



**FULLY EXECUTED**  
Contract Number: 4400028272  
Original Contract Effective Date: 11/27/2023  
Valid From: 12/01/2023 To: 11/30/2024

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

**Purchasing Agent**

Name: Hosler Valarie  
Phone: 717-703-2945  
Fax: 717-346-3820

Your SAP Vendor Number with us: 115889

**Supplier Name/Address:**  
SHI INTERNATIONAL CORP  
290 DAVIDSON AVE  
SOMERSET NJ 08873-4145 US

**Please Deliver To:**

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

Supplier Phone Number: 908-884-1389

**Contract Name:**  
ENTERPRISE STORAGE HARDWARE AND RELATED

**Payment Terms**  
NET 30

Solicitation No.: 6100057583

Issuance Date: 03/31/2023

Supplier Bid or Proposal No. (if applicable): 6500146940

Solicitation Submission Date: 05/12/2023

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	HPE Storage Object	0.000		0.00	1	0.00
2	HPE Storage Block	0.000		0.00	1	0.00
3	HPE Storage Options/Upgrades	0.000		0.00	1	0.00
4	HPE Storage Accessibility Needs	0.000		0.00	1	0.00
5	Optional Services	0.000		0.00	1	0.00

**General Requirements for all Items:**

**Information:**

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

Title \_\_\_\_\_

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

Date \_\_\_\_\_



**FULLY EXECUTED**  
Contract Number: 4400028272  
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Valid From: 12/01/2023 To: 11/30/2024

**Supplier Name:**  
SHI INTERNATIONAL CORP

**Header Text**

This contract was awarded from IFB 6100057583.

This is a multi-award solicitation, with contract 4400028271 being (Prime).

11.28.23 Commodity Specialist updated to Valarie Hosler. vsh

No further information for this Contract

**Information:**



**ORIGINAL**  
**BID - Invitation For Bid**  
**P00650361 12/14/2022 10:55**

BID Effective Date:

03/31/2023

Bid Invitation Number:

6100057583

**Issuing Office:**

Raeden Hosler  
 Commonwealth of Pennsylvania  
 US

**Supplier Name/Address:**

Your SAP Vendor Number with us: \_\_\_\_\_

**Please Return Quotation to:**

Commonwealth of Pennsylvania  
 US

**Type of Security furnished if required:**

- Certified bank cashier's check
- Irrevocable letter of credit
- Certificate of deposit
- Other as specified by bid
- Bond - If annual bond:

What is the name of the principal on the bond? \_\_\_\_\_

**Return Bid by:**

**Bid Ending Date:**  
 05/12/2023

**Bid Ending Time:**  
 16:00:00

**Expiration Date of Contract (if applicable)**

**Delivery Date:**  
 See Items

**Please Deliver To:**

**Procurement Contact:**

**Buyer: Raeden Hosler**  
 Phone:  
 Fax:

This Invitation For Bids is comprised of: Part I, General Information; Part II, Bid Requirements; Part III, Criteria For Selection; Part IV, IFB Specifications; Part V, Contract Clauses; any documents attached to this Invitation For Bids or incorporated by reference; and any addenda issued by the Issuing Office prior to Bid Opening.

Supplier's Signature \_\_\_\_\_ Title \_\_\_\_\_  
 Printed Name \_\_\_\_\_ Date \_\_\_\_\_

The Bidder has completed and submitted this Bid in accordance with the instructions and requirements and terms and conditions of the Invitation For Bid. The Bidder has attached documents that are required to be submitted with this Bid and those attachments are incorporated by reference and made a part of this Bid. 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.

Item	Material/Service Desc	Qty	UOM	Unit Price	Total Line Item Price
1	Storage Object	0.000		\$ _____	\$ _____
3	Storage Block	0.000		\$ _____	\$ _____
4	Storage Options/Upgrades	0.000		\$ _____	\$ _____

**ALL PRICES ARE F.O.B. DESTINATIONS**

List of Items Continued on Following Page







**ORIGINAL**  
**BID - Invitation For Bid**  
**P00650361 12/14/2022 10:55**  
**Original Approval Date: 12/19/2022**

Page 3 of 3

Supplier Name: \_\_\_\_\_

**\*\*\* Attributes Page \*\*\***

\*\*\* No further information for this bid \*\*\*

**Mandatory QUESTION #02** - Is the offer in accordance with the "Representations and Authorizations" listed in section "Submission – 001.1" of the attached solicitation document?

**Response:**

**Mandatory QUESTION #01** - Has the submitter read, and does the submitter understand, the "Representations and Authorizations" listed in section "Submission – 001.1" of the attached solicitation document?

**Response:**



**SOLICITATION ADDENDUM**

□

Date: **12/22/2022**  
Subject: **Appendix E - Contract Terms and Conditions**  
Solicitation Number: **6100057583**  
Due Date/Time: **01/06/2023**  
Addendum Number: **1**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

**Appendix E - Contract Terms and Conditions Update:**

- □ **Appendix E - Contract Terms and Conditions has been replaced with Appendix E - Terms and Conditions rev.1 .**

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Respectfully,

Name: **Raymond A. Jaime**  
Title: **Commodity Specialist**  
Phone: **717-346-3827**  
Email: **rjaime@pa.gov**

## SOLICITATION ADDENDUM

Date: **December 27, 2022**  
Subject: **SDB/VBE Goal Setting Information Session**  
Solicitation Number: **6100057583**  
Due Date/Time: **01/06/2023**  
Addendum Number: **2**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

### **SDB/VBE Goal Setting Information Session:**

- **Enterprise Storage Hardware and Related Services 6100057583 SDB/VBE Goal Setting Information Session has been attached to this IFB**
- **Enterprise Storage Hardware and Related Services 6100057583 SDB/VBE Goal Setting Information Session Attendees List 12.27.22 has been attached to this IFB.**

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Respectfully,

Name: **Raymond A. Jaime**  
Title: **Commodity Specialist**  
Phone: **717-346-3827**  
Email: **rjaime@pa.gov**

## SOLICITATION ADDENDUM

Date: **December 27, 2022**  
Subject: **Specifications for IFB 6100057583 – Appendix B and Appendix D**  
Solicitation Number: **6100057583**  
Due Date/Time: **01/06/2023**  
Addendum Number: **3**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

**Specifications for IFB 6100057583 revised 12.27.22:**

**The 1.Specifications for IFB 6100057583.docx document has been replaced with 1.Specifications for IFB 6100057583 revised 12.27.22.docx**

- a) Section IV-4 A.1 has been revised.**
- b) Section IV-4 A.2 has been added.**
- c) Section IV-6 B.1 has been revised.**

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Respectfully,

Name: **Raymond A. Jaime**  
Title: **Commodity Specialist**  
Phone: **717-346-3827**  
Email: **rjaime@pa.gov**



## SOLICITATION ADDENDUM

Date: **12/29/2022**  
Subject: **Calendar of Events**  
Solicitation Number: **6100057583**  
Due Date/Time: **01/06/2023**  
Addendum Number: **4**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

A protest has been filed with regard this solicitation so, at this time, the procurement is stayed pending resolution of the protest. At such time, an addendum with an updated calendar of events will be posted to eMarketplace.

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Respectfully,

Name: **Raymond A. Jaime**  
Title: Commodity Specialist  
Phone: 717-346-3827  
Email: GS, BOP IT Procurement [RA-GSITPROCUREMENT@pa.gov](mailto:RA-GSITPROCUREMENT@pa.gov)/rjaime@pa.gov

**SOLICITATION ADDENDUM**

Date: **03/31/2023**  
 Subject: **Enterprise Storage Hardware and Related Services**  
 Solicitation Number: **6100057583**  
 Due Date/Time: **05/12/2023**  
 Addendum Number: **5**

To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

The following changes has been made to the solicitation as identified below:

**1. Calendar of Events**

Deadline to submit questions via email to: <a href="mailto:RA-GSITPROCUREMENT@pa.gov">RA-GSITPROCUREMENT@pa.gov</a> with the subject line “IFB 6100057583 Question”	Bidders	Monday April 14, 2023 3:00 PM
Answers to potential questions posted to the eMarketplace website ( <a href="http://www.emarketplace.state.pa.us">http://www.emarketplace.state.pa.us</a> ) no later than this date.	Issuing Office	Friday April 28, 2023 3:00 PM
Please monitor the eMarketplace website for all communications regarding this IFB.	Bidders	On Going
Bids must be received by the Issuing Office at:  PASupplierPortal website ( <a href="http://www.pasupplierportal.state.pa.us">http://www.pasupplierportal.state.pa.us</a> ) no later than this date.”	Bidders	Friday May 12, 2023 4:00 PM

**2. Updated IFB Documents:**

- Specifications for IFB 6100057583 3.27.2023
- Appendix G - Cost Submittal 3.30.2023

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Respectfully,

Name: **Raymond A. Jaime**  
 Title: Commodity Specialist  
 Phone: 717-346-3827  
 Email: GS, BOP IT Procurement [RA-GSITPROCUREMENT@pa.gov](mailto:RA-GSITPROCUREMENT@pa.gov)/rjaime@pa.gov



**SOLICITATION ADDENDUM**

Date: **04/05/2024**  
Subject: **Enterprise Storage Hardware and Related Services**  
Solicitation Number: **6100057583**  
Due Date/Time: **05/12/2023**  
Addendum Number: **6**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

The following changes has been made to the solicitation as identified below:

**1. Questions and Answers.**

➤  Please reference the attached Questions and Answers 4.3.2023 Document

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Respectfully,

Name: **Raymond A. Jaime**  
Title: Commodity Specialist  
Phone: 717-346-3827  
Email: GS, BOP IT Procurement [RA-GSITPROCUREMENT@pa.gov](mailto:RA-GSITPROCUREMENT@pa.gov)/rjaime@pa.gov



**SOLICITATION ADDENDUM**

Date: **04/28/2023**  
Subject: **Enterprise Storage Hardware and Related Services**  
Solicitation Number: **6100057583**  
Due Date/Time: **05/12/2023**  
Addendum Number: **7**

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To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation “Addendum” as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

The following changes has been made to the solicitation as identified below:

**1. Questions and Answers.**

- Please reference the attached Questions and Answers 4.26.2023 Document
- Please reference the attached Specification for IFB 6100057583 4.27.2023
  - Updated Section IV-6 Required Contract Services - F.2

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Respectfully,

Name: **Raymond A. Jaime**  
Title: Commodity Specialist  
Phone: 717-346-3827  
Email: GS, BOP IT Procurement [RA-GSITPROCUREMENT@pa.gov](mailto:RA-GSITPROCUREMENT@pa.gov)/rjaime@pa.gov



## Appendix E, 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 **01 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-002.2a Renewal of Contract Term (Nov 30 2006)

The Contract may be renewed for a maximum of **4** additional **1 year** term(s), so long as Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter prior to the expiration of the term of the agreement, or any extension thereof. The Commonwealth may exercise the renewal as individual year or multiple year term(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

### V.4. CONTRACT-002.3 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-003.1b 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.

## Appendix E, CONTRACT TERMS AND CONDITIONS

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.

## Appendix E, CONTRACT TERMS AND CONDITIONS

- (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-005.1a Purchase Orders (July 2015)

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

Purchase Orders 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

## **Appendix E, CONTRACT TERMS AND CONDITIONS**

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 the 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-007.01a Supplies Delivery (Nov 30 2006)**

All item(s) shall be delivered F.O.B. Destination. The Contractor agrees to bear the risk of loss, injury, or destruction of the item(s) ordered prior to receipt of the items by the Commonwealth. Such loss, injury, or destruction shall not release the Contractor from any contractual obligations. Except as otherwise provided in this contract, all item(s) must be delivered within the time period specified. Time is of the essence and, in addition to any other remedies, the Contract is subject to termination for failure to deliver as specified. Unless otherwise stated in this Contract, delivery must be made within **thirty (30) days** after the Effective Date.

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

The Contractor shall proceed with all due diligence in the performance of the services with qualified personnel, in accordance with the completion criteria set forth in the Contract.

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

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase materials and services

## Appendix E, CONTRACT TERMS AND CONDITIONS

covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

### V.12. Pallets

Materials delivered under this Contract may be required to be delivered on non-returnable wooden pallets so that they can be unloaded using a forklift. If pallet delivery is required, the ordering agency must so indicate on the purchase order. The total height of the palletted materials (including the height of the pallet) must not exceed **52 inches**. Each carton in the pallet must have the commodity code and purchase order number on the outside of the carton. A packing slip must accompany each shipment.

### V.13. Warranties

- (a) 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 and conform in all material respects to the functional specifications and requirements of the Contract. 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.
- (b) The Contractor hereby represents and warrants to the Commonwealth that the Contractor will not cause or take any action that may directly or indirectly cause a disruption of the Commonwealth's operations.
- (c) Contractor warrants that it has the necessary legal rights, including licenses to third party products, tools or materials, to perform the Services and deliver the supplies and Developed Materials, if any, under this Contract.
- (d) THE FOREGOING EXPRESS WARRANTIES ARE THE CONTRACTOR'S SOLE AND EXCLUSIVE WARRANTIES AND NO OTHER WARRANTIES, EXPRESS OR IMPLIED, SHALL APPLY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- (e) All warranties shall survive final acceptance.

### V.14. CONTRACT-009.1a Patent, Copyright, Trademark, and Trade Secret Protection (Oct 2013)

- (a) The Contractor shall hold the Commonwealth harmless from any suit or proceeding which may be brought by a third party against the Commonwealth, its departments, officers or employees for the alleged infringement of any United

## Appendix E, CONTRACT TERMS AND CONDITIONS

States or foreign patents, copyrights, or trademarks, or for a misappropriation of trade secrets arising out of performance of this Contract, including all work, services, materials, reports, studies, and computer programs provided by the Contractor, and in any such suit or proceeding will satisfy any final award for such infringement, including costs. The Commonwealth agrees to give 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 the terms 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. No settlement which prevents the Commonwealth from continuing to use the Developed Materials as provided herein shall be made without the Commonwealth's prior written consent. In all events, the Commonwealth shall have the right to participate in the defense of any such suit or proceeding through counsel of its own choosing. It is expressly agreed by the Contractor that, in the event it requests that the Commonwealth to provide support to the Contractor in defending any such claim, the Contractor shall reimburse the Commonwealth for all expenses (including attorneys' fees, if such are made necessary by the Contractor's request) incurred by the Commonwealth for such support. If OAG does not delegate the defense of the matter, the Contractor's obligation to indemnify ceases. The Contractor will, at its expense, provide whatever cooperation OAG requests in the defense of the suit.

- (b) The Contractor agrees to exercise reasonable due diligence to prevent claims of infringement on the rights of third parties. The Contractor certifies that, in all respects applicable to this Contract, it has exercised and will continue to exercise due diligence to ensure that all works produced under this Contract do not infringe on the patents, copyrights, trademarks, trade secrets or other proprietary interests of any kind which may be held by third parties. The Contractor also agrees to certify that work produced for the Commonwealth under this contract shall be free and clear from all claims of any nature.
- (c) If the defense of the suit is delegated to the Contractor, the Contractor shall pay all damages and costs awarded therein against the Commonwealth. 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.
- (d) If, in the Contractor's opinion, the products, materials, reports, studies, or computer programs furnished hereunder are likely to or do become subject to a claim of infringement of a United States patent, copyright, or trademark, or for a misappropriation of trade secret, then without diminishing the Contractor's obligation to satisfy any final award, the Contractor may, at its option and expense, substitute functional equivalents for the alleged infringing products,

## Appendix E, CONTRACT TERMS AND CONDITIONS

materials, reports, studies, or computer programs or, at the Contractor's option and expense, obtain the rights for the Commonwealth to continue the use of such products, materials, reports, studies, or computer programs.

- (e) If any of the products, materials, reports, studies, or computer programs provided by the Contractor are in such suit or proceeding held to constitute infringement and the use or publication thereof is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to publish or continue use of such infringing products, materials, reports, studies, or computer programs, replace them with non-infringing items, or modify them so that they are no longer infringing.
- (f) If the Contractor is unable to do any of the preceding, the Contractor agrees to pay the Commonwealth:
  - (i) any amounts paid by the Commonwealth less a reasonable amount based on the acceptance and use of the deliverable;
  - (ii) any license fee less an amount for the period of usage of any software; and
  - (iii) the prorated portion of any service fees representing the time remaining in any period of service for which payment was made.
- (g) The obligations of the Contractor under this Section continue without time limit and survive the termination of this Contract.
- (h) Notwithstanding the above, the Contractor will have no obligation for:
  - (i) modification of any product, service, or deliverable provided by the Commonwealth;
  - (ii) any material provided by the Commonwealth to the Contractor and incorporated into, or used to prepare, a service, product or deliverable;
  - (iii) use of product, service or deliverable in other than its specified operating environment;
  - (iv) the combination, operation, or use of the product, service, or deliverable with other products, services, or deliverables not provided by the Contractor as a system or combination, operation, or use of the product service, or deliverable, with any products, data, or apparatus that the Contractor did not provide;
  - (v) infringement of a non-Contractor product alone;

## Appendix E, CONTRACT TERMS AND CONDITIONS

- (vi) the Commonwealth's distribution, marketing or use beyond the scope contemplated by the Contract, or
- (vii) the Commonwealth's failure to use corrections or enhancements made available to the Commonwealth by the Contractor at no charge.
- (i) The obligation to indemnify the Commonwealth, under the terms of this Section, shall be the Contractor's sole and exclusive obligation for the infringement or misappropriation of intellectual property.

### V.15. OWNERSHIP RIGHTS

- (a) **General.** 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.
- (b) **Software.**
  - (i) Embedded Software licenses. Any software included in the Supplies at the time of delivery (the "Embedded Software"), which includes any subsequent updates, patches or fixes, is licensed as part of the Supplies and not sold separately. The Contractor hereby grants to the Commonwealth a non-exclusive, royalty- free, fully-paid, perpetual license to use the Embedded Software only in the operation of the Supply in which it was delivered. The Commonwealth shall not be required to accept and comply with any additional license agreement or terms (including, but not limited to any clickthrough, open source or freeware terms) for any Embedded Software, except as set forth in paragraph (ii) below.
  - (ii) Commercially Available Software Licenses. The Contractor may not offer Supplies which require commercially available software, which includes freeware and open source software, for its use, unless and until the Commonwealth has entered into a software license agreement with the software licensor. The Contractor must inform any such software licensor that the software licensor must enter into a software license agreement with the Commonwealth with terms that are acceptable to the Commonwealth.
- (c) **Contractor Intellectual Property.** The Commonwealth acknowledges that Contractor has previously developed software and related processes, instructions, methods, and techniques, and that the same shall remain the sole and exclusive property of Contractor. Contractor retains ownership of all Contractor Intellectual Property that Contractor delivers to the Commonwealth pursuant to this Contract.



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- (d) **Commonwealth Intellectual Property and Data.** The Commonwealth owns all Data and Intellectual Property provided to the Contractor pursuant to this Contract or collected or generated by the Contractor on behalf of the Commonwealth pursuant to this Contract. Commonwealth grants Contractor a non-exclusive, royalty-free, license to use, copy, display, and prepare derivative works of the Commonwealth's Intellectual Property and Data only to fulfill the purposes of this Contract. The Commonwealth's license to Contractor is limited by the terms of this Contract.
- (e) **Click-Through Terms.** The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. Other terms and conditions included in click-through agreements (including end user licenses) or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of this Contract and shall be disregarded by the parties. Any such terms shall be unenforceable by the Contractor and not binding on the Commonwealth.
- (f) **No Transfer of Right, Title or Interest.** Except as expressly set forth in this Contract, nothing in this Contract shall be construed as granting to or conferring upon Contractor, any right, title, or interest in any physical or intellectual property that is now owned or subsequently owned by the Commonwealth or any third party. Except as expressly set forth in this Contract, nothing in this Contract shall be construed as granting to or conferring upon the Commonwealth, any right, title, or interest in any physical or intellectual property that is now owned or subsequently owned by the Contractor.

### V.16. 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.17. CONTRACT-010.2 Product Conformance (March 2012)

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

- (i) Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
- (ii) Supply published manufacturer product documentation.
- (iii) Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
- (iv) Complete a survey/questionnaire relating to the bid requirements and specifications.
- (v) Provide customer references.
- (vi) Provide a product demonstration at a location near Harrisburg or the using agency location.

### **V.18. CONTRACT-010.3 Rejected Material Not Considered Abandoned (March 2012)**

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

### **V.19. 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.20. CONTRACT-012.1 Contract Scope (Oct 2013)**

If the Contractor must perform work at a Commonwealth facility outside of the daily operational hours set forth by the Commonwealth, it must make arrangements with the Commonwealth to assure access to the facility and equipment. No additional payment will be made on the basis of lack of access, unless the Commonwealth fails to provide access as set out in the Contract.

Except as set out in this Contract, the Contractor shall not offer for sale or provide Commonwealth agencies with any hardware or software (i.e., personal computers, file servers, laptops, personal computer packaged software, etc.). Contractor may recommend the use of tools such as hardware and software, without requiring agencies to purchase those tools.

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Software tools that are NOT on statewide contract will be acquired through separately procured purchase agreements, and the Contractor shall not be considered for award of such agreements if it has recommended their use.

Contractor shall comply with the IT standards and policies issued by the Governor's Office of Administration, Office for Information Technology (OA/OIT) (located at: <https://www.oa.pa.gov/Policies/Pages/itp.aspx> including the accessibility standards set out in IT Policy **ACC001, IT Accessibility Policy**). The Contractor shall ensure that Services procured under this Contract comply with the applicable standards. In the event such standards change during Contractor's performance, and the Commonwealth requests that Contractor comply with the changed standard, then any incremental costs incurred by Contractor to comply with such changes shall be paid for pursuant to a change order to the Contract.

### **V.21. 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.22. 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.23. CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)**

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.24. 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.25. CONTRACT-015.1A Compensation/Expenses (May 2008)**

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.

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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.26. 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 section, 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.27. CONTRACT-016.1 Payment (Oct 2006)

- (a) The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) **thirty (30) days** after a proper invoice actually is received at the “Bill To” address if a date on which payment is due is not specified in the Contract (a “proper” invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by 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.](#)

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266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

- (b) The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

### V.28. CONTRACT-016.2 Payment – Electronic Funds Transfer (July 2022)

- (a) 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).
- (b) 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.
- (c) 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.29. 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

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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 section 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.30. 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.31. 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.32. 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 Contract shall preserve books, documents and records that relate to costs or pricing data for the Contract for a period of **three (3) years** from the date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

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### V.33. CONTRACT-020.2 Single Audit Clause of 1984 (Oct 2013)

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

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

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

### V.34. 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:
  - (i) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
  - (ii) 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;
  - (iii) Unsatisfactory performance of the work;
  - (iv) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
  - (v) Improper delivery;
  - (vi) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;

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- (vii) Delivery of a defective item;
  - (viii) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
  - (ix) Discontinuance of work without approval;
  - (x) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
  - (xi) Insolvency or bankruptcy;
  - (xii) Assignment made for the benefit of creditors;
  - (xiii) 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;
  - (xiv) Failure to protect, to repair, or to make good any damage or injury to property;
  - (xv) Breach of any provision of the Contract;
  - (xvi) Failure to comply with representations made in the Contractor's bid/proposal; or
  - (xvii) 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 Subsection (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 Subsection (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



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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 section 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 section 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.35. 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.

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### V.36. CONTRACT-023.1b Termination (Oct 2013)

(a) For Convenience

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

In the event of termination hereunder, Contractor shall receive payment for the following:

- (1) all Services performed consistent with the terms of the Contract prior to the effective date of termination;
- (2) and all actual and reasonable costs incurred by Contractor as a result of the termination of the Contract.

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

Failure to agree on any termination costs shall be a dispute handled in accordance with CONTRACT CONTROVERSIES provision of this Contract.

- (ii) The Contractor shall cease Services as of the date set forth in the Notice of Termination, and shall be paid only for such Services as have already been satisfactorily rendered up to and including the termination date set forth in said notice, or as may be otherwise provided for in said Notice of Termination, and for such services performed during the **thirty (30) calendar day** notice period, if such services are requested by the Commonwealth, for the collection, assembling, and transmitting to the Commonwealth of at least all materials, manuals, magnetic media, studies, drawings, computations, maps, supplies, and survey notes including field books, which were obtained, prepared, or developed as part of the Services required under this Contract.
- (iii) The above shall not be deemed to limit the Commonwealth's right to terminate this Contract for any reason as permitted by the other provisions of this Contract, or under applicable law.

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(b) Non-Appropriation

Any payment obligation or portion thereof of the Commonwealth created by this Contract is conditioned upon the availability and appropriation of funds. When funds (state or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract. The Contractor shall be reimbursed in the same manner as that described in this section related to Termination for Convenience to the extent that appropriated funds are available.

(c) Default

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

- (i) Subject to the LIMITATION OF LIABILITY provision of this Contract, in the event the Commonwealth terminates this Contract in whole or in part as provided in this Subsection, the Commonwealth may procure services similar to those so terminated, and the Contractor, in addition to liability for any liquidated damages, shall be liable to the Commonwealth for the difference between the Contract price for the terminated portion of the services and the actual and reasonable cost (but in no event greater than the fair market value) of producing substitute equivalent services for the terminated services, provided that the Contractor shall continue the performance of this Contract to the extent not terminated under the provisions of this section.
- (ii) Except with respect to defaults of Subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control of the Contractor. Such causes may include, but are not limited to, acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, work stoppages, freight embargoes, acts of terrorism, and unusually severe weather. The Contractor shall notify the Contracting Officer promptly in writing of its inability to perform because of a cause beyond the control of the Contractor.

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- (iii) Nothing in this Subsection shall abridge the Commonwealth's right to suspend, debar, or take other administrative action against the Contractor.
  - (iv) If it is later determined that the Commonwealth erred in terminating the Contract for default, then the Contract shall be deemed to have been terminated for convenience under Subsection (a).
  - (v) If this Contract is terminated as provided by this Subsection (c), the Commonwealth may, in addition to any other rights provided in this Subsection, and subject to the OWNERSHIP RIGHTS provision of this Contract, require the Contractor to deliver to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such reports and other documentation as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Payment for such reports and documentation will be made consistent with the Contract.
- (d) The rights and remedies of the Commonwealth provided in this Section 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 Section 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 this Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

### V.37. 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

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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.38. CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)

- (a) Subject to the terms and conditions of this section, 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.

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- (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.39. 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 section shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this section as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

### V.40. CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)

The Contractor agrees:

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

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- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through

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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.

- (j) 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.41. CONTRACT-028.1 Contractor Integrity Provisions (Jan 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.

- (a) **DEFINITIONS.** For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:
  - (i) “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.
  - (ii) “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.
  - (iii) “Contractor” means the individual or entity, that has entered into this contract with the Commonwealth.
  - (iv) “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.
  - (v) “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.



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- (vi) “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.
  - (vii) “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.
- (b) In furtherance of this policy, Contractor agrees to the following:
- (i) 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.
  - (ii) 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.
  - (iii) 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.
  - (iv) 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

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proposal submission, or if no bids or proposals are solicited, no later than the Contractor's submission of the contract signed by Contractor.

- (v) 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.

- (vi) 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).

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- (vii) 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.
- (viii) 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.
- (ix) 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.

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- (x) 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.42. 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.

- (a) The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- (b) The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- (c) The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within **15 days** of the date of suspension or debarment.

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- (d) The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- (e) The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- (f) The Contractor may search the current list of suspended and debarred Commonwealth contractors visiting there Marketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment List tab.

### V.43. 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:

- (a) Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. Section 35.101 *et seq.*, the Contractor understands and agrees that 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 this contract and executing this agreement, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth through contracts with outside contractors.
- (b) 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 Subsection (a).

### V.44. CONTRACT-031.1 Hazardous Substances (April 2017)

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The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the “[Worker and Community Right to Know Act](#)” (the “Act”) and the regulations promulgated pursuant thereto at [34 Pa. Code Section 301.1 - 323.6](#).

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

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- (2) A hazard warning, if appropriate,
- (3) The name, address, and telephone number of the manufacturer, and
- (4) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

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

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

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

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

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

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

### V.45. 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,

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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.46. 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.47. 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.48. 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.49. 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.50. CONTRACT-035.1b Changes (Oct 2013)**



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- (a) At any time during the performance of the Contract, the Commonwealth or the Contractor may request a change to the Contract. Contractor will make reasonable efforts to investigate the impact of the change request on the price, timetable, specifications, and other terms and conditions of the Contract. If the Commonwealth is the requestor of the change, the Contractor will inform the Commonwealth if there will be any charges for the Contractor's services in investigating the change request prior to incurring such charges. If the Commonwealth and the Contractor agree on the results of the investigation and any necessary amendments to the Contract, the parties must complete and execute a change notice to modify the Contract and implement the change. The change request will be evidenced by a Purchase Order issued by the Commonwealth. No work may begin on the change request until the Contractor has received the Purchase Order. If the parties cannot agree upon the results of the investigation or the necessary amendments to the Contract, the change request will not be implemented and, if the Contractor initiated the change request it may elect to handle the matter in accordance with the CONTRACT CONTROVERSIES provision of this Contract.
- (b) Changes outside the scope of this Contract shall be accomplished through the Commonwealth's normal procurement procedures, and may result in an amended Contract or a new contract. No payment will be made for services outside of the scope of the Contract for which no amendment has been executed, prior to the provision of the services.

### V.51. 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 <https://www.psp.pa.gov/pages/criminal-history-background-check.aspx>. The background check must be conducted prior to initial access and on an annual basis thereafter.
- (b) Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the

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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.52. CONTRACT-037.1a Confidentiality (Oct 2013)

- (a) The Contractor agrees to protect the confidentiality of the Commonwealth's information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. (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, except when essential for authorized use under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by the 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 all notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, 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.

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- (b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:
- (i) already known to the recipient at the time of disclosure other than through the contractual relationship;
  - (ii) independently generated by the recipient and not derived from the information supplied by the disclosing party;
  - (iii) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
  - (iv) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
  - (v) required to be disclosed by the recipient by law, regulation, court order, or other legal process.

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

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- (iv) Submit the **two** documents along with the signed written statement to the Commonwealth.

### V.53. CONTRACT-037.2a Sensitive Information (Sept 2009)

The Contractor shall not publish or otherwise disclose, except to the Commonwealth and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by or about any particular person or establishment can be identified, except with the consent of such person or establishment. The parties shall not use or disclose any information about a recipient receiving services from, or otherwise enrolled in, a Commonwealth program affected by or benefiting from services under this Contract for any purpose not connected with the parties' Contract responsibilities except with the written consent of such recipient, recipient's attorney, or recipient's parent or guardian pursuant to applicable state and federal law and regulations. Contractor will be responsible to remediate any improper disclosure of information. Such remediation may include, but not be limited to, credit monitoring for individuals for whom information has been released and reimbursement of any costs incurred by individuals for whom information has been released. Costs for which Contractor is responsible under this paragraph are not subject to any limitation of liability set out in this Contract or Purchase Order.

### V.54. Limitation of Liability

- (a) The Contractor's liability to the Commonwealth under this Contract shall be limited to the greater of **\$250,000** or the value of this Contract (including any amendments). This limitation will apply, except as otherwise stated in this Section, regardless of the form of action, whether in contract or in tort, including negligence. This limitation does not, however, apply to damages for:
  - (i) bodily injury;
  - (ii) death;
  - (iii) for gross negligence or intentional or willful misconduct;
  - (iv) damage to real property or tangible personal property for which the Contractor is legally liable;
  - (v) under the PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET PROTECTION section of the Contract;
  - (vi) under the DATA BREACH OR LOSS section of the Contract; or
  - (vii) under the VIRUS AND MALICIOUS, MISCHIEVOUS OR DESTRUCTIVE PROGRAMMING section of the Contract.

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- (b) The Contractor will not be liable for consequential or incidental damages, except for damages as set forth in paragraphs (a)(i)—(vii) above, or as otherwise specified in the Contract.

### V.55. **CONTRACT-039.1 Virus; Malicious, Mischievous or Destructive Programming (Oct 2013)**

- (a) Notwithstanding any other provision in this Contract to the contrary, the Contractor shall be liable for any damage to any data and/or software owned or licensed by the Commonwealth if the Contractor or any of its employees, subcontractors or consultants introduces a virus or malicious, mischievous or destructive programming into the Commonwealth's software or computer networks and has failed to comply with the Commonwealth software security standards. The Commonwealth must demonstrate that the Contractor or any of its employees, subcontractors or consultants introduced the virus or malicious, mischievous or destructive programming. The Contractor's liability shall cease if the Commonwealth has not fully complied with its own software security standards.
- (b) The Contractor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that result from the Contractor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Contractor or any of its employees, subcontractors or consultants through appropriate firewalls and maintenance of anti-virus software and software security updates (such as operating systems security patches, etc.).
- (c) In the event of destruction or modification of software, the Contractor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth's software, and be liable to the Commonwealth for any resulting damages.
- (d) The Contractor shall be responsible for reviewing Commonwealth software security standards and complying with those standards.
- (e) The Commonwealth may, at any time, audit, by a means deemed appropriate by the Commonwealth, any computing devices being used by representatives of the Contractor to provide services to the Commonwealth for the sole purpose of determining whether those devices have anti-virus software with current virus signature files and the current minimum operating system patches or workarounds have been installed. Devices found to be out of compliance will immediately be disconnected and will not be permitted to connect or reconnect to the Commonwealth network until the proper installations have been made.

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- (f) The Contractor may use the anti-virus software used by the Commonwealth to protect Contractor's computing devices used in the course of providing services to the Commonwealth. It is understood that the Contractor may not install the software on any computing device not being used to provide services to the Commonwealth, and that all copies of the software will be removed from all devices upon termination of this Contract.
- (g) The Commonwealth will not be responsible for any damages to the Contractor's computers, data, software, etc. caused as a result of the installation of the Commonwealth's anti-virus software or monitoring software on the Contractor's computers.
  - (i) Notwithstanding any other provision in this Contract to the contrary, if the Contractor or any of its employees, subcontractors or consultants introduces a virus or malicious, mischievous or destructive programming into the Commonwealth's software or computer networks and has failed to comply with the Commonwealth software security standards, and provided further that the Commonwealth can demonstrate that the virus or malicious, mischievous or destructive programming was introduced by the Contractor or any of its employees, subcontractors or consultants, the Contractor shall be liable for any damage to any data and/or software owned or licensed by the Commonwealth. The Contractor shall be liable for any damages incurred by the Commonwealth including, but not limited to, the expenditure of Commonwealth funds to eliminate or remove a computer virus or malicious, mischievous or destructive programming that result from the Contractor's failure to take proactive measures to keep virus or malicious, mischievous or destructive programming from originating from the Contractor, its servants, agents or employees through appropriate firewalls and maintenance of anti-virus software and software security updates (such as operating systems security patches, etc.). In the event of destruction or modification of software, the Contractor shall eliminate the virus, malicious, mischievous or destructive programming, restore the Commonwealth's software, and be liable to the Commonwealth for any resulting damages. The Contractor shall be responsible for reviewing Commonwealth software security standards in effect at the commencement of the Contract and complying with those standards. The Contractor's liability shall cease if the Commonwealth has not fully complied with its own software security standards.
  - (ii) The Contractor shall perform a security scan on any software or computer program developed by the Contractor or its subcontractors in a country other than the United States of America that may come in contact with the Commonwealth's software or computer networks. Contractor shall perform such security scan prior to introducing any such software or computer program into a Commonwealth development environment, test environment or production environment. The results of these security

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scans will be provided to the Commonwealth prior to installing into any Commonwealth development environment, test environment or production environment. The Commonwealth may perform, at its discretion, additional security scans on any software or computer program prior to installing in a Commonwealth environment as listed above.

- (iii) The Commonwealth may, at any time, audit, by a means deemed appropriate by the Commonwealth, any computing devices being used by representatives of the Contractor to provide services to the Commonwealth that will be connected to a Commonwealth network for the sole purpose of determining whether those devices have anti-virus software with current virus signature files and the current minimum operating system patches or workarounds have been installed. Devices found to be out of compliance will immediately be disconnected and will not be permitted to connect or reconnect to the Commonwealth network until the proper installations have been made. The Commonwealth shall not install any software or monitoring tools on the Contractor's equipment without the Contractor's written consent to do so.
- (iv) The Contractor may use the anti-virus software used by the Commonwealth to protect Contractor's computing devices used in the course of providing services to the Commonwealth. It is understood that the Contractor may not install the software on any computing device not being used to provide services to the Commonwealth, and that all copies of the software will be removed from all devices upon termination of this Contract.
- (v) Neither the Commonwealth nor the Issuing Agency will be responsible for any damages to the Contractor's computers, data, software, etc. caused as a result of the installation of the Commonwealth's anti-virus software or monitoring software on the Contractor's computers.

