 CFR Section 164.501.

f) "Security Rule" shall mean the Security Standards at 45 CFR Parts 160, 162 and

g) Terms used, but not otherwise defined, in this Appendix shall have the same meaning as those terms in 45 CFR Parts 160, 162 and 164.

5. Stated Purposes For Which Business Associate May Use Or Disclose PHI. The Parties hereby agree that Business Associate shall be permitted to use and/or disclose PHI provided by or obtained on behalf of Covered Entity for the following stated purposes, except as otherwise limited in this Agreement:

*PROGRAM MUST Include a statement describing the stated purposes that Business Associate may use or disclose the PI-TI. These uses and disclosures must be within the scope of the Appendix. 45 CFR Section 164.504(e) (2) (i). If the work statement is sufficiently specific and will suffice, the following statement may be used instead.*

Stated Purposes For Which Business Associate May Use Or Disclose PHI. Except as otherwise limited in this Agreement, Business Associate shall be permitted to use or disclose PHI provided by or obtained on behalf of Covered Entity to perform those functions, activities, or services for, or on behalf of, Covered Entity which are specified in this Agreement's Appendix A (Statement of Work), provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

6. Additional Purposes For Which Business Associate May Use Or Disclose Information. In addition to the Stated Purposes, Business Associate may use or disclose PHI provided by, or created or obtained on behalf of Covered Entity for the following additional purposes(s) (*Note that this is an optional section - must decide whether or not to include it*):

a) Use of Information For Management, Administration And Legal Responsibilities. Business Associate is permitted to use PHI if necessary for the proper management and administration of Business Associate or to carry out legal responsibilities of the Business Associate except as otherwise limited in this Agreement.

b) Disclosure Of Information For Management, Administration And Legal Responsibilities. Business Associate is permitted to disclose PHI provided by, or created or obtained on behalf of Covered Entity for the proper management and administration of Business Associate or to carry out legal responsibilities of Business Associate, except as otherwise limited in this Agreement, provided:

i) The disclosure is required by law: or

ii) The Business Associate obtains reasonable assurances in writing from any third party to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the third party, the third party will use appropriate safeguards to prevent other use or disclosure of the information, and the third party agrees to immediately notify the Business Associate of any instance of which it is aware in which the confidentiality of the information has been breached.

- c) Data Aggregation Services. Business Associate may also be permitted to use or disclose PHI to provide data aggregation services, as that term is defined by 45 CFR Section 164.501, if specific authorization is received from the Covered Entity.

## 7. BUSINESS ASSOCIATE OBLIGATIONS:

- a) Limits On Use And Further Disclosure Established By Appendix And Law. Business Associate hereby agrees that the PHI provided by, or created or obtained on behalf of Covered Entity shall not be further used or disclosed other than as permitted or required by this Appendix or as required by law.
- b) Appropriate Safeguards. Beginning as soon as practicable but in no event later than the effective date of the Security Rule, Business Associate shall establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this Appendix. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that is created, received, maintained, or transmitted on behalf of the Covered Entity.
- c) Reports Of Improper Use Or Disclosure. Business Associate hereby agrees that it shall report to within two (2) days of discovery any use or disclosure of PHI not provided for or allowed by this Appendix.
- d) Reports Of Security Incidents. Beginning as soon as practicable but in no event later than the effective date of the Security Rule, Business Associate shall report to within two (2) days of discovery any security incident of which it becomes aware.
- e) Subcontractors And Agents. Business Associate hereby agrees that any time PHI is provided or made available to any subcontractors or agents, Business Associate shall provide only the minimum necessary PHI for the purpose of the covered transaction and shall first enter into a subcontract or contract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of PHI as contained in this Appendix.
- f) Right Of Access To PHI. Business Associate hereby agrees to allow an individual who is the subject of PHI maintained in a designated record set, to have access to and copy that individual's PHI within ten (10) business days of receiving a written request from the Covered Entity. Business Associate shall provide PHI in the format requested, unless it cannot readily be produced in such format, in which case it shall be provided in standard hard copy. If any individual requests from Business Associate or its agents or subcontractors access to PHI, Business Associate shall notify Covered Entity of same within five (5) business days. Business associate shall further conform with and meet all of the requirements of 45 CFR Section 164.524.
- g) Amendment And Incorporation Of Amendments. Within ten (10) business days of receiving a request from Covered Entity for an amendment of PHI maintained in a designated record set, Business Associate shall make the PHI available and incorporate the amendment to enable Covered Entity to comply with 45 CFR Section 164.526. If any individual requests an amendment from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity of same within ten (10) business days.
- h) Provide Accounting Of Disclosures. Business Associate agrees to maintain a record of all disclosures of PHI in accordance with 45 CFR Section 164.528. Such records shall include, for each disclosure, the date of the disclosure, the name and address of the recipient of the PHI, a description of the PHI disclosed, the name of the individual who is the subject of the PHI disclosed, the purpose of the disclosure, and shall include disclosures made on or after the date which is six (6) years prior to the request or April 14, 2003, whichever is later. Business Associate shall make such record available to the individual or the Covered Entity within ten (10) business days of a request for an accounting of disclosures.



