



FULLY EXECUTED

Contract Number: 4400026563

Original Contract Effective Date: 07/22/2022

Valid From: 10/01/2022 To: 09/30/2024

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

Purchasing Agent

Name: Trevenen Peggy

Phone: 717-703-2943

Fax: 717-214-9505

Your SAP Vendor Number with us: 205402

Supplier Name/Address:

LINDA C LARSON

DBA PREMIER REPORTING LLC

P.O. Box 186

CARLISLE PA 17013-0186 US

Please Deliver To:

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

Supplier Phone Number: 717-243-9770

Contract Name:

Steno. Court Reporting and Transcription

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	Stenographic Court Reporting	0.000		0.00	1	0.00

General Requirements for all Items:

Header Text

This contract is for Stenographic Court Reporting and Transcription services for Commonwealth Using Agencies.

No further information for this Contract

Information:

Supplier's Signature _____

Title _____

Printed Name _____

Date _____

**STATEMENT OF WORK
INVITATION FOR BID FOR**

Stenographic Court Reporting And Transcription Services

ISSUING OFFICE



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF GENERAL SERVICES
BUREAU OF PROCUREMENT
555 Walnut Street
Forum Place, 6th Floor
Harrisburg, PA 17101**

IFB NUMBER

6100055100

DATE OF ISSUANCE

May 13, 2022

PART IV
STATEMENT OF WORK
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ONLY CERTIFIED SMALL BUSINESSES ARE ELIGIBLE FOR AWARD

The Department of General Services has designated this contract as a Small Business Procurement to provide DGS-certified small businesses with opportunities to compete against other DGS-certified small businesses for Commonwealth agency and DGS statewide contracts. Only certificated small businesses are eligible to submit a bid and receive an award. The small business requirements and certification process can be found on the following site: <https://www.dgs.pa.gov/Small%20Business%20Contracting%20Program/Pages/default.aspx>

The Small Business Certification will be provided after the self-certification process on the SBPI site: <https://www.dgs.pa.gov/Small%20Business%20Contracting%20Program/Pages/default.aspx> . A valid Department of General Services (DGS) Small Business certificate will be required as part of the bid in order to be deemed a responsive bidder. Any business without a valid certificate on the bid due date and time may be rejected as non-responsive.

This contract will be monitored for compliance by The Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO).

IV-1. GENERAL INFORMATION:

- A. **PURPOSE:** The purpose of this Contract is to provide Stenographic Court Reporting Services and Transcription Services for using Agencies of the Commonwealth, on an as needed basis. These services are utilized by Commonwealth Agencies during various proceedings including, but not limited to, board meetings, hearings, and depositions.

This solicitation is broken into two (2) Lots, as identified below:

LOT 1 – Stenographic Court Reporting Services and Transcription Services

1. Stenographic Court Reporting Service:
 - a. Stenographic Court Reporting is defined as the verbatim reporting method used primarily to record legal proceedings, public hearings, and public meetings. The information recorded is transcribed and an official transcript is prepared, which must be certified by the court reporter. The court reporter must attend the legal proceeding, public hearing, or meeting.
2. Transcription Services:

- a. Transcription is defined as the preparation of a transcript from a recording or other technology acceptable to the using Agency. Transcribers do not attend the proceedings and/or meetings, but transcribe the proceeding from a tape, or other technology utilized.
3. Summary Minutes:
 - a. Summary Minutes are a condensed version of what occurred at the assigned meeting or proceeding. The preparation of Summary Minutes requires the awarded Contractor to analyze the content of the meeting or proceeding and accurately summarize the portions that are relevant to the using Agency. A using Agency may request Summary Minutes of board meetings or other proceedings. There may be specific times during the meeting that the Agency may require verbatim transcripts; however, most of the proceeding shall be summarized.
 4. Depositions:
 - a. Stenographic (verbatim) reporting of depositions may be requested by a using Agency for litigation matters in which Agency counsel initiate or are responsible for arranging depositions.

LOT 2 – Unemployment Compensation Board of Review

1. Transcription Services:
 - a. Any party who disagrees with an Unemployment Compensation Referee's decision has the right to file a further appeal to the Unemployment Compensation Board of Review (UCBR).
 - b. The Board is comprised of a chairperson and two board members, all of whom are appointed by the Governor.
 - c. During this process, transcription service may be required.
 - d. Transcribers do not attend the proceedings and/or meetings, but transcribe the proceeding from a tape, or some other technology utilized.
- B. **METHOD OF AWARD (MULTIPLE AWARD):** The Commonwealth intends to award a Contract to all responsive and responsible Bidders. Services will be procured through the Request For Quotes (RFQ) Best Value Determination by the using Agency as defined in Section C. below. There is no guarantee that the award of a Contract will result in the award of a Purchase Order (PO).

C. RFQ PROCESS THROUGH BEST VALUE DETERMINATION:

1. **For services over \$10,000 in a fiscal year,** using Agencies are required to solicit all awarded Contractors who can provide the specific service in the county needed and make a best value selection. The best value selection shall, in addition to price, include consideration of the Contractors' capacity, availability, and performance. The Contractor selected by a Commonwealth Agency through the Best Value Determination process shall receive a PO for performance of the needed service(s). A Commonwealth Agency may issue blanket POs to one (1) or more selected Contractors and then may use the selected Contractors on an as needed basis and pay only for the service(s) rendered. The Best Value Determination process must be documented in writing and be retained in the Agency file for the particular request.

When soliciting awarded Contractors through the Best Value Determination (**Attachment E**) process, Agencies shall include their Statement of Work (SOW) outlining their specific requirements.

Specific requirements shall include, but are not limited to:

1. Scheduling a service after a PO is issued;
 - a. Agencies shall notify the awarded Contractor, in writing, when the schedule is available, and the awarded Contractor shall confirm receipt in writing. Timeframes of the scheduling and confirmation shall be addressed in the Agency's SOW.
2. Type of services requested (i.e. transcription, court stenographers, etc.);
3. The specific stenographic equipment to be used, if applicable (steno mask, steno machine, etc.);
4. Arrival time of the stenographer, if applicable (i.e. 15 minutes before proceeding);
5. Copies of transcripts needed (i.e. original plus one copy, etc.);
6. Method of transcript delivery (i.e. mail, electronic); and

7. Delivery times of the transcript (i.e. standard, priority, etc.).

The Best Value Determination shall, in addition to price, include consideration of the Contractor's capacity, availability, performance, and submission of a sample transcript. The best value shall identify the order of rank that will be used to determine award.

2. **For services under \$10,000 in a fiscal year**, per Contractor, Agency bureaus may select any awarded Contractor; however, they will need to document the reasons for choosing the Contractor and attach it to their PO. If a PO is not created, the Agency must maintain the information in their files. An Agency may seek further reduction in contract price when making their selection or as part of their Best Value Determination. Awarded Contractors may not quote a higher price.

For services procured that are less than \$10,000 in a fiscal year and handled with P-Card, services must be handled in accordance with Management Directive 310.23, http://www.oa.pa.gov/Policies/md/Documents/310_23.pdf.

- D. CONTRACT TERM:** The term of the contract shall be July 1, 2022, or the Effective Date listed on the contract, and will end on June 30, 2024.

Contracts may be renewed for three (3) one (1) year terms by mutual agreement between the Commonwealth and the Contractor(s) per Section V.3. CONTRACT-002.2b of Attachment G – Standard Terms and Conditions.

Renewals will be under the same terms and conditions; provided, however, the rates under the contract may be increased up to two-percent (2%) for each renewal term upon receipt of sufficient justification from the awarded Contractors and shall be mutually agreed to by the Commonwealth.

- E. ISSUING OFFICE:** The Pennsylvania Department of General Services (“DGS”) has issued this Invitation for Bid (IFB) on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this IFB shall be Peggy Trevenen, Issuing Officer. Please refer all inquiries to the Issuing Officer via e-mail at petrevenen@pa.gov.

F. QUESTIONS AND ANSWERS: If a bidder has any questions regarding this IFB, the bidder must submit the question(s) via e-mail (*with the subject line “IFB 610055100 Question”*) to the Issuing Officer named above. Question(s) must be submitted via e-mail no later than May 20, 2022. The Issuing Officer shall post as an addendum to this IFB the answers to the questions on the DGS website. Each bidder shall be responsible to monitor the DGS website www.emarketplace.state.pa.us for new or revised IFB information.