### **V.56. CONTRACT-042.1 Installment Purchase Additional Terms and Conditions (Oct 2013)**

To the extent that the Contractor offers the Commonwealth or any purchasing agency ("Purchaser") the option to pay for any items covered by the Contract in installments over time, these Installment Purchase Terms And Conditions shall, in addition to the other terms and conditions of the Contract, govern the installment purchase, except to the extent the Contractor assigns an Installment Purchase to an Initial Assignee, in which case the Initial Assignee shall be bound to the obligations of the Contractor only as specified in these Installment Purchase Terms and Conditions. If a Purchaser desires to purchase items on an installment basis, the Purchaser shall indicate its Installment Purchase election on the PO issued to the Contractor ("Installment Purchase PO"). By issuing an Installment Purchase PO, the Purchaser explicitly agrees to these Installment Purchase Terms and Conditions. Any items covered by an Installment Purchase shall be called "Installment Items" in these Installment Purchase Terms and Conditions. To the extent

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that there is a conflict between the other terms and conditions of the Contract and these Installment Purchase Terms and Conditions, these Installment Purchase Terms and Conditions shall prevail to the extent that the Purchaser has elected an Installment Purchase option.

### (a) Term of Installment Purchase

The Contractor may provide any Installment Items under the Contract for any term up to **60 months**. The Purchaser shall identify the term selected on the Installment Purchase PO. The Installment Purchase term shall commence on the date the Purchaser accepts the Installment Items by executing the Acceptance Certificate, and the term shall continue for the length specified on the Installment Purchase PO. **The form of the Acceptance Certificate is attached as Appendix \_\_\_\_\_ to the IFB.**

If the Contractor delivers the Contract items in more than one delivery, unless otherwise specified in the Specifications for this procurement, the Purchaser will provide separate acceptance certificates for each delivery of the items, and the Purchaser will make separate payments for the Contract items corresponding to the amount of Contract items delivered and accepted **30 days** prior to the payment due date.

### (b) Payments

- (i) Full Term Intention. The Purchaser shall pay the applicable monthly payment for the Installment Items. The Purchaser shall continue payment for the full Installment Purchase term, unless the Purchaser terminates the Installment Purchase, either for Contractor default as set forth in the Default provision of the Contract or for non-appropriation of funds as specified in this section.
- (ii) Non-Appropriation. The Purchaser's obligation is payable only and solely from funds allotted for the purpose of the Installment Purchase. If sufficient funds are not appropriated for continuation of performance under any Installment Purchase for any fiscal year subsequent to the one in which the Purchaser issued the Installment Purchase PO, the Purchaser may return the Installment items to the Contractor/Initial Assignee (as applicable), and thereafter the Contractor/Initial Assignee will release the Purchaser of all further obligations under the Installment Purchase, provided:
  - (1) The Purchaser delivers unencumbered title to the Installment items to the contractor or Initial Assignee (if applicable);
  - (2) The Purchaser returns the Installment items to the Contractor/Initial Assignee in good condition, reasonable wear and tear excepted; and



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- (3) The Purchaser gives **30 days** written notice of the failure of appropriations to the Contractor/Initial Assignee, along with a certification that the Installment Items are not being replaced by similar items from another vendor. In the event the Purchaser returns the Installment Items for failure of appropriations, the Purchaser shall pay all amounts then due under the Installment Purchase through the end of the fiscal year for which sufficient funds were appropriated for the Installment Purchase.

### (c) **Title and Security Interest**

- (i) The title to the Installment Items shall pass to the Purchaser at the time and place of delivery to the Purchaser of each unit of equipment. The Contractor or its Initial Assignee shall have a purchase money security interest in the Installment Items until payment of all installments as set forth in the payment schedule are made, or if the Purchaser prepays its installments, upon payment of the agreed amount between the Contractor and the Purchaser as set forth in Subsection (i) of this Section.
  - (1) Upon payment of the final installment or other concluding payment option, neither the Contractor nor its assignee shall have any further interest in the Installment Items.
  - (2) The Installment Items shall remain personal property and shall not become a fixture or affixed to real property without consent of the Contractor/assignee.
  - (3) At the request of the Contractor or Initial Assignee, the Purchaser will join the Contractor/assignee in executing one or more UCC-1 financing statements.
  - (4) The Purchaser will keep the Installment Items free and clear of all encumbrances except the Contractor's/assignee's security interest.

### (d) **Use and Location of, And Alteration to Installment Items**

The Purchaser shall keep the Installment Items within the confines of the Commonwealth of Pennsylvania and shall inform the Contractor/Initial Assignee upon request of the location of the Installment Items. The Purchaser, at its own cost and expense, shall maintain the Installment Items in good operating condition and will not use or deal with the Installment Items in any manner which is inconsistent with the terms of the Contract or any applicable laws and regulations. The Purchaser agrees not to misuse, abuse, or waste the Installment Items and the Purchaser will not allow the Installment Items to deteriorate, except for ordinary wear and tear resulting from their intended use. No alterations, changes, or

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modifications to the Installment Items shall be made without the approval of the Contractor/Initial Assignee.

### (e) **Assumption of Risks**

(i) The Purchaser shall, after acceptance of the Installment Items, assume and bear the risk of damage to, or loss or theft of, the Installment Items (including all component parts) from any cause other than action or inaction of the Contractor/assignee. The loss or damage of the Installment Items shall not impair any obligation of the Purchaser under these Installment Purchase Terms and Conditions, which shall continue in full force and effect. In the event that all or part of the Installment Items shall, as a result of the above-mentioned causes, become, in the Purchaser's reasonable determination, lost, stolen, destroyed, rendered unusable, or irreparably damaged, then the Purchaser shall notify the Contractor/assignee in writing. At its option, the Purchaser shall elect either:

- (1) to replace the equipment either like equipment, or
- (2) to pay pro rata to the Contractor/assignee all payments then currently due according to the payment schedule, plus the pro rata principal portion of any remaining installments. The "pro rata principal portion of remaining installment payments" is that percentage of the principal portion of remaining installment payments as of the date of payment that the cost of the units of the equipment lost, stolen, destroyed, or rendered irreparably unusable or damaged bears to the total cost of the equipment determined by the amounts set forth in the field purchase order.
- (3) The Purchaser assumes all risks and liabilities for injury to or death of any person, or damage to any property, arising out of the Purchaser's possession, use, operation, condition, or storage of any Installment Items, as more fully set forth in Paragraph (i) of Subsection (g) of this Section.
- (4) The Purchaser agrees to insure the Installment Items as provided under Paragraph (ii) of Subsection (g) of this Section.

### (f) **Warranties**

- (i) The Purchaser shall have the benefit of any and all manufacturer or supplier warranties for the Installment Items.
- (ii) The Contractor/Initial Assignee and any subsequent assignee warrants that neither the Contractor/Initial Assignee or subsequent assignee, nor anyone

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acting or claiming through these parties by assignment or otherwise, will interfere with the Purchaser's quiet enjoyment of the Installment Items so long as no event of default as defined in Subsection (j) of this Section shall have occurred and be continuing.

### (g) **Liability**

- (i) The Purchaser assumes all risks and liabilities for injury to or death of any person or damage to any property, arising out of the Purchaser's possession, use, operation, condition, or storage of any Installment Item, whether such injury or death be of agents or employees of the Purchaser or of third parties, and whether such property damage be to the Purchaser's property or the property of others; provided, however, that the damage or injury results from the action or inaction of the Purchaser, its agents or employees, and provided that judgment has been obtained against the Purchaser, its agents or employees. This provision shall not be construed to limit the governmental immunity of any Purchaser.
- (ii) The Purchaser shall, during the Installment Purchase term, either self-insure or purchase insurance to cover the risks it has assumed under Paragraph (i) of this Subsection, including but not limited to risks of public liability and property damage.

### (h) **Assignment**

- (i) The Purchaser shall not assign any Installment Purchase PO or other interest in the Installment items without the prior written consent of the Contractor or its assignee. The Contractor may assign, and/or grant security interests in whole or in part in, the Installment Purchase to an Initial Assignee, who in turn may further assign and/or grant a security interest in an Installment Purchase to a subsequent assignee without the Purchaser's consent. Any other Contractor assignment shall require the Purchaser's prior written consent. Upon written notice to the Purchaser, the Contractor may assign payments under any Installment Purchase to a third party.
- (ii) The Contractor may assign, without DGS or Purchaser consent, any Installment Purchase PO to a third party ("Initial Assignee") who will fund the purchase of the Installment Items. The Initial Assignee may take title to, and assume the right to receive all payments for, the Installment Items. The Contractor shall notify the Purchaser of any Installment Purchase PO assignment in its acknowledgment of the Installment Purchase PO to the Purchaser, providing the Purchaser with a copy of the assignment agreement between the Contractor and the Initial Assignee.

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- (iii) Notwithstanding any provisions to the contrary in the Contract, in the event of an assignment to an Initial Assignee, the Initial Assignee shall be bound only to the Contractor's obligations specified in these Installment Purchase Terms and Conditions. An Initial Assignee shall not be responsible for any of the Contractor's additional representations, warranties, covenants, or obligations under the Contract Documents. By issuing an Installment Purchase PO, the Purchaser waives any claims it may have under the Installment Purchase against the Initial Assignee for any loss, damage, or expense caused by, defect in, or use or maintenance of any Installment Item. The Purchaser acknowledges that the Initial Assignee is not the supplier of the Installment Items and is not responsible for their selection or installation. After the ordering Purchaser executes, and the Initial Assignee receives, an acceptance certificate in the form attached to these Installment Purchase Terms and Conditions, if any portion of the Installment Items is unsatisfactory for any reason, the ordering Purchaser shall, nevertheless, continue to make payments under the applicable Installment Purchase terms and shall make any claim against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee of the Initial Assignee.
- (iv) After a Purchaser executes and the Initial Assignee receives an acceptance certificate:
  - (1) The Purchaser shall, regardless of whether any portion of the Installment Items is unsatisfactory for any reason, nevertheless, continue to make payments under the applicable Installment Purchase and shall make any claim relating to the Installment Items against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee; and
  - (2) The rights of the Initial Assignee and any subsequent assignee to receive payments are absolute and unconditional and shall not be affected by any defense or right of set-off.
- (v) Warranty Disclaimer

IN THE EVENT THE CONTRACTOR ASSIGNS AN INSTALLMENT PURCHASE TO AN INITIAL ASSIGNEE, SUCH INITIAL ASSIGNEE AND ANY SUBSEQUENT ASSIGNEE MAKE NO WARRANTY (OTHER THAN A WARRANTY OF QUIET ENJOYMENT OF THE INSTALLMENT ITEMS), EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AS TO THE INITIAL ASSIGNEE AND ANY SUBSEQUENT ASSIGNEE, THE PURCHASER TAKES THE EQUIPMENT AND ANY FINANCED ITEM "AS IS." IN NO

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EVENT SHALL THE INITIAL ASSIGNEE OR ANY SUBSEQUENT ASSIGNEE HAVE ANY LIABILITY FOR, NOR SHALL THE PURCHASER HAVE ANY REMEDY AGAINST, THE INITIAL ASSIGNEE OR ANY SUBSEQUENT ASSIGNEE FOR CONSEQUENTIAL DAMAGES, LOSS OF SAVINGS, OR LOSS OF USE.

### (i) **Financing and Prepayment**

- (i) If the Contractor is not the supplier of the Installment Items, the Contractor will pay the charges for the Installment Items directly to the supplier. In the event the Contractor assigns the Installment Purchase to an Initial Assignee, the Initial Assignee will pay the charges directly to the Contractor or the supplier, as applicable. If the Contractor has assigned payments under the Installment Purchase to an Initial Assignee, the Purchaser's obligation to make payments for the Installment Items for which the Purchaser has executed and delivered acceptance certificates shall not be affected by any discontinuance, return, or destruction of any license or licensed program materials, or by any Purchaser dissatisfaction with any Installment Item.
- (ii) The Purchaser may at any time elect to prepay its remaining Installment Purchase payments. The Purchaser shall provide notice of the intended prepayment date, which shall be at least **one month** after the date of the notice. Depending on market conditions at the time, the Contractor/Initial Assignee may reduce the balance of the remaining payments to reflect the requested prepayment and shall advise the Purchaser of the balance to be paid.
- (iii) If the Purchaser purchases Contract items related to an Installment Item prior to the expiration of the Installment Purchase terms, or if the Installment Purchase is terminated for any reason except non-appropriation as described in Subsection (b) of these Installment Purchase Terms and Conditions, and if the Installment Item has been delivered and the Purchaser has executed and delivered to the Contractor an acceptance certificate, the Purchaser shall prepay such Installment Item.

### (j) **Remedies for Default**

- (i) If the Purchaser does not make a required payment within **30 days** after its due date and such nonpayment continues for **15 days** after receipt of written notice from the Contractor/Initial Assignee that the Purchaser is delinquent in payment, if the Purchaser breaches any other provision under these Terms and Conditions and such breach continues for **15 days** after receipt of written notice of the breach from the Contractor/Initial Assignee, or if the Purchaser files any petition or proceeding (or has a

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petition or proceeding filed against it) under any bankruptcy, insolvency, or similar law, the Contractor/Initial Assignee may pursue and enforce the following remedies, individually or collectively:

- (1) Terminate the applicable Installment Purchase.
  - (2) Take possession of any or all Contract items in the Purchaser's possession, without any court order or other process of law. For such purpose, upon written notice of its intention to do so, the Contractor or its assignee may enter upon the premises where the Contract items may be and remove and repossess the Contract items, from the premises without being liable to the Purchaser in any action or legal proceedings. The Contractor/assignee may, at its option, sell the repossessed Contract items at public or private sale for cash or credit. The Purchaser shall be liable for the Contractor's/assignee's expenses of retaking possession, including without limitation the removal of the Contract items and placing the Contract items in good operating condition (if not in good operating condition at the time of removal) in accordance with the manufacturer's specifications. Repossessed Contract items shall include only those items that were purchased under the Installment Purchase.
  - (3) Recover from the Purchaser all payments then due, plus the net present value of the amount of the remaining payments. The present value of such remaining payments shall be calculated using a discount rate equal to the average of the weekly two- and three-year Treasury Constant Maturities published by the Federal Reserve Board for the last calendar week of the month preceding the contractor's/assignee's termination of the applicable Installment Purchase. The Treasury Constant Maturities are published in Statistical Release H.15 and may be accessed via the Federal Reserve Board's Internet website.
- (ii) In the event of Contractor default under the Default provision of the Contract, the Purchaser may pursue one or more of the following remedies:
- (1) If the payments under the Installment Purchase have been assigned to an Initial Assignee, the Purchaser shall continue to make payments for those Contract Items which have been delivered and for which the Purchaser has provided acceptance certificates to the Contractor/Initial Assignee.
  - (2) The Purchaser may cancel, without liability for payment, its order for any Contract items which have not been delivered and for

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which it has not issued acceptance certificates. In this instance, the amount of the Contract payments will be recalculated to take into consideration and pay for the actual number of Contract items which were delivered and accepted. If no Installment items have been delivered and accepted, the Purchaser may terminate the Installment Purchase without liability for any payment.

- (3) If payments have not been assigned, the Purchaser may set off or counterclaim any and all damages incurred by the Purchaser as a result of the contractor's default against its obligation to make payments.

### (k) **Compliance with Internal Revenue Code**

- (i) Tax Exempt Financing. If it intends to provide tax exempt financing, the Contractor/Initial Assignee must file, in timely fashion, any reports the Internal Revenue Service may require with respect to the order under the Internal Revenue Code (IRC). The Purchaser shall cooperate with the Contractor/Initial Assignee in the preparation and execution of these documents. The Purchaser shall also keep a copy of each notification of assignment with the Purchaser's counterpart of the order and shall not, during the Installment Purchase term, permit the Installment Items to be directly or indirectly used for a private business use within the meaning of Section 141 of the IRC.
- (ii) Governmental Status. Eligible Purchasers include State entities or political subdivisions of a State for the purpose of Section 103(a) of the IRC as well as tax exempt non-profit corporations and entities under 501(c)(4) of the IRC. Any misrepresentation of a Purchaser's status under the IRC shall constitute an event of default by the Purchaser. If the Internal Revenue Service rules that the Purchaser does not so qualify under either Section 103(a) or 501(c)(4) of the IRC, or if the Purchaser fails to cooperate with the Contractor/Initial Assignee in the preparation and execution of any reports required under Section 124 or 149 of the IRC (including 8038G and 8038GC forms), the Purchaser will, upon demand, pay the Contractor/Initial Assignee a sum the Contractor/Initial Assignee determines sufficient to return the Contractor/Initial Assignee to the economic status it would otherwise have received.

### (l) **Governing Law**

All Purchases made under these Installment Purchase Terms and Conditions shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, except that the parties agree that Article 2A of the Uniform Commercial Code shall not apply or govern transactions under these Installment Purchase Terms and Conditions.

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### (m) Notices

Service of all notices under these Installment Purchase Terms and Conditions shall be sufficient if delivered to the Purchaser at the address set forth in the applicable Installment Purchase PO, or to the Contractor/Initial Assignee at the address set forth in its acknowledgment of the Installment Purchase PO, including any attached document. Notices by mail shall be effective when deposited in the U.S. mail, properly addressed, with sufficient paid postage. Notices by hand or by overnight courier shall be effective when actually received.

### V.57. CONTRACT-043.1-1 Leasing Additional Terms and Conditions (Oct 2013)

To the extent that the Contractor offers the Commonwealth or any purchasing agency (“Lessee”) the option to lease any items covered by the Contract, these Leasing Terms And Conditions shall, in addition to the other terms and conditions of the Contract, govern the Lease, except to the extent the Contractor assigns a Lease to an Initial Assignee, in which case the Initial Assignee shall be bound to the obligations of the Contractor only as specified in these Leasing Terms and Conditions. If a Lessee desires to lease contract items, the Lessee shall indicate its leasing election on the PO issued to the Contractor (“Lease PO”). By issuing a Lease PO, the Lessee explicitly agrees to these Leasing Terms and Conditions. Any items covered by a Lease shall be called “Leased Property” in these Leasing Terms and Conditions. To the extent that there is a conflict between the other terms and conditions of the Contract and these Leasing Terms and Conditions, these Leasing Terms and Conditions shall prevail to the extent that the Lessee has elected a leasing option.

#### (a) Term of Lease

The Contractor may provide any Leased Property under the Contract for any term up to **60 months**, including a Fair Market Value Option for Lease/Purchases. The Lessee shall identify the term selected, as well as its election of either a Lease or Lease/Purchase option, on the Lease PO. The Lease term shall commence on the date the Lessee accepts the Leased Property by executing the Acceptance Certificate, and the term shall continue for the length specified on the Lease PO. The form of the Acceptance Certificate is attached as **Appendix \_\_\_** to the RFP.

If the Contractor delivers the Leased Property in more than one delivery, unless otherwise specified in the Specifications for this procurement, the Lessee will provide separate acceptance certificates for each delivery of the items, and the Lessee will make periodic payments for the Leased Property corresponding to the amount of the Leased Property delivered and accepted **30 days** prior to the payment due date.

#### (b) Payments



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- (i) Full Term Intention. The Lessee shall pay the applicable monthly or annual rent payment for the Leased Property for the full Lease term, unless the Lessee terminates the Lease, either for Contractor default as set forth in the Default provision of the Contract or for non-appropriation of funds as specified in this section.
  
- (ii) Non-appropriation. The Lessee's obligation is payable only and solely from funds allotted for the purpose of the Lease. If sufficient funds are not appropriated for continuation of performance under any Lease for any fiscal year subsequent to the one in which the Lessee issued the Lease PO, the Lessee may return the Leased Property to the Contractor/Initial Assignee (as applicable), and thereafter the Contractor/Initial Assignee shall release the Lessee of all further obligations under the Lease, provided:
  - (1) The Lessee delivers unencumbered title to the Leased Property to the Contractor or Initial Assignee (if applicable);
  - (2) The Lessee returns the Leased Property to the Contractor/Initial Assignee in good condition, reasonable wear and tear excepted; and
  - (3) The Lessee gives **30 days** written notice of the failure of appropriations to the Contractor/Initial Assignee, along with a certification that the Leased Property is not being replaced by similar items from another vendor. In the event the Lessee returns the Leased Property for failure of appropriations, the Lessee shall pay all amounts then due under the Lease through the end of the fiscal year for which sufficient funds were appropriated for the Lease.
  
- (c) **Title**
  - (i) Title to the Leased Property shall not pass to the Lessee but shall remain in the Contractor or Initial Assignee, whichever applies; except in the case of a Lease/Purchase, the title shall pass to the Lessee upon payment of the final installment or other concluding payment option.
    - (1) Upon payment of the final installment or other concluding payment option, neither the Contractor nor its assignee shall have any further interest in the Leased Property.
    - (2) The Leased Property shall remain personal property and shall not become a fixture or affixed to real property without consent of the Contractor/assignee.

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- (3) At the request of the Contractor or Initial Assignee, the Lessee will join the Contractor/assignee in executing one or more UCC-1 financing statements.
- (4) The Lessee will keep the Leased Property free and clear of all encumbrances except the Contractor's/assignee's security interest.

### **(d) Use And Location Of, and Alteration to Leased Property**

The Lessee shall keep the Leased Property within the confines of the Commonwealth of Pennsylvania and shall inform the Contractor/Initial Assignee upon request of the location of the Leased Property. The Lessee, at its own cost and expense, shall maintain the Leased Property in good operating condition and will not use or deal with the Leased Property in any manner which is inconsistent with the terms of the Contract or any applicable laws and regulations. The Lessee agrees not to misuse, abuse, or waste the Leased Property and the Lessee will not allow the Leased Property to deteriorate, except for ordinary wear and tear resulting from their intended use. No alterations, changes, or modifications to the Leased Property shall be made without the approval of the Contractor/Initial Assignee.

### **(e) Risk of Loss**

The Contractor shall assume and bear the risk of loss or damage to, or theft of, the Leased Property and all component parts while the Leased Property or parts are in the Lessee's possession, unless the Lessee could have prevented such loss, damage, or theft by exercising reasonable care or diligence in the use, protection, or care of the Leased Property or parts. No loss or damage to the Leased Property or parts shall impair any Contractor or Lessee obligation under the Lease, except as expressly provided in these Leasing Terms and Conditions. If the damage could not have been prevented by the Lessee's exercise of reasonable care or diligence, and the Contractor determines the Leased Property or parts can be economically repaired, the Contractor shall repair or cause to be repaired all damages to the Leased Property or their parts. In the event that the any of the Leased Property or their parts are stolen or destroyed, or if in the Contractor's opinion they are rendered irreparable, unusable, or damaged, the affected Leased Property shall be considered a total loss and the Lease shall terminate as to that Leased Property, and the Lessee's obligation to pay rent for the affected Leased Property shall be deemed to have ceased as of the date of the loss.

### **(f) Warranties**

- (i) The Lessee shall have the benefit of any and all manufacturer or supplier warranties for the Leased Property during the Lease term.

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- (ii) The Contractor/Initial Assignee and any subsequent assignee warrants that neither the Contractor/Initial Assignee or subsequent assignee, nor anyone acting or claiming through these parties by assignment or otherwise, will interfere with the Lessee's quiet enjoyment of the Leased Property so long as no event of default as defined in Subsection (j) of this Section shall have occurred and be continuing.

### (g) **Liability**

- (i) The Lessee assumes all risks and liabilities for injury to or death of any person or damage to any property, arising out of the Lessee's possession, use, operation, condition, or storage of any Leased Property, whether such injury or death be of agents or employees of the Lessee or of third parties, and whether such property damage be to the Lessee's property or the property of others; provided, however, that the damage or injury results from the action or inaction of the Lessee, its agents or employees, and provided that judgment has been obtained against the Lessee, its agents or employees. This provision shall not be construed to limit the governmental immunity of any Lessee.
- (ii) The Lessee shall, during the Lease term, either self-insure or purchase insurance to cover the risks it has assumed under Paragraph (i) of this Subsection, including but not limited to risks of public liability and property damage.

### (h) **Assignment**

- (i) The Lessee shall not assign any Lease PO or other interest in the Leased Property without the prior written consent of the Contractor or its assignee. The Contractor may assign, and/or grant security interests in whole or in part in, the Lease PO and Leased Property to an Initial Assignee, who in turn may further assign and/or grant a security interest in a Lease to a subsequent assignee without the Lessee's consent. Any other Contractor assignment shall require the Lessee's prior written consent. Upon written notice to the Lessee, the Contractor may assign payments under any Lease to a third party.
- (ii) The Contractor may assign, without Lessee consent, any Lease PO to a third party ("Initial Assignee") who will fund the purchase of the Leased Property. The Initial Assignee may take title to, and assume the right to receive all rental payments for, the Leased Property. The Contractor shall notify the Lessee of any Lease PO assignment in its acknowledgment of the Lease PO to the Lessee, providing the Lessee with a copy of the assignment agreement between the Contractor and the Initial Assignee.

## Appendix E, CONTRACT TERMS AND CONDITIONS

- (iii) Notwithstanding any provisions to the contrary in the Contract, in the event of an assignment to an Initial Assignee, the Initial Assignee shall be bound only to the Contractor's obligations specified in these Leasing Terms and Conditions. An Initial Assignee shall not be responsible for any of the Contractor's additional representations, warranties, covenants, or obligations under the Contract Documents. By issuing a Lease PO, the Lessee waives any claims it may have under the Lease against the Initial Assignee for any loss, damage, or expense caused by, defect in, or use or maintenance of any Leased Property. The Lessee acknowledges that the Initial Assignee is not the supplier of the Leased Property and is not responsible for their selection or installation. After the ordering Lessee executes, and the Initial Assignee receives, an Acceptance Certificate, if any portion of the Leased Property is unsatisfactory for any reason, the ordering Lessee shall, nevertheless, continue to make payments under the applicable Lease terms and shall make any claim against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee of the Initial Assignee.
- (iv) After a Lessee executes and the Initial Assignee receives an Acceptance Certificate:
  - (1) The Lessee shall, regardless of whether any portion of the Leased Property is unsatisfactory for any reason, nevertheless, continue to make payments under the applicable Lease and shall make any claim relating to the Leased Property against the Contractor or the manufacturer, not against the Initial Assignee or any subsequent assignee; and
  - (2) The rights of the Initial Assignee and any subsequent assignee to receive rental payments are absolute and unconditional and shall not be affected by any defense or right of set-off.
- (v) Warranty Disclaimer

IN THE EVENT THE CONTRACTOR ASSIGNS A LEASE TO AN INITIAL ASSIGNEE, SUCH INITIAL ASSIGNEE AND ANY SUBSEQUENT ASSIGNEE MAKE NO WARRANTY (OTHER THAN A WARRANTY OF QUIET ENJOYMENT OF THE LEASED PROPERTY), EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AS TO THE INITIAL ASSIGNEE AND ANY SUBSEQUENT ASSIGNEE, THE LESSEE TAKES THE LEASED PROPERTY "AS IS". IN NO EVENT SHALL THE INITIAL ASSIGNEE OR ANY SUBSEQUENT ASSIGNEE HAVE ANY LIABILITY FOR, NOR SHALL THE LESSEE HAVE ANY REMEDY

## Appendix E, CONTRACT TERMS AND CONDITIONS

AGAINST, THE INITIAL ASSIGNEE OR ANY SUBSEQUENT ASSIGNEE FOR CONSEQUENTIAL DAMAGES, LOSS OF SAVINGS, OR LOSS OF USE.

### (i) **Financing and Prepayment**

- (i) If the Contractor is not the supplier of the Leased Property, the Contractor will pay the charges for the Leased Property directly to the supplier. In the event the Contractor assigns the Lease to an Initial Assignee, the Initial Assignee will pay the charges directly to the Contractor or the supplier, as applicable. If the Contractor has assigned rental payments under the Lease to an Initial Assignee, the Lessee's obligation to make rental payments for the Leased Property for which the Lessee has executed and delivered acceptance certificates shall not be affected by any discontinuance, return, or destruction of any license or licensed program materials, or by any Lessee dissatisfaction with any Leased Property.
- (ii) The Lessee may at any time terminate the financing for any Leased Property by prepaying its remaining rental payments. The Lessee shall provide notice of the intended prepayment date, which shall be at least **one month** after the date of the notice. Depending on market conditions at the time, the Contractor/Initial Assignee may reduce the balance of the remaining rental payments to reflect the requested prepayment and shall advise the Lessee of the balance to be paid.
- (iii) If the Lessee purchases Contract items related to Leased Property prior to the expiration of the Lease term, or if the Lease is terminated for any reason except non-appropriation as described in Subsection (b) of this Section, and if the Leased Property has been delivered and the Lessee has executed and delivered to the Contractor an acceptance certificate, the Lessee shall prepay such Leased Property.

### (j) **Remedies for Default**

- (i) If the Lessee does not make a required payment within **30 days** after its due date and such nonpayment continues for **15 days** after receipt of written notice from the Contractor/Initial Assignee that the Lessee is delinquent in payment, if the Lessee breaches any other provision under these Leasing Terms and Conditions and such breach continues for **15 days** after receipt of written notice of the breach from the Contractor/Initial Assignee, or if the Lessee files any petition or proceeding (or has a petition or proceeding filed against it) under any bankruptcy, insolvency, or similar law, the Contractor/Initial Assignee may pursue and enforce the following remedies, individually or collectively:

## Appendix E, CONTRACT TERMS AND CONDITIONS

- (1) Terminate the applicable Lease.
  - (2) Take possession of any or all Leased Property in the Lessee's possession, without any court order or other process of law. For such purpose, upon written notice of its intention to do so, the Contractor or its assignee may enter upon the premises where the Leased Property may be and remove and repossess the Leased Property, from the premises without being liable to the Lessee in any action or legal proceedings. The Contractor/assignee may, at its option, sell the repossessed Leased Property at public or private sale for cash or credit. The Lessee shall be liable for the Contractor's/assignee's expenses of retaking possession, including without limitation the removal of the Leased Property and placing the Leased Property in good operating condition (if not in good operating condition at the time of removal) in accordance with the manufacturer's specifications. Repossessed Leased Property shall include only those items that were leased or lease/purchased under the Lease.
  - (3) Recover from the Lessee all rental payments then due, plus the net present value of the amount of the remaining rental payments. The present value of such remaining rental payments shall be calculated using a discount rate equal to the average of the weekly two- and three-year Treasury Constant Maturities published by the Federal Reserve Board for the last calendar week of the month preceding the contractor's/assignee's termination of the applicable Lease. The Treasury Constant Maturities are published in Statistical Release H.15 and may be accessed via the Federal Reserve Board's Internet website.
- (ii) In the event of Contractor default under the Default provision of the Contract, the Lessee may pursue one or more of the following remedies:
- (1) If the rental payments under the Lease have been assigned to an Initial Assignee, the Lessee shall continue to make payments for that Leased Property which has been delivered and for which the Lessee has provided acceptance certificates to the Contractor/Initial Assignee.
  - (2) The Lessee may cancel, without liability for payment, its order for any Leased Property which has not been delivered and for which it has not issued acceptance certificates. In this instance, the amount of the rental payments will be recalculated to take into consideration and pay for the actual amount of Leased Property which was delivered and accepted. If no Leased Property has been

## Appendix E, CONTRACT TERMS AND CONDITIONS

delivered and accepted, the Lessee may terminate the Lease without liability for any payment.

- (3) If payments have not been assigned, the Lessee may set off or counterclaim any and all damages incurred by the Lessee as a result of the Contractor's default against its obligation to make rental payments.

### (k) **Purchase Option**

If the Lessee is not in default, it shall have the right at the expiration of the Lease term to buy the Leased Property "as is with no additional warranty" by tendering the purchase option amount the parties have established. For any Lease with a Fair Market Value Option, the fair market value of the equipment shall be established by the Contractor/Initial Assignee and shall not exceed the then-current purchase price of the Leased Property as established in the Contract. Upon the Lessee's exercise of a purchase option and payment of the required amount to the Contractor/Initial Assignee, all right, title, and interest in the Leased Property shall pass to the Lessee.

### (l) **Extension**

If the Lessee does not elect to purchase the Leased Property at the expiration of a Lease term, and the Lessee is not in default under the Lease, the Lessee may elect to extend the Lease by written notification to the Contractor/Initial Assignee. The Lessee will make any elective extension under the same Leasing Terms and Conditions, including any rent payable (not less than fair market rental value), and will continue until the earlier of termination by either party upon **one month's** prior written notice, or **five years** from the date of installation.

### (m) **Return of Leased Property**

At the expiration or termination of a Lease for any Leased Property, or upon Contractor/Initial Assignee demand pursuant to Subsection (j) of this Section, the Lessee shall promptly return the Leased Property, freight prepaid, to any location in the continental United States specified by the Contractor/Initial Assignee. The Lessee shall pay the required rent for the Leased Property until they have been shipped to the Contractor.

- (i) Since DGS has, as a matter of policy, determined that all hard drives contain information that is confidential or sensitive, the Contractor shall, at its discretion, either remove and destroy any hard drive from the Leased Property or clean the hard drive to Office of Administration/U.S. Department of Defense standards, and the Contractor shall provide written certification to the Lessee that the hard drive has been destroyed or

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cleaned to Office of Administration/U.S. Department of Defense standards.

- (ii) Except in the event of a total loss of any or all Leased Property as described in Subsection (e) of this Section, and except for any costs associated with the removal, destruction, and cleaning of any hard drives, the Lessee shall pay any costs the Contractor/Initial Assignee incurs to restore the Leased Property to good operating condition in accordance with the Contract specifications. All parts the Contractor/Initial Assignee may remove and replace shall become the Contractor's/Initial Assignee's property.
- (iii) The Contractor's/Initial Assignee's costs associated with the cleaning of any hard drive to Office of Administration/U.S. Department of Defense standards and the removal and destruction of any hard drive(s) shall be included in the rental amount. The Lessee shall not be required to pay additional charges for the Contractor's/Initial Assignee's cleaning of a hard drive to Office of Administration/U.S. Department of Defense standards nor for the Contractor's/Initial Assignee's removal and destruction of any hard drive(s) upon the return of a Leased item.

### (n) **Compliance with Internal Revenue Code**

- (i) Tax Exempt Financing. If it intends to provide tax exempt financing, the Contractor/Initial Assignee must file, in timely fashion, any reports the Internal Revenue Service may require with respect to the order under the Internal Revenue Code (IRC). The Lessee shall cooperate with the Contractor/Initial Assignee in the preparation and execution of these documents. The Lessee shall also keep a copy of each notification of assignment with the Lessee's counterpart of the order and shall not, during the Lease term, permit the Leased Property to be directly or indirectly used for a private business use within the meaning of Section 141 of the IRC.
- (ii) Governmental status. Eligible Lessees include State entities or political subdivisions of a State for the purpose of Section 103(a) of the IRC as well as tax exempt non-profit corporations and entities under 501(c)(4) of the IRC. Any misrepresentation of a Lessee's status under the IRC shall constitute an event of default by the Lessee. If the Internal Revenue Service rules that the Lessee does not so qualify under either Section 103(a) or 501(c)(4) of the IRC, or if the Lessee fails to cooperate with the Contractor/Initial Assignee in the preparation and execution of any reports required under Section 124 or 149 of the IRC (including 8038G and 8038GC forms), the Lessee will, upon demand, pay the Contractor/Initial Assignee a sum the Contractor/Initial Assignee determines sufficient to



## Appendix E, CONTRACT TERMS AND CONDITIONS

return the Contractor/Initial Assignee to the economic status it would otherwise have received.

(o) **Governing Law**

All Leases made under these Leasing Terms and Conditions shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, except that the parties agree that Article 2A of the Uniform Commercial Code shall not apply or govern transactions under these Leasing Terms and Conditions.

(p) **Notices**

Service of all notices under these Leasing Terms and Conditions shall be sufficient if delivered to the Lessee at the address set forth in the applicable Lease PO, or to the Contractor/Initial Assignee at the address set forth in its acknowledgment of the Lease PO, including any attached document. Notices by mail shall be effective when deposited in the U.S. mail, properly addressed, with sufficient paid postage. Notices delivered by hand or by overnight courier shall be effective when actually received.

### V.58. CONTRACT-045.1 Insurance - General (Dec 12 2006)

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

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

## Appendix E, CONTRACT TERMS AND CONDITIONS

against the insurance coverage in regard to work performed for the Commonwealth.

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

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

### **V.59. CONTRACT-046.1 Manufacturer's Price Reduction (Oct 2006)**

If, prior to the delivery of the awarded item(s) by the Contractor, a price reduction is announced by the original equipment manufacturer, a comparative price reduction will be given to the Commonwealth by the Contractor.

### **V.60. 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.61. 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.

## Appendix E, CONTRACT TERMS AND CONDITIONS

- (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:
  - (i) 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
  - (ii) 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

## Appendix E, CONTRACT TERMS AND CONDITIONS

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.62. CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2022)

- (a) **Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than **\$15.00** 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.
- (b) **Adjustment.** Beginning July 1, 2023, and annually thereafter, the minimum wage rate shall 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.
- (c) **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
  - (i) exempt from the minimum wage under the [Minimum Wage Act](#) of 1968;
  - (ii) covered by a collective bargaining agreement;
  - (iii) 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
  - (iv) required to be paid a higher wage under any state or local policy or ordinance.
- (d) **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.