- i) Access To Books And Records. Business Associate hereby agrees to make its internal practices, books, and records relating to the use or disclosure of PHI received from, or created or received by Business Associate on behalf of the Covered Entity, available to the Secretary of Health and Human Services or designee for purposes of determining compliance with the HIPAA Privacy Regulations.
- j) Return Or Destruction Of PHI. At termination of this Agreement, Business Associate hereby agrees to return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate agrees not to retain any copies of the PHI after termination of this Agreement. If return or destruction of the PHI is not feasible, Business Associate agrees to extend the protections of this Appendix to limit any further use or disclosure until such time as the PHI may be returned or destroyed. If Business Associate elects to destroy the PHI, it shall certify to Covered Entity that the PHI has been destroyed.
- k) Maintenance of PHI. Notwithstanding Section 5(j) of this Appendix, Business Associate and its subcontractors or agents shall retain all PHI throughout the term of the Agreement and shall continue to maintain the information required under Section 5(h) of this Appendix for a period of six (6) years after termination of the Agreement, unless Covered Entity and Business Associate agree otherwise.
- l) Mitigation Procedures. Business Associate agrees to establish and to provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Appendix or the Privacy Rule. 45 CFR Section 164.530(1)). Business Associate further agrees to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Appendix or the Privacy Rule.
- m) Sanction Procedures. Business Associate agrees that it shall develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Appendix or the Privacy Rule.
- n) Grounds For Breach. Any non-compliance by Business Associate with this Appendix or the Privacy or Security Rules will automatically be considered to be a breach of the Agreement, if Business Associate knew or reasonably should have known of such non-compliance and failed to immediately take reasonable steps to cure the non-compliance.
- o) Termination by Covered Entity. Business Associate authorizes termination of this Agreement by the Covered Entity if the Covered Entity determines, in its sole discretion, that the Business Associate has violated a material term of this Appendix.
- p) Failure to Perform Obligations. In the event Business Associate fails to perform its obligations under this Appendix, Covered Entity may immediately discontinue providing PHI to Business Associate. Covered Entity may also, at its option, require Business Associate to submit to a plan of compliance, including monitoring by Covered Entity and reporting by Business Associate, as Covered Entity in its sole discretion determines to be necessary to maintain compliance with this Appendix and applicable law.
- q) Privacy Practices. The Department will provide and Business Associate shall immediately begin using any applicable form, including but not limited to, any form used for Notice of Privacy Practices, Accounting for Disclosures, or Authorization, upon the effective date designated by the Program or Department. The Department retains the right to change the applicable privacy practices, documents and forms. The Business Associate shall implement changes as soon as practicable, but not later than 45 days from the date of notice of the change.

## 8. OBLIGATIONS OF COVERED ENTITY:

- a) Provision of Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with 45 CFR Section 164.520, as well as changes to such notice.
- b) Permissions. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI of which Covered Entity is aware, if such changes affect Business Associate's permitted or required uses and disclosures.
- c) Restrictions. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

#### **V.47 CONTRACT-045.1 Insurance - General (Dec 12 2006)**

The Contractor is required to have in place during the term of the Contract and any renewals or extensions thereof, the following types of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

**A. Worker's Compensation Insurance** for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.

**B. Public Liability and Property Damage Insurance** to protect the Commonwealth, the Contractor, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property including the loss of use resulting from any property damage, which may arise from the activities performed under the Contract or the failure to perform under the Contract, whether such performance or non-performance be by the Contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The minimum amounts of coverage shall be \$250,000 per person and \$1,000,000 per occurrence for bodily injury, including death, and \$250,000 per person and \$1,000,000 per occurrence for property damage. Such policies shall be occurrence rather than claims-made policies and shall not contain any endorsements or any other form designated to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the Contract and at each insurance renewal date during the term of the Contract, the Contractor shall provide the Commonwealth with current certificates of insurance. These certificates or policies shall name the Commonwealth as an additional insured and shall contain a provision that the coverage's afforded under the policies will not be cancelled or changed until at least thirty (30) days written notice has been given to the Commonwealth.

The Commonwealth shall be under no obligation to obtain such certificates from the Contractor(s). Failure by the Commonwealth to obtain the certificates shall not be deemed a waiver of the Contractor's obligation to obtain and furnish certificates. The Commonwealth shall have the right to inspect the original insurance policies.

#### **V.48 CONTRACT-051.1 Notice (Dec 2006)**

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.