IV-2. CRITERIA FOR QUALIFICATION:

- A. SUPPLIER REGISTRATION:** Interested Bidders must register as a supplier on the PA Supplier Portal at www.pasupplierportal.state.pa.us. If your company is already registered in the PA Supplier Portal, registration is not necessary. Prior to registration, bidders are strongly encouraged to review the Supplier Registration and Bidding guides available at the [Supplier Service Center](#).
- B. ELIGIBILITY REQUIREMENTS:** Suppliers interested in submitting a bid to become an awarded Contractor must meet all eligibility requirements. Bidders who fail to meet all the following eligibility requirements may result in bid rejection:
- a. Experience:** Have been in business for at least three (3) years; acceptable proof of business includes but not limited to letters of reference, business license, articles of incorporation, articles of organization.
 - b. Licensing/Credentials:** After contract award, within ten (10) business days, the awarded Contractor is required to provide full and complete resumes, including certifications, and proof of a minimum of 250 hours of stenographic court reporting worked, for all personnel who are currently employed by Contractor and could be providing service on this contract. Acceptable examples of proof include, but not limited to: Pay statements, letters of reference, dates of work scheduled, and evidence of self-employment.
 - c. Transcript Samples:** Sample(s) of a redacted transcript for each lot bidding. If the sample transcript is a public record, redaction is not required.

LOT 1 – Stenographic Court Reporting Services and Transcription Services

IV-3. BID SUBMISSION:

All Bidders shall complete the following and submit with their bid response:

- **Price List:** Bidders are to submit their current standard price list covering all categories of service for which they are *bidding in accordance with the SOW and delivery times as specified in IV-4 Tasks, Lot 1 – Stenographic Court Reporting Services and Transcription Services, H. Delivery of Transcripts and IV-4 Tasks, Lot 2 - UCBR, C. Delivery of Transcripts*. Bidders should only bid on those services within each lot in accordance with their **Attachment A – County Listing – Service Location**.

Bidders may include other services with their price list that are not identified in the SOW, to include but not limited to: Color copies, oversized copies, etc.

Any terms and conditions that may appear on the Price List, including but not limited to, prices subject to change without notice and price to be determined at time of order will not be part of Contract and will have no force or effect on the Contract. The Bidder's Price List shall establish the maximum charge allowed for listed services during the term of the Contract. Actual pricing for each court reporting engagement will be established through a Best Value Determination process and PO process. Travel will be billed in accordance with Management Directive 230.10, <https://www.oa.pa.gov/Policies/md/Documents/230-10.pdf>.

- **Attachment A:** County Listing – Service Location
- **Attachment B:** Domestic Workforce
- **Attachment C:** Lobbying Certification Form
- **Attachment D:** Iran Free Procurement Certification Form

Iran Free Procurement Certification & Disclosure: Prior to entering a contract worth at least \$1,000,000 or more with a Commonwealth entity, a bidder must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by DGS pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code;

or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e). All Bidders must complete and return the Iran Free Procurement Certification Form, which is attached hereto and made part of this IFB. The completed and signed Iran Free Procurement Certification Form must be submitted with the Bid Response.

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

[ProposedIranFreeProcurementList.pdf \(pa.gov\)](#)

- **Attachment F:** Worker Protection Form
- **Sample of redacted transcript** for each lot bidding. Note: if sample transcript is a public record, redaction is not required.
- **Small Business Certificate Certification**

IV-4. TASKS:

LOT 1 – STENOGRAPHIC COURT REPORTING SERVICES AND TRANSCRIPTION SERVICES

A. STENOGRAPHIC COURT REPORTING AND TRANSCRIPTION SERVICES

1. Stenographic Court Reporters must attend the proceeding; record the proceeding; mark exhibits, if requested; and swear in witnesses, if authorized and requested. The Commonwealth reserves the right not to request a transcript of a proceeding, which will be detailed in the RFQ and PO.
2. Stenographic Court Reporters must utilize conventional types of equipment and processes to record the proceedings such as disks, tapes, software, modems, videotaping, teleconferencing, and computer assisted transcription (CAT) software. *Each Agency may select the recording method it desires to be used for any proceeding; provided, however, that an audio tape may be used only for back-up purposes or as a tool used by a qualified steno mask reporter.*
3. When a transcript is made of the proceeding, the Stenographic Court Reporter who attends the proceeding must review the transcript to assure that the proceeding has been accurately transcribed. The Stenographic Court Reporter who attends the proceeding must include the following certification which must appear on the last page of the transcript:

“I hereby certify that the following proceedings, _____ (identify by docket number or other acceptable identification to the using Agency) was reported by me on _____ (date) and that I _____ (name of

Stenographer) read this transcript and attest that this transcript is a true and accurate record of the proceeding.”

4. The Stenographic Court Reporter may apply an electronic signature to the Court Reporter Certification indicating that the transcript is accurate.

B. TRANSCRIPTION SERVICES:

Transcribers do not attend the proceedings but transcribe the proceedings from a recording or some other technology used by the using Agency. Using Agencies may request the preparation of standard, legal, or medical transcripts.

C. SUMMARY MINUTES:

A using Agency may require Summary Minutes of board meetings or other proceedings. There may be specific times during the meeting that the Agency may require verbatim transcripts; however, the majority of the proceeding shall be summarized.

D. DEPOSITIONS:

Stenographic (verbatim) reporting of depositions may be requested by a using Agency for litigation matters in which Agency counsel initiate or are responsible for arranging depositions.

E. PREPARATION OF TRANSCRIPTIONS FOR LOT 1:

Preparation of transcriptions, under Lot 1 – Stenographic Court Reporting & Transcription Services, must be prepared in accordance with the following DGS BOP requirements which are based on Pennsylvania Code Uniform Rules Governing Court Reporting and Transcripts effective date January 1, 2017 and expanded to avoid interpretation and to promote consistency:

1. The transcripts must be legible and easy to read, with proper spelling and free of typographical errors. It must be a true transcription, with every possible effort made to transcribe any garbled or weak portions.
2. Interpretation shall be avoided. Spoken words only will be transcribed. Sounds which are not speech (laughing, crying, background noise, etc.) will not be repeated on the transcript. Neither will there be any emphasis added

(capitalization, underlining, bold print) to denote loud voices unless otherwise specified in the Agency SOW.

3. Format of Transcripts:

- a. No fewer than 25 typed lines on standard 8-1/2" x 11" paper.
- b. No fewer than nine (9) or ten (10) characters to the typed inch.
- c. Left-hand margin to be set at no more than 1-3/4".
- d. Right-hand margin to be set at no more than 3/8".
- e. Each question and answer to begin on a separate line.
- f. Each question and answer to begin no more than five (5) spaces from the left-hand margin with no more than five (5) spaces from the Q and A to the text.
- g. Carry-over Q and A lines to begin at the left-hand margin.
- h. Colloquy material to begin no more than fifteen (15) spaces from the left-hand margin followed directly by a colon. The statement shall begin on the third space after the colon. Subsequent lines shall begin at the left margin.
- i. Quoted material to begin no more than fifteen (15) spaces from the left-hand margin, with carry-over lines to begin no more than ten (10) spaces from the left-hand margin.
- j. Interruptions of speech shall be denoted using a dash at the point of interruptions, and again at the point the speaker resumes speaking.
- k. Parenthetical and exhibit markings to begin with an open parenthesis on the fifth space from the left-hand margin, with the remark beginning on the sixth space from the left-hand margin.
- l. If a using Agency provides the Contractor with a recording to transcribe, a word (e.g. difficult proper name) not clarified by any transcribing aids, but spelled to the best of the transcriber's ability, should be followed by – (PHONETIC). However, if the using Agency requires a stenographic court reporter to be present, the court reporter must clarify all spelling issues prior to the dismissal of the meeting.
- m. On the final page of the transcript, the transcriber will type and sign the certification, indicating the date completed. This certification must be on the last typed page, and NOT on a separate additional sheet, unless pre-approved by the using Agency.
- n. If exhibits are provided, they must be properly identified and submitted with the transcript. The court reporter may be required to mark the exhibits at the hearing, meeting or deposition.

F. EXHIBITS:

All exhibits must be properly identified and submitted with the transcript. Stenographic Court reporters may be required to mark the exhibits at the hearing, meeting or proceeding. All exhibits shall be handled with the utmost care:

1. When CDs or DVDs are mailed, they shall be mailed in a CD/DVD mailing case.
2. If large documents are to be mailed (i.e. maps and diagrams), they shall be mailed in appropriate packaging.