## Appendix E, CONTRACT TERMS AND CONDITIONS

- (e) **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.
- (f) **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.
- (g) **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.

### V.63. DATA BREACH OR LOSS.

- (a) The Contractor shall comply with all applicable data protection, data security, data privacy and data breach notification laws, including but not limited to the *Breach of Personal Information Notification Act*, Act of December 22, 2005, P.L. 474, No. 94, as amended, 73 P.S. §§ 2301—2329.
- (b) For Data and Confidential Information in the possession, custody, and control of the Contractor or its employees, agents, and/or subcontractors:
  - (i) The Contractor shall report unauthorized access, use, release, loss, destruction or disclosure of Data or Confidential Information (“Incident”) to the Commonwealth within **one (1) hour** of when the Contractor knows of or reasonably suspects such Incident, and the Contractor must immediately take all reasonable steps to mitigate any potential harm or further access, use, release, loss, destruction or disclosure of such Data or Confidential Information.
  - (ii) The Contractor shall provide timely notice to all individuals that may require notice under any applicable law or regulation as a result of an Incident. The notice must be pre-approved by the Commonwealth. At the Commonwealth’s request, Contractor shall, at its sole expense, provide credit monitoring services to all individuals that may be impacted by any Incident requiring notice.
- (c) The Contractor shall be solely responsible for any costs, losses, fines, or damages incurred by the Commonwealth due to Incidents.
- (d) As to Data and Confidential Information fully or partially in the possession, custody, or control of the Contractor and the Commonwealth, the Contractor shall diligently perform all of the duties required in this section in cooperation with the Commonwealth, until the time at which a determination of responsibility for the

## Appendix E, CONTRACT TERMS AND CONDITIONS

Incident, and for subsequent action regarding the Incident, is made final.

### V.64. AGENCY-SPECIFIC SENSITIVE AND CONFIDENTIAL COMMONWEALTH DATA (IF APPLICABLE)

- (a) The Contractor understands that its level of access may allow it to view or access highly sensitive and confidential Commonwealth and third party data. This data is subject to various state and federal laws and policies that vary from agency to agency, and from program to program within an agency. If applicable, prior to deployment of the Supplies or Services, the Contractor must receive and sign off on particular instructions and limitations as dictated by that Commonwealth agency, including but not limited to, as necessary, HIPAA Business Associate Agreements. This sign-off document (a sample of which is attached as **Attachment A, Sample Sign-off Document**, will include a description of the nature of the data which may be implicated based on the nature of the Contractor's access, and will incorporate the Business Associate Agreement if it is applicable.
- (b) The Contractor hereby certifies and warrants that, after being informed by the Commonwealth agency of the nature of the data which may be implicated and prior to the installation of the Supplies), the Contractor is and shall remain compliant with all applicable state and federal law and policy regarding the data's protection, and with the requirements memorialized in every completed and signed sign-off document. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory authorized to bind the Contractor is valid and is hereby integrated and incorporated by reference into this Contract via Purchase Orders issued under this Contract.
- (c) This section does not require a Commonwealth agency to exhaustively list the law to which implicated data is subject; the Commonwealth agency is obligated only to list the nature of the data implicated by the Contractor's access, to refer the Contractor to its privacy and security policies, and to specify requirements that are not otherwise inherent in compliance with applicable laws, regulations and policies.
- (d) The requirements of this section are in addition to and not in lieu of other requirements of this Contract, its Exhibits, Appendices and Attachments, having to do with data privacy and security, including but not limited to the requirement that the Contractor comply with all applicable Commonwealth ITPs, which can be found at <https://www.oa.pa.gov/Policies/Pages/itp.aspx>.
- (e) The Contractor shall conduct additional background checks, in addition to those required in the Background Checks section of the Contract, as may be required by a Commonwealth agency in its sign-off documents. The Contractor shall educate and hold its agents, employees, contractors and subcontractors to standards at least as stringent as those contained in this Contract. The Contractor shall provide information regarding its agents, employees, contractors and subcontractors to the

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Commonwealth upon request.

### V.65. FEDERAL REQUIREMENTS

If applicable, the Contractor must receive and sign off on particular federal requirements that a Commonwealth agency may be required to include when utilizing federal funds to procure the Supplies and Services. This sign-off document, in addition to any applicable requirements of the AGENCY-SPECIFIC SENSITIVE AND CONFIDENTIAL COMMONWEALTH DATA provisions, will include a description of the required federal provisions, along with the applicable forms necessary for the Contractor and/or Software Licensor execute, as necessary. Every sign-off document completed by a Commonwealth agency and signed by at least one signatory authorized to bind the Contractor is valid and is hereby integrated and incorporated by reference into this Contract. A sample sign-off document is attached to these Terms as **Attachment A, Sample Sign-off Document**.

**Attachment A**  
**Sign-Off Document No. \_\_\_\_\_, under Agreement No. \_\_\_\_\_**  
**Between**  
**[Contractor \_\_\_\_\_] and the Commonwealth of PA, [Agency]**

**[Contractor \_\_\_\_\_] Agency-level Deployment**

This document becomes, upon its execution by the signatories named below, a legally valid, binding part of Agreement No. \_\_\_\_\_ between the Commonwealth and \_\_\_\_\_ (Contractor), and is subject to the terms of that Agreement.

1. Scope of Deployment (need not be entire agency):
  
2. Nature of Data implicated or potentially implicated:
  
3. Agency Policies to which Contractor is subject (incorporated by reference):
  
4. Background checks (describe if necessary):
  
5. Additional requirements (describe with specificity):
  
6. Is Contractor a Business Associate (yes or no)?

If yes, the attached Business Associates Agreement, as completed by the Agency, is applicable and is hereby incorporated into this Sign-Off Document by reference.

**Agency Contact Person Signature and Date:** \_\_\_\_\_

**[Contractor \_\_\_\_\_]**  
**Authorized Signatory and Date:** \_\_\_\_\_



**FOR**

**ENTERPRISE STORAGE HARDWARE AND RELATED SERVICES**

**ISSUING OFFICE**

**Department of General Services  
Bureau of IT Procurement**

**IFB NUMBER**

**6100057583**

**DATE OF ISSUANCE**

**March 31, 2023**

**SPECIFICATIONS  
FOR  
ENTERPRISE STORAGE HARDWARE AND RELATED SERVICES**

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## CALENDAR OF EVENTS

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

Activity	Responsibility	Date
<p><b><u>SDB and VBE Goal Information Session – Via a virtual presentation on Tuesday December 27, 2022 at 10:00 AM ET.</u></b></p> <p>An RSVP to the SDB and VBE Goal Information Session is due via email to Ray Jaime at: <a href="mailto:RA-GSITPROCUREMENT@pa.gov">RA-GSITPROCUREMENT@pa.gov</a> with the subject line “Enterprise Storage Hardware and Related Services IFB 6100057583 RSVP to the SDB and VBE Goal Information Session” by <b>Friday December 23, 2022 at 10:00 AM ET.</b></p> <p>Once the RSVP has been received and processed, a follow-up email will be sent to the requestor with the online meeting invitation.</p>	Bidders	<b>Tuesday December 27, 2022 10:00 AM</b>
<p>Deadline to submit questions via email to: <a href="mailto:RA-GSITPROCUREMENT@pa.gov">RA-GSITPROCUREMENT@pa.gov</a> with the subject line “IFB 6100057583 Question”</p>	Bidders	<b>Monday April 14, 2023 3:00 PM</b>
<p>Answers to potential questions posted to the eMarketplace website (<a href="http://www.emarketplace.state.pa.us">http://www.emarketplace.state.pa.us</a>) no later than this date.</p>	Issuing Office	<b>Friday April 28, 2023 3:00 PM</b>
<p>Please monitor the eMarketplace website for all communications regarding this IFB.</p>	Bidders	<b>On Going</b>
<p>Bids must be received by the Issuing Office at:</p> <p>PASupplierPortal website (<a href="http://www.pasupplierportal.state.pa.us">http://www.pasupplierportal.state.pa.us</a>) no later than this date.”</p>	Bidders	<b>Friday May 12, 2023 4:00 PM</b>

#### **IV-1. General Information/Objectives.**

- A. General.** The Commonwealth intends to satisfy the need for Enterprise Storage Hardware as well as associated Installation, Service Integration, and Support Services from those interested in submitting bids (Bidders) for this Invitation for Bids (IFB).
- B. Specific.**
1. The Commonwealth intends to award multiple statewide contracts for the procurement of Enterprise Storage Hardware as well as associated Installation, Service Integration, and Support Services to responsive Bidders who meet the requirements of this IFB. The Commonwealth is seeking Bidders who offer the best discounts from the manufacturer's nationally publicized price list and respond to purchase orders in a timely fashion.
  2. Each Bidder shall only propose a single Original Equipment Manufacturers (OEM). Only one Bidder will be awarded per OEM. Of the Contractors, the **lowest total cost** will be chosen as the Best Value Contractor. Bidders awarded Contracts that were not deemed as the Best Value will be referred to as the Secondary Contractors. Contractors must provide the OEM's full storage product line at the minimum discount off catalog list price as indicated in their response to the sample configuration in **Appendix G – Cost Submittal**.
  3. The Commonwealth reserves the right to issue supplemental IFBs to add new manufacturers. Supplemental IFBs may be issued if it is determined to be in the best interest of the Commonwealth. If a Contractor holds an existing contract resulting from IFB 6100057583 for Enterprise Storage Hardware, the Contractor will be prohibited from being awarded an additional contract(s) under subsequent supplemental IFBs related to IFB 6100057583 for Enterprise Storage Hardware. The contract resulting from this IFB would not limit the Commonwealth in seeking competitive pricing for both on-premises infrastructure and cloud infrastructure as required by the OA/OIT technology and support needs.

#### **IV-2. Purchasing Scenarios.**

- A. Net New Environment.** To be defined as new installation that does not include expansions, replacement, or repair. The Best Value Contractor is to be used for installations of Storage hardware in net new environments in the commonwealth. If the Best Value Contractor is unable to meet the specific technical requirements (to include but not be limited to integration, compatibility, existing staff knowledge, floor space, network connectivity, etc.), a waiver must be provided by the Office of Administration through in accordance with ITP-BUS002 and the Department of General Services Chief Procurement Officer in order to procure from a Secondary Contractor.

**B. Replacement/Refresh with or without reduction.** No waiver is required. In order to procure a replacement/refresh, Agencies are to choose from either of the options below:

- a) Procure from the Best Value Contractor, regardless of OEM.
- b) Procure from a Secondary Contractor so long as they have been awarded a contract for the OEM hardware being replaced.

**C. Upgrade/Expansion.**

1. No waiver is required. Adding performance and/or capacity to an existing storage array, still under OEM support. In order to procure an upgrade/expansion, Agencies are to choose from the following options below:

- a) Procure from the Best Value Contractor, so long as they have been awarded a contract for the OEM hardware being replaced.
- b) Procure from a Secondary Contractor so long as they have been awarded a contract for the OEM hardware being replaced.
- c) If not available under any other contract, then the Agency must procure using an appropriate procurement method.

2. This contract does not guarantee volume based on past and future purchasing.

### **IV-3. Service Level Definitions.**

**A. The Commonwealth will utilize three (3) separate tiers of Service Levels as follows:**

- 1. **Basic.** 99.9% Availability, **Two (2)-Day** On-site parts and/or labor dispatch—standard response with **48-hour** parts and/or labor on-site support after completion of phone-based troubleshooting.
- 2. **Enhanced.** 99.99% Availability, Next Business Day On-site parts and/or labor dispatch—accelerated response with parts and/or labor on-site support after completion of phone-based troubleshooting.
- 3. **Critical.** 99.999% Availability, Mission-critical response with **four (4)-hour** on-site parts and/or labor on-site support, with a designated point of contact for resolution management, escalation and status updates.

#### **IV-4. Small Diverse Business (SDB) and Veteran Business Enterprise (VBE) Participation.**

- A. The Department's Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) has developed a goal setting policy based upon recommendations from its 2018 Disparity Study. The goal setting policy requires BDISBO and agencies to identify contract-specific participation goals for SDBs (which include Minority Business Enterprises, Women Business Enterprises, LGBT Business Enterprises, Disability-Owned Business Enterprises, and Service-Disabled Veteran-Owned Small Business Enterprises) and VBEs (which include Veteran-Owned Small Business Enterprises and Service-Disabled Veteran-Owned Small Business Enterprises).
1. Bidders are required to complete the following Appendices associated with this section:
    - a) **Appendix A, SDB-1 Participation Submittal Form**
    - b) **Appendix C, VBE-1 Participation Submittal Form**
  2. The following Appendices are provided for informational purposes **only** and are to be completed by the award-winning Bidder **only**. These Appendices are **not required** to be completed at the time of Bid Submission:
    - a) **Appendix B, Model Form of SDB Subcontractor Agreement**
    - b) **Appendix D, Model Form of VBE Subcontractor Agreement**
- B. Bidders must either agree to meet the participation goals in full or must request a full or partial Good Faith Efforts waiver from one or both of the participation goals. Failure to meet the participation goals or establish they have made good faith efforts to meet the participation goals will result in rejection of a bid as nonresponsive. The goals that have been established for this IFB are set forth below:
- SDB - 15%**
- VBE - 3%**
- C. **New SDB and VBE Goal Information Session.** The Commonwealth has made significant changes to the SDB and VBE requirements, and failure to meet these requirements may result in your proposal being deemed nonresponsive. Therefore, the Issuing Office will hold an SDB and VBE Goal Information Session for this IFB which we highly recommend you attend. The purpose of this Session is to

provide an overview of the IFB and SDB and VBE Participation submission instructions. Please refer to the Calendar of Events for the date and time.

#### **IV-5. Contract Management Requirements.**

##### **A. Account Management:**

- 1. Account Manager.** The Contractor must provide a dedicated Account Manager who will be the main point of contact for all requests and will be responsible for the coordination of all orders and the resolution of any issues. The Account Manager will be the sole point of contact with regard to contractual and purchase order matters. The Account Manager's responsibilities will include, but will not be limited to: providing administrative, supervisory and technical direction to the account representatives; providing quotes for hardware and/or services, reporting, providing recommendations on hardware and services, and tracking order fulfillment; monitoring work performance for accuracy, timeliness, efficiency, and adherence to contract requirements; coordinating the resolution of contract problems and the implementation and completion of problem escalation procedures.
- 2. OEM Representatives.** The Contractor must provide a main point of contact for each of the manufacturers for which the Contractor is selling products.
- 3. Account Representatives.** The Contractor must provide a sufficient number of account representatives to facilitate Commonwealth agency requests, which include, but are not limited to, providing quotes for Hardware and/or Services, reporting, providing recommendations on Hardware and Services, and tracking order fulfillment. Account representatives will be the main point of contact for all Commonwealth agency requests. Additionally, a dedicated service phone number should be provided. These account representatives are expected to have sufficient technical expertise to ensure proper orders are taken.
- 4. For Dedicated Contacts (Account Manager, OEM Representative, and Account Representatives)** include the employee's name, title, roles and responsibilities, the percent of time committed to this Project, years of experience in position, other relevant experience, the Dedicated Contact's education and any other professional qualifications using **Appendix F, Dedicated Contacts**. Identify if any Dedicated Contacts are subcontractors.



**B. Replacement of Dedicated Contacts.** After Dedicated Contacts are assigned and approved by the Commonwealth, the Contractor may not divert or replace Dedicated Contacts without written approval of the Commonwealth and in accordance with the following procedures:

1. The Contractor must provide notice of proposed diversion or replacement to the Commonwealth at least 60 days in advance and provide the name, qualifications and background check of the person who will replace the diverted or removed staff. The Commonwealth will notify the Contractor within ten (10) days of the diversion notice whether the proposed diversion is acceptable and if the replacement is approved.
2. Advance notification is not required for changes to Dedicated Contacts due to resignations, death and disability, dismissal for cause or dismissal as a result of termination of a subcontract or any other cause that is beyond the control of the Contractor. However, the Commonwealth must approve the replacement key personnel.

Replacement of Dedicated Contacts whose availability changes for reasons beyond the control of the Contractor must occur:

- a) On a temporary basis, within one (1) week of the availability change; and
  - b) On a permanent basis, no longer than 30 days from the availability change.
3. The Commonwealth may request that the Contractor remove one (1) or more of its staff persons from the contract at any time, with 30 days' written notice. If a staff person is removed from the Contract, the Contractor will have ten (10) days to fill the vacancy with a staff person acceptable in terms of experience and skills, subject to the Commonwealth approval.

#### **IV-6. Requirements.**

**A. Bidder Eligibility.** To be eligible to submit a Bid, a Bidder must:

1. Be an OEM or an authorized Reseller having a minimum of three (3) years of experience working with public sector clients. Additionally, the Bidder must have experience serving at least one (1) large state government similar in size to the Commonwealth.
2. Bidders must be able to provide the OEM's full storage product line.

3. Bidders must provide equipment capable of meeting the Commonwealth's data security needs. Please refer to ITP SEC-015, Data Cleansing Policy, [http://www.oa.pa.gov/Policies/Documents/itp\\_sec015.pdf](http://www.oa.pa.gov/Policies/Documents/itp_sec015.pdf).

**B. Bid Submission.** Bids must be submitted electronically via the PA Supplier Portal website on or before the due date specified in the Calendar of Events. Any bid submitted to the Issuing Office in hardcopy format will be rejected. The following documentation must be completed and submitted with a bid:

1. Appendix A, SDB-1 Participation Submittal Form
2. Appendix C, VBE-1 Participation Submittal Form
3. Appendix F, Dedicated Contacts
4. Appendix G, Cost Submittal
5. Appendix K, GSPUR-89 Reciprocal Limitations Act Requirements
6. Appendix L, COSTARS Program Election to Participate Form
7. Appendix M, Lobbying Certification Form
8. Appendix N, BOP-2201-06 Worker Protection and Investment Certification Form
9. Appendix O, Iran Free Procurement Certification Form
10. Appendix R, Trade Secret Confidential/Proprietary Information Notice (if applicable)

**C. Manufactures Authorization Letter** (if applicable). If a Bidder is submitting as a reseller, it must submit a Manufacturers Authorization Letter which clearly states the Bidder is authorized to provide the OEM equipment and services to the Commonwealth for this IFB. The Manufacturers Authorization Letter must reference the Commonwealths IFB 6100057583 for Storage Hardware and Related Services.

**D. Cost Submittal.** **Appendix G, Cost Submittal** must be submitted with the bid proposal for the sole purpose of providing a reference to the various items on the Cost Submittal and the Manufacturers price for each item. The configurations defined in the Cost Submittal are sample configurations and are used for evaluation purposes only. Bidders must provide the OEM's full storage product line at the same discount indicted on the sample configuration in the Cost Submittal.

Standalone maintenance/warranty services must be available for purchase on a per year basis as proposed in **Appendix G, Cost Submittal** on the Additional Services worksheet. Standalone maintenance/warranty services purchased, are valid for up to **five (5) years** past the end date of the contract. Maintenance must be available in accordance with the Service Level tiers listed in **Section IV-3. Service Level Definitions** of the IFB.

**E. ITPs.**

1. This IFB is subject to the Information Technology Policies (ITP's) issued by the Office of Administration, Office for Information Technology (OA-OIT). ITP's may be found at <https://www.oa.pa.gov/Policies/Pages/itp.aspx>.
2. All bids must be submitted on the basis that all ITPs are applicable to this procurement. It is the responsibility of the Bidder to read and be familiar with the ITPs.
3. Notwithstanding the foregoing, if the Bidder believes that any ITP is not applicable to this procurement, it must list all such ITPs in its bid, and explain why it believes the ITP is not applicable.
4. The Issuing Office may, in its sole discretion, accept or reject any request that an ITP not be considered to be applicable to the procurement. The Bidder's failure to list an ITP will result in its waiving its right to do so later, unless the Issuing Office, in its sole discretion, determines that it would be in the best interest of the Commonwealth to waive the pertinent ITP.

**F. Required Contract Services.**

1. Contractors must have the ability to integrate the physical hardware, based on Commonwealth agency requirements, for operational effectiveness.
2. OEM must be an industry leader in Enterprise Storage Solutions.
3. The Contractor must provide pre-sales support without additional service fees, including appropriate support personnel (e.g. those with technical design/architecture expertise) to assist Commonwealth agencies in identifying appropriate products based on their needs.
4. The Contractor must provide staging and storage at no additional cost, respond quickly to changing needs, and provide an effective order expediting process.
5. Contractors will provide a quote within 5 business days, based on when the request was received.
6. Quotes must be valid for 90 days.

**G. Order Requirements.**

1. The Contractor must be capable of accepting orders via the Commonwealth's purchasing credit card (P-card) in addition to purchase

orders generated via the Commonwealth's SAP Supplier Relationship Management (SRM) system, the Commonwealth's standard order type.

2. The Contractor shall be responsible for tracking all orders from initial request through receipt of the Hardware or Service.
3. The Contractor must securely and properly package the equipment for shipment, storage and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging will become and remain property of the Commonwealth.
4. All orders must include a packaging slip which includes, at a minimum: Commonwealth agency, requestor name, order quantity and SRM purchase order number.
5. Partial shipments may be requested by any Commonwealth Agency. If not requested, partial shipments are acceptable only if authorized by the Commonwealth Agency that ordered the Equipment.
6. The Contractor must ensure all incorrect shipments are corrected within **ten (10)** business days. The business days of the Commonwealth are as follows; 7:30 am to 5:00 pm, Monday through Friday, excluding Commonwealth holidays.
7. The Contractor's delivery methods must adhere to **Appendix E, Contract Terms and Conditions, Section V.9 Contract – 007.01a Supplies Delivery.**

#### **H. Quote Requirements.**

1. All quotes must comply, at a minimum, with the following and be pre-approved by the Commonwealth at the outset of the contract.
  - a) Include: contract number, manufacturer contract number (if applicable); service period (if applicable); manufacturer product ID; manufacturer product title; line item descriptions; list price, minimum discount of list required by contract, discount off of list offered on the order, adjusted price, quantity, extended price; Service Level (SLA) Acceptance Date for delivery of products or services; and related and/or prior PO number(s) when standalone Services are procured. The Commonwealth's contract management team must approve the quote format before any quotes may be issued.

b) No additional terms and conditions may be attached to a quote.

**2. Volume Orders.**

a) The Contractor must be capable of fulfilling large volume orders including, but not limited to, Commonwealth agency roll-outs and high dollar purchases.

b) The Contractor is encouraged to offer higher discounts for large volume purchases.

**3. Trade-In.** Customers may trade-in equipment when making purchases from the contract(s). A Trade-In shall be negotiated between the customer and contractor. Customers are obligated to actively seek current fair market value when trading equipment.

Commonwealth Agencies are to utilize the Pennsylvania Automated Surplus System (P.A.S.S) [Pennsylvania Automated Surplus System \(P.A.S.S\)](#) through the Department of General Services Supplies and Surplus Operations to confirm the Trade In value. Agencies must contact DGS Supplies and Surplus Operations at 717-787-4083.

**I. Service Level Agreements.** The Contractor must meet or exceed the Service Level Agreements (SLAs) as described in **Appendix I, Service Level Agreements.**

**J. Training.**

1. The Contractor must provide training upon installation of a new product and as requested thereafter by the Commonwealth. All training services performed during normal business hours must be provided by the Contractor at no cost to the Commonwealth. The Contractor must provide on-site training to users as identified by the requesting agency.

2. Training must include, but is not limited to, hands-on activities, videos, and manuals. The Contractor must provide users with hands-on training and materials including a detailed walk-through of all machine features. In addition, if the product is connected to the network, the Contractor must demonstrate remote printing capabilities.

**K. Capacity Planning.** The Contractor is required to have the ability to perform analysis to determine and ensure infrastructure is the right size to meet present and future goals.

- L. **Quick Start Services.** The Contractor is required to have the ability to rack and stack equipment, initial configuration, installation record and skills transfer for operation and monitoring.
- M. **Data Migration Services for Enterprise Storage.** The Contractor is required to have the ability to migrate the customer's existing operating systems and data to the new system. The Contractor is required to have the ability to develop a migration plan, apply technical resources required, create a schedule, and maintenance window planning.
- N. **System Performance and Tuning.** The Contractor is required to have the ability to measure system performance identify bottlenecks and make modifications for improvement.
- O. **Contract Terms and Conditions: Appendix E, Contract Terms and Conditions** shall govern any contract resulting from this IFB and are not negotiable. The Issuing Office will reject any bid that is conditioned on the negotiation of the terms and conditions.

#### IV-7. Additional Services.

- A. Contractor shall provide a quote for warranties and services, when requested by a Commonwealth agency, at any time during the term of the Contract.
  - 1. The Commonwealth agency will develop a statement of work (SOW) for each Service order utilizing **Appendix H, Statement of Work Template**, which will be attached to the associated purchase order. The Contractor shall provide a proposed price for all listed Services. All Services may be purchased at the Commonwealth's discretion. Contractor must provide separate pricing for on-premise and off-premise disk wipe.

Additional Services in scope are as follows:

- a) **Post warranty service.** Post warranty orders and maintenance ordered during the term of the Contract may extend up to **five (5) years** past the expiration date of the Contract.
- b) **Installation.** The Contractor must, at a minimum:
  - i. Assign an Account Representative to every installation;
  - ii. Provide status reports of installations completed, installations outstanding, and issues;
  - iii. Unpack equipment;

- iv. Connect related equipment accessories;
  - v. Power on the device or system;
  - vi. Perform any setup needed to make the storage accessible via the network and ready for an agency to start making use of.
- c) As part of the SOW, the Commonwealth agency will specify whether the Contractor must remove all packing materials and boxes from the site within one (1) week after the installation has been completed.
- d) The Contractor and the Commonwealth agency will develop a schedule to deliver equipment to a location specified by the Commonwealth agency.
- a) **Hard Drive Removal.**

The Contractor must, at a minimum:

- i. Arrive at the Commonwealth designated location at the time scheduled with the Commonwealth agency to uninstall and fully remove the hard drive in question;
  - ii. Verify the functionality and condition of the equipment with the agency.
  - iii. Cleanse the hard drive as detailed in Commonwealth ITP SEC015, Data Cleansing Policy, [https://www.oa.pa.gov/Policies/Documents/itp\\_sec015.pdf](https://www.oa.pa.gov/Policies/Documents/itp_sec015.pdf); and;
  - iv. If a hard drive is removed, the Commonwealth agency may choose to keep the removed hard drive and provide delivery location of removed hard drive.
- b) **Relocation within 25 Miles.**The Contractor must, at a minimum:
- i. Provide relocation of equipment within the same building or within a 25-mile radius;
  - ii. Verify the functionality and condition of the equipment with the agency.
  - iii. Unpack and reinstall equipment at the new location designated by the Commonwealth agency; and

iv. Damages resulting from the transfer of equipment during relocation are not the responsibility of the Commonwealth.

c) **Relocation Outside 25 Miles.** The Contractor must, at a minimum:

- i. Provide relocation of equipment beyond a 25-mile radius;
- ii. Verify the functionality and condition of the equipment with the agency; and
- iii. Unpack and reinstall equipment at the new location designated by the Commonwealth agency.
- iv. Damages resulting from the transfer of equipment during relocation are not the responsibility of the Commonwealth.

d) **Equipment Return to DGS Surplus Warehouse.** The Contractor must, at a minimum:

Deliver the packed equipment to the DGS warehouse located at:

DGS Surplus Warehouse  
2221 Forster St.  
Harrisburg, PA 17125

#### **IV-8. Reporting.**

A. The Contractor shall create, maintain, and execute the following plans, reports, and supporting documentation in a format agreed to by the Commonwealth.

1. Quarterly Report.

a) The Contractor must utilize **Appendix J, Quarterly Report Template**, which includes the following:

- i. Sales report, which includes, at a minimum:
  - (a) Agency Information. Identifying information for the Commonwealth agency;
  - (b) Maintenance/Services Information. Detailed description of the maintenance/services being performed; and



- (c) Product and Hardware Information. Detailed information about the product purchased, including the manufacturer; product description/base configuration details; manufacturer part number; any additional upgrades purchased; and quantity.
- ii. Order Information and Invoice Information.
  - (a) Detailed breakout of the total price of the order. This includes the following:
  - (b) The quantity provided;
  - (c) Base configuration cost; and
  - (d) Cost and quantity of any upgrades purchased. Include the appropriate item cost or list price and associated markup or discount; and
  - (e) Invoice Information. Invoice information for the associated order.
- iii. Problem and response report, which includes, at a minimum:
  - (a) Agency Information;
  - (b) Equipment Information;
  - (c) Maintenance/Services Information; and
  - (d) Problem/Response Information.
- iv. Outstanding issues summary report, which includes, at a minimum:
  - (a) Agency Information; and
  - (b) Outstanding Issue Summary.
- v. Quarterly summary report, which includes, at a minimum:
  - (a) Quarterly contract activities;
  - (b) Achievements;

- (c) Challenges; and
  - (d) The Contractor's recommendations for the Commonwealth.
- vi. Detailed SLA metric report.
- (a) The Contractor will be responsible for tracking and quarterly reporting on the SLA metrics listed in Appendix I, Service Level Agreements.
  - (b) The format of the report must be approved by the Commonwealth before ordering can commence.

2. Standard Configuration Reviews.

- a) The Standard Configurations as defined in **Appendix G, Cost Submittal** will be reviewed by the Commonwealth at least annually and any required updates will be made at that time via the Change Notice process as defined in **Appendix E, Contract Terms and Conditions, Section V.50, Contract – 035.1b Changes**. These updates to the standard configurations are to provide the Commonwealth access to the latest in related computer-based technologies.
- b) If the Contractor or the associated OEM discontinues a product, then it must be replaced with a product of equal or better specifications for the originally contracted price.

3. Quarterly Business Reviews.

- a) The Contractor and the Commonwealth agree to meet quarterly to review current configurations, lifecycles and product roadmaps to determine product viability.
- b) All product lifecycle and roadmap information provided by the Contractor will be kept confidential by the Commonwealth. The objective of this meeting is to reach a mutual agreement on product replacement during the life of the Contract. Additionally, any pending changes that will have a material effect on the Commonwealth's purchasing need to be discussed and viable alternatives presented.

- c) These quarterly meetings will also serve as an opportunity for the Contractor to identify contract improvement opportunities and cost savings opportunities for the Commonwealth.

4. Ad Hoc Reports.

- a) The Commonwealth reserves the right to request ad hoc reports from the Contractor.
- b) These ad hoc reports are to be made available at no additional charge to the Commonwealth.
- c) Reports must be provided within **48 hours** of the request if not otherwise specified by the Commonwealth.

# Goal Setting Information Session

IFB 6100057583  
Enterprise Storage  
Hardware and Related  
Services

Issuing Officer –  
Raymond Jaimee  
rjaime@pa.gov

December 27, 2022 10:00 AM

**Offerors may ask questions during the Session, however responses provided during the Session are not official until the question is submitted in writing to the Issuing Officer.**



# What's the Point?



	<b>Equality is everyone getting a pair of shoes.</b>
	<b>Diversity is everyone getting a different type of shoe.</b>
	<b>Equity is everyone getting a pair of shoes that fits.</b>
	<b>Acceptance is understanding we all wear different kinds of shoes.</b>
	<b>Belonging is wearing the shoes you want without fear of judgment.</b>

Engaging Vendors that are representative of the communities served



# Small Diverse Business Enterprise (SDB) and Veteran Business Enterprise (VBE)

## References:

**IV-4. Small Diverse Business (SDB) and Veteran Business Enterprise (VBE) Participation.**

**IV-6. Requirements. B. Bid Submission**

[Appendix B -Model Form SDB Subcontract Agreement.pdf](#)

[Appendix D -Model Form VBE Subcontract Agreement.pdf](#)

A Bidder/Offeror's failure to meet the SDB participation goal in full and the VBE participation goal in full, or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of either the SDB or VBE participation goal will result in the rejection of the Bid or Proposal as nonresponsive



# Solicitation Specific Goals



RFP 6100057853	SDB	VBE
	15%	3%

- Available subcontracting opportunities across the entire state for the applicable services,
- Availability of DGS-verified SDB/VBEs to perform commercially useful functions, and
- Historical analysis of similar projects within the last 3 years.

**Primes are welcome to exceed the goal!**



# SDB and VBE Classification

Vendors must self-certify as a Small Business (SB) prior to SDB/VBE validation.

## SB Eligibility Requirements

- The business must be a for-profit, United States business.
- The business must be independently owned.
- The business may not be dominant in its field of operation.
- The business may not employ more than 100 full-time equivalent employees.
- The business may not exceed three-year average gross revenues of \$38.5 Million, regardless of business type (effective 11/1/2018).

## Small Diverse Business (SDB)

Goal oriented

- Woman Business Enterprise (WBE)
- Service-Disabled Veteran Business Enterprise (SDVBE)
- Minority Business Enterprise (MBE)
- LGBT Business Enterprise (LGBTBE)
- Disability-Owned Business Enterprise (DOBE)

## Veteran Business Enterprise (VBE)

Goal oriented

- Veteran Business Enterprise (VBE)
- Service-Disabled Veteran Business Enterprise (SDVBE)

**SDBs and VBEs must be certified/valid as of bid close due date and time.**





# Finding SDBs and VBEs

Utilization Compliance will be closely monitored and enforced

The screenshot shows the 'Supplier Search' page of the Pennsylvania Department of General Services. At the top left is the state logo and 'pennsylvania DEPARTMENT OF GENERAL SERVICES'. The page title is 'Supplier Search'. A navigation bar includes 'Home', 'PA eMarketplace', and 'Search Contracts'. A note explains that searches will include suppliers qualified for ITQ contracts and those registered with the Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO). There are two search sections: 'Quick Search' with a text input for 'Supplier Name or SAP Number', a 'Search' button, and a 'Reset' button; and 'Advanced Search'. Below the search sections, there is a 'Show 10 entries' dropdown, 'Export to Excel', and 'Reset Search Criteria' buttons. A table header is visible with columns: 'Supplier (click on name to display full record)', 'Contact', 'Address', 'SB Exp Date', 'SDB', and 'COSTARS'.

<http://www.dgs.internet.state.pa.us/suppliersearch>



# Finding SDB/VBE vendors

- <http://www.dgs.internet.state.pa.us/suppliersearch>
- Access Search Guide - <https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Documents/Finding%20SBs%20and%20SDBs.pdf>
- Supplier Search assistance available from Issuing Officer or Bureau of Diversity Procurement Liaison



# Advanced Search

Hierarchy	Category Number
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## Supplier Classifications

- Minority Business Enterprise
- Woman Business Enterprise
- LGBT Business Enterprise
- Disabled-Owned Business Enterprise
- Service-Disabled Veteran Business Enterprise
- Veteran Business Enterprise
- Small Business
- Stocking Supplier
- Non-Stocking Supplier
- Select all Classifications
- Select all Small Diverse Business Classifications

Find only vendors that have all selected classifications  
 Find only vendors that have at least one selected classification

## UNSPSC Description

Enter a brief code description (e.g. Door) ←

When searching by UNSPSC code, only enter the first 6 digits (UNSPSC Class Level) as the last 2 digits (Commodity Level) are not tracked in this database. Or, type in any part of a UNSPSC code description to find vendors who have a code that matches. ex: Searching for "landscaping" will find vendors who have selected any code that has "landscaping" anywhere in the description. For more information visit [UNSPSC > Home](#)

## UNSPSC Codes

- 10000000 - Live Plant and Animal Material and Accessories and Supplies
- 11000000 - Mineral and Textile and Inedible Plant and Animal Materials
- 12000000 - Chemicals including Bio Chemicals and Gas Materials
- 13000000 - Resin and Rosin and Rubber and Foam and Film and Elastomeric Materials
- 14000000 - Paper Materials and Products
- 15000000 - Fuels and Fuel Additives and Lubricants and Anti corrosive Materials
- 20000000 - Mining and Well Drilling Machinery and Accessories
- 21000000 - Farming and Fishing and Forestry and Wildlife Machinery and Accessories
- 22000000 - Building and Construction Machinery and Accessories
- 23000000 - Industrial Manufacturing and Processing Machinery and Accessories
- 24000000 - Material Handling and Conditioning and Storage Machinery and their Accessories and
- 25000000 - Commercial and Military and Private Vehicles and their Accessories and Components

Find only vendors that have all selected UNSPSC codes  
 Find only vendors that have at least one selected UNSPSC code

Select one or more classifications. To pull only SDBs, check "Select all Small Diverse Business Classifications" below. To Include SBs, check "Small Business".



OR



Browse and select one or more codes. Don't know the codes you want? Search for codes at [www.UNSPSC.org](http://www.UNSPSC.org).