LISTING OF PER DIEM SUPPLIERS BY COUNTY AND THE RATING IN EACH COUNTY

**Parent Contract 4400001325**

County	Supplier	Vendor #	Contract #	Facility Covered
<b>Allegheny Bid# 6100001226</b>				Southwestern Veterans Home-DMVA
#1	Telescience	176710	4400001326	<b>RN-LPN and CNA</b>
#2	Maxim	179150	4400001327	
#3	Atc	176760	4400001329	

County	Supplier	Vendor #	Contract #	Facility Covered
<b>Berks Bid# 6100001870</b>				Wernersville State Hospital
#1	Adara	194903	4400001328	<b>RN ONLY</b>
#2	Bayada	301312	4400001703	
#3	ATC	176760	4400001329	

County	Supplier	Vendor #	Contract #	Facility Covered
<b>Blair Bid# 6100001226</b>				Hollidaysburg Veterans Home-DMVA
#1	Telescience	176710	4400001326	<b>RN-LPN and CNA</b>
#2	Maxim	179150	4400001327	
#3	MSN	169215	4400001330	

County	Supplier	Vendor #	Contract #	Facility Covered
<b>Chester Bid# 6100001226</b>				Southeastern Veterans Center-DMVA
#1	Telescience	176710	4400001326	<b>RN-LPN and CNA</b>
#2	Adara	194903	4400001328	
#3	ATC	176760	4400001329	

County	Supplier	Vendor #	Contract #	Facility Covered
<b>ERIE Bid# 6100001226</b>				Pennsylvania Soldiers and Sailors Home DMVA
#1	Telescience	176710	4400001326	<b>RN-LPN and CNA</b>
#2	Maxim	179150	4400001327	
#3	Adara	194903	4400001328	

County	Supplier	Vendor #	Contract #	Facility Covered
<b>Lackawanna Bid# 6100001226</b>				Gino J Merli-DMVA
#1	Telescience	176710	4400001326	<b>RN-LPN and CNA</b>
#2	Maxim	179150	4400001327	
#3	Global	176213	4400001331	

County	Supplier	Vendor #	Contract #	Facility Covered
				Norristown State Hospital- DPW and SCI Graterford SCI, Corrections. (SCI Graterford added April 16) <b>RN ONLY</b>
<b>**Montgomery Bid# 6100001226</b>				
#1	ATC	176760	4400001329	
#2	Telescience	176710	4400001326	
#3	Adara	194903	4400001328	

County	Supplier	Vendor #	Contract #	Facility Covered
				Delaware Valley Veterans Home-DMVA  <b>RN-LPN and CNA</b>
<b>Philadelphia Bid# 6100001226</b>				
#1	Telescience	176710	4400001326	
#2	Adara	194903	4400001328	
#3	Atc	176760	4400001329	

County	Supplier	Vendor #	Contract #	Facility Covered
				SCI Camp Hill  <b>LPN only</b>
<b>Cumberland County Bid# 6100002584</b>				
#1	Atc	176760	4400001329	
#2	Adara	194903	4400001328	
#3	General Healthcare Resources	132450	4400002326	

County	Supplier	Vendor #	Contract #	Facility Covered
				SCI Mahanoy  <b>RN and LPN only</b>
<b>Schuylkill County Bid# 6100002584</b>				
#1	Atc	176760	4400001329	
#2	Adara	194903	4400001328	
#3	Interim Home Healthcare	132410	4400002327	

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**CONTRACT SCOPE/OVERVIEW**

This contract (Identified here and in the other documents as the "Contract") will cover the requirements of short term, per diem, direct care Registered Nurse and Licensed Practical Nurse services. These services are temporary and will only be utilized during periods of absences of Commonwealth employees due to illness, family medical leave, maternity leave, paternity leave, work related injury leave or any other unforeseen circumstances. No request will exceed a 90 day term.

Bidders will perform by providing Registered Nurse (RN) and Licensed Practical Nurse Care (LPN) in Commonwealth facilities. The facility may house individuals with a mental illness, physical injury, dysfunctional behavior, adjudicated persons, and/or a developmental disability.

**TERM OF THE CONTRACT**

The Contract shall commence on the Effective Date (as defined herein) and expire November 25, 2009.

**DPW ADDENDUM**

This contract incorporates the Department of Public Welfare (DPW) Addendum found at <http://www.dpw.state.pa.us/business/vendorinfo/003674057.hm> for the Department of Public Welfare Purchase Orders issued from this contract.

**ADJUSTMENT OF PRICE OPTION**

Bidders may adjust their prices at each renewal period. A bidder seeking to adjust its prices shall submit a letter to the DGS Contract Officer requesting to modify their prices up to the percentage increase in Table 5. COMPENSATION (NOT SEASONALLY ADJUSTED): Employment Cost Index for total compensation, for private industry workers, by occupational group and industry. <http://stats.bls.gov/news.release/eci.t05.htm> Scroll to "Industry and Occupation group" **Healthcare and Social Assistance, (10)**. The list is published every quarter. Example: The percent (%) change for 12 months ending December 2006 was 4.1 %. The bidder may increase their prices up to this percentage, any increase would be added to the bidders current DGS approved rate. The bidder shall provide a printed or electronic copy of the most recent applicable table at the time of request with its price increase request. The bidder must submit their written request forty five (45) days prior to the expiration of the contract DGS Procurement reserves the right to negotiate and/ or deny an increase to the bidder. It is the responsibility of the bidder to adequately justify any price change requests. If approved, a Contract change notice will be issued replacing the old price list with the updated price list to the Contract. The effective date of the change will be the date the change notice is issued.