G. SUBMISSION OF TRANSCRIPTS:

Transcripts shall be submitted as hard copy or electronically at the using Agency's discretion; electronic submission will be utilized as often as possible to reduce lead-time. If submitted as a hard copy, a certification by the Contractor is required authenticating the transcript as a true copy. If submitted electronically, the Contractor must ensure the e-transcript is in read-only format. The signature of the Contractor authenticating that the transcript is true and accurate record of the proceeding must appear on the e-transcript. Using agencies will set forth on their POs the method by which transcripts should be delivered to the Agency, typically electronically or as a hard copy.

H. DELIVERY OF TRANSCRIPTS:

An original plus one (1) copy of a transcript must be delivered to the using Agency in accordance with one of the following timeframes to be specified by the using Agency:

1. Standard Delivery: Delivery within 21 business days of the proceeding
2. Priority Delivery: Delivery within 15 business days of the proceeding
3. Expedited Delivery: Delivery within five (5) business days of the proceeding
4. Next Day Delivery: Delivery within one (1) business day of the proceeding

I. OTHER SERVICES:

Commonwealth using Agencies may require videotaping of proceedings, the preparation of manuscripts or in the future may require a Supplier to provide digital or other enhanced capabilities which are not available or known at the time of contract.

LOT 2 – UNEMPLOYMENT COMPENSATION BOARD OF REVIEW (UCBR) TASKS:

A. UCBR'S OPERATIONS:

With respect to the UCBR (Harrisburg only), testimony before an Unemployment Compensation Referee is recorded digitally. After a Referee's decision has been mailed, the digital recording is stored in a digital database until and unless there is a further appeal from the Referee's decision filed to the UCBR. If there is an appeal, the case file is sent from the Referee's Office to the UCBR's Central Office Appeals Processing Unit in Harrisburg for processing. The Appeals Support Unit in the UCBR's Central Office will then send the digital recording electronically to the selected Contractor through a secure website. In addition, the UCBR will provide the Contractor with a paper copy of the cover sheet, Referee decision and Remand Order (if applicable) to the Contractor to scan and upload the documents along with the completed transcript in pdf (or acceptable) format in the timeframe requested. The Contractor shall also hand deliver a hard copy of the complete transcript to 651 Boas Street, Room 1116, Harrisburg, PA 17121 or to an address specified by the UCBR.

B. PREPARATION OF TRANSCRIPTS FOR LOT 2:

1. Format of Transcripts:

- a. Must be prepared on 8-1/2" x 11", white, 20lb bond paper.
- b. Margins of 3/4" must be maintained at top, bottom and both sides.
- c. A lead line consisting of claimant's name, appeal number, and page number must appear at the top of each page of the transcript.

- d. Characters must be full-formed (letter quality) and no fewer than nine (9) and no more than 12 per inch. Each statement should begin on a separate line at the left-hand margin with no more than seven (7) spaces from the left-hand margin. Carryover lines begin with a matching indentation.
- e. Pair or group related exchanges of testimony by double-spacing before and after such “sets.”
- f. Speaker identity (pursuant to coding on the transcript cover sheet) must be used for each statement. The spacing between a single identifier (such as R) and the testimony will be six (6) spaces. Spacing between Expert Witness (EW) and the testimony will be five (5) spaces; between EW and the testimony will be four (4) spaces; all others will be formatted in similar manner.

On the final page of the transcript, the transcriber must type and sign the certification, indicating date completed. This certification must be on the last typed page, and NOT on a separate additional sheet. Thus, it may be typed and signed on the side margin if necessary.

C. DELIVERY OF THE TRANSCRIPTS:

The UCBR will provide a paper copy of the cover sheet, Referee decision and Remand Order (if applicable) to the Contractor to scan and upload the documents along with the completed transcript in pdf (or acceptable) format in the timeframe requested. The Contractor shall also hand deliver a hard copy of the complete transcript to 651 Boas Street, Room 1116, Harrisburg, PA 17121 or to an address specified by the UCBR.

- 1. Standard Delivery: Delivery within five (5) business days of the proceeding
- 2. Priority Delivery: Delivery within three to four (3-4) business days of the proceeding
- 3. Expedited Delivery: Delivery within one to two (1-2) business days of the proceeding.

IV-5. CONTRACT REQUIREMENTS FOR LOTS 1 & 2:

A. AVAILABILITY TO PERFORM STENOGRAPHIC COURT REPORTING SERVICES:

When a Commonwealth using Agency selects a Contractor(s) for a range of multiple proceedings, such as through a blanket purchase order(s), the Agency has an obligation to inform the selected Contractor(s) in advance of the dates and times of the proceedings for which services are needed. If the selected Contractor(s) declines or is otherwise unable to provide services for the proceedings, then the Commonwealth may temporarily suspend the blanket PO and contract with the Contractor, charge the Contractor for the difference in cost for obtaining alternative services, and/or find the Contractor in default.

B. APPEARANCE FEES:

1. Except as described below, a stenographic court reporter may be paid an appearance fee as provided in the RFQ and PO issued by the using Agency. Using Agencies may cap the maximum appearance fee they will pay in the RFQ and PO. Any appearance fee shall be a fixed fee per day regardless of the number of proceedings the stenographic court reporter reports during that day at any one location.
2. For proceedings before the Department of Labor and Industry's Industrial Board, a stenographic court reporter will be paid a fixed appearance fee of \$200 per day by the Commonwealth of PA regardless of the number of proceedings the stenographic court reporter reports during the day.
3. If a proceeding for which the stenographic court reporter has been scheduled is cancelled, the using Agency will notify the Contractor as soon as possible. The stenographic court reporter will be paid an appearance fee if the using Agency does not provide the Contractor with at least twenty-four (24) hours' notice of the cancellation.

C. UNACCEPTABLE STENOGRAPHIC COURT REPORTERS OR TRANSCRIBERS:

The Commonwealth may preclude a Contractor from using a particular Stenographic Court Reporter or Transcriber, if the work of that Reporter or Transcriber fails to meet acceptable standards as agreed upon by using Agency. Written documentation shall be submitted to the Contractor detailing the reasons why they were unacceptable.

D. USE, COPIES, AND DISTRIBUTION OF TRANSCRIPTS BY THE COMMONWEALTH:

1. At the time of issuance of a RFQ and/or PO, Commonwealth Agencies will elect one of two options set forth below:
 - a. **Option 1:** The Commonwealth will have the right to distribute transcripts internally and among Commonwealth agencies and other governmental bodies, but will not otherwise publish, distribute, or make transcripts available to others, unless compelled by court order or law.
 - b. **Option 2:** The Commonwealth will have the right to distribute and publish transcripts. The Commonwealth's right to publish includes the right, exercised in the sole discretion of the Commonwealth Agency, to post transcripts to Commonwealth websites.
2. In both Options stated above, the Commonwealth authorizes Contractors to sell copies of transcripts to non-Commonwealth agencies.
3. In Option 1 stated above, the Commonwealth will not supply transcript copies to any litigant in a proceeding, unless compelled by court order or law.

E. RETENTION OF TRANSCRIPTS:

The Contractor shall maintain the security and confidentiality of and retain all documents including, but not limited to, reporter's notes, transcripts and correspondence for up to five (5) years unless a using Agency prescribes a different retention period in a RFQ/PO. The responsibilities of this paragraph shall survive the termination or cancellation of this Contract.

F. PUBLIC REQUESTS FOR TRANSCRIPTS:

1. The services being contracted for in this Contract are intended to assist the Commonwealth in ongoing or imminent litigation or adversarial administrative proceedings and certain records made or received by the Contractor may be exempt from production, entirely or in part, under the provisions of the Pennsylvania Right to Know Law (RTKL), 65 P.S. §67.101, et seq. In order to assure that records exempt from disclosure are not inadvertently produced, the Contractor agrees to notify the Agency for which services have been provided under this Contract (Agency) immediately upon receipt of a request to provide any transcripts in Contractor's possession, or

which Contractor plans to create pursuant to the duties specified in the Contract. The Contractor shall not allow any inspection of or disclose any information found in a transcript unless and until the Agency has had the opportunity to provide the Contractor with a redacted version of the transcript as specified in subparagraph 3.