Click arrow to expand Segment for additional codes





# UNSPSC Commodity Code Search



Find A Partner

Menu

UNv24.0301 of the UNSPSC Codeset is now available. [Access codesets.](#)

## Search the Code

Version 24.0301  
Code Number: (2-8  
digits)

Code Name:

## Welcome

The **United Nations Standard Products and Services Code® (UNSPSC®)**, managed by GS1 US® for the UN Development Programme (UNDP), is an open, global, multi-sector standard for efficient, accurate classification of products and services.

The UNSPSC offers a single global classification system that can be used for:

- Company-wide visibility of spend analysis
- Cost-effective procurement optimization
- Full exploitation of electronic commerce capabilities



# UNSPSC Commodity Code Search

Write down  
your code  
selections



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Version 24.0301

Search Code

Search Title

Code	Title
31211900	Paint applicators and painting accessories
60121001	Paintings
60121225	Watercolor painting mediums
60124101	Multicultural painting products
72151300	Painting and paper hanging services
72151301	Residential painting service
72151302	Commercial painting service
72151303	Industrial painting service
72151304	Aircraft painting service
72151305	Bridge painting service
72151307	Ship painting service
73181104	Painting services
78181501	Vehicle body repair or painting service
78181836	Aircraft fixed wing coating and painting service
86121502	Painting

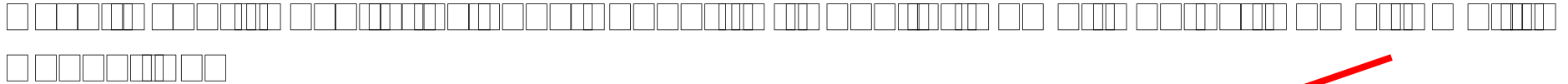




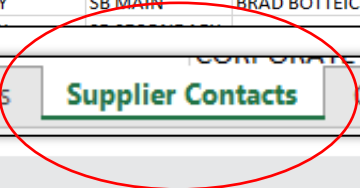
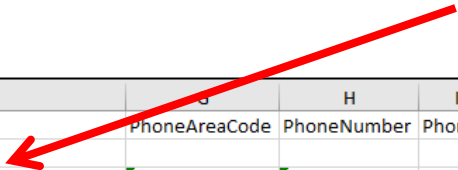




# Excel Export Results – Supplier Contacts



	A	B	C	D	E	F	G	H	I	J	K
1	SAP Number	Supplier Name	Contact Name	Name	Title	Email	PhoneAreaCode	PhoneNumber	PhoneEx	FaxAreaCo	FaxNumber
2	104279	CA WEISS SALES LLC	CORPORATE			caweiss@comcast.net					
3	104279	CA WEISS SALES LLC	SB MAIN	KRISTY ZARICHNIAK		kristyz@comcast.net	610	4588864		610	4588875
4	119565	DUFF SUPPLY COMPANY	CORPORATE	ALEX DUFFINE	VP	DFRANK@DUFFCOMPANY.COM	610	2754453	147	610	2796299
5	119565	DUFF SUPPLY COMPANY	REMITTO	BARB COHEN		bcohen@duffco.com	610	2754453	149	610	2756761
6	119565	DUFF SUPPLY COMPANY	SB MAIN	ALEX DUFFINE		aduffine@duffco.com	610	2754453			
7	119565	DUFF SUPPLY COMPANY	SB SECONDARY			info@duffco.com					
8	122594	HOUCK SERVICES INC	CORPORATE			jherrold@houcks.com					
9	122594	HOUCK SERVICES INC	SB MAIN	JARROD HERROLD		jherrold@houcks.com	717	6573302		717	6579805
10	122594	HOUCK SERVICES INC	SB SECONDARY			kgussler@houcks.com					
11	134717	PENN STATE ELECTRIC MECHANICAL	CORPORATE			razmataz33@aol.com					
12	134717	PENN STATE ELECTRIC MECHANICAL	SB MAIN	RAZ SUGARWALA		razmataz33@aol.com	717	2992090		717	2992297
13	134717	PENN STATE ELECTRIC MECHANICAL	SB SECONDARY			ksing6027@yahoo.com					
14	135270	BARBARA J SALES ASSOC INC	CORPORATE			barb@barbarajsles.com					
15	135270	BARBARA J SALES ASSOC INC	SB MAIN	BARBARA SMITH		barb@barbarajsales.com	412	5233398		800	8137122
16	135270	BARBARA J SALES ASSOC INC	SB SECONDARY			willsmith@willjservices.com					
17	137893	IDA YEAGER SALES INC	CORPORATE			idayeagersales@zoominternet.net					
18	137893	IDA YEAGER SALES INC	SB MAIN	IDA LAQUATRAYEAGER		idayeagersales@zoominternet.net	724	4525260		724	4521072
19	144061	CONSTRUCTION TOOL SERVICE INC	CORPORATE			ehuss@constructiontoolservice.com					
20	144061	CONSTRUCTION TOOL SERVICE INC	SB MAIN	BETTY CONNELLY		bconnelly@constructiontoolservice.com	412	6816673		412	6819185
21	144061	CONSTRUCTION TOOL SERVICE INC	SB SECONDARY			bcgoodwork@aol.com					
22	145576	BURKE & MICHAEL INC	CORPORATE			MARYFRANCES@BURKEANDMICHAEL.COM					
23	145576	BURKE & MICHAEL INC	SB MAIN	MARY FRANCES HOGAN		maryfrances@burkeandmichael.com	412	3212301		412	3214582
24	153927	COOPER TRADING INC	CORPORATE			cti@ctipa.com					
25	153927	COOPER TRADING INC	SB MAIN	PETER COOPER		pete@ctipa.com	724	8618830		724	8618832
26	153927	COOPER TRADING INC	SB SECONDARY			debbie@ctipa.com					
27	157009	CONTRACT HARDWARE AND SUPPLY	CORPORATE			cristil@chsupplyinc.com					
28	157009	CONTRACT HARDWARE AND SUPPLY	SB MAIN	BRAD BOTTEICHER		bradb@chsupplyinc.com	814	9412340		814	9412342



Suppliers | Supplier Addresses | **Supplier Contacts** | Counties | Supplier Classifications | ITQs | ITQ Contracts | UNSPSC Codes



# Upcoming Supplier Search Training

The training will focus on the basics of the supplier search process including recognizing the UNSPSC Codes Structure, accessing the DGS Supplier Search Database and Searching for Small, Small Diverse and Small Veteran Owned Businesses to gain a better understanding of supplier search results.

The 30-minute sessions will be offered via Teams on-line presentations on the following dates in 2022: **(No RSVP Required)**

**Targeted Audience (External):** Potential prime contractors that conduct business with the commonwealth who want to learn the basics of finding DGS certified small diverse and veteran owned businesses.

- Thursday, January 5th, 10:00 am - 10:30am
- Thursday, January 26th, 10:00 am - 10:30am
- Thursday, February 2nd, 10:00 am - 10:30am
- Thursday, February 23rd, 10:00 am - 10:30am
- Thursday, March 2nd, 10:00 am - 10:30am
- Thursday, March 30th, 10:00 am - 10:30am

---

Microsoft Teams meeting

**Join on your computer or mobile app**

[Click here to join the meeting](#)

Meeting ID: 293 754 842 172

Passcode: Uhqm2D

[Download Teams](#) | [Join on the web](#)

**Or call in (audio only)**

[+1 267-332-8737,,690952530#](#) United States, Philadelphia

Phone Conference ID: 690 952 530#

[Find a local number](#) | [Reset PIN](#)

Recording or transcription of this meeting may not occur without consent of all participants, as required by law, and must adhere to Commonwealth policies. For more information click the legal link.

[Learn More](#) | [Meeting options](#) | [Legal](#)

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<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/News-Media.aspx>



# New Forms and Processes

- SDB/VBE Instructions – *SDB-1/VBE-1* **READ**
- SDB/VBE Participation Submittal – *SDB-2/VBE-2*
- SDB/VBE Utilization Schedule – *SDB-3/VBE-3*
- Letter of Commitment – *SDB 3.1/VBE-3.1*
- Guidance for Good Faith Effort (GFE) Waiver – *SDB-4/VBE-4* **READ**
- GFE Waiver – *SDB-5/VBE-5*



# SDB Submittal Instructions – SDB-1

## SDB-1 INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.

***PLEASE READ BEFORE COMPLETING THESE DOCUMENTS***  
*Bidders/Offerors do not need to return SDB-1 with their SDB Participation Submittal*

The following instructions include details for completing the SDB Participation Submittal (SDB-2) which Bidders or Offerors must submit in order to be considered responsive.

The following instructions also include details for completing the SDB Utilization Schedule (SDB-3), which Bidders or Offerors must submit for any portion of the SDB participation goal the Bidder or Offeror commits to meeting.

**A Bidder/Offeror's failure to meet the SDB participation goal in full or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of the SDB participation goal will result in the rejection of the Bid or Proposal as nonresponsive.**

- I. **SDB Participation Goal:** The SDB participation goal is set forth in the eMarketplace advertisement and also in the Notice to Bidders. The Bidder/Offeror is encouraged to use a diverse group of subcontractors and suppliers from the SDB classifications to meet the SDB participation goal.
- II. **SDB Eligibility:**
  1. **Finding SDB firms:** Offerors can access the directory of **DGS-verified** SDB firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
  2. **Only SDBs verified by DGS** and as defined herein may be counted for purposes of achieving the SDB participation goal. In order to be counted for purposes of achieving the SDB participation goal, the SDB firm, including an SDB prime, **must be DGS-verified for the services, materials or supplies that it has committed to perform on the SDB Utilization Schedule (SDB-3).** A firm whose SDB verification is pending or



# SDB Submittal – SDB-2

## SDB-2 SDB PARTICIPATION SUBMITTAL

**CHECK ONE, AND ONLY ONE, BOX. FAILURE TO COMPLY WILL RESULT IN REJECTION OF YOUR BID/PROPOSAL.**  
*Click on bold titles to navigate to that specific page.*

**CRITICAL**  
✓ Check One, and Only One, Box

<input type="checkbox"/> <b>I agree to meet the SDB participation goal in full.</b> I have completed and am submitting with my bid or proposal an <b>SDB Utilization Schedule (SDB-3)</b> , which is required in order to be considered for award.	<input type="checkbox"/> <b>I am requesting a partial waiver of the SDB participation goal.</b> After making good faith outreach efforts as more fully described in the <b>Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal</b> , I am unable to achieve the total SDB participation goal for this solicitation and am requesting a partial waiver of the SDB participation goal.  I have completed and am submitting with my bid or proposal both of the following, which are required in order to be considered for award:  1. an <b>SDB Utilization Schedule</b>	<input type="checkbox"/> <b>I am requesting a full waiver of the SDB participation goal.</b> After making good faith outreach efforts as more fully described in the <b>Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal</b> , I am unable to achieve any part of the SDB participation goal for this solicitation and am requesting a full waiver of the SDB participation goal.  I have completed and am submitting with my bid or proposal a <b>Good Faith Efforts Waiver Request for</b>
---	--	---



# SDB Utilization Schedule – SDB-3

**CRITICAL**  
 ✓ Verify SDB/VBE validity

## SDB-3 SDB UTILIZATION SCHEDULE

Show SDBs (including where applicable a prime bidder or offeror is self-performing a portion of the work) that will meet the SDB participation goal (add additional pages if necessary). Submit a **Letter of Commitment (SDB-3-1)** for each SDB subcontractor, supplier, or manufacturer (add additional Letters of Commitment as necessary).

SDB Name SAP Vendor Number (6-digit number provided by SDB) SDB Verification Number (located on DGS SDB verification)	Type of SDB (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by SDB bidder/offeror)	Dollar Value of Commitment (after applying any calculation per SDB-1, Section IV, Calculating SDB participation)
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> SDB Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: _____ SAP Vendor Number: _____ SDB Verification Number: _____	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: _____ SAP Vendor Number: _____ SDB Verification Number: _____	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: _____ SAP Vendor Number: _____ SDB Verification Number: _____	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: _____ SAP Vendor Number: _____ SDB Verification Number: _____	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Attach additional sheets if necessary			Total % SDB commitment: 0	Total \$ amount: \$0



# Letter of Commitment SDB-3.1

**CRITICAL**  
 ✓ Complete all shaded areas.

**SDB-3-1  
 LETTER OF COMMITMENT**

As confirmation of the commitment by the prime Bidder or Offeror  
 (SDB) on the below-referenced Solicitation/Project.

Organization Name: \_\_\_\_\_

	Bidder/Offeror Information	SDB Information
Address		
Point of Contact		
Telephone number		
Email address		

Services/Supplies and Time Frame. If Bidder/Offeror is the successful vendor, the SDB shall perform or provide the following services or supplies during the term of the prime contract, as more specifically set forth below:

Services or supplies the VBE will provide:	
Specific Time Frame the VBE will provide the services or supplies:	

Dollar Value of Commitment. These services or supplies represent \$ \_\_\_\_\_ for the term of the contract.

SDB verified. By signing below, the SDB represents that it meets the SDB requirements set forth in the Solicitation and all required documentation has been provided to the Bidder/Offeror for its SDB submission.

Sincerely, \_\_\_\_\_ Acknowledged \_\_\_\_\_  
 Printed name Printed name

**SDB to expect a letter and SIGN it!**





# Guidance to Document GFE SDB-4

## READ, READ, READ

- The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts to meet the SDB participation goal.
- Prime must complete all components of the GFE paperwork. Details/Evidence are important, proof is required.
- Carefully review SDB and VBE submittal Instructions, specifically Section VI of SDB/VBE-1 which lists pertinent items as Fatal errors.





# Good Faith Efforts Packet SDB-5

## Good Faith Efforts (GFE) Partial or Full Waiver

- Identified Items of Work Applicant Made Available to SDBs (Part 1)
- Identified SDBs and Record of Solicitations (Part 2)
- SDB Outreach Compliance Statement (Part 3)
- Additional Information Regarding Rejected SDB Quotes (Part 4)
- SDB Subcontractor Unavailability Certificate (Part 5)



# SDB GFE Documentation – SDB-5

## SDB-5

### GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL

<b>Project Description:</b>	
<b>Commonwealth Agency Name:</b>	
<b>Solicitation #:</b>	
<b>Solicitation Due Date and Time:</b>	
<b>Bidder/Offeror Company Name:</b>	
<b>Bidder/Offeror Contact Name:</b>	
<b>Bidder/Offeror Contact Email:</b>	
<b>Bidder/Offeror Contact Phone Number:</b>	

Complete all five parts

#### Part 1 – Identified Items of Work Offeror Made Available to SDBs

Identify those items of work that the Offeror made available to SDBs. This includes, where appropriate, those items the Offeror identified and subdivided into economically feasible units to facilitate the SDB participation. For each item listed, show the anticipated percentage of the total contract amount. It is the Offeror's responsibility to demonstrate that enough work to meet the SDB participation goal was made available to SDBs, and the total percentage of the items of work identified for SDB participation met or exceeded the SDB participation goal set for the procurement.

Identified Items of Work	Was this work listed in the solicitation?	Does Offeror normally self-perform this work?	Was this work made available to SDB Firms? If not, explain why.
	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no



# GFE Waiver – Part 1

## Identify Items of Work Offeror Made Available to SDBs

**CRITICAL**  
 ✓ List all components of work offered for subcontracting.

... that the Offeror made available to SDBs. This includes, where appropriate, those items the Offeror identified ... possible units to facilitate the SDB participation. For each item listed, show the anticipated percentage of the total ... that enough work to meet the SDB participation goal was made available to SDBs, and the total percentage ... of SDB participation met or exceeded the SDB participation goal set for the procurement.

Work	Was this work listed in the solicitation?	Does Offeror normally self-perform this work?	Was this work made available to SDB Firms? If not, explain why.
	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no
	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no
	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no
	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no
	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no

Attach additional sheets if necessary.



# GFE Waiver – Part 2

## Identified SDBs and Record of Solicitations

**CRITICAL**  
 ✓ Specifics and Details are important

Offeror must provide quotes for the Identified Items of Work made available for SDB participation. Include the name of the SDB for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the SDB provided a quote, and whether the quote is being used toward meeting the SDB participation goal. SDBs used to meet the SDB participation goal must be listed on the Solicitation Schedule (SDB-2).

Copies of all written solicitations and documentation of follow-up calls to SDBs must be attached to this form. For each Identified SDB below, Offeror should submit an SDB Subcontractor Unavailability Certificate signed by the SDB or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

Name of Identified SDB and Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Received?	Quote Used?	Reason Quote Rejected
SDB Name:  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date and Time of Call:  Spoke with:  Left Message:	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> Used other SDB <input type="checkbox"/> Used non-SDB <input type="checkbox"/> Self performing
SDB Name:  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date and Time of Call:  Spoke with:  Left Message:	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> Used other SDB <input type="checkbox"/> Used non-SDB <input type="checkbox"/> Self performing

Attach additional sheets as necessary.



# GFE Waiver – Part 3

## SDB Outreach Compliance Statement

**CRITICAL**  
✓ Documentation for  
Part 1

1. List the Identified Items of Work for subcontracting opportunities for the solicitation along with specific work categories:

2. Attach to this form copies of written solicitations (with Bid or Proposal instructions) used to solicit Identified SDBs for these subcontract opportunities.

3. Offeror made the following attempts to contact the Identified SDBs:

4. Bonding Requirements (Please Check One):

This project does not involve bonding requirements.

Offeror assisted Identified SDBs to fulfill or seek waiver of bonding requirements.  
(DESCRIBE EFFORTS):

5. Pre-Bid/Proposal Conference or Supplier Forum (Please Check One):





# GFE Waiver – Part 4

## Additional Information Regarding Rejected SDB Quotes

**CRITICAL**  
 ✓ Documentation for Part 2

Part 2 indicates that an SDB quote was rejected because the Offeror is using a non-SDB or is self-performing the work. For the Identified Items of Work, state whether the work will be self-performed or performed by a non-SDB, and if performed by a non-SDB, provide the name of the non-SDB firm. Also include the names of all SDBs and non-SDB firms that provided a quote and the amount of

Describe Identified Items of Work not being performed by SDBs (include specific section from bid or proposal)	Self-performing or using non-SDB (provide name of non-SDB if applicable)	Amount of non-SDB quote \$	Name of other firms that provided quotes and whether they are SDB	Amount quoted \$	Reason why SDB quote was rejected along with brief explanation
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other



# GFE Waiver – Part 5

## Subcontractor Unavailability Certificate

**CRITICAL**  
✓ Required for each vendor listed in Part 1

\_\_\_\_\_ is hereby certified that the firm of \_\_\_\_\_  
(Name of SDB)

located at \_\_\_\_\_  
(Number) (Street)

\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_

by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_ (SDB), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_

\_\_\_\_\_  
(Signature of SDB's Representative) (Title) (Date)



# Best Practices

## Do's

- Read the solicitation and all instructions completely.
- Submit SEPARATE SDB and VBE submittal forms.
- Validate subcontractor SDB/VBE status in DGS Supplier Database.
- Ensure that all appropriate forms are completed and signed correctly.
- Submit questions early per the solicitation requirements.

## Don'ts

- Make any assumptions.
- Copy SDB submittal paperwork. Download and complete the VBE submittal separately, titles and accuracy matter.
- Skip any portion of the GFE request documentation.
- Forget to verify subcontractor status as current SDB/VBE in DGS Supplier Database.





# Notes

- READ, READ, READ, solicitation instructions completely.
- Subcontractors identified in SDB-3, Utilization Schedule must be validated as of bid due date and time.
- Model Form SDB/VBE Subcontractor Agreement - is provided for informational purposes only. To be completed by award winning vendor only.



# REMINDER

**Failure to submit fully completed SDB and VBE submittal packets or GFE waiver request documentation will result in removal of your bid for award consideration**



# Questions?



# BDISBO Contact Info

## **Bureau of Diversity, Inclusion and Small Business Opportunities**

North Office Building  
401 North Street, Room 611  
Harrisburg, PA 17120-0500  
717.783.3119

[GS-BDISBO@pa.gov](mailto:GS-BDISBO@pa.gov)





Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
1.	<p>Could we have a 2-week extension for this response? Most of our workforce and the OEM's people are out until Jan 3<sup>rd</sup>.</p>	<p>The bid due date has been changed and has been updated in the IFB.</p>
2.	<p>This bid was previously a 4 month long process and now is being squeezed into 10 business days and over a <b>religious holiday</b>. This is over the Christmas and New Years holiday, when many OEMs have mandatory shutdowns. Resellers representing these OEMs are at a disadvantage. Therefore, requesting an extension to (at least) late January for this large lift. Also, kindly requesting that this question be <b>responded to no later than COB 12/22</b> so that we can adequately plan if we need to be taking time away from our families over Christmas to complete this bid.</p>	<p>The bid due date has been changed and has been updated in the IFB.</p>
3.	<p>Both the deadline to submit questions (12/27) and the bid submission deadline (1/6) are very tight given the amount of documents included in the RFP, therefore would DGS consider extending these deadlines to ensure we have enough time to review for questions and complete a response?</p> <p>We would like to propose that the Q&amp;A deadline be extended to 1/3 and the bid</p>	<p>The bid due date and the questions due date has been updated in the IFB.</p>

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
	deadline be extended two weeks to 1/20 if possible.	
4.	Hi. Could we have a 2 week extension for this response? The majority of our workforce and Netapp's people are out until Jan 3 <sup>rd</sup> .	The bid due date has been changed and has been updated in the IFB.
5	The IFB states "The Commonwealth is seeking Bidders who offer the best discounts from the manufacturer's nationally publicized price list and respond to purchase orders in a timely fashion." Please clarify what is meant by "price list". Is this specific to object and block storage? If so, how do you define those items?	The Commonwealth is asking for minimum discount off manufacturers list prices for all object and block storage offerings. It is specific to manufacturers price lists. The Commonwealth will always accept better discounts than minimum on specific configurations when quotes are requested.
6.	The Commonwealth defines an IFB as "Competitive sealed bidding for a product or service, awarded to the lowest responsive and responsible bidder." Given that an IFB is solely based on price, how are SDB requirements judged on a solicitation that is not a full-fledged RFP?	SDB and VBE Participation Goals are a responsiveness requirement for the solicitation. There is no "evaluation" of the SDB/VBE Goals. A Bidder/Offeror's failure to meet the SDB participation goal in full or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of the SDB participation goal will result in the rejection of the Bid or Proposal as nonresponsive.

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
7.	We already have subcontractor agreements executed with our SDBs. Are Appendix B and D required or can we provide our already-signed subcontractor agreements in lieu of these appendices?	<a href="#">Appendix B -Model Form SDB Subcontract Agreement.pdf</a> and <a href="#">Appendix D -Model Form VBE Subcontract Agreement.pdf</a> are provided as reference for bidders. It is only to be completed by the award winning vendor upon contract award. Nothing is required by proposer at bid due date for this component.
8.	Appendix N cannot be opened; could this be reposted please?	Appendix N - BOP-2201-06 Worker Protection & Investment Certification Form has been re-reposted
9.	Must we agree to sell the awarded items/services via the COSTARS Program? If no, will that be detrimental in any way to our response?	Signing up for COSTARS is not required and will not impact the evaluation of the bid.
10.	How does the Commonwealth intend this to function – will bidders provide a price on the IFB configuration for evaluation purposes only or will bidders be bound to that price for that specific configuration for the duration of the contract?	Please refer to the Specifications Section IV-6 (D). Cost Submittal for information on the cost evaluation.
11.	Will the manufacturer’s nationally publicized price list be available to users of the contract?	Any quote will need include the list price, the discount amount/percentage and the price that that Commonwealth can buy the product for.



Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
12.	What discounts off the manufacturer's nationally publicized price list will be included on the contract?	The Commonwealth is asking for minimum discount off list prices for all object and block storage offerings. We will always accept better discounts than minimum on specific configurations when quotes are requested.
13.	Will discounts off the manufacturer's nationally publicized price list that are included on the contract be the baseline discount?	The Commonwealth is asking for minimum discount off list prices for all object and block storage offerings. We will always accept better discounts than minimum on specific configurations when quotes are requested.
14.	Will discounts off the manufacturer's nationally publicized price list that are included on the contract be used as a minimum discount?	The Commonwealth is asking for minimum discount off list prices for all object and block storage offerings. When responding to an agency request, the vendor must provide at least the minimum discount bid in the IFB. We will always accept better discounts than minimum on specific configurations when quotes are requested.
15.	When responding to purchase orders/RFQs from customers, the manufacturer will provide opportunity-specific pricing for that RFQ?	Correct, with the minimum discount off list that was bid in the IFB being the worst-case pricing.

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
16.	Please provide the definition of a Secondary Contractor.	A secondary contractor is any bidder awarded a contract who is not the best value contractor as defined in the IFB.
17.	Please explain how/who decides which scenario the RFP falls under pursuant to IV-2 Purchasing scenarios.	The contract manager working with the agency will make that determination.
18.	What is CoPAs definition if 99.9% availability in terms of service level descriptions for Basic, Enhanced and Critical?	99.9% availability means that a response will match the descriptions of the Service Level Definitions on page 6 of the IFB
19.	Please confirm in Section H3 (a) only applies when the OEM is offering a trade in option.	Agency is allowed to negotiate a trade with an awarded vendor, per the requirements of Section IV-6 H(3) in the Specifications
20.	Please clarify what level of free training CoPA is requiring in Section L1.	Training on OEM storage technology specifications, capabilities, compatibilities, administration, configuration, support.
21.	In the “minimum requirements” of Appendix G is says “5 Years 24x7x4: Keep your hard drive” and the “Storage Upgrades” tab asks for post warranty options for Basic, Enhanced and Critical. Is this post warrant for year 6?	Yes, this would be for year 6 and onward until the End of Support for the product.

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
22.	For the post warranty options are vendors supposed to add the price together for both Object and Block configurations?	Price is based on per year /per machine basis.
23.	Is there a requirement for US based support?	Please review the ITPs for support requirements. The ITPs require all support it to be US based.
24.	For the minimum requirements of “5 years 24x7x4; Keep Your Hard Drive” should this map to the “Enhanced” or “Critical” service level?	5 years 24x7x4; Keep Your Hard Drive should be an available option for all configurations. We do allow for DOD approved data wipe with certificate before drives or devices leave COPA premises.
25.	Regarding the Object (storage) Tab:  Is Qty 650 of 20 TB a realistic Qty request for an object store for any organization, even when leveraging compute as scalable “building blocks”?	If we are looking for a quantity as large as 650 TB, we would expect that the drives used would be much larger than the minimum size specified. Specific requirements will be in the agency request for quotes.
26.	Regarding the Object (storage) Tab:  Why did COPA increase the qty to 650?	If we are looking for a quantity as large as 650 TB, we would expect that the drives used would be much larger than the minimum size specified.
27.	Regarding the Object (storage) Tab:  There is no reference to object storage software to classify and maintain the object files in the Dell bid. Dell’s object platform is	Previous bids on discontinued projects are not relevant to this project. Please respond based on specifications of this IFB.

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
	branded "ECS". What has been provided as their previous bid is a single compute node built to requested bid spec.	
28.	<p>Regarding the Object (storage) Tab:</p> <p>Since this is not a viable object storage solution as proposed will COPA accept our bid with this solution.</p>	<p>Previous bids on discontinued projects are not relevant to this project. Please respond based on specifications of this IFB.</p>
29.	<p>Regarding the Object (storage) Tab:</p> <p>Is the intent to provide the underlying hardware to support object storage in 20TB increments, or a fully equipped object storage solution that can provide infinite growth to support Petabytes/Exabytes of object data?</p>	<p>If we are looking for a higher quantity of storage, we would expect that the drives used would be much larger than the minimum size specified.</p>
30.	<p>Regarding the Object (storage) Tab:</p> <p>Would partners be required to provide a native object based storage array or will COPA be providing a software defined object based software product and the compute power to run it to layer on top of a block based storage platform we will be providing?</p>	<p>A complete object-based solution should be provided that does not require the Commonwealth to provide any additional hardware or software</p>

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
31.	<p>Regarding the Object (storage) Tab:</p> <p>Will COPA accept bids for equipment supported but no longer orderable?</p>	<p>All solutions provided need to be able to be ordered by the Commonwealth.</p>
32.	<p>Regarding the Object (storage) Tab:</p> <p>Dell's ME 4024 is a Block storage array not Object storage. Will COPA still accept bids for this?</p>	<p>When the storage unit is combined with software, it can store object files.</p>
33.	<p>Regarding the Block storage Tab:</p> <p>Is the 50TB capacity request Usable RAID or RAW capacity? and is this defined as physical capacity uncompressed, or de-duplicated?</p>	<p>The 50 TB is a usable RAID capacity and should be uncompressed.</p>
34.	<p>Regarding the Block storage Tab: See question 33 and is this defined as physical capacity uncompressed, or de-duplicated?</p>	<p>The 50 TB is a usable RAID capacity and should be uncompressed.</p>
35.	<p>Regarding the Block storage Tab:</p> <p>If usable 50TB will COPA accept a bid as before even though some previous Dell bids leveraged Qty 25 drives that fall short of 50TB requirement?</p>	<p>Previous bids on discontinued projects are not relevant to this project. Please respond based on specifications of this IFB.</p>

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
36.	<p>Regarding the Block storage Tab:</p> <p>How does 25 1.92TB drives meet the 50TB capacity requirement for Block storage?</p>	<p>Drive sizes listed are minimum sizes, the bidder may propose drives that are larger than this minimum to meet the requirement.</p>
37.	<p>Regarding the Block storage Tab</p> <p>A single switch is generally considered not best practice. Is the requirement to include a single switch or a 2 switches for redundancy?</p>	<p>A single switch will be used for the cost comparisons between vendors. Any group purchasing of the contract will have the ability to order the number of switches that make the most sense for their project.</p>
38.	<p>Regarding Storage Options Upgrade Tab:</p> <p>Is this upgrade request to upgrade the Object or the Block tab? These solutions types are not the same and have their own upgrade path generally regardless of vendor.</p>	<p>The tab is for both.</p>
39.	<p>Regarding Storage Options Upgrade Tab:</p> <p>Would you elaborate more on Storage accidental damage protection?</p>	<p>The accidental damage protection option has been removed from Appendix G.</p>
40.	<p>Regarding Storage Options Upgrade Tab:</p> <p>See question 39.</p> <p>What is COPA requesting here?</p>	<p>The accidental damage protection option has been removed from Appendix G.</p>

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
41.	The IFB states, "Of the awarded Bidders, the <b>lowest total cost</b> will be chosen as the Best Value Contractor." Will the award for each OEM be made based solely upon the lowest responsible bidder as determined by Appendix G Cost Submittal Cost Summary Tab (cell B13)?	Of the awarded Bidders, the lowest total cost, per the evaluated cost in the Cost Submittal, will be chosen as the Best Value Contractor. Bidders awarded Contracts that were not deemed as the Best Value will be referred to as the Secondary Contractors.
42.	Will there be a Technical Review of the Submissions?	No. Please refer to Section IV-1 (B) in the Specifications.
43.	If there is a technical review?	No. Please refer to Section IV-1(B) in the Specifications.
44.	Is there a Technical Score Threshold for responding OEM's or resellers?	No. Please refer to Section IB-1(B) in the Specifications.
45.	Will purchases under the contract(s) awarded under IFB No. 6100057583 be limited to the models identified on the "Storage (Object)" and "Storage (Block)" pages of Appendix G – Cost Submittal (which together make up the "Total Evaluated Cost")?	The Commonwealth will have the option to purchase any storage product on the manufacturers catalog from a bidder awarded a contract with the minimum discount off list price that was bid in the Cost Submittal.

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
46.	In the Cost Submittal, the discount that is provided for each configuration (Block/Object), auto-populates to cells B8 & B9 on the Cost Summary tab - "Minimum Discount off Catalog List Price – Storage (Block/Object)." How does the commonwealth define "catalog"? and what does it encompass?	A complete list of items offered by the manufacturer pertaining to this IFB topic typically one in alphabetical or other systematic order.
47.	The IFB notes, "The Commonwealth is seeking Bidders who offer the best discounts from the manufacturer's nationally publicized price list and respond to purchase orders in a timely fashion." How does the Commonwealth define the "nationally publicized price list?"	The "nationally publicized price list" is the price that anyone in the public ordering from the vendor would pay for the product. It is a complete list of items offered by the manufacturer pertaining to this IFB topic typically one in alphabetical or other systematic order.
48.	How will the Commonwealth handle procuring a solution a vendor classifies to be outside the two categories of block and object (file or data protection, for example)?	The minimum discount off of list will be required for anything purchased from the awarded bidder. The Commonwealth can only purchase solutions that are in scope of the requirements and specifications of the IFB.
49.	Will vendors be able to use 3 <sup>rd</sup> party products in the proposed technical solutions for the block and object storage?	All of the products must come from the proposed OEM.



Questions and Answers

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Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
50.	<p>Appendix G - Cost Submittal</p> <p>Must the equipment proposed in Appendix G be currently generally available for sale and not currently withdrawn?</p>	<p>The products must be something that Commonwealth can order from the awarded bidder.</p>
52.	<p>Appendix G - Cost Submittal</p> <p>Must the equipment proposed and also provided as a part of this contract be new and not used or refurbished?</p>	<p>All equipment must be new and not used.</p>
53.	<p>Appendix G - Cost Submittal</p> <p>Should the optional services and options/upgrades be priced at the net purchase price (inclusive of discount)?</p>	<p>Net purchase price is required.</p>
54.	<p>Appendix G - Cost Submittal</p> <p>The cost section indicates that the "Bidder must enter a Discount off of List on the Summary tab. The discount proposed will calculate on each configuration as a part of the evaluation of cost." However, the summary tab discount from list cells are locked, but the bidder can enter discounts on the block and storage detail tabs. Please confirm that the bidder should enter discounts on the detail tabs only.</p>	<p>Discounts entered in the cost configuration tab will automatically pull across to the summary tab.</p>
55.	<p>Appendix G - Cost Submittal</p> <p>There is currently nothing in the Object storage requirement that would require a vendor to bid a purpose-built Object storage</p>	<p>The proposed solution, to include any software, must provide an Object-based storage platform.</p>

Questions and Answers

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Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
	platform. That said, for the Object storage requirement, does the Commonwealth require that the storage platform be a purpose-built object platform with native object capabilities built in?	
56.	Appendix G - Cost Submittal  What discounts will the Commonwealth be expecting for OEM software/services outside the configurations included in Appendix G?	All related services within this contract scope will have discount applied throughout associated catalogue.
57.	Appendix G - Cost Submittal  Please confirm the Commonwealth is requesting respondents to include the cost of Fiber channel switch(es) in their price for Block Storage.	The fiber channel switch cost should be included in the Storage (Block) cost.
58.	Appendix G - Cost Submittal  Does the Commonwealth have an OEM preference when configuring the fiber channel switch for Block Storage?	There is no OEM preference for SAN switches for the cost submittal. When agencies order storage and switches, they may have a specific preference.
59.	IV-1.B.2 - Nationally Publicized Price List, page 5 Does the Commonwealth require the bidder to provide the nationally publicized price list or to provide a link to it?	The bidder may supply a link or submit a document for a response.
60.	Regarding COSTARS Participation Form  Is participation in COSTARS required or optional by the bidder/vendor? If optional	Costars participation is not required. Appendix L in not needed if bidder is not participating in COSTARS.

Questions and Answers

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Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
	how should Appendix L be completed? Is it required or shall non-participation in COSTARS be noted on the form?	
61.	How does the Commonwealth define List Cost?	The “nationally publicized price list” is the price that anyone in the public ordering from the vendor would pay for the product. It is a complete list of items offered by the manufacturer pertaining to this IFB topic typically one in alphabetical or other systematic order.
62	Will the Commonwealth require bidders to identify the name of commonly used Global Price List or permit creation of a price list just for the Commonwealth that is not used by other public sector customers?	The “nationally publicized price list” is the price that anyone in the public ordering from the vendor would pay for the product. It is a complete list of items offered by the manufacturer pertaining to this IFB topic typically one in alphabetical or other systematic order.
63.	Does the Commonwealth require a submittal of all catalog list costs at the time of bid submission or contract inception?	As stated in the IFB, “ Contractors must provide the OEM’s full storage product line at the minimum discount off catalog list price as indicated in their response to the sample configuration in Appendix G – Cost Submittal”

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
64.	Is there allowance for variance between OEM list cost and prime vendor list cost?	Please review Specifications Section IV-6 (D). The cost is based on discount off manufacturers nationally publicized price list. There are not two lists as posed in this question.
65.	How is the Commonwealth accounting for Maintenance orders of existing hardware? *These are discounted at a much lesser percentage than net-new orders, and as a result, should have a separate discount structure.*	Refer to sections within the IFB labeled "Replacement/Refresh with or without reduction" and "Upgrade/Expansion".
66.	Given this is an IFB and not a RFP, how do you plan to assess differences in the technical solutions and/or aptitude of the prospective bidders to handle the complexity and volume/scale of a COPA contract?	<p>The Commonwealth is not seeking technical solution. All bidders must meet the Requirements listed in the Specifications under Bidder Eligibility.</p> <p>As stated in the IFB,"Each Bidder shall only propose a single Original Equipment Manufacturers (OEM). Only one Bidder will be awarded per OEM. Of the Contractors, the lowest total cost will be chosen as the Best Value Contractor. Bidders awarded Contracts that were not deemed as the Best Value will be referred to as the Secondary Contractors."</p>

Questions and Answers

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Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
67.	In light of the IFB being requested during the historical OEM “shut-down period” is there an avenue for extension of proposal deadlines?	The new bid due date is in the updated Calendar of Events and in the Addendum.
68.	Due to the holidays, would the Commonwealth of PA DGS consider granting at least a one-week extension to both the deadline to submit questions and the deadline to submit bids?	The new bid due date is in the updated Calendar of Events and in the Addendum.
69.	Can you please define the evaluation criteria for this IFB?	Please see Section IV-1(B) of how the IFB will be awarded based on the evaluated cost to responsive bidders.
70.	Will the State provide all questions and answers to all the vendors?	The Questions and Answers will be posted to e-Marketplace as an Addendum to this IFB.
71.	Will the State allow time for follow-up questions to the State’s answers to vendors’ questions?	The new question and answer deadline is posted. The Commonwealth is not considering an extension to it at this time. All questions must be submitted before the deadline.
72.	Per P. 4 of Appendix E - Contract Terms and Conditions rev.1 under V.1. Supplies Delivery it states that unless otherwise stated in this Contract, delivery must be made within thirty (30) days after the Effective Date. We	It will be up to the Commonwealth agency and awarded contractor to establish an agreed upon delivery date when the order is made.