At no time will Bidders be allowed to unilaterally change the prices on the Contract. Approval must be granted by the contract administrator and will not be final until

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approval is obtained in writing and a change notice is issued. Orders will be monitored to ensure compliance.

**LABOR RELATIONS**

All Agencies/Facilities are required to have labor relations approval prior to obtaining the services of this per diem contract.

Agencies/Facilities utilizing this contract must follow all provisions of their local collective bargaining unit union/labor relations/HR rules pertaining to hiring supplemental RN/LPN staff prior to utilizing the contract.

Agencies/Facilities are required by law to abide by the facilities local union agreements for supplemental staffing to include overtime and or holiday staffing for RN's or LPN's before offering the shifts to contract staff. All attempts will be made to offer the available shifts to Commonwealth of Pennsylvania employees first before presenting the need to the awarded bidder.

**DOMESTIC WORKFORCE UTILIZATION CERTIFICATION**

To the extent that any services could be performed outside of the geographical boundaries of the United States, the Bidder will be required to certify that those services will be performed exclusively within the geographical boundaries of the United States or specify the percentage of the direct labor that will be performed outside of the United States. The certification form is included with the IFB and must be completed by the Bidder. The Contracting Agency will use the certification in making a best value selection.

**METHOD OF AWARD**

There are currently two (2) Counties within the Commonwealth of Pennsylvania needing the per diem services as defined in this supplemental IFB. Pricing is only requested for these Counties.

Contracts will be awarded by County. The Commonwealth will award to the three lowest responsive and responsible bidders per County meeting the minimum requirements set forth in this IFB. Purchase Orders for services under the contract will be issued in order by the lowest price. In the event the lowest price bidder is unable to supply Per Diem Registered Nurses or Licensed Practical Nurses, the next low cost bidder will be utilized, and so on, until the Commonwealth obtains sufficient resources to fulfill its required hours of service.

Blanket purchase orders may be created for each awarded bidder under this contract and be utilized on an as needed basis to pay only for services actually rendered as a result of the method of award. Blanket purchase orders will follow the process outlined above.

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Awarded Bidders will provide per diem nursing services to all Commonwealth agencies/facilities residing in the respective County at the awarded rate. Agencies/Facilities identified as having a current immediate need are listed on Attachment D "Active locations." The Commonwealth reserves the right to add agencies and/or facilities residing in a County where an award is made but were not on the active locations list at the time of award. Agencies/Facilities may request to be added to the active locations list by notifying the DGS contract officer, in writing, at least 15 business days in advance of usage in order to prepare and post the change notice to add the Agencies/Facilities to the active location list. Additions must be approved and a change notice posted before the newly added agency/facility utilizes the contract.

Agencies/Facilities requesting to be added in a specific county that has been awarded agree to the same terms and conditions set forth in this IFB to include the resources minimum qualifications and job descriptions.

After the change notice has been posted to the contract agencies/facilities must notify all awarded bidders at least 15 calendar days prior to requesting resources or issuing a purchase order. This will allow time for the agency/facility to provide the specific requirements to allow the awarded bidders to become familiar with them and recruit any additional resources.

Specific facility requirements that must be provided to the awarded bidders include but are not limited to:

- Type of facility
- Type of patients
- Number of patients
- Contact information
- Facility Hours/shifts

The Commonwealth reserves the right to supplement this contract on an as needed basis for services needed in Counties not included in this original bid. A supplemental bid will be posted to procure additional bidders. Bids will be processed and awarded using the identical method of award set forth in the current bid.

**SENSITIVE INFORMATION**

The bidder shall not publish or otherwise disclose, except to the Commonwealth and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the consent of such person or establishment. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Contract for any purpose not connected with the parties' Contract responsibilities except with the written consent of such recipient, recipient's attorney, or



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recipient's parent or guardian pursuant to applicable state and federal law and regulations.

Bidder will comply with all federal or state laws related to the use of information that constitutes personal health information (PHI) as defined by the Health Insurance Portability and Accountability Act (HIPAA). Further, in order to address the provision of PHI to the Contract, by signing this Contract, the bidder agrees to the terms of the Business Associates Agreement, which is incorporated into this contract by this reference. The Business Associates Agreement (HIPAA Form) is found on Attachment L

If the Issuing Agency is a Covered Entity as defined in HIPAA, it will fill in the blanks in the HIPAA Form as part of the PO. It is understood that the HIPAA Form is only applicable if PHI is provided to the Contractor.

Each resource shall be required to sign a statement regarding confidentiality of patient records and guaranteeing patient rights.