2. Notwithstanding the provisions of subparagraph 1, if the presiding officer of a hearing expressly consents to the release of a transcript to a person who has requested a copy of the transcript directly from the Contractor, other than a person identified in subparagraph 5, the Contractor may release the transcript without first seeking the permission of the Agency.
3. In the event the Contractor: a) has been notified by the Agency that the Agency has received a request for a transcript under 65 P.S. §67.708(c), or b) receives a request from a third party for a transcript covered under the provisions of this Contract, the Contractor shall, within the time period specified in subparagraph 6, provide a copy of the transcript to the Agency for review and redaction of information that the Agency believes is exempt from disclosure under the RTKL. The Agency will return the redacted copy of the transcript to the Contractor who shall then provide the redacted copy to the Page 12 of 13 requester identified by the Agency or to the person who made the request of the Contractor. If the transcript does not require redaction, the Agency shall so notify the Contractor who shall then provide an unredacted copy to the requester identified by the Agency or to the person who made the request of the Contractor. If the Contractor receives a request for a transcript that has already been redacted pursuant to this subsection, the Contractor may release the redacted version to the requester without first seeking permission of the Agency.
4. If the Agency has issued a written policy regarding the release of transcripts to third parties, the Contractor shall comply with such policy instead of the provisions of this section. The Contractor shall not be considered in violation of this subsection for failure to comply with an Agency's written policy, unless the Contractor had actual knowledge of the Agency's written policy.
5. The provisions of this section shall not apply to requests for transcripts made by a named party to a proceeding for which the transcript has been or will be created or to such party's authorized representative.
6. When creating a transcript pursuant to a request from a third party, the Contractor shall provide the Agency with a copy of the transcript for redaction under subparagraph 3 in accordance with the timeframe for transcript delivery specified in the PO. The Agency will then have 30 days to provide the

Contractor with a redacted copy of the transcript. If the Agency fails to provide a redacted version of the transcript within 30 days, the Contractor may provide the requester with the unredacted version of the transcript.

7. This provision shall take precedence over any other sections in this contract which deal with the third party records under the Right to Know Law.

IV-6. AUDITS:

To ensure quality and adherence to the specifications and requirements outlined in the SOW, the DGS, Bureau of Procurement (BOP) reserves the right to conduct random audits of completed transcripts to ensure the Contractor is meeting the specifications outlined.

IV-7. ASSESSMENT OF FEES:

- A. The following fees shall be imposed for the failure to appear or the failure to appear on time by a stenographic court reporter at the proceeding for which they have been scheduled to record at the time prescribed by the using Agency.
 1. **Late.** If a stenographic court reporter is more than fifteen (15) minutes late for a proceeding, the Contractor shall forfeit the appearance fee otherwise due for that proceeding and the using Agency may deduct the appearance fee from the amount which would otherwise be paid for the service. The using Agency may no longer need the court reporter if he or she is more than fifteen (15) minutes late.
 2. **No Show.** If a stenographic court reporter does not appear at a proceeding that he or she has been scheduled to report, the Contractor shall be responsible for all costs associated with the delay in or rescheduling of the proceeding, including but not limited to, the

difference in cost for obtaining alternative services and any increase in or additional EW fee if an EW has been scheduled to testify and is present at the scheduled time of the proceeding.

3. **Repeats.** For repeated instances of failure to appear or failure to appear on time by a stenographic court reporter at proceedings for which they have been scheduled, the Commonwealth may temporarily suspend the contract with the Contractor, require the Contractor to submit and comply with a corrective action plan, and/or find the Contractor in default.
 4. **Untimely delivery of transcripts:**
 - a. A Contractor may be charged a late fee of ten percent (10%) of the cost of a transcript for each day beginning with the third calendar day a transcript is late, plus an additional one percent (1%) of the cost of a transcript for each additional day beginning on the fourth and subsequent calendar days. The Commonwealth shall permit a grace period of two (2) days for mail delivery and for other delays beyond the control of the Contractor.
 - b. If a transcript for the UCBR is prepared and delivered to the UCBR more than fifteen (15) days after the UCBR has transferred the digital recording to the Contractor for transcription, the UCBR shall be liable to pay no amount to the Contractor.
- D.** If the Contractor(s) does not mail the exhibits in an appropriate manner, and damage occurs as a result, the Contractor(s) shall be responsible for all costs associated in reproducing the materials that were damaged. Contractor(s) shall not be charged if the exhibits were appropriately packaged.

IV-8. SERVICE LEVEL AGREEMENTS:

The Commonwealth is seeking the following Service Level Agreements (SLAs):

- 98% rate of timeliness of appearance by the stenographic court reporters.
- 98% rate of timeliness of delivery of transcripts.
- 98% transcript accuracy rate as specific SLAs under this Contract.
- 90% or greater availability rate for multiple proceedings awarded through a single PO.
- The Contractor must also comply with all other contract requirements and specifications.

Each Contractor's performance will be reviewed quarterly by the DGS BOP Contract Administrator to identify any issues requiring immediate attention and may be reviewed during quarterly meetings between the Commonwealth and the Contractor. The quarterly reports shall show data reported by calendar month for each using Agency for each of the referenced SLAs.

In the event SLAs are not being met, the following will occur:

1. A discussion will take place between the Contractor and the DGS BOP Contract Administrator. The Contractor will be given a written warning and be required to develop and submit a corrective action plan within one (1) week showing how they will improve on the problem area(s).
2. If the next quarterly review occurs with minimal or no improvement in the problem area(s), the Contractor will be suspended from receiving further POs under the Contract, and will be given one (1) additional week to provide a plan of improvement on the problem area(s). The Commonwealth must sign off on the improvement plan. In addition, an entry may be entered into the Commonwealth's Contractor Responsibility Program (CRP).
3. If the following quarterly review occurs and the Contractor has not come back into compliance with the affected SLAs, the Contractor or any of part of the Contract may be terminated by the Commonwealth at its discretion.

IV-9. REPORTS:

Awarded Contractors shall prepare for the DGS BOP Contract Administrator a quarterly report which includes at minimum the following information for each using Agency:

- A. The number of times the using Agency has used the Contractor's services;
- B. The types of services the Contractor has provided to each using Agency;
- C. The amount invoiced to the using Agency for each type of service provided to it by the Contractor;
- D. The amount the using Agency has paid to the Contractor, including any separate Commonwealth P-Card spend,
- E. The amount due and owing to the Contractor greater than 90 days to include PO Numbers
- F. The number of service requests and fulfilled requests by the using Agency and

program area; and

- G. Performance measurement results relating to the timeliness of appearance (late arrivals and non-shows) of stenographic court reporters, timeliness of transcript delivery, and accuracy of transcripts. In addition, it shall show the number of complaints by the using Agency, issue, status, name of the stenographer and/or transcriber and date resolved. The report shall provide documentation in sufficient detail so that DGS can review a Contractor's performance and determine whether it is compliant with the SLAs set forth in Section IV-8. Service Level Agreements.

Reports shall be emailed to the DGS BOP Contract Administrator Peggy Trevenen at petrevenen@pa.gov no later than the 15th of the beginning of the next quarter.

- a. The Contract may be mutually renewed for a maximum of three (3) additional one (1) year term(s), so long as the Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter dated not less than 90 days prior to the expiration of the term of the agreement, or any extension thereof, and the Contractor consents to the renewal not less than 60 days prior to the expiration of the term of the agreement or any extension thereof. The Issuing Office will fix the Effective Date after the Contract has been fully executed by the awarded Contractors and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained.
- b. Awarded Contractors shall not start the performance of any work prior to the Effective Date of the Contract and the Commonwealth shall not be liable to pay awarded Contractors for any service or work performed or expenses incurred before the Effective Date of the Contract.