Questions and Answers

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Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
	are still experiencing Supply Chain Issues and some items may not be delivered in 30 days. Will this be an issue? (We will inform client upon quote/order about estimated delivery time.)	
73.	Required Contract Services. #5 states Contractors must provide staging and storage at no additional cost. Can the Commonwealth please confirm that this will be included in a pre-confirmed Statement of Work at time of hardware order?	It is the intent of the contract that staging, and storage will be predetermined when the PO is created.
74.	Appendix N can still not be opened; I believe there is an error in the file name with the space between "form" and ".docx". Please reupload.	Appendix N has been updated and reposted.
75.	Since there is no technical score, does a technical proposal need to be submitted or only the cost proposal?	All bidders must meet the Bidder Eligibility requirements in Section IV-6 of the Specifications. Please also see Specifications Section IV-6 (B)-(D) for instructions on what must be submitted in response to the IFB.
76.	What are the required elements of a complete submission to this IFB?	All bidders must meet the Bidder Eligibility requirements in Section IV-6 of the Specifications. Please also see Specifications Section IV-6 (B)-(D) for instructions on what must be submitted in response to the IFB.

Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
77.	If a technical proposal must be submitted, what are the required elements?	A technical proposal is not required to respond to this IFB. All bidders must meet the Bidder Eligibility requirements in Section IV-6 of the Specifications. Please also see Specifications Section IV-6 (B)-(D) for instructions on what must be submitted in response to the IFB.
78.	If a technical proposal must be submitted, how will it be scored?	A technical proposal is not required to respond to this IFB. Please see the Specifications Section IV-1(B) that outlines the evaluation criteria.
79.	Given that this IFB is for Storage, would the Commonwealth consider removing the networking requirement from the Storage (Block) tab since this is a Storage IFB and switching should not impact the price determination in this bid?	Please look at the most current version of the "Storage (Block) tab". No networking requirement is listed.
80.	Will SAN switches be an available line item on the awarded contract?	SAN Switches are not a specific line item, but an added service that we sometimes purchase with or independent of a storage purchase.

Questions and Answers

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Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
81.	By asking for a single discount on an entire catalogue CoPA is not taking into consideration that each OEM has multiple discount structures within their product catalogue. A single discount may not apply to every sku on the price list. How would CoPA like OEMs to handle such differences?	As stated in the Specifications, "Contractors must provide the OEM's full storage product line at the minimum discount off catalog list." At time of quote, the contractor may offer better discounts to the agency.
82.	In asking for a deep discount on an entire catalogue CoPA is asking the OEMs to disregard MFN requirements for other large contracts throughout the country, GSA, OMNIA, NASPO, Texas DIR and NYS OGS for instance. Any OEM that submits a catalogue wide discount beyond what is available on the previously mentioned contracts puts its entire company at risk. Does CoPA intend to have an MFN clause in their T&Cs?	No, an MFN clause will not be included in the IFB.
83.	Please define which contract type CoPa is intending to establish. This will determine legally how the OEM can respond. <ul style="list-style-type: none"> <li>• <input type="checkbox"/> Fixed-price contracts.</li> <li>• <input type="checkbox"/> Cost-reimbursement contracts.</li> <li>• <input type="checkbox"/> Time and materials contracts.</li> <li>• <input type="checkbox"/> Indefinite delivery/Indefinite quantity (IDIQ) Contracts.</li> </ul>	It is the intent of this contract to use the fixed price model.



Questions and Answers

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Question #	QUESTION	ANSWER
84.	Have you all considered using a National contract to procure storage? Or any of the other technology you purchase? Many states use Omnia, ITS75, Texas DIR, etc.	The Commonwealth has decided to use an IFB as its source selection for Enterprise Storage Hardware and Related Services.
85.	In the previous version of this solicitation, some vendors offered one discount for the main configurations and another discount for the balance of line of the items in the catalog they were offering. Is that an option this time, or is the Commonwealth only allowing one discount across the evaluation configuration and catalog?	As stated in the specifications, "Contractors must provide the OEM's full storage product line at the minimum discount off catalog list." This will apply as a minimum discount across the catalog.
86.	Is the Commonwealth accepting As-A-Service solutions with service level guarantees as legitimate responses to the IFB? Interest in cloud-like operating models continues to grow, with those models being valued for their economic potential, the operational benefits including those in the area of risk mitigation, and transformed customer experience. This is evidenced not only by the growth of the public cloud service providers, but by industry interest in private and hybrid cloud solutions. As an alternative that delivers the value of the cloud operating model paradigm, we would like the ability to offer a consumption-based, storage-as-a-service solution that can be deployed and delivered on-prem, in co-location facilities, or in the public cloud,	The contract includes specific discounts for on Premise hardware purchases to meet the Commonwealth's needs. The Commonwealth already has the ability to procure cloud-based storage solutions from existing cloud contracts. Consumption based storage procurements can be procured through this contract but is not the main reason for the contract.

Questions and Answers

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Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
	<p>allowing the Commonwealth all the benefits of the cloud operating model wherever it chooses to run its technology operations.</p>	
87.	<p>If yes to the above question, what are the requirements around pricing to ensure compliance with OpEx standards within the Commonwealth? As a true service subscription backed by genuine service level agreements/commitments, one of the attributes of an as-a-service model is the cloud experience and its ability to qualify as OpEx spend. Ultimately, the Commonwealth's financial policies and preferences would determine whether the as-a-service costs would be treated as CapEx or OpEx spend.</p>	<p>The contract includes specific discounts for on Premise hardware purchases to meet the Commonwealth's needs. The Commonwealth already has the ability to procure cloud-based storage solutions from existing cloud contracts. Consumption based storage procurements can be procured through this contract but is not the main reason for the contract.</p>
88.	<p>Adherence to ESG standards has resulted in significant reductions in Data Center costs (floor space, power &amp; cooling) and major impacts on the environment. How will the Commonwealth evaluate these cost savings within the framework of the IFB?</p>	<p>Please see the Specifications Section IV-1(B) that outlines the evaluation criteria for this IFB.</p>



Questions and Answers

IFB 6100057583

Enterprise Storage Hardware and Related Services

Question #	QUESTION	ANSWER
95.	<input type="checkbox"/> On-site is taking place or situated at a particular place determined by the agency at the time of request.	On-site is taking place or situated at a particular place determined by the agency at the time of request.
96.	<input type="checkbox"/> If requested, that will be determined by the agency, at time of request.	If requested, that will be determined by the agency, at time of request.
97.	<input type="checkbox"/> If requested, that will be determined by the agency, at time of request. Additionally, see section labeled "training" in the specifications.	If requested, that will be determined by the agency, at time of request. Additionally, see section labeled "training" in the specifications.
98.	<input type="checkbox"/> If requested, that will be determined by the agency, at time of request. Additionally, see section labeled IV-6 (J) "Training" in the specifications.	If requested, that will be determined by the agency, at time of request. Additionally, see section labeled IV-6 (J) "Training" in the specifications.
99.	Under Additional Services: what are PA's	If requested, that will be determined by the agency, at time of request. It will be billed utilizing the pricing provided on the "additional services" tab.

**SDB-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)  
PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

*PLEASE READ BEFORE COMPLETING THESE DOCUMENTS*  
*Bidders/Offerors do not need to return SDB-1 with their SDB Participation Submittal*

The following instructions include details for completing the SDB Participation Submittal (SDB-2) which Bidders or Offerors must submit in order to be considered responsive.

The following instructions also include details for completing the SDB Utilization Schedule (SDB-3), which Bidders or Offerors must submit for any portion of the SDB participation goal the Bidder or Offeror commits to meeting.

**A Bidder/Offeror's failure to meet the SDB participation goal in full or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of the SDB participation goal will result in the rejection of the Bid or Proposal as nonresponsive.**

I. **SDB Participation Goal:** The SDB participation goal is set forth in the **Solicitation**. The Bidder/Offeror is encouraged to use a diverse group of subcontractors and suppliers from the SDB classifications to meet the SDB participation goal.

II. **SDB Eligibility:**

1. **Finding SDB firms:** Offerors can access the directory of **DGS-verified** SDB firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
2. **Only SDBs verified by DGS** and as defined herein may be counted for purposes of achieving the SDB participation goal. In order to be counted for purposes of achieving the SDB participation goal, the SDB firm, including an SDB prime, **must be DGS-verified for the services, materials or supplies that it has committed to perform on the SDB Utilization Schedule (SDB-3).** A firm whose SDB verification is pending or incomplete as of the bid or proposal due date and time shall not be counted towards the SDB participation goal. Offerors cannot use self-certified SBs that do not have their SDB verification as of the bid or proposal due date and time to meet the SDB participation goal.
3. **SDB Requirements:** To be considered an SDB, a firm must be a **DGS-verified** small minority business enterprise (MBE); woman business enterprise (WBE); LGBT business enterprise (LGBTBE); Disability-owned business enterprise (DOBE); Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE); or otherwise deemed disadvantaged by the Uniform Certification Program.

Additional information on the DGS verification process can be found at:  
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>

## SDB-1

### INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.

4. Dually verified firms. If a DGS-verified SDB is dually verified as a VBE, the firm may receive credit towards both the SDB participation goal and the VBE participation goal as set forth on the SDB and VBE Participation Summary Sheet.

*Example: The SDB participation goal is 10% and the VBE participation goal is 5%. A subcontractor is DGS-verified as both an SDB and a VBE and will perform 10% of the contract work. The prime contractor can satisfy both the SDB participation goal and the VBE participation goal through that subcontractor's performance of 10% of the contract work., unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office. However, an SDB firm verified as both a WBE and MBE may not be double counted toward satisfying the SDB participation goal.*

5. Participation by SDB firms as prime bidders/offerors or subcontractors. A Bidder/Offeror that qualifies as an SDB and submits a bid or proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Bidders/Offerors. An SDB may be included as a subcontractor with as many prime contractors as it chooses in separate bids or proposals and a prime contractor may not prohibit an SDB from committing to any other prime contractor.
6. Questions about SDB verification. Questions regarding the SDB program, including questions about the self-certification and verification processes can be directed to:

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

### III. Guidelines Regarding SDB Prime Self-Performance.

1. An SDB firm participating as a prime bidder or offeror on a procurement may receive credit towards the SDB Participation goal established for the procurement through their own self-performance.

*Example: A solicitation has a 15% SDB participation goal. An SDB prime offeror self-performing contract work valued at only 10% of contract costs (if permitted by the solicitation documents) must still satisfy the remaining 5% SDB participation goal through subcontracting or must request a Good Faith Efforts Waiver for the unmet SDB participation goal. Failure to satisfy the remaining 5% SDB participation goal or failure to obtain a Good Faith Efforts waiver for the*

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### **INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

*unmet portion of the SDB participation goal will result in rejection of that SDB prime's bid or proposal as nonresponsive.*

2. For an SDB prime bidder or offeror to receive credit for self-performance, the SDB prime bidder or offeror must list itself in the **SDB Utilization Schedule (SDB-3)**.
3. The SDB prime bidder or offeror must also include the classification category (MBE, WBE, LGBTBE, DOBE, and/or SDVBE) under which it is self-performing and include information regarding the work it will self-perform. For any portion of the SDB participation goal not met through the SDB prime bidder or offeror's self-performance, the SDB bidder or offeror must also identify on the **SDB Utilization Schedule (SDB-3)** the other SDB subcontractors it will use to meet the unmet portion of the goal or must request and receive a Good Faith Efforts waiver.

#### **IV. Calculating SDB participation**

1. The selected Bidder or Offeror may only count dollar amounts actually paid to an SDB for performance of a Commercially Useful Function (the performance of a distinct element of work required for the Contract, with the requisite skill and expertise) towards satisfying its SDB participation commitments. In addition, the SDB subcontractor, through its own employees, must perform at least 50% of the amount of the subcontract.

#### **V. Additional Required Documentation.**

1. The Bidder or Offeror must submit along with its SDB Participation Submittal (SDB-2) a letter of commitment (LOC) (SDB-3-1) for each subcontractor included in its SDB Utilization Schedule (SDB-3). At a minimum, each LOC must contain the following unless otherwise specified by the solicitation documents:
  - a. The fixed numerical percentage commitment and associated estimated gross dollar value of the commitment made to the SDB; and
  - b. A description of the services or supplies the SDB will provide; and
  - c. The timeframe during the initial contract term and any extensions, options and renewals when the SDB will perform or provide the services and/or supplies; and
  - d. The name and telephone number of the Bidder or Offeror's point of contact for SDB participation; and
  - e. The name, address, and telephone number of the primary contact person for the SDB; and
  - f. Signatures of representatives of both the Bidder/Offeror and the SDB subcontractor who are authorized to contractually bind their firm.

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**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)  
PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

**VI. Document Submittal Errors.**

1. **Fatal errors.** The following errors will result in rejection of a bid or proposal as non-responsive:
  - a. Failure to submit a completed **SDB Participation Submittal (SDB-2)**;
  - b. Failure to submit an **SDB Utilization Schedule (SDB-3)**, unless the bidder or offer is seeking a complete Good Faith Efforts waiver;
  - c. Failure to make commitments to and list **DGS-verified** SDBs that will be used to meet the SDB participation goal, unless the bidder or offeror's commitments to other DGS-verified SDBs meet or exceed the SDB Participation goal;
  - d. Failure to submit a Good Faith Efforts waiver request when not fully meeting the SDB participation goal.

*Example: A bidder/offeror lists a subcontractor that possesses a third-party certificate issued by one of the DGS-approved third party certifying entities; however, the subcontractor did not complete its DGS SDB verification as of the bid or proposal due date and time. The bidder/offeror does not receive credit for any commitments made to the subcontractor and has therefore not met the SDB participation goal. The bidder/offeror cannot cure this error. Therefore, the bid or proposal must be rejected as non-responsive.*

2. **Potentially curable errors.** The Issuing Office and BDISBO may provide Bidders or Offerors the opportunity to provide clarifications or to correct errors not listed as fatal errors above. If the additionally submitted information does not adequately address the or clarify the submittal, the bid or proposal may be rejected. **Bidders or Offerors are not permitted to add additional SDBs or make material changes as part of its clarifications or corrections in order to meet the SDB participation goal.**
3. **Solicitations with Multiple Lots or Base Bids.** If the Bid or Proposal contains separate Lots or multiple Base Bids, an Offeror must complete and submit a separate **SDB Participation Submittal (SDB-2)** and accompanying required documentation for EACH Lot or Base Bid for which it is submitting a bid or proposal. Each separate **SDB Participation Submittal** and accompanying required documentation must be labeled to identify the corresponding Lot or Base Bid. Failure to submit an **SDB Participation Submittal** and accompanying required documentation for each Lot or Base Bid will result in the rejection of the bid or proposal for each Lot or Base Bid for which an **SDB Participation Submittal** was not submitted.



**SDB-2**  
**SDB PARTICIPATION SUBMITTAL**

**CHECK ONE, AND ONLY ONE, BOX. FAILURE TO COMPLY WILL RESULT IN REJECTION OF YOUR BID/PROPOSAL.**

*Click on bold titles to navigate to that specific page.*

**I agree to meet the SDB participation goal in full.**

I have completed and am submitting with my bid or proposal an **SDB Utilization Schedule (SDB-3)**, which is required in order to be considered for award.

**I am requesting a partial waiver of the SDB participation goal.**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve the total SDB participation goal for this solicitation and am requesting a partial waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal both of the following, which are required in order to be considered for award:

1. an **SDB Utilization Schedule (SDB-3)** for that portion of the SDB participation goal that I will meet; AND
2. a **Good Faith Efforts Waiver Request** for the portion of the SDB participation goals that I am unable to meet.

**I am requesting a full waiver of the SDB participation goal**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve any part of the SDB participation goal for this solicitation and am requesting a full waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal a **Good Faith Efforts Waiver Request** for the complete SDB participation goal, which is required in order to be considered for award.

NOTE: SDB primes who are submitting as bidders or offerors must complete an **SDB Utilization Schedule (SDB-3)** identifying any self-performance towards the SDB participation goal.

**SDB-3**  
**SDB UTILIZATION SCHEDULE**

List in the chart below SDBs (including where applicable a prime bidder or offeror is self-performing a portion of the work) that will be used to meet the SDB participation goal (add additional pages if necessary). Submit a **Letter of Commitment (SDB-3-1)** for each SDB subcontractor (add additional Letters of Commitment as necessary).

SDB Name SAP Vendor Number (6-digit number provided by SDB) SDB Verification Number (located on DGS SDB verification)	Type of SDB (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by SDB bidder/offeror)	Associated Dollar Value of Commitment
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> SDB Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
<b>Attach additional sheets if necessary</b>			Total % SDB commitment: _____	Total \$ amount: _____

**SDB-3-1**  
**LETTER OF COMMITMENT**

This Letter of Commitment serves as confirmation of the commitment by the prime Bidder or Offeror to utilize the Small Diverse Business (SDB) on the below-referenced Solicitation/Project.

Solicitation Number: \_\_\_\_\_

Solicitation Name: \_\_\_\_\_

	Bidder/Offeror Information	SDB Information
Name		
Address		
Point of Contact		
Telephone number		
Email address		

Services/Supplies and Time Frame. If Bidder/Offeror is the successful vendor, the SDB shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the SDB will provide:

Specific Time Frame the SDB will provide the services or supplies:

Percentage Commitment. These services or supplies represent \_\_\_\_\_% of the total cost of the Bidder/Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the SDB will receive \$\_\_\_\_\_ during the initial contract term.

SDB verified. By signing below, the SDB represents that it meets the SDB requirements set forth in the Solicitation and all required documentation has been provided to the Bidder/Offeror for its SDB submission.

Sincerely,

Acknowledged

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature  
Bidder/Offeror Point of Contact Name

\_\_\_\_\_  
Signature  
SDB Point of Contact Name

*\* For purposes of monitoring compliance with SDB and VBE commitments, the work performed by a firm that is both an SDB and a VBE will be counted by BDISBO towards fulfilling both the SDB and VBE commitments unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office.*

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**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

*Bidders/Offerors do not need to return SDB-4 with their SDB Participation Submittal*

In order for its bid or proposal to be responsive, the Bidder or Offeror must either (1) meet the SDB participation goal and document its commitments for participation of SDB firms, or (2) when it does not meet the SDB participation goal, submit a Good Faith Efforts waiver request as set forth in Section IV below and the **Good Faith Efforts Documentation to Support Waiver Request (SDB-5)** of the SDB Participation Goal.

## **I. Definitions**

**SDB participation goal** – “SDB participation goal” refers to the SDB participation goal set for a procurement for MBE, WBE, LGBTBE, DOBE, and SDVBE utilization.

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the SDB participation goal. Those steps are considered necessary and reasonable when their scope, intensity, and relevance could reasonably be expected to obtain sufficient SDB participation, even if those steps were not fully successful. The Issuing Agency and Department of General Services’ Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) will determine whether or not the Offeror requesting a Good Faith Efforts waiver made adequate Good Faith Efforts by considering the quality, quantity, and intensity of the Offeror’s efforts. Mere *pro forma* efforts are not Good Faith Efforts to meet the SDB participation requirements. The determination concerning the sufficiency of the Offeror's Good Faith Efforts is subjective; meeting quantitative formulas is not required.

**Identified Items of Work** – all reasonably identifiable subcontractable work opportunities under a resulting contract for performance by subcontractors.

**Identified SDBs**– all of the SDBs the Offeror has identified as available to perform the Identified Items of Work and should include all DGS-verified SDBs that are reasonably identifiable.

**Offeror** – for purposes of this **Good Faith Efforts Documentation to Support Waiver Request**, the term “Offeror” includes any entity responding to a solicitation, including invitations for bids, requests for proposals, and other types of best value solicitations.

**SDB** – “SDB” refers to Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Disability-Owned Business Enterprises (DOBE), LGBT-Owned Business Enterprises (LGBTBE), Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE) verified by BDISBO, or otherwise deemed disadvantaged by the Uniform Certification Program.

## **II. Types of Actions Agency and BDISBO will Consider**

The following is a list of types of actions the procuring agency and BDISBO will consider as part of the Offeror's Good Faith Efforts when the Offeror is unable to meet, in full, the SDB

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**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

participation goal. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A. Identify Proposal Items as Work for SDBs**

1. Identified Items of Work

- (a) Offerors should reasonably identify sufficient items of work to be performed by SDBs.
- (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate SDB participation, rather than perform these work items with their own forces. **The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts to meet the SDB participation goal.**

**B. Identify SDBs to Solicit**

1. Identified SDBs

- (a) Offerors must reasonably identify the SDBs that are available to perform the Identified Items of Work.
- (b) Any SDBs identified as available by the Offeror should be certified to perform the Identified Items of Work.

**C. Solicit SDBs**

- 1. Offerors must solicit a reasonable number of identified SDBs for all Identified Items of Work by providing written notice. The Offeror must:
  - (a) provide the written solicitation to the Identified SDBs at least 10 days prior to Bid or Proposal due date to allow sufficient time for the Identified SDB to respond;
  - (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the BDISBO Directory, unless the Offeror has a valid basis for using different contact information; and
  - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the Identified SDB, and other requirements of the contract to assist Identified SDBs in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

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2. “All” Identified SDBs includes any SDB Firms the Offeror identifies as potentially available to perform the Identified Items of Work, but it does not include Identified SDBs who are no longer certified to perform the work as of the date the Offeror provides written solicitations.
3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested SDB cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested SDB.
4. Offerors must follow up on initial written solicitations by contacting Identified SDBs to determine their interest in bidding. The follow up contact may be made:
  - (a) by telephone using the contact information in BDISBO’s Directory, unless the Offeror has a valid basis for using different contact information; or
  - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, offerors must use all other reasonable and available means to solicit the interest of Identified SDBs certified to perform the work of the contract. Examples of other means include:
  - (a) attending any Supplier Forums, or Pre-Proposal or Pre-Bid conferences at which SDBs could be informed of contracting and subcontracting opportunities; and
  - (b) if recommended by the procurement, advertising with or effectively using the services of at least two diversity-focused entities or media, including trade associations, minority/women/disability/LGBT community organizations, minority/women/disability/LGBT contractors' groups, and local, state, and federal minority/women/disability/LGBT business assistance offices.

#### **D. Negotiate with Interested SDBs**

Offerors must negotiate in good faith with interested SDBs.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of SDBs that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and

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**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

- (c) evidence as to why additional agreements could not be reached for SDBs to perform the work.
2. In negotiating with subcontractors, the offeror should consider a subcontractor's price and capabilities as well as the SDB participation goal.
  3. Additional costs incurred in finding and using SDBs are not sufficient justification for the Offeror's failure to meet the SDB participation goal, as long as such costs are reasonable. Factors to take into consideration when determining whether an SDB's quote is excessive or unreasonable include, without limitation, the following:
    - (a) dollar difference between the SDB subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (b) percentage difference between the SDB subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (c) percentage that the SDB subcontractor's quote represents of the total contract cost;
    - (d) whether the work described in the SDB and Non-SDB subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
    - (e) number of quotes received by the Offeror for that portion of the work.
  4. The factors in paragraph 3 above are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
  5. The Offeror may not use its price for self-performing work as a basis for rejecting an SDB's quote as excessive or unreasonable.
  6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an SDB and one quote from a non-SDB.
  7. The Offeror shall not reject an SDB as unqualified without sound justification based on a thorough investigation of the SDB's capabilities. For each SDB that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement outlining the justification for its conclusion. The Offeror also must document the steps taken to verify the capabilities of the SDB and non-SDB Firms quoting similar work.

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### **GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

- (a) The factors to take into consideration when assessing the capabilities of an SDB include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
- (b) The SDB's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the SDB participation goal.

#### **E. Assisting Interested SDBs**

When appropriate under the circumstances, the procuring agency and BDISBO will consider whether the Offeror made reasonable efforts to assist interested SDBs in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

#### **III. Other Considerations**

In making a determination of Good Faith Efforts, the procuring agency and BDISBO may consider engineering estimates, catalogue prices, general market availability and availability of certified SDBs in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between SDB and non-SDB costs of participation, and their impact on the overall cost of the contract to the Commonwealth and any other relevant factors.

The procuring agency and BDISBO may consider whether the Offeror decided to self-perform potentially subcontractable work with its own forces. The procuring agency and BDISBO also may consider the performance of other Offerors in meeting the SDB participation goal. For example, when the apparent successful Offeror fails to meet the SDB participation goal, but others meet it, this raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the SDB participation goal. If the apparent successful Offeror fails to meet the SDB participation goal but meets or exceeds the average SDB participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

#### **IV. Documenting Good Faith Efforts**

At a minimum, the Offeror seeking a Good Faith Efforts waiver of the SDB participation goal or a portion thereof must provide written documentation of its Good Faith Efforts along with its bid or proposal. The written documentation shall include the following:



**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

**A. Items of Work (complete SDB-5, Part 1 – Identified Items of Work Offeror Made Available to SDBs)**

A detailed statement of the efforts made to select portions of the contract work proposed to be performed by SDBs in order to increase the likelihood of achieving the SDB participation goal.

**B. Outreach/Solicitation/Negotiation**

1. A detailed statement of the efforts made to contact and negotiate with SDBs including:
  - (a) the names, addresses, and telephone numbers of the SDBs who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) **(complete SDB-5, Part 2 – Identified SDB Firms and Records of Solicitations. Include letters, fax cover sheets, e-mails, etc. documenting solicitations);** and
  - (b) a description of the information provided to SDBs regarding the plans, specifications, and anticipated time schedule for portions of the contract work to be performed and the means used to provide that information.
2. The record of the Offeror's compliance with the outreach efforts set forth in **SDB-5, Part 3 - Outreach Efforts Compliance Statement.**

**C. Rejected SDBs (complete SDB-5, Part 4 - Additional Information Regarding Rejected SDB Quotes)**

1. For each SDB that the Offeror concludes is not acceptable or qualified, provide a detailed statement of the reasons for this conclusion, including the steps taken to verify the capabilities of the SDB and non-SDB firms quoting similar work.
2. For each SDB that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all SDB and non-SDB firms proposing on the same or comparable work. **(Include copies of all quotes received.)**

**D. Unavailable SDBs (complete SDB-5, Part 5 – SDB Subcontractor Unavailability Certificate)**

1. **For each SDB that the Offeror contacted but found to be unavailable, submit an SDB Subcontractor Unavailability Certificate** signed by the SDB, an email from the SDB indicating the SDB is unavailable, or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

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**E. Other Documentation**

1. Submit any other documentation requested by BDISBO or the Procuring Agency to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help BDISBO or the Procuring Agency ascertain its Good Faith Efforts.

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

<b>Project Description:</b>	
<b>Commonwealth Agency Name:</b>	
<b>Solicitation #:</b>	
<b>Solicitation Due Date and Time:</b>	

<b>Bidder/Offeror Company Name:</b>	
Bidder/Offeror Contact Name:	
Bidder/Offeror Contact Email:	
Bidder/Offeror Contact Phone Number:	

**Part 1 – Identified Items of Work Offeror Made Available to SDBs**

Identify those items of contract work that the Offeror made available to SDBs. This includes, where appropriate, those items the Offeror identified and subdivided into economically feasible units to facilitate the SDB participation. For each item listed, show the anticipated percentage of the total contract cost. Offeror must demonstrate that enough work to meet the SDB participation goal was made available to SDBs, and the total percentage of the items of work identified for SDB participation met or exceeded the SDB participation goal set for the procurement.

Identified Items of Work	Was this work listed in the solicitation?	Does Offeror normally self-perform this work?	Was this work made available to SDB Firms? If not, explain why.
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no

Attach additional sheets if necessary.

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

**Part 2 – Identified SDBs and Record of Solicitations**

Identify the SDBs solicited to provide quotes for the Identified Items of Work made available for SDB participation. Include the name of the SDB solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the SDB provided a quote, and whether the SDB is being used toward meeting the SDB participation goal. SDBs used to meet the SDB participation goal must be listed on the **SDB Utilization Schedule (SDB-2)**.

Note: Copies of all written solicitations and documentation of follow-up calls to SDBs must be attached to this form. For each Identified SDB listed below, Offeror should submit an SDB Subcontractor Unavailability Certificate signed by the SDB or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

Name of Identified SDB and Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Received?	Quote Used?	Reason Quote Rejected
SDB Name:  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date and Time of Call:  Spoke with:  Left Message:	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> Used other SDB <input type="checkbox"/> Used non-SDB <input type="checkbox"/> Self performing
SDB Name:  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date and Time of Call:  Spoke with:  Left Message:	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> Used other SDB <input type="checkbox"/> Used non-SDB <input type="checkbox"/> Self performing

Attach additional sheets as necessary.

**SDB-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**SDB PARTICIPATION GOAL**

**Part 3 – SDB Outreach Compliance Statement**

- 1. List the Identified Items of Work for subcontracting opportunities for the solicitation along with specific work categories:**

- 2. Attach to this form copies of written solicitations (with Bid or Proposal instructions) used to solicit Identified SDBs for these subcontract opportunities.**

- 3. Offeror made the following attempts to contact the Identified SDBs:**

- 4. Bonding Requirements (Please Check One):**

\_\_\_\_\_ This project does not involve bonding requirements.

\_\_\_\_\_ Offeror assisted Identified SDBs to fulfill or seek waiver of bonding requirements.  
(DESCRIBE EFFORTS):

- 5. Pre-Bid/Proposal Conference or Supplier Forum (Please Check One):**

\_\_\_\_\_ Offeror did attend the pre-Bid/Proposal conference or Supplier Forum

\_\_\_\_\_ No pre-Bid/Proposal conference or Supplier Forum was held

\_\_\_\_\_ Offeror did not attend the pre-Bid/Proposal conference or Supplier Forum

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

**Part 4 – Additional Information Regarding Rejected SDB Quotes**

This form must be completed if Part 2 indicates that an SDB quote was rejected because the Offeror is using a non-SDB or is self-performing the Identified Items of Work. List the Identified Items of Work, state whether the work will be self-performed or performed by a non-SDB, and if applicable, state the name of the non-SDB firm. Also include the names of all SDBs and non-SDB firms that provided a quote and the amount of each quote.

<b>Describe Identified Items of Work not being performed by SDBs (include specific section from bid or proposal)</b>	<b>Self-performing or using non-SDB (provide name of non-SDB if applicable)</b>	<b>Amount of non-SDB quote \$</b>	<b>Name of other firms that provided quotes and whether they are SDB</b>	<b>Amount quoted \$</b>	<b>Reason why SDB quote was rejected along with brief explanation</b>
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other

Attach additional sheets as necessary.

**SDB-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**SDB PARTICIPATION GOAL**

**Part 5 – SDB Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of SDB)

located at \_\_\_\_\_  
(Number) (Street)

\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_

by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_ (SDB), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_  
(Signature of SDB's Representative) (Title) (Date)

\_\_\_\_\_  
(DGS SDB Certification #) (Telephone #)

\*\*\*\*\*

3. If the SDB does not complete this form, the prime contractor must complete the following:

To the best of my knowledge and belief, the above-listed SDB is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
(Signature of Bidder/Offeror) (Title) (Date)

## APPENDIX B

### MODEL FORM OF SMALL DIVERSE BUSINESS/VETERAN BUSINESS ENTERPRISE SUBCONTRACTOR AGREEMENT

This Subcontractor Agreement ("Subcontract") is made effective as of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, ("Contractor") and \_\_\_\_\_, a Small Diverse Business or Veteran Business Enterprise ("Subcontractor") (collectively referred to as the "Parties").

#### RECITALS

Contractor has entered into a contract dated \_\_\_\_\_ (the "Prime Contract") with the Department of \_\_\_\_\_ of the Commonwealth of Pennsylvania ("Commonwealth"). Under the Prime Contract, Contractor has agreed to provide certain supplies, services or construction ("Services") to the Commonwealth.

In connection with the Procurement leading to the Prime Contract, Contractor and Subcontractor entered into a letter agreement dated \_\_\_\_\_ ("Letter of Commitment") whereby the Contractor committed a certain percentage of work ("Small Diverse Business or Veteran Business Enterprise Commitment") under the Prime Contract to the Subcontractor.

As contemplated by the Letter of Commitment and in accordance with the provisions of the Procurement and Prime Contract, the Parties have agreed to enter into this Subcontract to fulfill the Small Diverse Business or Veteran Business Enterprise Commitment expressed in the Letter of Commitment and as required by the Prime Contract.

#### DEFINITIONS

The following words and terms when used in this Subcontract shall have the following meanings:

*Bureau* – The Department's Bureau of Diversity, Inclusion and Small Business Opportunities.

*Contracting Officer* – The person authorized to administer and make written determinations for the Commonwealth with respect to the Prime Contract.

*Department* – The Department of General Services of the Commonwealth of Pennsylvania.

*Issuing Office* – The department, board, commission or other agency of the Commonwealth of Pennsylvania that issued the Procurement.

*Procurement* – The Invitation for Bids, Request for Quotes, Request for Proposals or other solicitation and all associated final procurement documentation issued by the Commonwealth to obtain proposals from firms for award of the Prime Contract.



*Small Business* – A business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than \$38.5 million in gross annual revenues.

*Small Diverse Business* – A Department-verified minority-owned small business, woman-owned small business, LGBT-owned small business, disability-owned small business, or service-disabled veteran-owned small business.

*Veteran Business Enterprise* – A Department-verified veteran-owned small business or service-disabled veteran-owned small business.

## **AGREEMENT**

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Subcontractor Representations. Subcontractor represents and warrants to Contractor as follows:

(a) Subcontractor is verified as a Small Diverse Business or Veteran Business Enterprise by the Bureau of Diversity, Inclusion and Small Business Opportunities in accordance with the requirements and procedures established by the Bureau;

(b) Subcontractor possesses the necessary knowledge, experience, expertise, capital, resources and personnel required to perform the Services it will provide under this Subcontract;

(c) Subcontractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(d) The execution and performance by Subcontractor of the terms and provisions of this Subcontract have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract by Subcontractor will violate any provision of law, any order of any court or other agency of government, the organizational documents of Subcontractor or any indenture, agreement or other instrument to which Subcontractor is a party, or by which Subcontractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subcontractor pursuant to, any such indenture agreement or instrument;

(e) Subcontractor has obtained all licenses, permits and approvals required to perform the Services it will provide under this Subcontract; and

(f) Subcontractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

2. Contractor Representations. Contractor represents and warrants to Subcontractor as follows:

(a) Contractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(b) The execution and performance by Contractor of the terms and provisions of this Subcontract by Contractor have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract will violate any provision of law, any order of any court or other agency of government, the organizational documents of Contractor or any indenture, agreement or other instrument to which Contractor is a party, or by which Contractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Contractor pursuant to, any such indenture agreement or instrument;

(c) Contractor has obtained all licenses, permits and approvals required to perform the Services to be provided by Contractor under the Prime Contract; and

(d) Contractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

3. Relationship of the Parties. The provisions of this Subcontract are not intended to create, nor shall be deemed or construed to create, any joint venture, partnership or other relationship between Contractor and Subcontractor, other than that of independent entities contracting with each other solely for the purpose of carrying out the provisions of this Subcontract. Neither of the Parties to this Subcontract, nor any of their respective employees, agents, or other representatives, shall be construed to be the agent, employee or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, unless otherwise stated in this Subcontract. Similarly, the Parties expressly acknowledge that neither the Contractor nor the Subcontractor is an agent, employee or representative of the Commonwealth and each party covenants not to represent itself accordingly.