**BACKGROUND CHECKS:**

The bidder 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/psplib/psplib/sp4-164.pdf>. The background check must be conducted prior to initial access and on an annual basis thereafter.

Where the applicant is not, and for the two years immediately preceding the date of application has not been a resident of this Commonwealth, the Commonwealth shall require the applicant to submit with the application a report of Federal criminal history record information pursuant to the Federal Bureau of Investigation's under Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544, 86 Stat. 1109). For the purpose of this paragraph, the applicant shall submit a full set of fingerprints to the State Police, which shall forward them to the Federal Bureau of Investigation for a national criminal history check. The information obtained from the criminal record check shall be used by the Commonwealth to determine the applicant's eligibility. The Commonwealth shall insure confidentiality of the information.

Resources being pre-qualified before a need is identified need not have the background check until agency/facility accepts candidate as a pre-qualified resource for future needs. Agency/Facility will determine in writing to the bidder if a candidate that has been submitted for pre qualification has meet/has not met the minimum qualifications. Any candidate that has been submitted for pre qualification and the facility has determined the candidate meets the minimum qualifications will have a background check performed immediately to be considered as a future resource. Candidates that pre-qualified but have not had background checks completed will not be considered for placement until a background clearance has been submitted to the facility.

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Before the Issuing Agency will permit access to the Awarded Bidder, the Awarded Bidder must provide written confirmation that the criminal background checks have been conducted. If, at any time, it is discovered that an Awarded Bidder 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 Awarded Bidder shall not assign that employee to any Commonwealth facility, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Issuing Agency consents to the access, in writing, prior to the access. The Issuing Agency may withhold its consent in its complete discretion. Failure of the Awarded Bidder to comply with the terms of this paragraph on more than one occasion or Awarded Bidder's failure to appropriately address any single failure to the satisfaction of the Issuing Agency may result in default of the Awarded Bidder under its Contract or under the PO.

The Commonwealth specifically reserves the right of the Issuing Agency to conduct its own criminal background check over and above that described herein.

**HOURS**

Monday-Tuesday-Wednesday-Thursday-Friday-Saturday-Sunday  
24/7 hours of service must be available. Each agency/facility has its own unique shifts and hours. Agencies/facilities will provide specific information to awarded bidders upon contract approvals.

Any bidder awarded a contract must have a toll free telephone number dedicated for the purpose of this contract which is available 24/7. A pager contact number must also be available. Contact information must be provided to Agencies.

Department of Corrections, SCI Camp Hill and SCI Mahanoy maintain 3 shifts of 24 hour/7 days a week for Registered Nurse and Licensed Practical Nurses. The resource selected will be assigned based on the needs of the facility on any assigned unit of the facility. A minimum of one (1) 1/2 hour unpaid lunch and two (2) 15 minute paid breaks will be given to the contract staff performing duties under this contract. Time of break and lunch is dependent on shift assignment and facility.

There are times when medical emergency/medical urgency may occur and the contract Staff on that shift may need to work through their lunch or designated break time. Based on operational efficiency and need, this can be compensated by either taking a later lunch or break time or being paid for that period of time that otherwise would have been an unpaid period of time. This will be determined by the agency/facility contract administrator which will also provide a justified written statement to be included with the timesheet authorizing the contract staff to work through and be paid for those periods noted above.

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**SPECIAL NOTE**

There may be times the resource(s) on duty will have minimal staff and in some cases may be the only resource on that shift.

**HOLIDAYS**

Up to and including six (6) holidays will be paid at the holiday rate if contract staff are scheduled or called in to work the holiday. The state holidays referred to are as follows.

1. New Year's Day
2. Labor Day
3. Memorial Day
4. Thanksgiving Day
5. Independence Day
6. Christmas Day

**GENERAL LICENSE REQUIREMENTS**

The Awarded Bidder must maintain personnel files on all Registered Nurses and Licensed Practical Nurses documenting current licensure and certifications are in good standing, have current physical and acceptable proof that they are free of contagious diseases, annual skin test for tuberculosis, and two (2) adequate job references. Written confirmation of license/Certification must be maintained. Licensed Practical Nurses and Registered Nurses are to present display portion of their current PA License, CPR Certification, written proof of PPD by Mantoux method (completed within last 6 months) and verification of lack of criminal record to the Contract Administrator or designee before reporting for assignment. The bidder will be responsible to ensure that all Licensed Practical Nurses and Registered Nurses meet the minimum job qualifications and are able to perform in accordance with the job description. The Bidder must provide to the contract administrator or designee, copies of current licenses/certifications and physicals for all personnel within required time frame to meet Medicare regulations and during a Medicare Audit of the Hospital. During the term of the contract, the awarded bidder must submit copies of any certificate / licensure renewals and shall inform the facility immediately of any change in the status of certifications/licensing to include notification of any and all restrictions imposed due to participation in any professional health monitoring program.