PREMIER REPORTING, LLC - 2022 Transcription Prices

Lot 2 – Unemployment Compensation Board of Review

Solicitation 6100055100

TRANSCRIPT	PRICE PER PAGE
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Standard Delivery (delivery within five business days)

Original plus one copy	\$5.50
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Original plus one copy – medical	\$5.75
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Expedited Delivery (delivery within three to four business days)

Original plus one copy	\$8.25
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Original plus one copy – medical	\$8.50
----------------------------------	--------

Next Day Delivery (within one to two business day)

Original plus one copy	\$11.00
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Original plus one copy – medical	\$11.25
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OTHER CHARGES

\$40 for hand-delivery of hard copy of the completed transcript

PREMIER REPORTING, LLC - 2022 Court Reporting Prices

Lot 1 – Stenographic Court Reporting Services and Transcription Services

Solicitation 6100055100

TRANSCRIPT

PRICE PER PAGE

Standard Delivery and Priority Delivery (sixth business day to 21 or 15 days)

Original plus one copy with copy sale to opposing party	\$3.65
Original plus one copy without copy sale to opposing party	\$4.65
Original plus one copy – medical with copy sale to opposing party	\$3.90
Original plus one copy – medical without copy sale to opposing party	\$4.90

Copy	\$2.60
Copy – medical	\$2.85

Expedited Delivery (delivery within five business days)

Original plus one copy with copy sale to opposing party	\$5.50
Original plus one copy without copy sale to opposing party	\$6.50
Original plus one copy – medical with copy sale to opposing party	\$5.85
Original plus one copy – medical without copy sale to opposing party	\$6.85

Copy	\$3.90
Copy – medical	\$4.28

Next Day Delivery (within one business day)

Original plus one copy with copy sale to opposing party	\$7.30
Original plus one copy without copy sale to opposing party	\$8.30
Original plus one copy – medical with copy sale to opposing party	\$7.80
Original plus one copy – medical without copy sale to opposing party	\$8.80

Copy	\$5.20
Copy – medical	\$5.70

COURT REPORTER APPEARANCE

Deposition with transcript order - \$75.00

Deposition start time 5:00 p.m. or later with transcript order - \$95.00

Deposition start time before 8:00 a.m. with transcript order - \$95.00

Hearing (less than four hours) or deposition without transcript order - \$195.00

Hearing (more than four hours and up to eight hours) or deposition without transcript order - \$325.00

Hearing longer than eight hours - \$70 per hour beyond eight hours

Hearings 5:00 p.m. and later - \$140.00 for the first hour and then \$70 per hour

EXHIBIT COPIES OR SCANS

PRICE PER PAGE

Black and White copies (8 ½ x 11) .50

Black and White copies (legal size) .65

Black and White copies (11 x 17) .80

Color copies (8 ½ x 11) \$1.60

Color copies (legal size) \$1.75

Color copies (11 x 17) \$1.90

OTHER CHARGES

\$75 cancellation fee if canceling less than two hours before hearing or deposition

Complimentary videoconferencing when using our court reporter

\$25 for an electronic transcript in ASCII, pdf, ptx, and/or ptz via e-mail when a paper transcript is ordered.

\$30 for a CD or flash drive with an electronic transcript in ASCII, pdf, ptx, and/or ptz when a paper transcript is ordered.

Condensed transcript is four pages per sheet.

Postage billed at USPS rates

\$1.00 per page for an additional hard copy

\$1.00 per page for a rough draft with transcript order

If overnight accommodations are necessary, hotel and meals will be billed based on actual cost.

\$40 for hand-delivery of transcript

Attachment 1 - Service/Location Chart

Contractor Name:	Vendor 205402									
	Linda Larson dba Premier Reporting LLC									
	Categories -									
	Please check (X) the areas in which your company can provide services for each county listed									
Counties	Lot 1 Stenographic Court Reporting	Lot 1 Transcription Services	Lot 1 Summary Meeting Minutes	Lot 1 Verbatim Meeting Minutes	Lot 1 Depositions	Lot 1 Industrial Board (Labor & Industry)	Lot 2 UCBR Transcription (Labor & Industry)			
Adams	X	X			X	X	X			
Allegheny										
Armstrong										
Beaver										
Bedford	X	X			X	X	X			
Berks	X	X			X	X	X			
Blair										
Bradford										
Bucks										
Butler										
Cambria										
Cameron										
Carbon										
Centre										
Chester										
Clarion										
Clearfield										
Clinton										
Columbia										
Crawford										
Cumberland	X	X			X	X	X			
Dauphin	X	X			X	X	X			
Delaware										
Elk										
Erie										
Fayette										
Forest										
Franklin	X	X			X	X	X			
Fulton	X	X			X	X	X			

Attachment 1 - Service/Location Chart

Counties	Lot 1 Stenographic Court Reporting	Lot 1 Transcription Services	Lot 1 Summary Meeting Minutes	Lot 1 Verbatim Meeting Minutes	Lot 1 Depositions	Lot 1 Industrial Board (Labor & Industry)	Lot 2 UCBR Transcription (Labor & Industry)
Greene							
Huntington							
Indiana							
Jefferson							
Juniata	X	X			X	X	X
Lackawanna							
Lancaster	X	X			X	X	X
Lawrence							
Lebanon	X	X			X	X	X
Lehigh							
Luzerne							
Lycoming							
McKean							
Mercer							
Mifflin	X	X			X	X	X
Monroe							
Montgomery							
Montour							
Northampton							
Northumberland							
Perry	X	X			X	X	X
Philadelphia							
Pike							
Potter							
Schuylkill	X	X			X	X	X
Snyder							
Somerset							
Sullivan							
Susquehanna							
Tioga							
Union							
Venango							
Warren							

Attachment 1 - Service/Location Chart

Counties	Lot 1 Stenographic Court Reporting	Lot 1 Transcription Services	Lot 1 Summary Meeting Minutes	Lot 1 Verbatim Meeting Minutes	Lot 1 Depositions	Lot 1 Industrial Board (Labor & Industry)	Lot 2 UCBR Transcription (Labor & Industry)
Washington							
Wayne							
Westmoreland							
Wyoming							
York	X	X			X	X	X

**DOMESTIC WORKFORCE UTILIZATION CERTIFICATION FOR MULTIPLE AWARD
CONTRACTS**

To the extent permitted by the laws and treaties of the United States, this certification will be used by the Agency in making a best value selection for each particular assignment. Each quote will be evaluated for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those suppliers who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. In order to be eligible for any consideration for this criterion, suppliers must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the supplier for this criterion.

I, Linda C Larson, Manager [title] of Premier Reporting, LLC [name of Contractor] a Pennsylvania [place of incorporation] corporation or other legal entity, ("Contractor") located at 22 West Mulberry Hill Road, Carlisle, PA 17013 [address], do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check **one** of the boxes below):

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Armenia, Netherland with respect to Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong China, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea Republic of, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, Moldova Republic of, Montenegro, New Zealand, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom.

OR

_____ percent (____%) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed:

[Use additional sheets if necessary]

The Department of General Services [or other purchasing agency] shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

John Law 5-23-2022
Signature/Date

Linda C Larson
d/b/a Premier Reporting, LLC
Corporate or Legal Entity's Name
Linda C Larson 5-23-2022
Signature/Date

Steven Larson / Witness
Printed Name/Title

Linda C Larson, Manager
Printed Name/Title

IRAN FREE PROCUREMENT CERTIFICATION FORM

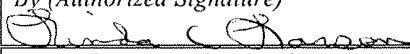
(Pennsylvania's Procurement Code Sections 3501-3506, 62 Pa.C.S. §§ 3501-3506)

To be eligible for an award of a contract with a Commonwealth entity for goods or services worth at least \$1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services ("DGS") pursuant to Section 3503 of the Procurement Code **and** is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e).

To comply with this requirement, please insert your vendor or financial institution name and complete **one** of the options below. Please note: Pennsylvania law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Section 3503 of the Procurement Code.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS **and** is eligible to contract with the Commonwealth of Pennsylvania Sections 3501-3506 of the Procurement Code.

<i>Vendor Name/Financial Institution (Printed)</i> Linda C Larson dba Premier Reporting, LLC	
<i>By (Authorized Signature)</i> 	
<i>Printed Name and Title of Person Signing</i> Linda C Larson, Manager	<i>Date Executed</i> 5-23-2022

OPTION #2 - EXEMPTION

Pursuant to Procurement Code Section 3503(e), DGS may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to enter into a contract for goods and services.

If you have obtained a written exemption from the certification requirement, please fill out the information below, and attach the written documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>	
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

LOBBYING CERTIFICATION FORM

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:


(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure of Lobbying Activities, which can be found at:

<https://www.gsa.gov/Forms/TrackForm/33144>

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under *Section 1352, Title 31, U. S. Code*. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than **\$100,000** for such failure.