4. Prime Contract Flow-Down.

(a)  General. This agreement is a subcontract under the Prime Contract and all provisions of the Prime Contract and any amendments thereto applicable to the Services being performed by the Subcontractor shall extend to and be binding upon the Parties as part of this Subcontract.

(b)  Specific. The Parties agree to comply with the following provisions of the Prime

Contract, which are incorporated herein by reference:

- (1)  The Americans with Disabilities Act Provisions.
- (2)  Nondiscrimination/Sexual Harassment Clause.
- (3)  Contractor Integrity Provisions.
- (4)  Contractor Responsibility Provisions.

(c)  **Termination.** Should the Prime Contract be terminated pursuant to the terms and conditions provided in the Procurement, such termination shall have the same effect on this Subcontract. Payment for Services provided as of the date of termination must be made in accordance with the Section 13 of this Subcontract.

(d)  **Audit Provisions.** The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Parties to the extent that the books, documents, and records relate to the Parties' compliance with the provisions set forth in subsection (b) above or to the Small Diverse Business or Veteran Business Enterprise Commitment effectuated through this Subcontract. The Parties shall preserve such books, documents, and records for a period of three years from the date of final payment hereunder. The Parties shall give full and free access to all such records to the Commonwealth and/or its authorized representatives.

5. **Order of Precedence.** The Letter of Commitment, Procurement and Prime Contract are incorporated herein by reference into this Subcontract. In the event of any conflict or inconsistency among the individual components of this Subcontract, such conflict or inconsistency shall be resolved by observing the following order of precedence:

- (a) This Subcontract;
- (b) The Letter of Commitment;
- (c) The Prime Contract; and
- (d) The Procurement.

6. **Further Action.** The Parties shall take such actions and complete, execute and deliver any and all documents or instruments necessary to carry out the terms and provisions of this Subcontract, to effectuate the purpose of this Subcontract, and to fulfill the obligations of each party hereunder.

7. **Description of Services.** Subcontractor will perform the following Services for the Contractor which Contractor is obligated to provide to the Commonwealth under the Prime Contract:

[DESCRIBE IN DETAIL THE SPECIFIC SUPPLIES, SERVICES OR CONSTRUCTION THE SUBCONTRACTOR WILL PROVIDE OR PERFORM WITH THE CORRESPONDING UNITED NATIONS STANDARD PRODUCTS AND SERVICES CODES (UNSPSC)]

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8. Small Diverse Business or Veteran Business Enterprise Commitment. The above-referenced Services represent \_\_\_ % of the final negotiated total cost for the initial term of the Prime Contract. Any proposed change to the Small Diverse Business or Veteran Business Enterprise Commitment must be submitted in writing to the Bureau and the Contracting Officer. The Bureau will make a recommendation to the Commonwealth Contracting Officer regarding a course of action.

9. Performance of Services. Subcontractor may not subcontract more than 50% of the work subcontracted to it hereunder without written permission from the Bureau. Subcontractor will perform the Services strictly in accordance with any applicable plans and specifications as contained in the Prime Contract and the reasonable deadlines set by Contractor in view of the requirements of the Prime Contract, and in a good workmanlike manner consistent with industry standards, meeting all applicable local, state and federal laws, regulations and policies.

10. Location of Services. Subcontractor will provide the Services at the following address(es):  

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11. Timeframe for Performance of Services. The Services will be provided by Subcontractor during the initial term of the Prime Contract, and during any extensions, options or renewal periods of the Prime Contract exercised by the Commonwealth, as more specifically set forth below:

[IDENTIFY THE SPECIFIC TIME PERIODS DURING THE INITIAL CONTRACT TERM AND EXTENSIONS, OPTIONS AND RENEWALS WHEN THE SUBCONTRACTOR WILL PERFORM COMPONENT SERVICES]

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12. Pricing of Services. Subcontractor shall provide or perform the Services at the pricing specified in Exhibit \_\_\_ to this Subcontract.

**[ATTACH A BILL OF MATERIALS, RATE CARD OR OTHER APPROPRIATE COST SHEET COVERING THE SERVICES TO BE PROVIDED.]**

13. Payment for Services. Contractor shall exert reasonable and diligent efforts to collect prompt payment from the Commonwealth. Contractor shall pay Subcontractor in proportion to amounts received from the Commonwealth which are attributable to the Services performed by Subcontractor. Contractor shall pay Subcontractor within fourteen (14) days after the Contractor receives such payment from the Commonwealth, unless the parties expressly agree upon a

different payment schedule or structure as set forth below:

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14. Utilization Reports. Both the Contractor and Subcontractor shall complete Monthly Utilization Reports (or similar type documents containing the same information) and submit them to the Contracting Officer and to the Bureau within ten (10) business days at the end of each month. This information will be used to determine the actual dollar amount paid to Subcontractor and will also serve as a record of fulfillment of Contractor's Small Diverse Business and Veteran Business Enterprise Commitments. If there was no activity during the month, then the form must be completed by stating "No activity in this month." A late fee of \$100.00 per day may be assessed against the Contractor if the Contractor's Utilization Report is not submitted in accordance with the schedule above.

15. Change Orders. If the Commonwealth issues any change order or other formal contract instrument either expanding or limiting the work to be performed under the Prime Contract, the Parties shall accept such Change Orders. Contractor agrees to provide Subcontractor with written notice of any such change orders that affect the Services to be provided by the Subcontractor hereunder as soon as practical after Contractor receives such notice. Any resulting increase or decrease in the Services, Small Diverse Business or Veteran Business Enterprise Commitment provided for in Paragraphs 7 or 8 above must be in writing, mutually agreed to, and signed by both Parties and communicated to the Bureau. If the Parties are unable to reach an agreement regarding any adjustment to the Services, Small Diverse Business or Veteran Business Enterprise Commitment necessitated by a Commonwealth Change Order, the Parties must submit the matter in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

16. Force Majeure. Neither party will incur any liability to the other if its performance of any obligation under this Subcontract 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 are not 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, epidemic and quarantines, general strikes throughout the trade, and freight embargoes. The existence of such causes beyond a party's control shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes have been removed.

17. Dispute Resolution.

(a)  The Parties will attempt to resolve any dispute arising out of or relating to this Subcontract through friendly negotiations.

(1) The Parties expressly acknowledge and confer upon the Bureau and Contracting Officer the authority to adjudicate disputes that the Parties cannot resolve amicably concerning the Parties' compliance with their Small Diverse Business and Veteran

Business Enterprise Commitments as provided in the Prime Contract and this Subcontract.

(2) The Bureau may recommend to the Contracting Officer a range of sanctions it deems appropriate if the Bureau determines a party has failed to satisfy or perform its Small Diverse Business or Veteran Business Enterprise commitment. Such sanctions include, but are not limited to, one or more of the following: a determination that the party is not responsible under the Contractor Responsibility Program; withholding of Prime Contract and/or Subcontract payments; suspension or termination of the Prime Contract and/or Subcontract together with consequential damages; revocation of the party's Small Diverse Business and/or Veteran Business Enterprise verification status; and/or suspension or debarment of one or both parties from future contracting opportunities with the Commonwealth.

(3) The Parties' acknowledge that their prior performance in meeting their Small Diverse Business and Veteran Business Enterprise contractual obligations may be considered by the Commonwealth when reviewing future bids or proposals for responsiveness and responsibility.

(b)  Nothing herein shall be construed to prevent either party from seeking such relief as provided by law in a court or tribunal of competent jurisdiction.

18. Notices. Any written notice to any party under this Subcontract 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 the following:

If to Contractor:

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If to Subcontractor:

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19. Waiver. No waiver by either party of any breach of this Subcontract shall be deemed to waive any other breach. No acceptance of payment or performance after any breach shall be deemed a waiver of any breach. No failure or delay to exercise any right by a party upon another's default shall prevent that party from later exercising that right, nor shall such failure or delay operate as a waiver of any default.

20. Severability. If any provision of this Subcontract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21. Assignment. Neither party may assign or transfer this Subcontract without the prior written consent of the Commonwealth. If Contractor's Prime Contract with the Commonwealth is assigned to another contractor, the new contractor must maintain the Small Diverse Business and Veteran Business Enterprise Commitments set forth in the Prime Contract as implemented through this Subcontract.

22. Applicable Law. This Subcontract shall be governed by the laws of the Commonwealth of Pennsylvania.

23. Entire Agreement. This Subcontract constitutes the entire agreement of the Parties regarding the subject of this Subcontract as of the date of execution. No other agreement or understandings, verbal or written, expressed or implied, are a part of this Subcontract unless specified herein.

24. Amendment. This Subcontract may be modified or amended only if made in writing and signed by both Parties. Any proposed change to the Contractor's Small Diverse Business or Veteran Business Enterprise Commitment to Subcontractor must be submitted in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

25. Binding Effect. This Subcontract shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, representatives, successors and assigns.

26. Counterparts. This Subcontract may be executed by the Parties in counterparts, each of which together shall be deemed an original but all of which together shall constitute one and the same instrument. A party's delivery of a duly executed signature page of this Subcontract in electronic format shall have the same force and effect as delivery of an original signature page.

#### **ADDITIONAL TERMS AND CONDITIONS**

[THE PARTIES MAY INCLUDE ADDITIONAL TERMS AND CONDITIONS APPROPRIATE FOR THE SERVICES TO BE PROVIDED SO LONG AS THEY ARE COMMERCIALY REASONABLE TERMS FOR THE APPLICABLE BUSINESS OR INDUSTRY, ARE NO LESS FAVORABLE THAN THE TERMS OF THE PRIME CONTRACT, AND DO NOT PLACE DISPROPORTIONATE RISK ON THE SMALL DIVERSE BUSINESS OR VETERAN BUSINESS ENTERPRISE RELATIVE TO THE NATURE AND LEVEL OF THE SMALL DIVERSE BUSINESS' OR VETERAN BUSINESS ENTERPRISE'S PARTICIPATION IN THE PROJECT. SUCH TERMS MAY INCLUDE:

Background Checks  
Confidentiality/Disclosure of Information

Data Security  
Insurance  
Invoicing Requirements  
Environmental Protection  
Intellectual Property Rights  
Record Retention/Audits  
Service Level Agreements (SLAs) (consistent with Prime Contract SLAs)  
Public Works Construction Requirements (including Bonding, E-Verify, Prevailing Wage, and Prompt Payment provisions)

**IN WITNESS WHEREOF**, the Parties hereto have caused this Subcontract to be executed by their duly authorized officers as set forth below.

Contractor

Subcontractor

*Insert Company Name*

*Insert Company Name*

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**VBE-1**  
**INSTRUCTIONS FOR COMPLETING THE VETERAN BUSINESS ENTERPRISE  
(VBE) PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.**

*PLEASE READ BEFORE COMPLETING THESE DOCUMENTS*  
*Bidders/Offerors do not need to return VBE-1 with their VBE Participation Submittal*

The following instructions include details for completing the VBE Participation Submittal (VBE-2) which Bidders or Offerors must submit in order to be considered responsive.

The following instructions also include details for completing the VBE Utilization Schedule (VBE-3), which Bidders or Offerors must submit for any portion of the VBE participation goal the Bidder or Offeror commits to meeting.

**A Bidder/Offeror's failure to meet the VBE participation goal in full or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of the VBE participation goal will result in the rejection of the Bid or Proposal as nonresponsive.**

- I. **VBE Participation Goal:** The VBE participation goal is set forth in the solicitation. The Bidder/Offeror is encouraged to use a diverse group of subcontractors and suppliers from the VBE classifications to meet the VBE participation goal.
  
- II. **VBE Eligibility:**
  1. **Finding VBE firms:** Offerors can access the directory of **DGS-verified** VBE firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
  
  2. **Only VBES verified by DGS** and as defined herein may be counted for purposes of achieving the VBE participation goal. In order to be counted for purposes of achieving the VBE participation goal, the VBE firm, including an VBE prime, **must be DGS-verified for the services, materials or supplies that it has committed to perform on the VBE Utilization Schedule (VBE-3).** A firm whose VBE verification is pending or incomplete as of the bid or proposal due date and time shall not be counted towards the VBE participation goal. Offerors cannot use self-certified SBs that do not have their VBE verification as of the bid or proposal due date and time to meet the VBE participation goal.
  
  3. **VBE Requirements:** To be considered an VBE, a firm must be a **DGS-verified** Veteran-Owned Small Business Enterprise or Service-Disabled Veteran-Owned Small Business Enterprise.

Additional information on the DGS verification process can be found at:  
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>

## VBE-1

### INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.

4. Dually verified firms. If a DGS-verified SDB is dually verified as a VBE, the firm may receive credit towards both the SDB participation goal and the VBE participation goal as identified for the solicitation.

*Example: The SDB participation goal is 10% and the VBE participation goal is 5%. A subcontractor is DGS-verified as both an SDB and a VBE and will perform 10% of the contract work. The prime contractor can satisfy both the SDB participation goal and the VBE participation goal through that subcontractor's performance of 10% of the contract work., unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office.*

5. Participation by VBE firms as prime bidders/offerors or subcontractors. A Bidder/Offeror that qualifies as an VBE and submits a bid or proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Bidders/Offerors. An VBE may be included as a subcontractor with as many prime contractors as it chooses in separate bids or proposals and a prime contractor may not prohibit an VBE from committing to any other prime contractor.
6. Questions about VBE verification. Questions regarding the VBE program, including questions about the self-certification and verification processes can be directed to:

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

### III. Guidelines Regarding VBE Prime Self-Performance.

1. An VBE firm participating as a prime bidder or offeror on a procurement may receive credit towards the VBE Participation goal established for the procurement through their own self-performance.

*Example: A solicitation has a 15% VBE participation goal. An VBE prime offeror self-performing contract work valued at only 10% of contract costs (if permitted by the solicitation documents) must still satisfy the remaining 5% VBE participation goal through subcontracting or must request a Good Faith Efforts Waiver for the unmet VBE participation goal. Failure to satisfy the remaining 5% VBE participation goal or failure to obtain a Good Faith Efforts waiver for the unmet portion of the VBE participation goal will result in rejection of that VBE prime's bid or proposal as nonresponsive.*

**VBE-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (VBE)  
PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.**

2. For an VBE prime bidder or offeror to receive credit for self-performance, the VBE prime bidder or offeror must list itself in the **VBE Utilization Schedule (VBE-3)**.
3. The VBE prime bidder or offeror must also include the classification category (Veteran-Owned Small Business Enterprise or Service-Disabled Veteran-Owned Small Business Enterprise) under which it is self-performing and include information regarding the work it will self-perform. For any portion of the VBE participation goal not met through the VBE prime bidder or offeror's self-performance, the VBE bidder or offeror must also identify on the **VBE Utilization Schedule (VBE-3)** the other VBE subcontractors it will use to meet the unmet portion of the goal or must request and receive a Good Faith Efforts waiver.

**IV. Calculating VBE participation**

1. The selected Bidder or Offeror may only count dollar amounts actually paid to an VBE for performance of a Commercially Useful Function (the performance of a distinct element of work required for the Contract, with the requisite skill and expertise) towards satisfying its VBE participation commitments. In addition, the VBE subcontractor, through its own employees, must perform at least 50% of the amount of the subcontract.

**V. Additional Required Documentation.**

1. The Bidder or Offeror must submit along with its VBE Participation Submittal (VBE-2) a letter of commitment (LOC) (VBE-3-1) for each subcontractor included in its VBE Utilization Schedule (VBE-3). At a minimum, each LOC must contain the following unless otherwise specified by the solicitation documents:
  - a. The fixed numerical percentage commitment and associated estimated gross dollar value of the commitment made to the VBE; and
  - b. A description of the services or supplies the VBE will provide; and
  - c. The timeframe during the initial contract term and any extensions, options and renewals when the VBE will perform or provide the services and/or supplies; and
  - d. The name and telephone number of the Bidder or Offeror's point of contact for VBE participation; and
  - e. The name, address, and telephone number of the primary contact person for the VBE; and
  - f. Signatures of representatives of both the Bidder/Offeror and the VBE subcontractor who are authorized to contractually bind their firm.

**VBE-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (VBE)  
PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.**

**VI. Document Submittal Errors.**

1. **Fatal errors.** The following errors will result in rejection of a bid or proposal as non-responsive:
  - a. Failure to submit a completed **VBE Participation Submittal (VBE-2)**;
  - b. Failure to submit an **VBE Utilization Schedule (VBE-3)**, unless the bidder or offer is seeking a complete Good Faith Efforts waiver;
  - c. Failure to make commitments to and list **DGS-verified** VBEs that will be used to meet the VBE participation goal, unless the bidder or offeror's commitments to other DGS-verified VBEs meet or exceed the VBE Participation goal;
  - d. Failure to submit a Good Faith Efforts waiver request when not fully meeting the VBE participation goal.

*Example: A bidder/offeror lists a subcontractor that possesses a third-party certificate issued by one of the DGS-approved third party certifying entities; however, the subcontractor did not complete its DGS VBE verification as of the bid or proposal due date and time. The bidder/offeror does not receive credit for any commitments made to the subcontractor and has therefore not met the VBE participation goal. The bidder/offeror cannot cure this error. Therefore, the bid or proposal must be rejected as non-responsive.*

2. **Potentially curable errors.** The Issuing Office and BDISBO may provide Bidders or Offerors the opportunity to provide clarifications or to correct errors not listed as fatal errors above. If the additionally submitted information does not adequately address the or clarify the submittal, the bid or proposal may be rejected. **Bidders or Offerors are not permitted to add additional VBEs or make material changes as part of its clarifications or corrections in order to meet the VBE participation goal.**
3. **Solicitations with Multiple Lots or Base Bids.** If the Bid or Proposal contains separate Lots or multiple Base Bids, an Offeror must complete and submit a separate **VBE Participation Submittal (VBE-2)** and accompanying required documentation for EACH Lot or Base Bid for which it is submitting a bid or proposal. Each separate **VBE Participation Submittal** and accompanying required documentation must be labeled to identify the corresponding Lot or Base Bid. Failure to submit an **VBE Participation Submittal** and accompanying required documentation for each Lot or Base Bid will result in the rejection of the bid or proposal for each Lot or Base Bid for which an **VBE Participation Submittal** was not submitted.

**VBE-2**  
**VBE PARTICIPATION SUBMITTAL**

**CHECK ONE, AND ONLY ONE, BOX. FAILURE TO COMPLY WILL RESULT IN REJECTION OF YOUR BID/PROPOSAL.**

*Click on bold titles to navigate to that specific page.*

**I agree to meet the VBE participation goal in full.**

I have completed and am submitting with my bid or proposal an **VBE Utilization Schedule (VBE-3)**, which is required in order to be considered for award.

**I am requesting a partial waiver of the VBE participation goal.**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the VBE Participation Goal**, I am unable to achieve the total VBE participation goal for this solicitation and am requesting a partial waiver of the VBE participation goal.

I have completed and am submitting with my bid or proposal both of the following, which are required in order to be considered for award:

1. an **VBE Utilization Schedule (VBE-3)** for that portion of the VBE participation goal that I will meet; AND
2. a **Good Faith Efforts Waiver Request** for the portion of the VBE participation goals that I am unable to meet.

**I am requesting a full waiver of the VBE participation goal**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the VBE Participation Goal**, I am unable to achieve any part of the VBE participation goal for this solicitation and am requesting a full waiver of the VBE participation goal.

I have completed and am submitting with my bid or proposal a **Good Faith Efforts Waiver Request** for the complete VBE participation goal, which is required in order to be considered for award.

NOTE: VBE primes who are submitting as bidders or offerors must complete an **VBE Utilization Schedule (VBE-3)** identifying any self-performance towards the VBE participation goal.

**VBE-3**  
**VBE UTILIZATION SCHEDULE**

List in the chart below VBEs (including where applicable a prime bidder or offeror is self-performing a portion of the work) that will be used to meet the VBE participation goal (add additional pages if necessary). Submit a **Letter of Commitment (VBE-3-1)** for each VBE subcontractor (add additional Letters of Commitment as necessary).

VBE Name SAP Vendor Number (6-digit number provided by VBE) VBE Verification Number (located on DGS VBE verification)	Type of VBE (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by VBE bidder/offeror)	Associated Dollar Value of Commitment
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> VBE Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
<b>Attach additional sheets if necessary</b>			Total % VBE commitment: _____	Total \$ amount: _____

**VBE-3-1**  
**LETTER OF COMMITMENT**

This Letter of Commitment serves as confirmation of the commitment by the prime Bidder or Offeror to utilize the Small Diverse Business (VBE) on the below-referenced Solicitation/Project.

Solicitation Number: \_\_\_\_\_

Solicitation Name: \_\_\_\_\_

	Bidder/Offeror Information	VBE Information
Name		
Address		
Point of Contact		
Telephone number		
Email address		

Services/Supplies and Time Frame. If Bidder/Offeror is the successful vendor, the VBE shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the VBE will provide:

Specific Time Frame the VBE will provide the services or supplies:

Percentage Commitment. These services or supplies represent \_\_\_\_\_ % of the total cost of the Bidder/Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the VBE will receive \$\_\_\_\_\_ during the initial contract term.

VBE verified. By signing below, the VBE represents that it meets the VBE requirements set forth in the Solicitation and all required documentation has been provided to the Bidder/Offeror for its VBE submission.

Sincerely,

Acknowledged

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Signature  
Bidder/Offeror Point of Contact Name

\_\_\_\_\_  
Signature  
VBE Point of Contact Name

*\* For purposes of monitoring compliance with SDB and VBE commitments, the work performed by a firm that is both an SDB and a VBE will be counted by BDISBO towards fulfilling both the SDB and VBE commitments unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office.*

## **VBE-4**

### **GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

*Bidders/Offerors do not need to return VBE-4 with their VBE Participation Submittal*

In order for its bid or proposal to be responsive, the Bidder or Offeror must either (1) meet the VBE participation goal and document its commitments for participation of VBE firms, or (2) when it does not meet the VBE participation goal, submit a Good Faith Efforts waiver request as set forth in Section IV below and the **Good Faith Efforts Documentation to Support Waiver Request (VBE-5)** of the VBE Participation Goal.

#### **I. Definitions**

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the VBE participation goal. Those steps are considered necessary and reasonable when their scope, intensity, and relevance could reasonably be expected to obtain sufficient VBE participation, even if those steps were not fully successful. The Issuing Agency and Department of General Services’ Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) will determine whether or not the Offeror requesting a Good Faith Efforts waiver made adequate Good Faith Efforts by considering the quality, quantity, and intensity of the Offeror’s efforts. Mere *pro forma* efforts are not Good Faith Efforts to meet the VBE participation requirements. The determination concerning the sufficiency of the Offeror's Good Faith Efforts is subjective; meeting quantitative formulas is not required.

**Identified Items of Work** – all reasonably identifiable subcontractable work opportunities under a resulting contract for performance by subcontractors.

**Identified VBEs**– all of the VBEs the Offeror has identified as available to perform the Identified Items of Work and should include all DGS-verified VBEs that are reasonably identifiable.

**Offeror** – for purposes of this **Good Faith Efforts Documentation to Support Waiver Request**, the term “Offeror” includes any entity responding to a solicitation, including invitations for bids, requests for proposals, and other types of best value solicitations.

**VBE** – “VBE” refers to Veteran-Owned Small Business Enterprises or Service-Disabled Veteran-Owned Small Business Enterprise verified by BDISBO.

**VBE participation goal** – “VBE participation goal” refers to the VBE participation goal set for a procurement for Veteran-Owned Small Businesses and Service-Disabled Veteran-Owned Small Businesses.

#### **II. Types of Actions Agency and BDISBO will Consider**

The following is a list of types of actions the procuring agency and BDISBO will consider as part of the Offeror's Good Faith Efforts when the Offeror is unable to meet, in full, the VBE



**VBE-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL  
DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

participation goal. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A. Identify Proposal Items as Work for VBEs**

1. Identified Items of Work

- (a) Offerors should reasonably identify sufficient items of work to be performed by VBEs.
- (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate VBE participation, rather than perform these work items with their own forces. **The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts to meet the VBE participation goal.**

**B. Identify VBEs to Solicit**

1. Identified VBEs

- (a) Offerors must reasonably identify the VBEs that are available to perform the Identified Items of Work.
- (b) Any VBEs identified as available by the Offeror should be certified to perform the Identified Items of Work.

**C. Solicit VBEs**

- 1. Offerors must solicit a reasonable number of identified VBEs for all Identified Items of Work by providing written notice. The Offeror must:
  - (a) provide the written solicitation to the Identified VBEs at least 10 days prior to Bid or Proposal due date to allow sufficient time for the Identified VBE to respond;
  - (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the BDISBO Directory, unless the Offeror has a valid basis for using different contact information; and
  - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the Identified VBE, and other requirements of the contract to assist Identified VBEs in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

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### GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION GOAL

2. “All” Identified VBEs includes any VBE Firms the Offeror identifies as potentially available to perform the Identified Items of Work, but it does not include Identified VBEs who are no longer certified to perform the work as of the date the Offeror provides written solicitations.
3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested VBE cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested VBE.
4. Offerors must follow up on initial written solicitations by contacting Identified VBEs to determine their interest in bidding. The follow up contact may be made:
  - (a) by telephone using the contact information in BDISBO’s Directory, unless the Offeror has a valid basis for using different contact information; or
  - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, offerors must use all other reasonable and available means to solicit the interest of Identified VBEs certified to perform the work of the contract. Examples of other means include:
  - (a) attending any Supplier Forums, or Pre-Proposal or Pre-Bid conferences at which VBEs could be informed of contracting and subcontracting opportunities; and
  - (b) if recommended by the procurement, advertising with or effectively using the services of at least two veteran-focused entities or media, including trade associations, veteran community organizations, veteran contractors' groups, and local, state, and federal veteran business assistance offices.

#### **D. Negotiate with Interested VBEs**

Offerors must negotiate in good faith with interested VBEs.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of VBEs that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and

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**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL  
DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

- (c) evidence as to why additional agreements could not be reached for VBEs to perform the work.
2. In negotiating with subcontractors, the offeror should consider a subcontractor's price and capabilities as well as the VBE participation goal.
  3. Additional costs incurred in finding and using VBEs are not sufficient justification for the Offeror's failure to meet the VBE participation goal, as long as such costs are reasonable. Factors to take into consideration when determining whether an VBE's quote is excessive or unreasonable include, without limitation, the following:
    - (a) dollar difference between the VBE subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (b) percentage difference between the VBE subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (c) percentage that the VBE subcontractor's quote represents of the total contract cost;
    - (d) whether the work described in the VBE and Non-VBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
    - (e) number of quotes received by the Offeror for that portion of the work.
  4. The factors in paragraph 3 above are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
  5. The Offeror may not use its price for self-performing work as a basis for rejecting an VBE's quote as excessive or unreasonable.
  6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an VBE and one quote from a non-VBE.
  7. The Offeror shall not reject an VBE as unqualified without sound justification based on a thorough investigation of the VBE's capabilities. For each VBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement outlining the justification for its conclusion. The Offeror also must document the steps taken to verify the capabilities of the VBE and non-VBE Firms quoting similar work.

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### **GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

- (a) The factors to take into consideration when assessing the capabilities of an VBE include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
- (b) The VBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the VBE participation goal.

#### **E. Assisting Interested VBEs**

When appropriate under the circumstances, the procuring agency and BDISBO will consider whether the Offeror made reasonable efforts to assist interested VBEs in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

#### **III. Other Considerations**

In making a determination of Good Faith Efforts, the procuring agency and BDISBO may consider engineering estimates, catalogue prices, general market availability and availability of certified VBEs in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between VBE and non-VBE costs of participation, and their impact on the overall cost of the contract to the Commonwealth and any other relevant factors.

The procuring agency and BDISBO may consider whether the Offeror decided to self-perform potentially subcontractable work with its own forces. The procuring agency and BDISBO also may consider the performance of other Offerors in meeting the VBE participation goal. For example, when the apparent successful Offeror fails to meet the VBE participation goal, but others meet it, this raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the VBE participation goal. If the apparent successful Offeror fails to meet the VBE participation goal but meets or exceeds the average VBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

#### **IV. Documenting Good Faith Efforts**

At a minimum, the Offeror seeking a Good Faith Efforts waiver of the VBE participation goal or a portion thereof must provide written documentation of its Good Faith Efforts along with its bid or proposal. The written documentation shall include the following:

## VBE-4

# GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION GOAL

### A. Items of Work (complete VBE-5, Part 1 – Identified Items of Work Offeror Made Available to VBEs)

A detailed statement of the efforts made to select portions of the contract work proposed to be performed by VBEs in order to increase the likelihood of achieving the VBE participation goal.

### B. Outreach/Solicitation/Negotiation

1. A detailed statement of the efforts made to contact and negotiate with VBEs including:
  - (a) the names, addresses, and telephone numbers of the VBEs who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) **(complete VBE-5, Part 2 – Identified VBE Firms and Records of Solicitations. Include letters, fax cover sheets, e-mails, etc. documenting solicitations)**; and
  - (b) a description of the information provided to VBEs regarding the plans, specifications, and anticipated time schedule for portions of the contract work to be performed and the means used to provide that information.
2. The record of the Offeror's compliance with the outreach efforts set forth in **VBE-5, Part 3 - Outreach Efforts Compliance Statement.**

### C. Rejected VBEs (complete VBE-5, Part 4 - Additional Information Regarding Rejected VBE Quotes)

1. For each VBE that the Offeror concludes is not acceptable or qualified, provide a detailed statement of the reasons for this conclusion, including the steps taken to verify the capabilities of the VBE and non-VBE firms quoting similar work.
2. For each VBE that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all VBE and non-VBE firms proposing on the same or comparable work. **(Include copies of all quotes received.)**

### D. Unavailable VBEs (complete VBE-5, Part 5 – VBE Subcontractor Unavailability Certificate)

1. **For each VBE that the Offeror contacted but found to be unavailable, submit an VBE Subcontractor Unavailability Certificate** signed by the VBE, an email from the VBE indicating the VBE is unavailable, or a statement from the Offeror that the VBE refused to sign the VBE Subcontractor Unavailability Certificate.

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**E. Other Documentation**

1. Submit any other documentation requested by BDISBO or the Procuring Agency to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help BDISBO or the Procuring Agency ascertain its Good Faith Efforts.

**VBE-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF VBE PARTICIPATION GOAL**

<b>Project Description:</b>	
<b>Commonwealth Agency Name:</b>	
<b>Solicitation #:</b>	
<b>Solicitation Due Date and Time:</b>	

<b>Bidder/Offeror Company Name:</b>	
Bidder/Offeror Contact Name:	
Bidder/Offeror Contact Email:	
Bidder/Offeror Contact Phone Number:	

**Part 1 – Identified Items of Work Offeror Made Available to VBEs**

Identify those items of contract work that the Offeror made available to VBEs. This includes, where appropriate, those items the Offeror identified and subdivided into economically feasible units to facilitate the VBE participation. For each item listed, show the anticipated percentage of the total contract cost. Offeror must demonstrate that enough work to meet the VBE participation goal was made available to VBEs, and the total percentage of the items of work identified for VBE participation met or exceeded the VBE participation goal set for the procurement.

Identified Items of Work	Was this work listed in the solicitation?	Does Offeror normally self-perform this work?	Was this work made available to VBE Firms? If not, explain why.
	yes no	yes no	yes no
	yes no	yes no	yes no
	yes no	yes no	yes no
	yes no	yes no	yes no
	yes no	yes no	yes no

Attach additional sheets if necessary.

**VBE-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF VBE PARTICIPATION GOAL**

**Part 2 – Identified VBEs and Record of Solicitations**

Identify the VBEs solicited to provide quotes for the Identified Items of Work made available for VBE participation. Include the name of the VBE solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the VBE provided a quote, and whether the VBE is being used toward meeting the VBE participation goal. VBEs used to meet the VBE participation goal must be listed on the **VBE Utilization Schedule (VBE-2)**.

Note: Copies of all written solicitations and documentation of follow-up calls to VBEs must be attached to this form. For each Identified VBE listed below, Offeror should submit an VBE Subcontractor Unavailability Certificate signed by the VBE or a statement from the Offeror that the VBE refused to sign the VBE Subcontractor Unavailability Certificate.

<b>Name of Identified VBE and Classification</b>	<b>Describe Item of Work Solicited</b>	<b>Initial Solicitation Date &amp; Method</b>	<b>Follow-up Solicitation Date &amp; Method</b>	<b>Details for Follow-up Calls</b>	<b>Quote Received?</b>	<b>Quote Used?</b>	<b>Reason Quote Rejected</b>
VBE Name:  __ VBE __ SDVBE		Date:  __ mail __ email __ fax	Date:  __ mail __ email __ fax	Date and Time of Call:  Spoke with:  Left Message:	  __ yes __ no	  __ yes __ no	  __ Used other VBE __ Used non-VBE __ Self performing
VBE Name:  __ VBE __ SDVBE		Date:  __ mail __ email __ fax	Date:  __ mail __ email __ fax	Date and Time of Call:  Spoke with:  Left Message:	  __ yes __ no	  __ yes __ no	  __ Used other VBE __ Used non-VBE __ Self performing

Attach additional sheets as necessary.



**VBE-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**VBE PARTICIPATION GOAL**

**Part 3 – VBE Outreach Compliance Statement**

- 1. List the Identified Items of Work for subcontracting opportunities for the solicitation along with specific work categories:**

- 2. Attach to this form copies of written solicitations (with Bid or Proposal instructions) used to solicit Identified VBEs for these subcontract opportunities.**

- 3. Offeror made the following attempts to contact the Identified VBEs:**

- 4. Bonding Requirements (Please Check One):**

\_\_\_\_\_ This project does not involve bonding requirements.

\_\_\_\_\_ Offeror assisted Identified VBEs to fulfill or seek waiver of bonding requirements.  
(DESCRIBE EFFORTS):

- 5. Pre-Bid/Proposal Conference or Supplier Forum (Please Check One):**

\_\_\_\_\_ Offeror did attend the pre-Bid/Proposal conference or Supplier Forum

\_\_\_\_\_ No pre-Bid/Proposal conference or Supplier Forum was held

\_\_\_\_\_ Offeror did not attend the pre-Bid/Proposal conference or Supplier Forum

**VBE-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF VBE PARTICIPATION GOAL**

**Part 4 – Additional Information Regarding Rejected VBE Quotes**

This form must be completed if Part 2 indicates that an VBE quote was rejected because the Offeror is using a non-VBE or is self-performing the Identified Items of Work. List the Identified Items of Work, state whether the work will be self-performed or performed by a non-VBE, and if applicable, state the name of the non-VBE firm. Also include the names of all VBEs and non-VBE firms that provided a quote and the amount of each quote.

<b>Describe Identified Items of Work not being performed by VBEs (include specific section from bid or proposal)</b>	<b>Self-performing or using non-VBE (provide name of non-VBE if applicable)</b>	<b>Amount of non-VBE quote \$</b>	<b>Name of other firms that provided quotes and whether they are VBE</b>	<b>Amount quoted \$</b>	<b>Reason why VBE quote was rejected along with brief explanation</b>
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other

Attach additional sheets as necessary.

**VBE-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**VBE PARTICIPATION GOAL**

**Part 5 – VBE Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of VBE)

located at \_\_\_\_\_  
(Number) (Street)

\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_

by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_(VBE), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_  
(Signature of VBE's Representative) (Title) (Date)

\_\_\_\_\_  
(DGS VBE Certification #) (Telephone #)

\*\*\*\*\*

3. If the VBE does not complete this form, the prime contractor must complete the following:

To the best of my knowledge and belief, the above-listed VBE is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
(Signature of Bidder/Offeror) (Title) (Date)

## APPENDIX D

### MODEL FORM OF SMALL DIVERSE BUSINESS/VETERAN BUSINESS ENTERPRISE SUBCONTRACTOR AGREEMENT

This Subcontractor Agreement ("Subcontract") is made effective as of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, ("Contractor") and \_\_\_\_\_, a Small Diverse Business or Veteran Business Enterprise ("Subcontractor") (collectively referred to as the "Parties").

#### RECITALS

Contractor has entered into a contract dated \_\_\_\_\_ (the "Prime Contract") with the Department of \_\_\_\_\_ of the Commonwealth of Pennsylvania ("Commonwealth"). Under the Prime Contract, Contractor has agreed to provide certain supplies, services or construction ("Services") to the Commonwealth.

In connection with the Procurement leading to the Prime Contract, Contractor and Subcontractor entered into a letter agreement dated \_\_\_\_\_ ("Letter of Commitment") whereby the Contractor committed a certain percentage of work ("Small Diverse Business or Veteran Business Enterprise Commitment") under the Prime Contract to the Subcontractor.

As contemplated by the Letter of Commitment and in accordance with the provisions of the Procurement and Prime Contract, the Parties have agreed to enter into this Subcontract to fulfill the Small Diverse Business or Veteran Business Enterprise Commitment expressed in the Letter of Commitment and as required by the Prime Contract.