**RESOURCE PRE- QUALIFICATION**

All resources must be pre-qualified with the Commonwealth agency/facility nursing administrative staff in order to be selected to perform under the scope of the per diem contract. Awarded bidders will submit potential candidate's resumes to the agency /facility nursing administration for review. All potential candidates must meet the minimum qualifications as set forth in this IFB.

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At any time during the term of the contract an awarded bidder may submit candidate's resumes for pre-qualification. Pre-qualification is defined as resource meeting the minimum requirements, completing and passing the required background check (State and/or Federal) and documented acceptable by facility in writing to bidder. The agency/facility will determine in writing within 10 business days of the submission if the candidate has met the minimum qualifications. Awarded Bidders will then complete a background check in accordance with the background check requirements set forth in this IFB. Awarded Bidders must notify the facility immediately of background check results and provide a copy of the results to the facility. No resource shall be considered for placement until the facility has determined in writing the candidate meets the minimum qualifications and a background check is cleared. The Commonwealth reserves the right to interview candidate(s) submitted for pre qualification.

It is expected that each bidder awarded a contract will maintain a pool of pre-qualified resources at all times.

The Commonwealth identifies its per diem nursing needs by the following:

**CATEGORY ONE (1)**

A non-scheduled resource request with less than a 7 calendar day notice to include but not limited to:

Sick call/Emergency Leave/Unplanned Leave/No call- No show RN's

Category one (1) needs are extremely urgent in nature and shall be used only for the purpose listed for category one (1) definition. All other requests shall be pre-scheduled.

**CATEGORY ONE (1) PROCESS**

Each Bidder awarded a contract shall maintain a 24/7 contact person and working toll free telephone number for the term of contract. Bidders will submit a list identifying available pre-qualified resources for category one (1) on a bi-weekly basis to each facility in their county listed on the "Active Locations" Attachment F. This will assist the agency/facility to ascertain which bidder has available resources. The spreadsheet may be updated as necessary.

The bi-weekly list must provide the following information:

- pre-qualified resources
- available time period
- Number of available resources per date
- Number of available resource by shift

Once a need is identified under Category One (1) the agency/facility will review the list and beginning with the lowest cost bidder determine if resources are available. If the low cost bidder can provide the resources, the following shall occur:

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The agency/facility shall notify the low cost bidder via phone at least two hours prior to the start of the shift or as soon as a need has been identified to provide a replacement. In some cases notification may occur at the beginning of a shift due to no call no show or unforeseen circumstances. The low cost bidder will respond to the request within a ½ hour to confirm resource availability. If the low cost bidder does not respond within the ½ hour time frame the agency/facility may utilize the next low cost bidder, and so on, until the agency/facility needs are met.

Any resource provided is expected to remain at the facility for the duration of the request.

**CATEGORY TWO (2)**

Short term requirements for pre-scheduled events such as leave, retirement notices, family medical leave, parental leave, work related injury leave or general agency /facility staffing needs.

Awarded Bidders shall maintain a contact number during business hours for the term of the contract to coordinate needs. Awarded Bidder shall coordinate with the facility via phone, email or fax. If it is determined a resource will be needed on a long term basis, (in excess of 90 days) facilities must utilize the statewide contract for medical services.

**CATEGORY TWO (2) PROCESS**

The agency/facility will notify all awarded bidders at least 7 calendar days in advance of a need for category two type requests in order to coordinate pre-qualified replacement RN/ LPN.

The agency/facility will provide each awarded bidder a schedule representing current needs which require filling for up to a 90 day period. The schedule will identify the need by specific date, shift and type of resource with state paid holidays clearly identified. Bidders will respond to the agency/facility within 2 calendar days indicating what shifts can be filled. The agency/facility will notify Awarded Bidders within 3 calendar days of receiving bidder's response of selected resources per the method of award of selected resources. Available resources from low cost bidder must be utilized first then to the next low cost bidder and then to the third low cost bidder until agency/facility needs are met.

Any resource provided is expected to remain at the facility for the duration of the request. Request for a replacement shall be accomplished using category I process and based upon facility needs at the time.

If a pre-qualified resource has been scheduled as a result of the Category II process and subsequently becomes unavailable due to illness and/or unforeseen circumstances, the awarded bidder must notify the facility at least two hours prior to the start of the resources scheduled shift and replace with another pre-qualified

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resource for the respective facility. If the awarded bidder cannot replace, facility will utilize category I to fill.

The agency/facility will notify the awarded bidder within 2 hours of a scheduled resource shift cancellation. Failure to notify the awarded bidder within 2 hours of cancellation will result in the agency/facility responsible to pay for up to 4 hours of the shift that was cancelled.

**MANDATORY TRAINING**

**Department of Corrections, SCI Camp Hill**

Department of Corrections, Camp Hill and Mahanoy, requires pre-qualified Licensed Practical Nurses and Registered Nurses to successfully complete orientation prior to being assigned to a shift. This training shall be coordinated between the awarded bidder and SCI Camp Hill or SCI Mahanoy. A spreadsheet to be updated as necessary is to be provided to the facility with the complete list of pre trained, orientated resources.