SIGNATURE: 

TITLE: Manager DATE: 5-23-2022

NOTICE OF SMALL BUSINESS SELF-CERTIFICATION



pennsylvania
DEPARTMENT OF GENERAL SERVICES

The Department is pleased to announce that

LINDA C LARSON

has successfully completed the Pennsylvania Department of General Services' process for self-certification as a small business under the Commonwealth's Small Business Contracting Program, with the following designation:

BUSINESS TYPE(s):

Procurement Services

CERTIFICATION NUMBER: **205402-2020-08-SB**

CERTIFICATION TYPE: **SMALL BUSINESS**

ISSUE DATE: **08/28/2020**

EXPIRATION DATE: **08/28/2022**

RECERTIFIED DATE:

Kerry L. Kirkland, Deputy Secretary
Bureau of Diversity, Inclusion & Small Business Opportunities

OPERATING AGREEMENT
OF
PREMIER REPORTING, LLC

This Operating Agreement of Premier Reporting, LLC (the "Agreement") is made and entered into by and between Linda C. Larson, as the sole member (along with any subsequent member, a "Member"), and Premier Reporting, LLC, a Pennsylvania limited liability company (the "Company").

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. Purpose. The object and purpose of, and the nature of the business to be conducted and promoted by, the Company is engaging in any lawful act or activity for which limited liability companies may be formed under the Pennsylvania Limited Liability Company Act, 15 Pa.C.S. §8901, et seq., as amended from time to time (the "Act") and any and all lawful activities necessary, convenient, desirable, or incidental to the foregoing.

2. Member. The name and address of the Member is 22 West Mulberry Hill Road, Carlisle, Pennsylvania 17013.

3. Term. The Company's term of existence shall continue indefinitely.

4. Title to Company Property. All real and personal property shall be acquired in the name of the Company, and title to any property so acquired shall vest in the Company itself rather than in the Member.

5. MANAGEMENT.

5.1 Management. The Company shall be managed by one or more individuals, each of whom shall have the title of Manager. The Managers shall have full, exclusive, and complete discretion, power, and authority, subject to the requirements of applicable law, to manage, control, administer, and operate the business and affairs of the Company for the purposes herein stated, and to make any and all elections hereunder, and to make any and all decisions affecting its business and affairs, including without limitation, the power to:

5.1.1 acquire any real or personal property, whether tangible or intangible;

5.1.2 sell, dispose of, license, trade, or exchange Company assets in the ordinary course of the Company's business;

5.1.3 enter into agreements and contracts, including, without limitation, contracts with a Manager and/or a Manager's affiliate(s), and to give receipts, releases, and discharges;

5.1.4 purchase liability and other insurance to protect the Company's properties and business;

5.1.5 borrow money for and on behalf of the Company, including without limitation, borrowing from a Manager or a Manager's affiliate, on those terms that the Managers believe are commercially reasonable, and, in connection therewith,

execute and deliver instruments authorizing the confession of judgment against the Company and/or other warrants, consents, or waivers;

5.1.6 execute or modify leases with respect to any part or all of the assets of the Company;

5.1.7 prepay, in whole or in part, refinance, amend, modify, or extend any loan agreements, promissory notes, financing statements, mortgages or deeds of trust that may affect any asset of the Company, and in connection therewith to execute for and on behalf of the Company any extensions, renewals, or modifications of such loan agreements, promissory notes, financing statements, mortgages or deeds of trust;

5.1.8 execute any and all other instruments and documents that may be necessary or, in the opinion of the Managers, desirable to carry out the intent and purpose of this Agreement, including, but not limited to, documents the operation and effect of which extend beyond any term of the Company;

5.1.9 make any and all expenditures that the Managers, in the Managers' sole and absolute discretion, deem necessary or appropriate in connection with the management of the affairs of the Company and the carrying out of the Managers' obligations and responsibilities under this Agreement, including, without limitation, all legal, accounting and other related expenses incurred in connection with the organization and financing and operation of the Company;

5.1.10 enter into any kind of activity necessary to, in connection with, or incidental to, the accomplishment of the purposes of the Company;

5.1.11 invest and reinvest Company reserves in short-term instruments or money market funds;

5.1.12 exercise any voting rights or interests that the Company has with respect to the Company's investments;

5.1.13 admit additional Members;

5.1.14 appoint one or more officers, with such titles, duties, and authority as the Managers may decide; and

5.1.15 make all decisions hereunder with regard to the purchase or redemption of the interests of the Members.

5.2 Number and Term of Office of Managers; Initial Managers. The Manager(s) shall be elected bi-annually by the vote of a majority of Member interests. The number of Managers of the Company shall be determined from time to time by the vote of a majority of Member interests. Each Manager shall hold office for a two-year term and thereafter until his or her successor shall have been elected and qualified, or until his or her earlier death, resignation or removal. A Manager need not be a member of the Company or a resident of the Commonwealth of Pennsylvania. The initial number of Managers shall be set at one (1). The initial Manager shall be Linda C. Larson, who shall serve for an initial term of two years and thereafter until her successor shall have been elected and qualified.

5.3 Compensation of Managers. The Managers shall be entitled to reasonable compensation for a Manager's services hereunder. In addition, upon

substantiation of the amount and purpose thereof, each Manager shall be entitled to reimbursement for expenses reasonably incurred in connection with the activities of the Company.

5.4 Limitation on Authority of Members. The management of the business and affairs of the Company shall be the sole and complete responsibility of the Managers. No Member (other than a Manager) shall take part in, or interfere in any manner with, the management, conduct, or control of the business and affairs of the Company. No Member is an agent of the Company solely by virtue of being a Member, and no Member has authority to act for the Company solely by virtue of being a Member. Any Member who takes any action or attempts to bind the Company in violation of this Section 5.4 shall be solely responsible for any loss and expense incurred by the Company as a result of the unauthorized action and shall indemnify and hold the Company harmless with respect to the loss or expense.

5.5 Duties of Managers.

5.5.1 The Managers shall not be liable, responsible, or accountable in damages or otherwise to the Company or to any Member for any action taken or any failure to act on behalf of the Company within the scope of the authority conferred on the Managers by this Agreement or by law, unless the action was taken or the omission was made fraudulently or unless the action or omission constituted gross negligence, willful misconduct, or an intentional breach of this Agreement.

5.5.2 Except as otherwise expressly provided in Section 5.5.3, nothing in this Agreement shall be deemed to restrict in any way the rights of the Managers, any Member, or any affiliate of any Manager or any Member, to conduct any

other business or activity whatsoever, and neither any Manager nor any Member shall be accountable to the Company or to any other member with respect to that business or activity even if the business or activity competes with the Company's business. The organization of the Company shall be without prejudice to any Manager's and any Member's respective rights (and the rights of their respective affiliates) to maintain, expand or diversify their other interests and activities and to receive and enjoy profits or compensation therefrom. Each Member waives any rights that the Member otherwise might have to share or participate in such other interests or activities of the Managers, any other Member, or any Member's or Manager's affiliates.

5.5.3 Each Member understands and acknowledges that the conduct of the Company's business may involve business dealings and undertakings with a Manager and/or a Manager's affiliate(s). In any such instance, those dealings and undertakings shall be at arm's length and on commercially reasonable terms.

5.5.4 Unless otherwise required by law or provided in the Certificate or this Agreement, a majority of the total number of Managers fixed by, or in the manner provided in, the Certificate or this Agreement shall constitute a quorum for the transaction of business of the Managers, and the act of a majority of the Managers present at a meeting at which a quorum is present shall be the act of the Managers. A Manager who is present at a meeting of the Managers at which action on any Company matter is taken shall be presumed to have assented to the action unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent of such action with the person acting as secretary of the meeting before the adjournment thereof or shall deliver such dissent to the Company immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Manager who voted in favor of such action.

5.5.5 Meetings of the Managers shall be held at such place or places as may be determined from time-to-time by resolution of the Managers. Attendance of a Manager at a meeting constitutes a waiver of notice of such meeting, except where a Manager attends a meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

5.5.6 Regular meetings of the Managers shall be held at such times and places as shall be designated from time-to-time by resolution of the Managers. Notice of such regular meetings shall not be required.

5.5.7 Special meetings of the Managers shall be called by any Manager on at least twenty-four (24) hours notice to each other Manager. Such notice need not state the purpose or purposes of, nor the business to be transacted at, such meeting, except as may otherwise be required by law or provided for by the Certificate of Organization (“Certificate”) of the Company, or this Agreement.