#### DEFINITIONS

The following words and terms when used in this Subcontract shall have the following meanings:

*Bureau* – The Department's Bureau of Diversity, Inclusion and Small Business Opportunities.

*Contracting Officer* – The person authorized to administer and make written determinations for the Commonwealth with respect to the Prime Contract.

*Department* – The Department of General Services of the Commonwealth of Pennsylvania.

*Issuing Office* – The department, board, commission or other agency of the Commonwealth of Pennsylvania that issued the Procurement.

*Procurement* – The Invitation for Bids, Request for Quotes, Request for Proposals or other solicitation and all associated final procurement documentation issued by the Commonwealth to obtain proposals from firms for award of the Prime Contract.

*Small Business* – A business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than \$38.5 million in gross annual revenues.

*Small Diverse Business* – A Department-verified minority-owned small business, woman-owned small business, LGBT-owned small business, disability-owned small business, or service-disabled veteran-owned small business.

*Veteran Business Enterprise* – A Department-verified veteran-owned small business or service-disabled veteran-owned small business.

## **AGREEMENT**

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Subcontractor Representations. Subcontractor represents and warrants to Contractor as follows:

(a) Subcontractor is verified as a Small Diverse Business or Veteran Business Enterprise by the Bureau of Diversity, Inclusion and Small Business Opportunities in accordance with the requirements and procedures established by the Bureau;

(b) Subcontractor possesses the necessary knowledge, experience, expertise, capital, resources and personnel required to perform the Services it will provide under this Subcontract;

(c) Subcontractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(d) The execution and performance by Subcontractor of the terms and provisions of this Subcontract have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract by Subcontractor will violate any provision of law, any order of any court or other agency of government, the organizational documents of Subcontractor or any indenture, agreement or other instrument to which Subcontractor is a party, or by which Subcontractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subcontractor pursuant to, any such indenture agreement or instrument;

(e) Subcontractor has obtained all licenses, permits and approvals required to perform the Services it will provide under this Subcontract; and

(f) Subcontractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

2. Contractor Representations. Contractor represents and warrants to Subcontractor as follows:

(a) Contractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;

(b) The execution and performance by Contractor of the terms and provisions of this Subcontract by Contractor have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract will violate any provision of law, any order of any court or other agency of government, the organizational documents of Contractor or any indenture, agreement or other instrument to which Contractor is a party, or by which Contractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Contractor pursuant to, any such indenture agreement or instrument;

(c) Contractor has obtained all licenses, permits and approvals required to perform the Services to be provided by Contractor under the Prime Contract; and

(d) Contractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.

3. Relationship of the Parties. The provisions of this Subcontract are not intended to create, nor shall be deemed or construed to create, any joint venture, partnership or other relationship between Contractor and Subcontractor, other than that of independent entities contracting with each other solely for the purpose of carrying out the provisions of this Subcontract. Neither of the Parties to this Subcontract, nor any of their respective employees, agents, or other representatives, shall be construed to be the agent, employee or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, unless otherwise stated in this Subcontract. Similarly, the Parties expressly acknowledge that neither the Contractor nor the Subcontractor is an agent, employee or representative of the Commonwealth and each party covenants not to represent itself accordingly.

4. Prime Contract Flow-Down.

(a)  General. This agreement is a subcontract under the Prime Contract and all provisions of the Prime Contract and any amendments thereto applicable to the Services being performed by the Subcontractor shall extend to and be binding upon the Parties as part of this Subcontract.

(b)  Specific. The Parties agree to comply with the following provisions of the Prime

Contract, which are incorporated herein by reference:

- (1)  The Americans with Disabilities Act Provisions.
- (2)  Nondiscrimination/Sexual Harassment Clause.
- (3)  Contractor Integrity Provisions.
- (4)  Contractor Responsibility Provisions.

(c)  **Termination.** Should the Prime Contract be terminated pursuant to the terms and conditions provided in the Procurement, such termination shall have the same effect on this Subcontract. Payment for Services provided as of the date of termination must be made in accordance with the Section 13 of this Subcontract.

(d)  **Audit Provisions.** The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents, and records of the Parties to the extent that the books, documents, and records relate to the Parties' compliance with the provisions set forth in subsection (b) above or to the Small Diverse Business or Veteran Business Enterprise Commitment effectuated through this Subcontract. The Parties shall preserve such books, documents, and records for a period of three years from the date of final payment hereunder. The Parties shall give full and free access to all such records to the Commonwealth and/or its authorized representatives.

5. **Order of Precedence.** The Letter of Commitment, Procurement and Prime Contract are incorporated herein by reference into this Subcontract. In the event of any conflict or inconsistency among the individual components of this Subcontract, such conflict or inconsistency shall be resolved by observing the following order of precedence:

- (a) This Subcontract;
- (b) The Letter of Commitment;
- (c) The Prime Contract; and
- (d) The Procurement.

6. **Further Action.** The Parties shall take such actions and complete, execute and deliver any and all documents or instruments necessary to carry out the terms and provisions of this Subcontract, to effectuate the purpose of this Subcontract, and to fulfill the obligations of each party hereunder.

7. **Description of Services.** Subcontractor will perform the following Services for the Contractor which Contractor is obligated to provide to the Commonwealth under the Prime Contract:

[DESCRIBE IN DETAIL THE SPECIFIC SUPPLIES, SERVICES OR CONSTRUCTION THE SUBCONTRACTOR WILL PROVIDE OR PERFORM WITH THE CORRESPONDING UNITED NATIONS STANDARD PRODUCTS AND SERVICES CODES (UNSPSC)]

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8. Small Diverse Business or Veteran Business Enterprise Commitment. The above-referenced Services represent \_\_\_ % of the final negotiated total cost for the initial term of the Prime Contract. Any proposed change to the Small Diverse Business or Veteran Business Enterprise Commitment must be submitted in writing to the Bureau and the Contracting Officer. The Bureau will make a recommendation to the Commonwealth Contracting Officer regarding a course of action.

9. Performance of Services. Subcontractor may not subcontract more than 50% of the work subcontracted to it hereunder without written permission from the Bureau. Subcontractor will perform the Services strictly in accordance with any applicable plans and specifications as contained in the Prime Contract and the reasonable deadlines set by Contractor in view of the requirements of the Prime Contract, and in a good workmanlike manner consistent with industry standards, meeting all applicable local, state and federal laws, regulations and policies.

10. Location of Services. Subcontractor will provide the Services at the following address(es):

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11. Timeframe for Performance of Services. The Services will be provided by Subcontractor during the initial term of the Prime Contract, and during any extensions, options or renewal periods of the Prime Contract exercised by the Commonwealth, as more specifically set forth below:

[IDENTIFY THE SPECIFIC TIME PERIODS DURING THE INITIAL CONTRACT TERM AND EXTENSIONS, OPTIONS AND RENEWALS WHEN THE SUBCONTRACTOR WILL PERFORM COMPONENT SERVICES]

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12. Pricing of Services. Subcontractor shall provide or perform the Services at the pricing specified in Exhibit \_\_\_ to this Subcontract.

**[ATTACH A BILL OF MATERIALS, RATE CARD OR OTHER APPROPRIATE COST SHEET COVERING THE SERVICES TO BE PROVIDED.]**

13. Payment for Services. Contractor shall exert reasonable and diligent efforts to collect prompt payment from the Commonwealth. Contractor shall pay Subcontractor in proportion to amounts received from the Commonwealth which are attributable to the Services performed by Subcontractor. Contractor shall pay Subcontractor within fourteen (14) days after the Contractor receives such payment from the Commonwealth, unless the parties expressly agree upon a



different payment schedule or structure as set forth below:

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14. Utilization Reports. Both the Contractor and Subcontractor shall complete Monthly Utilization Reports (or similar type documents containing the same information) and submit them to the Contracting Officer and to the Bureau within ten (10) business days at the end of each month. This information will be used to determine the actual dollar amount paid to Subcontractor and will also serve as a record of fulfillment of Contractor's Small Diverse Business and Veteran Business Enterprise Commitments. If there was no activity during the month, then the form must be completed by stating "No activity in this month." A late fee of \$100.00 per day may be assessed against the Contractor if the Contractor's Utilization Report is not submitted in accordance with the schedule above.

15. Change Orders. If the Commonwealth issues any change order or other formal contract instrument either expanding or limiting the work to be performed under the Prime Contract, the Parties shall accept such Change Orders. Contractor agrees to provide Subcontractor with written notice of any such change orders that affect the Services to be provided by the Subcontractor hereunder as soon as practical after Contractor receives such notice. Any resulting increase or decrease in the Services, Small Diverse Business or Veteran Business Enterprise Commitment provided for in Paragraphs 7 or 8 above must be in writing, mutually agreed to, and signed by both Parties and communicated to the Bureau. If the Parties are unable to reach an agreement regarding any adjustment to the Services, Small Diverse Business or Veteran Business Enterprise Commitment necessitated by a Commonwealth Change Order, the Parties must submit the matter in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

16. Force Majeure. Neither party will incur any liability to the other if its performance of any obligation under this Subcontract 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 are not 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, epidemic and quarantines, general strikes throughout the trade, and freight embargoes. The existence of such causes beyond a party's control shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes have been removed.

17. Dispute Resolution.

(a)  The Parties will attempt to resolve any dispute arising out of or relating to this Subcontract through friendly negotiations.

(1) The Parties expressly acknowledge and confer upon the Bureau and Contracting Officer the authority to adjudicate disputes that the Parties cannot resolve amicably concerning the Parties' compliance with their Small Diverse Business and Veteran

Business Enterprise Commitments as provided in the Prime Contract and this Subcontract.

(2) The Bureau may recommend to the Contracting Officer a range of sanctions it deems appropriate if the Bureau determines a party has failed to satisfy or perform its Small Diverse Business or Veteran Business Enterprise commitment. Such sanctions include, but are not limited to, one or more of the following: a determination that the party is not responsible under the Contractor Responsibility Program; withholding of Prime Contract and/or Subcontract payments; suspension or termination of the Prime Contract and/or Subcontract together with consequential damages; revocation of the party's Small Diverse Business and/or Veteran Business Enterprise verification status; and/or suspension or debarment of one or both parties from future contracting opportunities with the Commonwealth.

(3) The Parties' acknowledge that their prior performance in meeting their Small Diverse Business and Veteran Business Enterprise contractual obligations may be considered by the Commonwealth when reviewing future bids or proposals for responsiveness and responsibility.

(b)  Nothing herein shall be construed to prevent either party from seeking such relief as provided by law in a court or tribunal of competent jurisdiction.

18. Notices. Any written notice to any party under this Subcontract 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 the following:

If to Contractor:

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If to Subcontractor:

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19. Waiver. No waiver by either party of any breach of this Subcontract shall be deemed to waive any other breach. No acceptance of payment or performance after any breach shall be deemed a waiver of any breach. No failure or delay to exercise any right by a party upon another's default shall prevent that party from later exercising that right, nor shall such failure or delay operate as a waiver of any default.

20. Severability. If any provision of this Subcontract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

21. Assignment. Neither party may assign or transfer this Subcontract without the prior written consent of the Commonwealth. If Contractor's Prime Contract with the Commonwealth is assigned to another contractor, the new contractor must maintain the Small Diverse Business and Veteran Business Enterprise Commitments set forth in the Prime Contract as implemented through this Subcontract.

22. Applicable Law. This Subcontract shall be governed by the laws of the Commonwealth of Pennsylvania.

23. Entire Agreement. This Subcontract constitutes the entire agreement of the Parties regarding the subject of this Subcontract as of the date of execution. No other agreement or understandings, verbal or written, expressed or implied, are a part of this Subcontract unless specified herein.

24. Amendment. This Subcontract may be modified or amended only if made in writing and signed by both Parties. Any proposed change to the Contractor's Small Diverse Business or Veteran Business Enterprise Commitment to Subcontractor must be submitted in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

25. Binding Effect. This Subcontract shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, representatives, successors and assigns.

26. Counterparts. This Subcontract may be executed by the Parties in counterparts, each of which together shall be deemed an original but all of which together shall constitute one and the same instrument. A party's delivery of a duly executed signature page of this Subcontract in electronic format shall have the same force and effect as delivery of an original signature page.

#### **ADDITIONAL TERMS AND CONDITIONS**

[THE PARTIES MAY INCLUDE ADDITIONAL TERMS AND CONDITIONS APPROPRIATE FOR THE SERVICES TO BE PROVIDED SO LONG AS THEY ARE COMMERCIALY REASONABLE TERMS FOR THE APPLICABLE BUSINESS OR INDUSTRY, ARE NO LESS FAVORABLE THAN THE TERMS OF THE PRIME CONTRACT, AND DO NOT PLACE DISPROPORTIONATE RISK ON THE SMALL DIVERSE BUSINESS OR VETERAN BUSINESS ENTERPRISE RELATIVE TO THE NATURE AND LEVEL OF THE SMALL DIVERSE BUSINESS' OR VETERAN BUSINESS ENTERPRISE'S PARTICIPATION IN THE PROJECT. SUCH TERMS MAY INCLUDE:

Background Checks  
Confidentiality/Disclosure of Information

Data Security  
Insurance  
Invoicing Requirements  
Environmental Protection  
Intellectual Property Rights  
Record Retention/Audits  
Service Level Agreements (SLAs) (consistent with Prime Contract SLAs)  
Public Works Construction Requirements (including Bonding, E-Verify, Prevailing Wage, and Prompt Payment provisions)

**IN WITNESS WHEREOF**, the Parties hereto have caused this Subcontract to be executed by their duly authorized officers as set forth below.

Contractor

Subcontractor

*Insert Company Name*

*Insert Company Name*

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

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

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Dedicated Contacts**

	Contact Name	Contact Email	Contact Phone
A			

## **APPENDIX G, COST SUBMITTAL COST SUBMITTAL INSTRUCTIONS**

- 1.) **All sheets must be filled out completely. Fill out ONLY the yellow highlighted cells on each worksheet.**
- 2.) Formulas are imbedded in the Worksheets. Bidder's must verify that all calculations, subtotal costs and grand total costs are accurate.
- 3.) **All quantities are estimated.**
- 4.) Please review every tab in this Cost Submittal.
- 5.) Cells that are highlighted in yellow must be Completed in order to provide the equipment/service requested. The Proposed Model and Proposed Option, Columns (C) in Storage (Object) and Storage (Block) must be completed with detail of how the Bidders device meets or exceeds the miniumum requirements, an "X" or any other form of confirmation is not acceptable as a response.
- 6.) The Bidder must enter a Discount off of List on the Summary tab. The discount proposed will calculate on each configuration as a part of the evaluation of cost.
- 7.) The Bidder must be able to provide a price in List Price for each configuration. If the price is left blank, a zero dollar amount will be calculated.
- 8.) Summary: All information is linked and will calculate automatically.
- 9.) Please contact the Issuing Officer, **Ray Jaime**, at RA-GSITPROCUREMENT@PA.GOV with any questions or concerns.
- 10.) The quantities listed are estimates based upon Historical Data and are for evaluation purposes only and will not be binding on the Commonwealth.
- 11.) Additional Services are items or services requested by the Commonwealth with pricing will not be evaluated.
- 12.) **The Total Evaluated Cost, Cell B13 of the Cost Summary Tab, is the only cost in Appendix G, Cost Submittal to be evaluated.**
- 13.) Formulas are embedded within the worksheets, do not attempt to unlock cells. Any estimates provided within this Appendix are provided for evaluation purposes and are not a guarantee of equipment/service to be performed and/or payment under the contract resulting from this IFB.

**NOTE: The cost submittal must be submitted as presented by the Commonwealth and should not be altered in any way.**

<b>BIDDER NAME</b>	<b>CONTACT PERSON</b>
<b>BIDDER ADDRESS</b>	<b>EMAIL ADDRESS</b>
	<b>PHONE NUMBER</b>
	<b>SAP VENDOR NUMBER (IF AVAILABLE)</b>
	<b>FEDERAL TAX ID Number(TIN)</b>

Bidder Name	
Bidder Vendor Number	
Bidder TIN	

**NOTE: Bidders must be able to provide the OEM’s full storage product line, at the minimum discount off catalog list price are set.**

Storage Object Based Minimum Requirements			List Price	Discount %	Price after Discount	Historical Volume	Annual Cost For Object Based Storage
Component	Minimum Requirements	Proposed Model and Capability			\$ -	650	\$ -
Manufacturer		df					
Model Number							
Required minimum requirements	Hard Drive	support for RAID 1, 5, and 10.					
	Configured Disk Space	20 TB Usable with On-line sparing					
	Storage Controller Interface	Four (4) Port 10 GB/sec Network Connectivity					
	Software	Base operating software included at no charge					
	Capacity Licensing	Confirm required software licensing to enable the solution to operate at requested capacity (include in total cost)					
	Functional	OPEN device attachment – Vendor should provide assurance that all major vendor (standards based) hardware (tape / disk) will be supported					
	Functional	Redundant controllers and power					
	Functional	Ability to support 1.2TB and larger drives					
	Functional	Write cache backup integrity and dual copy (battery backed cache)					
	Functional	Support for RAID 1, 5, and 10.					
	Functional	Encryption					
	Warranty	5 Years 24x7x4: Keep your hard drive					



Bidder Name	0
Bidder Vendor Number	0
Bidder TIN	0

**NOTE: Bidders must be able to provide the OEM’s full storage product line, at the minimum discount off catalog list price are set.**

Storage Block Based Minimum Requirements			List Price	Discount %	Price after Discount	Historical Volume	Annual Cost For Block Based Storage
Component	Minimum Requirements	Proposed Model and Capability			\$ -	1550	\$ -
Manufacturer							
Model Number							
Required minimum requirements	Hard Drive	1.92 TB SSD Hot-Swap					
	Configured Disk Space	50 TB (RAID 5) with at least 1 hot spare					
	Storage Controller Interface	Four (4) Port 16 GB/sec Fiber Channel Interface					
	Fiber Channel Switch	Switch(es) to support Twenty (20) 16 GB/sec ports					
	Software	Base operating software included at no charge					
	Capacity Licensing	Confirm required software licensing to enable the solution to operate at requested capacity (include in total cost)					
	Functional	Switch Port Count Scale - scalability from 20 to 64 ports without any performance impact					
	Functional	OPEN device attachment – Vendor should provide assurance that all major vendor (standards based) hardware (tape / disk) will be supported within the fabric switches.					
	Functional	Redundant controllers and power					
	Functional	Ability to support 1.92TB and larger drives					
	Functional	Hard drive size intermix capability within the storage subsystem					
	Functional	Write cache backup integrity and dual copy (battery backed cache)					
	Functional	Support for RAID 1, 5, and 10					
	Functional	Encryption					
Warranty	5 years 24x7x4; Keep Your Hard Drive						

Bidder Name	0
Bidder Vendor Number	0
Bidder TIN	0

**Storage Options/Upgrades**

Instructions for Bidders: Please describe the options/upgrades you have available that are applicable to Storage. Please provide Storage-specific options/upgrades available and the corresponding description and cost per service and/or option. Cost entered in this worksheet will not be used for evaluation purposes.

Options / Upgrades	Unit of Measure	Notes, If Any	Cost per Unit (Purchase)
Cache Upgrade - Additional 4 TB	Per Unit		
Cache Upgrade - Additional 8 TB	Per Unit		
Cache Upgrade - Additional 16 TB	Per Unit		
Storage Controller Fiber Channel Interface Upgrade - Additional 16 GB	Per Unit		
Storage Controller Fiber Channel Interface Upgrade - Additional 32 GB	Per Unit		
iSCSI Component (Network Interface Card)	Per Unit		
IP Based	Per Unit		
Storage Virtualization Options	Per Unit		
Encryption Options	Per Unit		
Data Deduplication Options	Per Unit		
Compression Alternatives	Per Unit		
Nodes Alternatives	Per Unit		
Hourly Rate Per Training	Per Hour Rate		

Bidder Name	0
Bidder Vendor Number	0
Bidder TIN	0

**NOTE: Cost entered in this worksheet will not be used for evaluation purposes.**

Additional Services for Storage Devices	Unit of Measure	Historical Annual Volume	Cost per Unit	Estimated Annual Spend
Post Warranty Service - Basic	Per year / per Machine	5		\$ -
Post Warranty Service - Enhanced	Per year / per Machine	10		\$ -
Post Warranty Service - Critical	Per year / per Machine	5		\$ -
Installation	Per Machine	15		\$ -
Data Transfer	Per 1 TB	20		\$ -
Hard Drive Removal	Per Machine	15		\$ -
On-Premise Disk Wipe	Per Machine	45		\$ -
Off-Premise Disk Wipe	Per Machine	10		\$ -
Preparation for Shipment	Per Machine	65		\$ -
Relocation in same building	Per Machine	2		\$ -
Relocation within 25 miles	Per Machine	20		\$ -
Relocation outside of 25 miles	Per Machine	2		\$ -
Transport to DGS Warehouse	Per Machine	15		\$ -
<b>TOTAL COST</b>				\$ -

Bidder Name	0
Bidder Vendor Number	0
Bidder TIN	0

## COST SUMMARY

Product Catalog Discount off of List	
*Minimum Discount off of Catalog List Price - Storage(Object)	0%
*Minimum Discount off of Catalog List Price - Storage(Block)	0%

Storage Object Based Annual Spend	\$ -
Storage Block Based Annual Spend	\$ -
Total Evaluated Cost	\$ -

ADDITIONAL SERVICES ARE NOT FOR COST EVALUATION	
Additional Services Annual Spend	\$ -

\*This percentage discount is applicable to the the full storage product line.

APPENDIX H -STATEMENT OF WORK TEMPLATE

CONTRACT #  
Statement of Work

for

Commonwealth of PA – (Insert Agency Name)

PO Number: \_\_\_\_\_

AGENCY CONTACT:  
AGENCY ADDRESS:

PHONE:  
E-MAIL:

# APPENDIX H -STATEMENT OF WORK TEMPLATE

## A. Introduction

This Statement of Work ("SOW") is made ("Effective Date"), by and between the Commonwealth of PA – ("Agency"), with its principal office located at (Address) (hereinafter referred to as "Customer") and Insert full Supplier name, with its principal place of business at Insert Address (hereinafter referred to as "Supplier"). Supplier and Customer may also be referred individually as "Party" or collectively as "Parties."

Agency is responsible for promptly obtaining all required consents necessary for the Supplier to provide the services described in this Statement of Work. A required consent means any consent or approval required to give the Supplier access to Agency or third-party software, firmware, data or other products to enable Supplier and Supplier's approved subcontractors to perform the services set forth in this Statement of Work without infringing on the ownership or license rights (including patent and copyright) of the providers or owners of such products.

The terms and conditions of contract #XXXXXXXXXX shall govern this SOW.

## B. Project Overview and Tasks

Supplier will perform the following tasks (the "Project"):

Supplier to insert exact description of work to be performed

Agency Requirements & Room Preparation:

Any requirements for the agency must be inserted here

## C. Time Estimates / Delivery Schedule

The actual Project start date will depend on following:

(below are examples only, ensure dates are provided)

- 1.) Scheduled availability of a qualified systems engineer. 5/10/06
- 2.) Receipt of equipment. 5/20/06
- 3.) Completion necessary cabling, ISP connection, etc. by other vendors if applicable. 5/20/06
- 4.) Receipt of signed SOW from Customer prior to proposed start date. 5/5/06

The Supplier's required delivery time for the requested services shall be included within this SOW and must be agreed upon by the Parties prior to issuance of the Purchase Order to which this SOW will be attached.

## D. Project Cost

Project Cost is: \$

All work associated with the Project is performed during Mondays through Fridays, between the hours of 8am and 5pm local time, excluding holidays.

(Ensure an exact costing breakdown is provided)

# APPENDIX H -STATEMENT OF WORK TEMPLATE

## E. SOW Acceptance

This SOW is acceptable. The Parties hereby acknowledge and confirm that the scope of work and related terms of this SOW have been read and are accepted and approved. If additional work is required that by its nature was not known or determined at the time this SOW was executed, a written change order describing the additional work and any related expenses is required prior to commencing in any work outside the scope of the original SOW.

Please sign and email to **Supplier** at **email address**

Supplier

Commonwealth of PA – “**Agency**”

Approved (date): \_\_\_\_\_

\_\_\_\_\_  
Print Name of Authorized Signatory

\_\_\_\_\_  
Authorized **Supplier** Signature

\_\_\_\_\_  
Authorized **Agency** Signature

\_\_\_\_\_  
Authorized **Supplier** Signature

\_\_\_\_\_  
Title

## F. Project Completed and Accepted

The Project was completed in accordance with this SOW. The Parties hereby accept as completed all work indicated in this SOW. The Parties acknowledge at there is nothing that should prevent prompt payment in accordance with the terms indicated above.

Approved (date): \_\_\_\_\_

\_\_\_\_\_  
Print Name of Authorized Signatory

\_\_\_\_\_  
Authorized **Supplier** Signature

\_\_\_\_\_  
Authorized **Agency** Signature

\_\_\_\_\_  
Authorized **Supplier** Signature

\_\_\_\_\_  
Title

PLEASE ATTACH HARD COPY OF PURCHASE ORDER  
REFERENCING THIS SOW

Appendix I - Service Level Agreements

Account Management							
SLA ID	Performance Metric	Description	Performance Threshold Level	Formula	Data Elements for Measurements & Reporting	Report(s)	Credits
AM-01	Customer Inquiry Response Time (CIRT)	The Contractor must return phone calls or respond to emails regarding initial request, queries, and problems within a maximum of four (4) business hours after a phone call is placed or an email is received.	95%	Response Times (RT) = Total Number of responses to inquiries that are <= 4 Business hours by  Total Inquiries (TI) = Total Number of Inquiries  $CIRT = (RT/TI)*100$	1. Response times for all calls by type per reporting period  2. Annual cumulative average response times by type to date  3. Total number of inquiries by type	Quarterly SLA Dashboard Reports and/or as directed by the OA Contract Administrator	N/A
AM-02	Quote Accuracy Consistency (QAC)	The metric measures the consistent accuracy of the quotes being provided to the customer relative to errors related to line items, quantity, pricing, or wrong equipment items or options.	99%	Quote Errors (QE) = Total Number of Quotes resubmitted or modified due to errors  Total Quotes (TQ) = Total Number of Quotes  $QAC = \{(TQ - QE)/TQ\} * 100$	1. Total number of quotes that were reprocessed, modified, or resubmitted due to errors per reporting period  2. Annual cumulative number of quotes that were reprocessed, modified, or resubmitted due to errors to date  3. Total number of quotes processed per reporting period	Quarterly SLA Dashboard Reports and/or as directed by the OA Contract Administrator	N/A
AM-03	Quote Delivery for Catalog Items (QDCI)	The Contractor must provide quotes within two (2) business day for Hardware currently in the Contractor's catalog to the requesting agency.	100%	On-Time Catalog Item Quote Delivery (CIQD <sub>OT</sub> ) = Total Number of quotes with contractor catalog items that are delivered <= 2 Business day  Total Catalog Item Quotes (TCIQ) = Total Number of quotes that consist of contractor catalog items  $QDCI = (CIQD_{OT} / TCIQ) * 100$	1. Total Number of quotes that consist of contractor catalog items  2. Total Number of quotes with contractor catalog items that are delivered on or before one (1) Business day per reporting period  3. Total Number of quotes with contractor catalog items that were not delivered on or before one (1) Business day per reporting period  4. Annual cumulative totals for QDCI that are not delivered on time	Quarterly SLA Dashboard Reports and/or as directed by the OA Contract Administrator	N/A
				On-Time Order Delivery (OD <sub>OT</sub> ) = Total Number of orders in which the contractor makes delivery on or within one (1) business day of original promised delivery date	1. Total number of orders processed within the reporting period		



Appendix I - Service Level Agreements

<p>AM-04</p>	<p>Standard Order Delivery (OD)</p>	<p>The Contractor must make delivery within 30 days of PO execution.</p>	<p>100%</p>	<p>Total Orders Processed (TOP) = Total Number of orders processed</p> <p>OD = (OD<sub>OT</sub>/ TOP)*100</p>	<p>2. Total number of orders in which the contractor makes delivery on or within one (1) business day of original promised delivery date during the reporting period</p> <p>3. Total number of orders in which the contractor did not make delivery on or within one (1) business day of original promised delivery date during the reporting period</p> <p>4. Annual cumulative total for orders in which the contractor did not make delivery on or within one (1) business day of original promised delivery date</p>	<p>Quarterly SLA Dashboard Reports and/or as directed by the OA Contract Administrator</p>	<p>2% Initial Credit. 1% additional per week. Capped at 10% total.</p>
<p>AM-05</p>	<p>Expedited Order Delivery (OD)</p>	<p>The Contractor must make delivery within one (1) business day of mutually agreed upon delivery date in writing.</p>	<p>100%</p>	<p>On-Time Order Delivery (OD<sub>OT</sub>) = Total Number of orders in which the contractor makes delivery on or within one (1) business day of original promised delivery date</p> <p>Total Orders Processed (TOP) = Total Number of orders processed</p> <p>OD = (OD<sub>OT</sub>/ TOP)*100</p>	<p>1. Total number of orders processed within the reporting period</p> <p>2. Total number of orders in which the contractor makes delivery on or within one (1) business day of original promised delivery date during the reporting period</p> <p>3. Total number of orders in which the contractor did not make delivery on or within one (1) business day of original promised delivery date during the reporting period</p> <p>4. Annual cumulative total for orders in which the contractor did not make delivery on or within one (1) business day of original promised delivery date</p>	<p>Quarterly SLA Dashboard Reports and/or as directed by the OA Contract Administrator</p>	<p>2% Initial Credit. 1% additional per week. Capped at 10% total.</p>

Appendix I - Service Level Agreements

<p>AM-06</p>	<p>Invoice Receipt (IR)</p>	<p>The Contractor must provide invoices for all orders within sixty (60) days from the order date.</p>	<p>100%</p>	<p>On-Time Invoice Receipt (OR<sub>OT</sub>) = Total number of invoices that were provided to the customer on or within sixty (60) days after order date during the reporting period</p> <p>Total Orders Processed (TOP) = Total Number of orders processed</p> <p><math>IR = (OR_{OT} / TOP) * 100</math></p>	<ol style="list-style-type: none"> <li>1. Total number of orders processed within the reporting period</li> <li>2. Total number of invoices that were provided to the customer on or within sixty (60) days after order date during the reporting period</li> <li>3. Total number of invoices that were not provided to the customer on or within sixty (60) days after order date during the reporting period</li> <li>4. Annual cumulative total for the total number of invoices that were not provided to the customer on or within sixty (60) days after order date</li> </ol>	<p>Quarterly SLA Dashboard Reports and/or as directed by the OA Contract Administrator</p>	<p>N/A</p>
<p>AM-07</p>	<p>Defective Hardware Replacement (DHR)</p>	<p>The Contractor must replace any defective or incorrectly delivered hardware at the Contractor's expense by the newly agreed upon delivery date.</p>	<p>100%</p>	<p>Total Hardware Item Replacement Claims (THIRC) = Total number of hardware items for which replacement claims were submitted due to defective or incorrect hardware</p> <p>Total Hardware Items Replaced (THIR) = the total number of hardware items that were replaced due to defective or incorrect hardware, on time</p> <p><math>DHR = (THIR / THIRC) * 100</math></p>	<ol style="list-style-type: none"> <li>1. Total number of hardware items for which replacement claims were submitted due to defective or incorrect hardware during the reporting period and annual cumulative totals</li> <li>2. Total number of hardware items that were replaced due to defective or incorrect hardware during the reporting period and annual cumulative totals</li> </ol>	<p>Quarterly SLA Dashboard Reports and/or as directed by the OA Contract Administrator</p>	<p>2% of the defective order value initially. 1% additional per week. Capped at 10% total.</p>

Appendix I - Service Level Agreements

Service Management							
SLA ID	Performance Metric	Description	Performance Threshold Level	Formula	Data Elements for Measurements & Reporting	Report(s)	Credits

Appendix I - Service Level Agreements

<p>SM-01</p>	<p>Customer Satisfaction Rating (CSR)</p>	<p>The contractor must maintain a score of three (3) or higher on a scale of five (5) for all categories in each lot during an annual customer survey</p>	<p>15</p>	<p>Annual Customer Satisfaction Rating based on survey results for each category greater than or equal to a score of three (3) on a scale of five (5).</p> <p><u>Scale</u></p> <p>1 - Poor</p> <p>2 - Fair</p> <p>3 - Good</p> <p>4 - Very Good</p> <p>5 - Excellent</p> <p>CSR = C1(Score) + C2(Score) + C3(Score) + C4(Score) + C5(Score)</p>	<p>Annual Customer Survey administered by OA will consist of the following categories:</p> <p>C1: Staff Professionalism and Courteousness</p> <p>C2: Responsiveness to customer inquiries, requests, and/or problems</p> <p>C3: Timeliness, completeness, and accuracy of quotes, orders, and invoices</p> <p>C4: Contractor is engaged providing end-to-end guidance and support from initial quote to pre and post equipment delivery</p> <p>C5: Demonstrates through actions a commitment to satisfying customer expectations and resolve problems</p>	<p>Annual Report or as directed by the OA Contract Administrator</p>	<p>N/A</p>
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## RECIPROCAL LIMITATIONS ACT REQUIREMENTS

Please Complete Applicable Portion of Pages 3 & 4 and Return with Bid.

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NOTE: These Requirements Do Not Apply To Bids Under \$10,000.00

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### I. REQUIREMENTS

- A.** The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering supplies produced, manufactured, mined or grown in Pennsylvania as against those bidders offering supplies produced, manufactured, mined or grown in any state that gives or requires a preference to supplies produced, manufactured, mined or grown in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular supply.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state supplies and the amount of the preference:

	<b>STATE</b>	<b>PREFERENCE</b>
1.	Alaska	7% (applies only to timber, lumber, and manufactured lumber products originating in the state)
2.	Arizona	5% (construction materials produced or manufactured in the state only)
3.	Hawaii	10%
4.	Illinois	10% for coal only
5.	Iowa	5% for coal only
6.	Louisiana	4% meat and meat products 4% catfish 10% milk & dairy products 10% steel rolled in Louisiana 7% all other products
7.	Montana	5% for residents * 3% for non-residents* *offering in-state goods, supplies, equipment and materials
8.	New Mexico	5%
9.	New York	3% for purchase of food only
10.	Oklahoma	5%
11.	Virginia	4% for coal only
12.	Washington	5% (fuels mined or produced in the state only)
13.	Wyoming	5%

- B.** The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering printing performed in Pennsylvania as against those bidders offering printing performed in any state that gives or requires a preference to printing performed in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular category of printing.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state printing and the amount of the preference:

	<b>STATE</b>	<b>PREFERENCE</b>
1.	Hawaii	15%
2.	Idaho	10%
3.	Louisiana	3%
4.	Montana	8%
5.	New Mexico	5%
6.	Wyoming	10%

- C.** The Reciprocal Limitations Act, also requires the Commonwealth to give resident bidders a preference against a nonresident bidder from any state that gives or requires a preference to bidders from that state or exclude bidders from states that exclude nonresident bidders. The amount of the preference shall be equal to the amount of the preference applied by the state of the nonresident bidder. The following is a list of the states which have been found by the Department of General Services to have applied a preference for in-state bidders and the amount of the preference:

<b>STATE</b>	<b>PREFERENCE</b>
1. Alaska	5% (supplies only)
2. Arizona	5% (construction materials from Arizona resident dealers only)
3. California	5% (for supply contracts only in excess of \$100,000.00)
4. Connecticut	10% (for supplies only)
5. Montana	3%
6. New Mexico	5% (for supplies only)
7. South Carolina	2% (under \$2,500,000.00) 1% (over \$2,500,000.00)
	This preference does not apply to construction contracts nor where the price of a single unit exceeds \$10,000.
8. West Virginia	2.5% (for the construction, repair or improvement of any buildings)
9. Wyoming	5%

<b>STATE</b>	<b>PROHIBITION</b>
1. New Jersey	For supply procurements or construction projects restricted to Department of General Services Certified Small Businesses, New Jersey bidders shall be excluded from award even if they themselves are Department of General Services Certified Small Businesses.

D. The Reciprocal Limitations Act also requires the Commonwealth not to specify, use or purchase supplies which are produced, manufactured, mined or grown in any state that prohibits the specification for, use, or purchase of such items in or on its public buildings or other works, when such items are not produced, manufactured, mined or grown in such state. The following is a list of the states which have been found by the Department of General Services to have prohibited the use of out-of-state supplies:

<b>STATE</b>	<b>PROHIBITION</b>
1. Alabama	Only for printing and binding involving "messages of the Governor to the Legislature", all bills, documents and reports ordered by and for the use of the Legislature or either house thereof while in session; all blanks, circulars, notices and forms used in the office of or ordered by the Governor, or by any state official, board, commission, bureau or department, or by the clerks of the supreme court . . ./and other appellate courts/; and all blanks and forms ordered by and for the use of the Senate and Clerk or the House of Representatives, and binding the original records and opinions of the Supreme Court . . . /and other appellate courts/
2. Georgia	Forest products only
3. Indiana	Coal
4. Michigan	Printing
5. New Mexico	Construction
6. Ohio	Only for House and Senate bills, general and local laws, and joint resolutions; the journals and bulletins of the Senate and house of Representatives and reports, communications, and other documents which form part of the journals; reports, communications, and other documents ordered by the General Assembly, or either House, or by the executive department or elective state officers; blanks, circulars, and other work for the use of the executive departments, and elective state officers; and opinions of the Attorney General.
7. Rhode Island	Only for food for state institutions.