Payment for training will be at the contracted hourly rate bid for regular RN/ LPN rate.

Additional agencies/facilities supplemented through a separate bid may require specific individual resource training; in this case, each resource will be paid at the regular weekday rate bid for that resources appropriate classification.

Initial training is to be accomplished using only the minimum amount of resources needed per awarded bidder and continue on an as needed basis. The awarded bidder and the agency /facility will coordinate quantities.

**PERFORMANCE STANDARDS**

The Commonwealth Agencies reserve the right to reject or remove any contract staff if they cannot perform their duties at an acceptable level in order to meet the hospitals/facilities standards of nursing care and practice.

**DRESS CODE**

The bidder will provide a photo identification badge with the following:

- Name of the resource
- Job title
- Name of Employer
- Identified as contract staff

ID must be worn at all times when on duty and must be clearly visible and readable to other staff and residents. Resource shall dress in a responsible manner that displays professionalism at all times.

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The agency/facility for which the resource will be working shall instruct the resource on the dress code and shall be in accordance with Agency regulations for the same job description the resource is working under.

**MANUAL LABOR**

Resources must be able to perform manual labor including lifting at least 25 LBS, bending, stooping reaching, twisting, and standing for a long periods of time in order to provide direct patient care or respond to emergency situations such as giving CPR, performing the Heimlich Maneuver, transferring patients from bed to chair and back, responding to residents acting out, changing residents bed positions to prevent pressure areas, moving residents to apply dressings and to bathe them, pushing medication carts, wheelchairs and other adaptive devices.

**DGS CONTRACT OFFICER**

All matters relating to the bid or contract should be directed to:

Jean Halbleib  
Commodity Specialist  
Department of General Services  
Phone 717-346-3834  
Email: [Jhalbleib@state.pa.us](mailto:Jhalbleib@state.pa.us)

Any questions regarding the purchase orders shall be directed to the contact person listed for the respective agency/facility on the purchase order or the agency/facility contract administrator.

## The Pennsylvania Department of Corrections

### HEALTH CARE DEPARTMENT

#### LPN Minimum Qualifications:

- Requires current Pennsylvania License for Practical Nurse.

#### LPN Job Description

- Observes, reports, records signs and symptoms that indicate the resident's response to the treatment program
- Implements, reviews, and provides input into nursing care plans in cooperation with inter-disciplinary team members/attends inter-disciplinary team meetings PRN.
- Participates in the team process and provides input for the nursing assessment
- Within the scope of the LPN license, administers, monitors, and documents/reports for the effectiveness/side effects of medications and treatments in accordance with functions as defined by state law, and established agency/facility policies and procedures
- Participates in quality assurance/improvement and observes/reports and takes corrective action addressing safety/health hazards within the assigned work area
- Assists Physician and Registered Nurse with minor procedures
- Documents on facility forms/medical records the daily care performed for the inmates and/or observations.
- Transcribes physician's orders per Department of Corrections, Bureau of Healthcare Services and the Institution are facility policy and procedures
- Assists inmates/residents with activities of daily lives and rehabilitative programs
- Participates in formal staff development programs and continuing education
- Obtains vital signs and/or specimens and records same per facility policies and procedures
- Schedules appointment when required and prepares residents for diagnostic studies
- Conduct initial intake interviews on inmates within the Centralized Diagnostic and Classification Center (CDCC) & other duties required consistent with the license of a Practical Nurse.

#### Decision Making

Decisions regarding inmate/patient care are made within the scope of the PA Nurse Practice Act and in accordance with the Department of Corrections Policies and Procedures and job description. Decisions regarding subordinate supervision are made in accordance with regulations, policies and procedures and Governor's Code of Conduct, union contracts and healthcare departmental policies and procedures.

### IDENTIFICATION OF ESSENTIAL JOB FUNCTIONS/ADA LICENSED PRACTICAL NURSES

1. The LPN must be able to perform nursing assessments, duties, and procedures in accordance with State Board of Nursing License, LPN entitlement, all-inclusive and maintain current license.
2. The LPN must be able to have mobility to move freely around large interior compound to respond to site emergencies, counsel, assess situations and treat inmates.
3. The LPN must be able to operate the (Cushman) motorized emergency vehicle.
4. The LPN must be able to negotiate stairways in housing units to provide nursing assistance when called and/or sent to a site.