5.5.8 Any action permitted or required by the Act, the Certificate, or this Agreement to be taken at a meeting of the Managers may be taken without a meeting if a consent in writing, setting forth the action to be taken, is signed by all of the Managers. Such consent shall have the same force and effect as a unanimous vote at a meeting and may be stated as such in any document or instrument filed with the Secretary of the Commonwealth of Pennsylvania, and the execution of such consent shall constitute attendance or attendance in person at a meeting of the Managers.

5.5.9 Subject to the requirements of the Act, the Certificate or this Agreement for notice of meetings, Managers may participate in and hold a meeting of the

Managers by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other; and participation in such meeting shall constitute attendance and presence in person at such meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

5.6 Liability and Indemnification. The Company shall indemnify the Managers for any action taken or any failure to act on behalf of the Company within the scope of the authority conferred on the Managers by this Agreement or by law, except for fraud, willful misconduct or an intentional breach of this Agreement. Any indemnification shall be paid only from and only to the extent of the Company assets, and the Members shall not have any personal liability to make this indemnification. The Company may advance expenses of a proceeding without requiring a preliminary determination of the ultimate entitlement to indemnification.

5.7 Power of Attorney.

5.7.1 Each Member constitutes and appoints each Manager as the Member's true and lawful attorney-in-fact ("Attorney-in-Fact"), and in the Member's name, place and stead, to make, execute, sign, acknowledge, and file:

5.7.1.1 one or more amendments to the Certificate;

5.7.1.2 all documents (including but not limited to amendments to articles of organization) that the Attorney-in-Fact deems appropriate to reflect any amendment, change, or modification of this Agreement;

5.7.1.3 any and all other certificates or other instruments required to be filed by the Company under the laws of the Commonwealth of Pennsylvania or of any other state or jurisdiction, including, without limitation, any certificate or other instruments necessary in order for the Company to continue to qualify as a limited liability company under the laws of the Commonwealth of Pennsylvania or to qualify or register to conduct business under the laws of any other state or jurisdiction;

5.7.1.4 one or more fictitious or trade name certificates;

5.7.1.5 all documents that may be required to dissolve and terminate the Company and to cancel its certificate of organization; and

5.7.1.6 all instruments and documents that may be required in order to effect the assignment of any interest in the Company or membership rights to the Company and the admission of any new member to the Company.

5.7.2 The foregoing power of attorney is irrevocable and is coupled with an interest, and, to the extent permitted by applicable law, shall survive the death or disability of a Member. It also shall survive the assignment of a membership interest, except that if the assignee is approved for admission as a Member, then, as to the assignor, this power of attorney shall survive the delivery of the Assignment for the sole purpose of enabling the Attorney-in-Fact to execute, acknowledge and file any documents needed in connection with the transaction. Each Member shall be bound by any representations made by the Attorney-in-Fact acting in good faith pursuant to this power of attorney, and each Member hereby waives any and all actions and defenses that may be available to contest, negate or disaffirm the action of the Attorney-in-Fact taken in good faith under this power of attorney.

5.8 Bank Accounts, Books and Records. All funds of the Company shall be deposited in a bank account or accounts opened in the Company's name. The Managers shall determine the institution or institutions at which the accounts will be opened and maintained, the types of accounts, and the Persons who will have authority with respect to the accounts and the funds therein. The Managers shall keep or cause to be kept complete and accurate books and records of the Company and supporting documentation of transactions with respect to the conduct of the Company's business. The books and records shall be maintained in accordance with sound accounting practices and shall be available at the Company's principal office for examination by any Member or the Member's duly authorized representative at any and all reasonable times during normal business hours, except to the extent that the Managers believe that, in order to protect the interests of the Company, any information contained in the Company's books and records must be kept confidential.

5.9 Annual Accounting Period. The annual accounting period of the Company shall be the twelve months ending on December 31st.

6. DISSOLUTION.

6.1 Events of Dissolution. The Company shall be dissolved upon the occurrence of any of the following events:

6.1.1 By the unanimous vote of the Members; or

6.1.2 Upon the entry of a decree of judicial dissolution with respect to the Company.

None of the events listed in 15 Pa. C.S. §8971(a)(4) shall cause the dissolution of the Company.

6.2 Liquidating Trustee. Upon the dissolution of the Company, the Managers shall act as liquidating trustee and shall liquidate and reduce to cash the assets of the Company as promptly as is consistent with obtaining a fair value therefor and, unless otherwise required by the Act, shall apply and distribute the proceeds of liquidation, as well as any other Company assets, in accordance with Section 4.4 hereof.

7. Distributions. Distributions shall be made to any Member (in cash or in kind) at the times and in the aggregate amounts determined by the Managers and as permitted by applicable law.

8. Elections. The Managers may make any tax elections for the Company allowed under the Internal Revenue Code of 1986, as amended, or the tax laws of any state or other jurisdiction having taxing jurisdiction over the Company.

9. Transferability of Membership Interest. Except as the Member(s) may declare in writing, the interest of any Member in the Company is transferable either voluntarily or by operation of law. A Member may sell, assign, transfer, exchange, mortgage, pledge, grant, hypothecate, encumber, or otherwise transfer (whether absolutely or as security) all or a portion of the interest of the Member in the Company. Upon the transfer of the interest of the Member in the Company, the transferee shall be admitted as a member at the time of the transfer and shall obtain all of the rights appurtenant to being a member of the Company.

10. Admission of Additional members. Additional members of the Company may be admitted to the Company at the direction of the Managers. In the event that any additional members are added, this Agreement shall be construed to apply to all of the members, and the additional members shall be required either: (a) to enter into, ratify and approve this Agreement; or (b) to execute a new operating agreement after the Manager has terminated this Agreement.

11. Liability of the Member. A Member shall not have any liability for the debts, obligations, or liabilities of the Company, or for the acts or omissions of any other member, officer, agent or employee of the Company, except to the extent provided in the Act.

12. Governing Law. This Agreement shall be governed by, and construed under, the laws of the Commonwealth of Pennsylvania, without reference to the conflict of law rules of that or any other jurisdiction.

13. Entire Agreement. This Agreement represents the entire agreement between the Member and the Company with respect to the subject hereof.

14. Amendment. This Agreement may be amended or modified from time to time only by a written instrument executed by the Member and the Company.

15. Rights of Creditors and Third Parties. This Agreement is entered into by the Member solely to govern the operation of the Company. This Agreement is expressly not intended for the benefit of any creditor of the Company or any other person. Except and only to the extent provided by applicable statute, no creditor or third party shall have


any rights under this Agreement, or any agreement between the Company and the Member, with respect to the subject matter hereof.

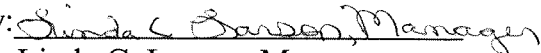
IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have executed this Operating Agreement as of April 22, 2009, to be effective for all purposes as of the filing of the Certificate of Organization.

COMPANY:

MEMBER:

PREMIER REPORTING, LLC


Linda C. Larson

By: 
Linda C. Larson, Manager
and authorized for this purpose

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PART I - GENERAL INFORMATION

PART I - GENERAL INFORMATION

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 GENERAL SERVICES to satisfy a need for stenographic court reporting and transcription svcs.

I.2 IFB-001.1b Purpose - Restricted Small Business Procurement (July 2012)

The Commonwealth identified this procurement as fitting the established criteria under the Small Business Procurement Initiative set forth in Executive Order 2011-09. Accordingly, only those bidders who are certified as a Small Business through the Department of General Services' self certification process found at www.smallbusiness.pa.gov are eligible to submit a bid and be awarded a contract in response to this IFB. In order to be eligible to receive an award in response to this procurement, the bidder must be certified at the time of bid opening and include a copy of the certification in the bid response.

I.3 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.4 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.5 IFB-009.1 Questions (February 2012)

All questions regarding the IFB must be submitted in writing to the email address of the Issuing Officer provided in the solicitation. While there is no set timeline for the submittal of questions, questions received within 48 hours prior to the bid due date and time will be answered at the discretion of the Commonwealth. All questions received will be answered, in writing, and such responses shall be posted to eMarketplace as an addendum to the IFB. The Issuing Officer shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the IFB or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation.

I.6 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.PA.GOV it is the Bidder's responsibility to periodically check the website for any new information or addenda to the IFB.

I.7 IFB-011.1B Submission of Bids – Electronic Submittal (May 2011)

- 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 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.8 IFB-013.2 Small Business Procurement (July 2012)

In order to be eligible to submit a bid in response to this procurement, a bidder must be certified as a Small Business with the Department of General Services at the time of bid opening. A copy of the Small Business Certification must be submitted with the bid response. Failure to submit the certification with the bid may result in the bid being rejected as non-responsive.