5. The LPN must have corrected vision to visually assess inmates and maintain personal safety.
6. The LPN must be able to hear sufficiently to communicate and to use the telephone and/or stethoscope in an unusually loud environment.
7. The LPN must be able to stand for periods of time up to three hours to administer medication on the blocks, respond to emergencies such as evacuation and fires.
8. The LPN must be able to maintain current CPR PRO, certification.
9. The LPN must be able to use routine office equipment, copier, facsimile and telephone.
10. The LPN must be able to exercise therapeutic care, custody, and control over inmates.
11. The LPN must be able to transfer medication to blocks in a large metal carrier with wheels.
12. The LPN must have the ability to receive issue and control inventory.
13. The LPN must have the ability to participate in all required and/or mandatory training.
14. The LPN must have the ability to write, document, submit concise, understandable reports, maintain updated medical record documentation and submit incident reports.
15. Must be able to withstand the environmental situation consistent with a hectic, stressful, fast paced job that is demanding on physical and mental health, has the potential for physical or emotional assaults and work with antisocial persons who may carry deadly contagious diseases.
16. The LPN must be able to communicate both orally and in writing to both inmate patients and other staff.

\_\_\_\_\_  
Print Name: (Contract LPN)

\_\_\_\_\_  
Signature Contract: LPN

\_\_\_\_\_  
Supervisor/Interviewer Signature

\_\_\_\_\_  
Date

Revised:  
January 2008 tlaw

	#1 Low Cost Bidder	#2 Low Cost Bidder	#3 Low Cost Bidder
Cumberland County	ATC HEALTHCARE SERVICES INC 4400001329	ADARA HEALTHCARE STAFFING INC 4400001328	GENERAL HEALTHCARE RESOURCES INC 4400002327
Cumberland County LPN M-F 1st Shift Net price	34.71 Per Hour	\$35.01 Per Hour	\$35.64 Per Hour
Cumberland County LPN M-F 2nd Shift Net price	34.71 Per Hour	\$35.01 Per Hour	\$36.40 Per Hour
Cumberland County LPN M-F 3rd Shift Net price	34.71 Per Hour	\$35.01 Per Hour	\$36.74 Per Hour
Cumberland County LPN Sat-Sun 1st Shift Net price	35.7 Per Hour	\$35.01 Per Hour	\$37.40 Per Hour
Cumberland County LPN Sat-Sun 2nd Shift Net price	35.7 Per Hour	\$35.01 Per Hour	\$37.85 Per Hour
Cumberland County LPN Sat-Sun 3rd Shift Net price	35.7 Per Hour	\$35.01 Per Hour	\$37.85 Per Hour
Cumberland County LPN Holiday Net price	35.7 Per Hour	\$52.52 Per Hour	\$49.94 Per Hour
Cumberland County Total	<b>\$163,696.15 USD</b>	<b>\$164,932.38 USD</b>	<b>\$171,921.53 USD</b>

	#1 Low Cost Bidder	#2 Low Cost Bidder	#3 Low Cost Bidder
Schuylkill County	ATC HEALTHCARE SERVICES INC 4400001329	ADARA HEALTHCARE STAFFING INC 4400001328	INTERIM HOME HEALTHCARE INC 4400002327
Schuylkill County LPN M-F 1st Shift Net price	\$30.00 Per Hour	\$32.00 Per Hour	\$35.95 Per Hour
Schuylkill County LPN M-F 2nd Shift Net price	\$35.24 Per Hour	\$32.00 Per Hour	\$35.95 Per Hour
Schuylkill County LPN M-F 3rd Shift Net price	\$30.00 Per Hour	\$32.00 Per Hour	\$35.95 Per Hour
Schuylkill County LPN Sat-Sun 1st Shift Net price	\$30.00 Per Hour	\$32.00 Per Hour	\$37.95 Per Hour
Schuylkill County LPN Sat-Sun 2nd Shift Net price	\$35.24 Per Hour	\$32.00 Per Hour	\$37.95 Per Hour
Schuylkill County LPN Sat-Sun 3rd Shift Net price	\$30.00 Per Hour	\$32.00 Per Hour	\$37.95 Per Hour
Schuylkill County LPN Holiday Net price	\$30.00 Per Hour	\$48.00 Per Hour	\$49.95 Per Hour
Schuylkill County RN M-F 1st Shift Net price	\$45.87 Per Hour	\$46.99 Per Hour	\$45.95 Per Hour
Schuylkill County RN M-F 2nd Shift Net price	\$46.37 Per Hour	\$46.99 Per Hour	\$45.95 Per Hour
Schuylkill County RN M-F 3rd Shift Net price	\$30.00 Per Hour	\$46.99 Per Hour	\$45.95 Per Hour
Schuylkill County RN Sat-Sun 1st Shift Net price	\$45.87 Per Hour	\$46.99 Per Hour	\$47.95 Per Hour
Schuylkill County RN Sat-Sun 2nd Shift Net price 1 H	\$46.37 Per Hour	\$46.99 Per Hour	\$47.95 Per Hour
Schuylkill County RN Sat-Sun 3rd Shift Net price	\$30.00 Per Hour	\$46.99 Per Hour	\$47.95 Per Hour
Schuylkill County RN Holiday Net price	\$45.45 Per Hour	\$70.49 Per Hour	\$59.95 Per Hour
Schuylkill County total	<b>\$731,019.00 USD</b>	<b>\$742,333.00 USD</b>	<b>\$755,935.00 USD</b>