I.9 IFB-024.1 Bid Protest Procedure (April 2016)

The Bid Protest Procedure is on the DGS website at <http://www.dgs.pa.gov/Documents/Procurement%20Forms/Handbook/Pt1/Pt%20I%20Ch%2058%20Bid%20Protests.pdf>

I.10 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.11 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.12 IFB-031.1 Alternates (Oct 2013)

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. If an item or items in the IFB are designated “no substitute,” this provision does not apply and no alternate may be proposed by a bidder nor will any alternate be considered by the Issuing Office.

I.13 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.14 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.15 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.

I.16 Submission-001.1 Representations and Authorizations (February 2017)

By submitting its proposal, each Offeror understands, represents, and acknowledges that:

- A. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.
- B. The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.
- C. The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- D. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- E. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.

F. To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.

G. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.

H. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.

I. The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.

J. Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.

K. Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.

L. The Offeror is not currently engaged, and will not during the duration of the contract engage, in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

PART II - REQUIREMENTS

PART II - REQUIREMENTS

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.

II.3 II-IFB-018.1b Iran Free Procurement Certification and Disclosure – Electronic Submittal (November 2016)

Prior to entering a contract worth at least \$1,000,000 or more with a Commonwealth entity, a bidder must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services (“DGS”) pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e). All bidders must complete and return the Iran Free Procurement Certification form, which is attached hereto and made part of this IFB. The completed and signed Iran Free Procurement Certification form must be submitted with the Bid Response.

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

<http://www.dgs.pa.gov/businesses/materials%20and%20services%20procurement/procurement-resources/pages/default.aspx#.WDNfJJ>

PART III - SELECTION CRITERIA

PART III - SELECTION CRITERIA

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-006.1f Method of Award - All Bidders (April 2011)

Award will be made to all responsive and responsible bidders.

III.3 III-IFB-007.1 Awards (May 2011)

Unless all Bids are rejected, and except as otherwise provided by law, award will be made through the issuance of a contract/purchase order in accordance with the method of award. 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 Bidder must be registered in the Commonwealth of Pennsylvania's Vendor Master file. In order to register, bidders must visit the Pa Supplier Portal at <https://www.pasupplierportal.state.pa.us/> or call the Customer Support Center at 877-435-7363 or 717-346-2676.

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.

PART IV - WORK STATEMENT

PART IV - WORK STATEMENT

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."

PART V - CONTRACT TERMS and CONDITIONS

PART V - CONTRACT TERMS and CONDITIONS

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 (May 2012)

The initial term of the Contract shall be 2 year(s) and 00 month(s).

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

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Commonwealth (signed and approved as required by the Commonwealth contracting procedures) or b) the "Valid from" date printed on the Contract, whichever is later.

V.3 CONTRACT-002.2b Renewal of Contract Term – Mutual (Oct 2013)

The Contract may be mutually renewed for a maximum of 3 additional 1 year term(s), so long as the Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter dated not less than 090 days prior to the expiration of the term of the agreement, or any extension thereof, and the Contractor consents to the renewal not less than 060 days prior to the expiration of the term of the agreement or any extension thereof. The renewal may be exercised as individual or multiple year terms(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-002.3 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.5 CONTRACT-003.1a Signatures – Contract (July 2015)

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 may be electronically signed 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 the Contract 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.6 CONTRACT-004.1a Definitions (Oct 2013)

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.7 CONTRACT-005.1d Purchase Orders (July 2015)

Commonwealth agencies 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 may be electronically signed 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.

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 Purchase 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 Purchase Order or acknowledgement were not in writing or signed by the parties. A Purchase Order 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.

Purchase Orders under ten thousand dollars (\$10,000) 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.8 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.9 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.10 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.11 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.12 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)

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.13 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.14 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.15 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.16 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.17 CONTRACT-014.1 Post-Consumer Recycled Content (June 2016)

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 by the Environmental Protection Agency in its Comprehensive Procurement Guidelines, which can be found at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program> .

V.18 CONTRACT-014.3 Recycled Content Enforcement (February 2012)

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.19 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.20 CONTRACT-015.1A Compensation/Expenses (Oct 2013)

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

V.21 CONTRACT-015.2 Billing Requirements (July 2021)

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

- Vendor name and "Remit to" address, including SAP Vendor number;
- 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-016.1 Payment (Oct 2006)

- 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.
- 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.23 CONTRACT-016.2 Payment – Electronic Funds Transfer (February 2014)

- The Commonwealth will make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).
- The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.
- It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

V.24 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.25 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.26 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.27 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.28 CONTRACT-021.1 Default (Oct 2013)

- 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 ensure 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.29 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.30 CONTRACT-023.1a Termination Provisions (Oct 2013)

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

a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under the Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under the Subparagraph a.

V.31 CONTRACT-024.1 Contract Controversies (Oct 2011)

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

V.32 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)

- 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.33 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.34 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)

The Contractor agrees:

- 1.** In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- 2.** Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- 3.** Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.
- 4.** Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
- 5.** The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- 6.** The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- 7.** The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods

requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

8. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

9. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

10. 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.35 CONTRACT-028.1 Contractor Integrity Provisions (January 2015)

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

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

a. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.

c. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

d. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

e. "Financial Interest" means either:

(1) Ownership of more than a five percent interest in any business; or

(2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

f. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b)*, shall apply.

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

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

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

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

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

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

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

- (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
- (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
- (3) had any business license or professional license suspended or revoked;
- (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.

g. When contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's

Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

V.36 CONTRACT-029.1 Contractor Responsibility Provisions (July 2021)

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth of Pennsylvania (Commonwealth). The term Contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the

Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

4. 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.

5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may search the current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

V.37 CONTRACT-030.1 Americans with Disabilities Act (July 2021)

For the purpose of these provisions, the term contractor is defined as any person, including, but not limited to, a bidder, offeror, supplier, or grantee, who will furnish or perform or seeks to furnish or perform, goods, supplies, services, construction or other activity, under a purchase order, contract, or grant with the Commonwealth of Pennsylvania (Commonwealth).

During the term of this agreement, the contractor agrees as follows:

- 1 Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 C. F. R. § 35.101 et seq., the contractor understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this agreement or from activities provided for under this agreement. As a condition of accepting and executing this agreement, the contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
- 2 The contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth as a result of the contractor's failure to comply with the provisions of paragraph 1.

V.38 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.39 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.40 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.41 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.42 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011)

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

V.43 CONTRACT-035.1a Changes (Oct 2006)

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

V.44 CONTRACT-036.1 Background Checks (February 2016)

a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf>. The background check must be conducted prior to initial access and on an annual basis thereafter.

b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation

that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed in default of its Contract.

c. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.

d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in [Enclosure 3 of Commonwealth Management Directive 625.10 \(Amended\) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings](#). The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

V.45 CONTRACT-037.1a Confidentiality (Oct 2013)

(a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any 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, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). 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 pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

(b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:

- (1) already known to the recipient at the time of disclosure other than through the contractual relationship;
- (2) independently generated by the recipient and not derived by the information supplied by the disclosing party.
- (3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- (4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- (5) required to be disclosed by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to

the Commonwealth under this Contract.

(c) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

- (1) Prepare an un-redacted version of the appropriate document, and
- (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
- (3) Prepare a signed written statement that states:
 - (i) the attached document contains confidential or proprietary information or trade secrets;
 - (ii) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
 - (iii) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.
- (4) Submit the two documents along with the signed written statement to the Commonwealth.

V.46 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.

V.47 CONTRACT-052.1 Right to Know Law (Feb 2010)

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the

Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

V.48 CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2018)

1. **Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$12.00 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
2. **Adjustment.** Beginning July 1, 2019, and annually thereafter, the minimum wage rate shall be increased by \$0.50 until July 1, 2024, when the minimum wage reaches \$15.00. Thereafter, the minimum wage rate would be increased by an annual cost-of-living adjustment using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) for Pennsylvania, New Jersey, Delaware, and Maryland. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
3. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
 - a. exempt from the minimum wage under the Minimum Wage Act of 1968;
 - b. covered by a collective bargaining agreement;
 - c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
 - d. required to be paid a higher wage under any state or local policy or ordinance.
4. **Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
5. **Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the

Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

6. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
7. **Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.