\*If the bid discloses that the bidder is offering to supply one of the above-listed products that is manufactured, mined, or grown in the listed state, it shall be rejected. Contractors are prohibited from supplying these items from these states.

**II. CALCULATION OF PREFERENCE**

In calculating the preference, the amount of a bid submitted by a Pennsylvania bidder shall be reduced by the percentage preference which would be given to a nonresident bidder by its state of residency (as found by the Department of General Services in Paragraph C<sub>above</sub>). Similarly, the amount of a bid offering Pennsylvania goods, supplies, equipment or materials shall be reduced by the percentage preference which would be given to another bidder by the state where the goods, supplies, equipment or materials are produced, manufactured, mined or grown (as found by the Department of General Services in Paragraphs A and B above).

THIS FORM MUST BE COMPLETED AND RETURNED WITH THE BID

**III. STATE OF MANUFACTURE**

All bidders must complete the following chart by listing the name of the manufacturer and the state (or foreign country) of manufacture for each item. If the item is domestically produced, the bidder must indicate the state in the United States where the item will be manufactured. **This chart must be completed and submitted with the bid or no later than two (2) business days after notification from the Issuing Office to furnish the information. Failure to complete this chart and provide the required information prior to the expiration of the second business day after notification shall result in the rejection of the bid.**

ITEM NUMBER	NAME OF MANUFACTURER	STATE (OR FOREIGN COUNTRY) OF MANUFACTURE

**IV. BIDDER'S RESIDENCY**

**A.** In determining whether the bidder is a nonresident bidder from a state that gives or requires a preference to bidders from that state, the address given on the first page of this invitation to bid shall be used by the Commonwealth. If that address is incorrect, or if no address is given, the correct address should be provided in the space below:

Correct Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- B.** In order to claim the preference provided under Section I.B., Pennsylvania resident bidders must complete the following or have such information on file with the Issuing Office:
- 1.** Address of bidder's bona fide establishment in Pennsylvania at which it was transacting business on the date when bids for this contract/requisition were first solicited: \_\_\_\_\_
  - 2. a.** If the bidder is a corporation:
    - (1)** The corporation  is or  is not incorporated under the laws of the Commonwealth of Pennsylvania.
      - (a)** If the bidder is incorporated under the laws of the Commonwealth of Pennsylvania, provide date of incorporation: \_\_\_\_\_
      - (b)** If the bidder is not incorporated under the laws of the Commonwealth of Pennsylvania, it must have a certificate of authority to do business in the Commonwealth of Pennsylvania from the Pennsylvania Department of State as required by the Pennsylvania Business Corporation Law (15 P.S. §2001). Provide date of issuance of certificate of authority: \_\_\_\_\_
    - (2)** The corporation  is or  is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must register the fictitious name with the Secretary of the Commonwealth and the office of the prothonotary of the county wherein the registered office of such corporation is located as required by the Fictitious Corporate Name Act, as amended 15 P.S. §51 et seq. Corporate bidders conducting business under an assumed or fictitious name must provide date of registry of the assumed or fictitious name: \_\_\_\_\_
  - b.** If the bidder is a partnership:
    - (1)** The partnership  is or  is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must file with the Secretary of the Commonwealth and the office of the prothonotary the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended 54 P.S. §28.1. Partnerships conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: \_\_\_\_\_
    - (2)** The partnership  is or  is not a limited partnership formed under the laws of any jurisdiction other than the Commonwealth of Pennsylvania. If the bidder is an Out-of-state limited partnership, it must register with the Pennsylvania Department of State as required by the Act of July 10, 1981, P.L. 237, as amended, 59 Pa. C.S.A. §503. Out-of-state limited partnerships must provide the date of registry with the Pennsylvania Department of State: \_\_\_\_\_
  - c.** If the bidder is an individual:

He or she  is or  is not conducting business under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, he or she must file with the Secretary of the Commonwealth and the office of the prothonotary in the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended, 54 P.S. §28.1. Individuals conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: \_\_\_\_\_





# ELECTION TO PARTICIPATE FORM

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## COSTARS PROGRAM

**If awarded a Contract, our firm agrees to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract.**

**Our firm also agrees to pay the applicable Administrative Fee at the beginning of each contract year and/or upon each contract renewal date:**

\$166 for a Department of General Services-verified Small Diverse Business or  
Small, Veteran Business Enterprise

\$500 for a Department of General Services Self-Certified Small Business

\$1,500 for all other businesses

*If you are a Department of General Services Self-Certified Small Business or  
Department of General Services-verified Small Diverse Business,  
you must submit a copy of your active **Small Business Contracting Program**  
certificate with your bid response.*

<b>Corporate or Legal Entity Name:</b>	
<b>Signature:</b>	
<b>Date:</b>	
<b>Contract Description:</b>	

## 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: \_\_\_\_\_ DATE: \_\_\_\_\_



**WORKER PROTECTION AND INVESTMENT CERTIFICATION FORM**

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

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

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

**CERTIFICATION**

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

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

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

**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>

# APPENDIX P - LEASE ACCEPTANCE CERTIFICATE

## LEASE ACCEPTANCE CERTIFICATE

Purchase order number \_\_\_\_\_ dated \_\_\_\_\_ 20 \_\_\_\_\_, by and between \_\_\_\_\_ (Contractor) and \_\_\_\_\_ (Commonwealth Agency).

### ACCEPTANCE CERTIFICATE

The undersigned hereby certifies and represents to, and agrees with, the contractor or its assignee as follows:

1. A unit(s) of the equipment and/or financed item(s) identified on the attached schedule have/has been delivered to \_\_\_\_\_ and accepted on the date indicated below.
2. The Commonwealth agency had conducted such inspection and/or testing of the unit(s) of the equipment and/or financed item(s) as it deems necessary and appropriate and hereby acknowledges that it accepts the such unit(s) of equipment.
3. The Commonwealth agency is not in any event of default as defined in RFP 6100052208 and no event which, with notice or lapse of item, or both, would become an event of default, has occurred and is continuing at the date thereof.

\_\_\_\_\_  
Commonwealth Agency

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Enhanced Minimum Wage Provisions (July 2022)

- 1. Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$15.00 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, 2023, and annually thereafter, the minimum wage rate shall 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.

## Trade Secret/Confidential Proprietary Information Notice

Instructions:

The Commonwealth may not assert on behalf of a third party an exception to the public release of materials containing information believed to be exempt from public disclosure, including trade secrets or confidential proprietary information, unless the materials are accompanied, at the time they are submitted, by this form or a document containing similar information. In addition, in order to protect the safety and security of individuals, infrastructure, and information technology systems, the Commonwealth requires third parties to designate as confidential any information submitted by the third parties that, if disclosed, would be reasonably likely to jeopardize safety or security.

It is the responsibility of the party submitting this form to ensure that all statements and assertions made below are legally defensible and accurate. The Commonwealth will not provide a submitting party any advice with regard to Pennsylvania's *Right-to-Know Law*, [65 P.S. §§ 67.101—67.3104](#), or laws relating to trade secret or confidential proprietary information.

**Name of submitting party:**

**Contact information for submitting party:**

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

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

**Please indicate if any information has been included that you believe is exempt from public disclosure by checking the appropriate box below:** (*Note: Financial information submitted in response to an RFP or IFB to demonstrate economic capability is exempt from public disclosure in accordance with Section 708(b)(26) of the Right-to-Know Law, 65 P.S. 67.708(b)(26).*)

- No information has been included that I believe is exempt from public disclosure.**
- Information has been included that I believe is exempt from public disclosure.**

**Please provide a list detailing which portions of the material being submitted you believe are exempt from public disclosure. This includes trade secret, confidential or proprietary information, or information that if disclosed would be reasonably likely to jeopardize the safety or security of an individual, infrastructure, or information technology system. Please provide an explanation of why you think those materials constitute a trade secret, confidential or proprietary information, or why disclosure of those materials would be reasonably likely to jeopardize safety or security. Also, please mark the submitted material in such a way to allow a reviewer to easily distinguish between the parts referenced below. (You may attach additional pages if needed)**

**Note:** Without substantial justification, the following information will not be considered a trade secret or confidential proprietary information:

- Any information submitted as part of a vendor’s cost response.
- Information submitted as part of a vendor’s technical response or statement of work that does not implicate safety and security, or pertain to specific business practices or product specification.
- Information submitted as part of a vendor’s technical or small diverse business and small business response that is otherwise publicly available or otherwise easily obtained.
- Information detailing the name, quantity, and price paid for any product or service being purchased by the Commonwealth.

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



## **Acknowledgment**

The undersigned party hereby agrees that it has read and completed this form, and has marked the material being submitted in accordance with the instructions above. The undersigned party acknowledges that the Commonwealth is not liable for the use or disclosure of trade secret, confidential or proprietary information, or information that if disclosed would be reasonably likely to jeopardize the safety or security of an individual, infrastructure or information technology system, where that data or information has not been clearly marked as such, and which was not accompanied by a specific explanation included with this form.

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

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

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

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

---

Signature

---

Title

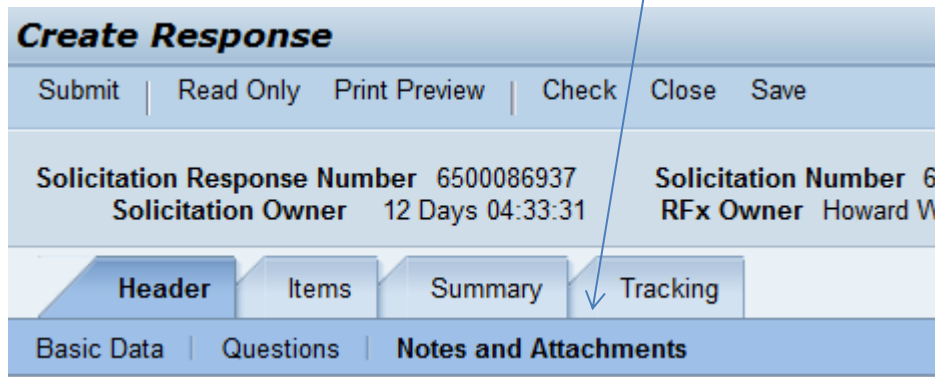
---

Date

# ATTACHING DOCUMENTS TO A BID AT [WWW.PASUPPLIERPORTAL.STATE.PA.US](http://WWW.PASUPPLIERPORTAL.STATE.PA.US)

After you have begun your response to a solicitation, answered the mandatory questions under the Header Tab and entered pricing under the Items tab (if applicable) and need to upload documents to your response, follow this step by step guide:

1. Under the Header Tab, Select Notes and Attachments:



2. Scroll down to see all the documents the Purchasing Agent/Commodity Specialist attached to the solicitation, **please review all documents.**

Example:

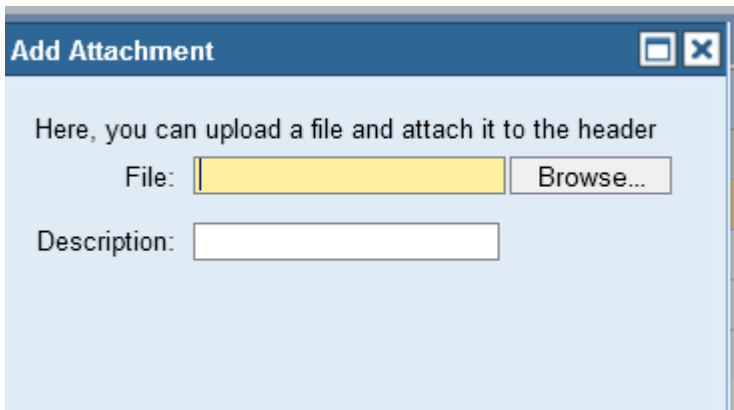
▼ Attachments									
Add Attachment Edit Description Versioning Delete									Filter Setting
Category	Description	File Name	Version	Processor	Checked Out	Type	Size (KB)	Changed by	Changed on
Standard Attachment	<a href="#">Reciprocal Limitations</a>	Rec Limbs.doc	1		<input type="checkbox"/>	doc	72	P00046012	02/24/2015
Legal Document	<a href="#">Terms &amp; Conditions</a>	Document	1		<input type="checkbox"/>	pdf	83	SRMRFC	02/24/2015

3. Determine which documents must be completed and attached to your response.
4. After completing documents that must be included with your response, save them to your computer so you can easily find them later.
5. When responding to the solicitation and ready to submit your documents, go to Header Tab, Notes and Attachments and select ADD ATTACHMENT:

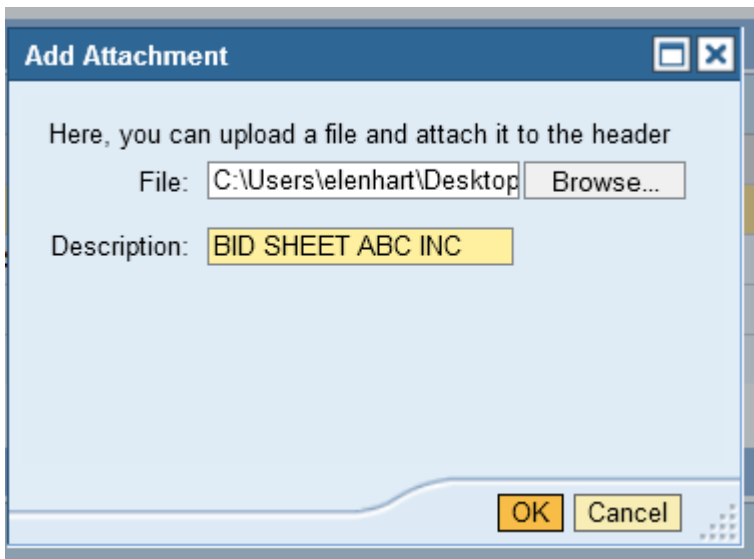
▼ Attachments									
Add Attachment Edit Description Versioning Delete									Filter Setting
Category	Description	File Name	Version	Processor	Checked Out	Type	Size (KB)	Changed by	Changed on
Standard Attachment	<a href="#">Reciprocal Limitations</a>	Rec Limbs.doc	1		<input type="checkbox"/>	doc	72	P00046012	02/24/2015
Legal Document	<a href="#">Terms &amp; Conditions</a>	Document	1		<input type="checkbox"/>	pdf	83	SRMRFC	02/24/2015

If Add Attachment is not available, make sure you are in Edit Mode and not Display mode.

6. This pop up window will appear:



7. Using the Browse field, find your saved document.  
Type in your description of the document and select OK.



8. When successfully attached, your document will appear as an attachment:

▼ Attachments	
Add Attachment Edit Description Versioning ▲ Delete	
Category	Description
Standard Attachment	<a href="#">BID SHEET ABC INC</a>
Standard Attachment	<a href="#">Reciprocal Limitations</a>
Legal Document	<a href="#">Terms &amp; Conditions</a>

9. Note: system will only allow one document to be attached at a time, repeat as necessary.

Under the Summary Tab, attachment(s) will also be listed.

<b>Create Response</b>			
Submit	Read Only	Print Preview	Check Close Save
<b>Solicitation Response Number</b> 6500086937	<b>Solicitation Number</b> 6100033022	<b>Status</b> In Process	<b>Submission Deadline</b> 03/1
<b>Solicitation Owner</b> 12 Days 04:22:39	<b>RFX Owner</b> Howard Walk	<b>Response Version Number</b>	<b>0.00 USD</b> <b>Versi</b>
Header	Items	<b>Summary</b>	Tracking
RFX Response Number: 6500086937			
Items with Response: 2 out of 2 items responded to			
Questions: 2 out of 2 questions answered ( 2 out of 2 mandatory)			
Notes: 3 notes added			
Attachments: 1 attachments added			
Conditions: No Conditions Added			
Total RFX Response Value: 0.00 USD			

10. When response is complete, select CHECK and SUBMIT to transmit your response (bid) to the purchasing agent.
11. If assistance is required, contact the help desk at 877-435-7363 option 2.



# End User Procedures for the **E-Alerts System**

## **Includes**

Accessing the E-Alerts System

Completing E-Alerts Registration

Updating E-mail Addresses

Changing Your E-Alerts Categories

Unsubscribing From E-Alerts

**REVISED MAY 2015**

## Department of General Services eAlerts

### Important Points

- E-Alerts is an e-mail based system that notifies suppliers of new bids issued by the Department of General Services. This program can be accessed through the PA Supplier Portal at [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us) (for registered suppliers) or through the [DGS Procurement website](#) (for unregistered suppliers).
- E-Alerts are notifications for solicitations issued only by the Department of General Services - Bureau of Procurement (DGS-BOP). DGS-BOP manages procurements for services in excess of \$250,000 and materials in excess of \$20,000.
- Bidding opportunities under \$10,000 are not posted online, and therefore do not fall under the E-Alerts system. Suppliers interested in bid opportunities through other departments or under \$10,000 must still search [PA E-Marketplace](#) or contact the agency's [purchasing agent](#).
- **We recommend that you still check [PA E-Marketplace](#) website on a daily basis.** These E-Alerts are not meant to be the only notification of bidding opportunities. The Department of General Services assumes no risk or liability for any delays, errors or failures in suppliers' receipt of these E-Alerts.

## Accessing the E-Alerts System - Overview

The E-Alerts system can be accessed two separate ways.

- Suppliers who have not registered at the PA Supplier Portal ([www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us)) may access the E-Alerts system at the [DGS Procurement website](#).  
**NOTE:** Please proceed to page 4 for instructions on how to access the E-Alerts system.
- Suppliers who have registered at the PA Supplier Portal may access the E-Alerts system after logging in to their account ([www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us)).  
**NOTE:** Please proceed to page 5 for instructions on how to access the E-Alerts system.



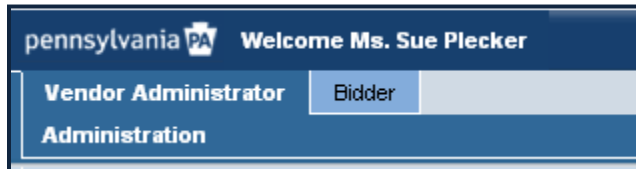


## Department of General Services eAlerts

# Accessing the E-Alerts System (for registered suppliers)

1. Go to [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us) and log in with your user name and password.

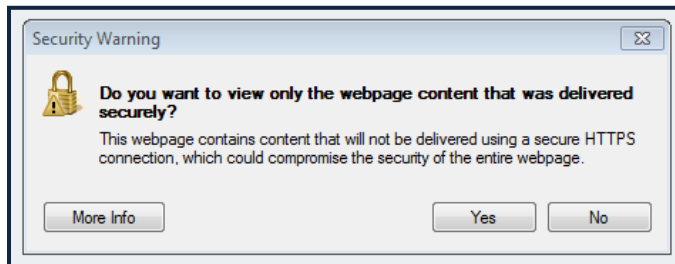
2. Select the "Bidder Tab".



3. Select "Enterprise Applications".



4. If a Security Information box pops up, select "No".



5. Select the DGS e-mail Notifications (eAlerts) link.



6. Please enter additional company contact information as requested below.




# Department of General Services eAlerts

## Completing E-Alerts Registration

1. Upon reaching the E-Alerts welcome page, please choose one of the following options below to select your categories (Materials or Services). **If you wish to select categories for both, you must open each link to select your categories.**

<b>Bureau of Procurement</b> <a href="#">+ Materials</a> <a href="#">+ Services</a>	<b>Public Works - Construction Bid Opportunities</b> <a href="#">+ View All Public Works - Construction Bid Opportunities Topics</a>
---	---

2. Select your categories by placing a checkmark in the appropriate boxes or by clicking on "Select All" and click submit. **If you do not select any categories, you will not receive any E-Alerts.**



### Department of General Services E-Alert Subscription Service

**Bureau of Procurement - Services**  
Select the E-Alert topics you wish to receive emails about and then click the "Submit" button at the bottom of the page to save your selections.

70000000- <b>Farming and Fishing and Forestry and Wildlife Contracting Services:</b> This segment includes services associated with the production, management and protection of plants, soil and land resources as well as those related to the breeding of animals and services related to wildlife.	<input checked="" type="checkbox"/>
71000000- <b>Mining and oil and gas services:</b> Services provided to the mining and oil and gas industries.	<input checked="" type="checkbox"/>
72000000- <b>Building and Construction and Maintenance Services:</b> This segment includes services associated with the construction and maintenance of buildings, structures and roads. This segment also includes trades such as general contractors, electricians, plumbers, carpenters, painters, and roofing, landscaping, gardening and pest control.	<input checked="" type="checkbox"/>
73000000- <b>Industrial Production and Manufacturing Services:</b> This segment includes contracted services associated with industrial and manufacturing processes.	<input checked="" type="checkbox"/>
76000000- <b>Industrial Cleaning Services:</b> This segment includes services associated with wastewater management. This segment also includes industrial cleaning services such as building site cleanup or janitorial services.	<input checked="" type="checkbox"/>
77000000- <b>Environmental Services:</b> This segment includes services associated with environmental protection and management as well as environmental science and technology. This segment also includes pollution control.	<input checked="" type="checkbox"/>
78000000- <b>Transportation and Storage and Mail Services:</b> This segment includes services associated with cargo and personal transportation.	<input checked="" type="checkbox"/>
80000000- <b>Management and Business Professionals and Administrative Services:</b> This segment includes services associated with the management and administrative functions of an organization or business. This segment also includes business administration, human resources, marketing, management consulting, legal, and real estate services.	<input checked="" type="checkbox"/>
81000000- <b>Engineering and Research and Technology Based Services:</b> This segment includes services associated with professional engineering, information and computer technology, economic analysis, and manufacturing production planning and control as well as cartographic, weather forecasting, and other earth science services.	<input checked="" type="checkbox"/>

## Department of General Services eAlerts

3.  The e-mail address used upon Supplier Registration will automatically receive notifications. You may update your company's default e-mail by following the instructions on the next page.



The screenshot shows the 'Department of General Services E-Alert Subscription Service' interface. At the top left is the state seal. The main header reads 'Department of General Services E-Alert Subscription Service'. Below the header, there are two links: 'Unsubscribe to All E-Alerts' and 'Set alternate e-mail address.' (the latter is highlighted with a red box). The main content area contains a personalized welcome message: 'Heidi Gast, Welcome to the DGS E-Alerts Subscription Manager!' followed by the instruction 'Please choose from the available E-Alerts listed below.' Below this, there are two columns of options. The left column is titled 'Bureau of Procurement' and includes 'Materials' and 'Services', each with a plus sign icon. The right column is titled 'Public Works - Construction Bid Opportunities' and includes a link 'View All Public Works - Construction Bid Op' with a plus sign icon.

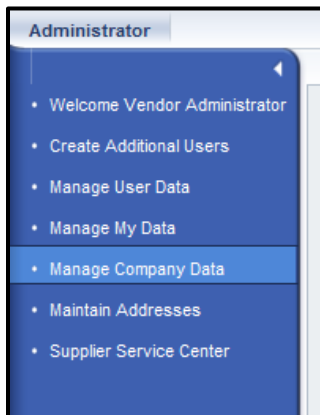
## Updating Company E-mail Addresses (registered suppliers only)

To change your company e-mail address, you must go back into the PA Supplier Portal at [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us).

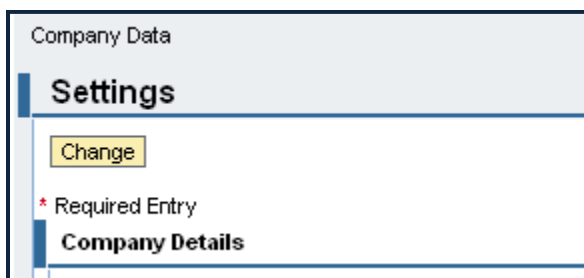
1. Log in using your PA Supplier Portal registration information.



2. Select the "Manage Company Data" tab.



3. Select the "Change" button.



## Department of General Services eAlerts

4. □ Scroll down to the email address section. Click in the 1st box on the left and delete the listed e-mail address.

E-Mail Addresses		
	Standard Address *	E-Mail Address
<input type="checkbox"/>	<input checked="" type="radio"/>	splecker@state.pa.us
<input type="checkbox"/>	<input type="radio"/>	pchapman@state.pa.us
<input type="checkbox"/>	<input type="radio"/>	

5. □ Scroll back to top of page and click "Save".

Company Data

---

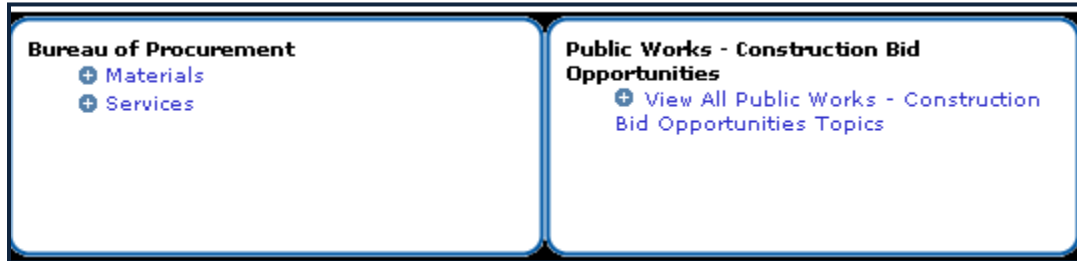
**Settings**

\* Required Entry

## Department of General Services eAlerts

# Updating Your E-Alerts Categories

1. Return to the E-Alerts welcome page via [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us) (registered suppliers) or [www.dgs.state.pa.us](http://www.dgs.state.pa.us) (unregistered suppliers).
2. Select the "Materials" or "Services" sections, seen below.



3. Select your categories by placing/removing a check mark on each one and click "Submit".

The screenshot shows the "Department of General Services E-Alert Subscription Service" interface. At the top left is the state seal. The title "Department of General Services E-Alert Subscription Service" is centered. Below the title, it says "Bureau of Procurement - Services" and "Select the E-Alert topics you wish to receive emails about and then click the 'Submit' button at the bottom of the page to save your selections." There are two buttons: "Select All" and "Clear All". Below these is a table of service categories, each with a description and a checkbox.

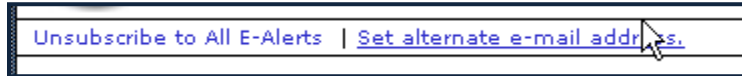
70000000- <b>Farming and Fishing and Forestry and Wildlife Contracting Services:</b> This segment includes services associated with the production, management and protection of plants, soil and land resources as well as those related to the breeding of animals and services related to wildlife.	<input checked="" type="checkbox"/>
71000000- <b>Mining and oil and gas services:</b> Services provided to the mining and oil and gas industries.	<input checked="" type="checkbox"/>
72000000- <b>Building and Construction and Maintenance Services:</b> This segment includes services associated with the construction and maintenance of buildings, structures and roads. This segment also includes trades such as general contractors, electricians, plumbers, carpenters, painters, and roofing, landscaping, gardening and pest control.	<input checked="" type="checkbox"/>
73000000- <b>Industrial Production and Manufacturing Services:</b> This segment includes contracted services associated with industrial and manufacturing processes.	<input checked="" type="checkbox"/>
76000000- <b>Industrial Cleaning Services:</b> This segment includes services associated with wastewater management. This segment also includes industrial cleaning services such as building site cleanup or janitorial services.	<input checked="" type="checkbox"/>
77000000- <b>Environmental Services:</b> This segment includes services associated with environmental protection and management as well as environmental science and technology. This segment also includes pollution control.	<input checked="" type="checkbox"/>
78000000- <b>Transportation and Storage and Mail Services:</b> This segment includes services associated with cargo and personal transportation.	<input checked="" type="checkbox"/>
80000000- <b>Management and Business Professionals and Administrative Services:</b> This segment includes services associated with the management and administrative functions of an organization or business. This segment also includes business administration, human resources, marketing, management consulting, legal, and real estate services.	<input checked="" type="checkbox"/>
81000000- <b>Engineering and Research and Technology Based Services:</b> This segment includes services associated with professional engineering, information and computer technology, economic analysis, and manufacturing production planning and control as well as cartographic, weather forecasting, and other earth science services.	<input checked="" type="checkbox"/>

## Department of General Services eAlerts

# Unsubscribing From E-Alerts

1. □ Return to the E-Alerts welcome page via [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us) (registered suppliers) or [www.dgs.state.pa.us](http://www.dgs.state.pa.us) (unregistered suppliers).

2. □ Select "Unsubscribe to all E-Alerts".



2. □ Select the "Unsubscribe" button.

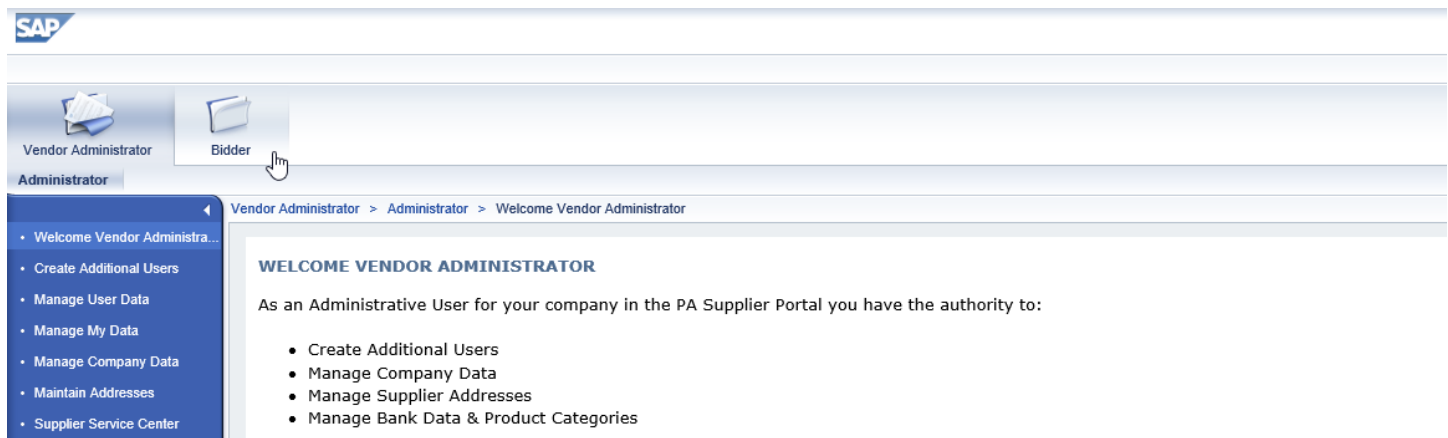




# Locating and Responding to a Solicitation

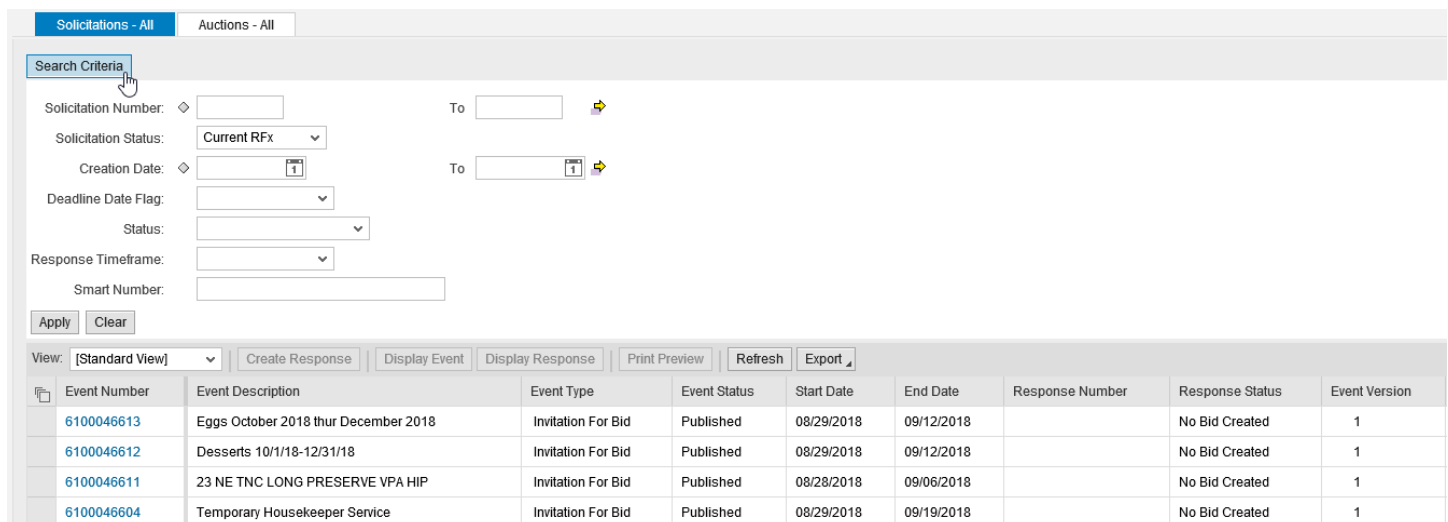
## Locating a Solicitation

1.  Open your web browser and go to [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us). Please note the important information regarding compatible browsers for the PA Supplier Portal website.
2.  Select the **Log on** button at the top right of the page.
3.  Enter the **User ID** and **Password** you created when you registered as a supplier and log on. *If you are unable to log in, please call the Help Desk at (877) 435-7363 and selection Option #1.*
4.  Choose the **Bidder** tab to begin. If you do not see a Bidder tab, another person at your company with separate log-in credentials may have been assigned the Bidder role.



The screenshot shows the SAP Vendor Administrator interface. The top navigation bar includes 'Vendor Administrator' and 'Bidder' tabs. The 'Bidder' tab is active. Below the navigation bar, there is a breadcrumb trail: 'Vendor Administrator > Administrator > Welcome Vendor Administrator'. The main content area is titled 'WELCOME VENDOR ADMINISTRATOR' and contains the following text: 'As an Administrative User for your company in the PA Supplier Portal you have the authority to:' followed by a list of permissions: 'Create Additional Users', 'Manage Company Data', 'Manage Supplier Addresses', and 'Manage Bank Data & Product Categories'. A left-hand menu is visible with options like 'Welcome Vendor Administra...', 'Create Additional Users', 'Manage User Data', 'Manage My Data', 'Manage Company Data', 'Maintain Addresses', and 'Supplier Service Center'.

5.  The **Bid Processing** screen will open and will display all Events currently open for responses. If the search fields seen below are not visible, select the **Search Criteria** button to display them.



The screenshot shows the Bid Processing screen. At the top, there are tabs for 'Solicitations - All' and 'Auctions - All'. Below the tabs, there is a 'Search Criteria' button. Underneath the button, there are several search fields: 'Solicitation Number' (with a dropdown arrow), 'Solicitation Status' (set to 'Current RFx'), 'Creation Date' (with a dropdown arrow and a calendar icon), 'Deadline Date Flag', 'Status', 'Response Timeframe', and 'Smart Number'. There are 'Apply' and 'Clear' buttons below the search fields. Below the search fields, there is a row of buttons: 'View: [Standard View]', 'Create Response', 'Display Event', 'Display Response', 'Print Preview', 'Refresh', and 'Export'. At the bottom, there is a table with the following data:

Event Number	Event Description	Event Type	Event Status	Start Date	End Date	Response Number	Response Status	Event Version
6100046613	Eggs October 2018 thru December 2018	Invitation For Bid	Published	08/29/2018	09/12/2018		No Bid Created	1
6100046612	Desserts 10/1/18-12/31/18	Invitation For Bid	Published	08/29/2018	09/12/2018		No Bid Created	1
6100046611	23 NE TNC LONG PRESERVE VPA HIP	Invitation For Bid	Published	08/28/2018	09/06/2018		No Bid Created	1
6100046604	Temporary Housekeeper Service	Invitation For Bid	Published	08/29/2018	09/19/2018		No Bid Created	1

6. To search for and respond to a specific Solicitation, enter the **Solicitation Number** in the appropriate field and select the **Apply** button. The Solicitation will appear below. *Please ensure all fields below "Solicitation Status" are blank, as extra information such as "Status" or "Response Timeframe" may cause the system to skip over the desired Solicitation.*

Event Number	Event Description	Event Type	Event Status	Start Date	End Date	Response Number	Response Status	Event Version
6100046601	PSP Mercer Station Snow Removal	Invitation For Bid	Published	08/28/2018	09/12/2018		No Bid Created	1

7.  Click the blue **Event Number** link to open the Solicitation in a new window. *If your browser asks to allow pop-ups, select "Always Allow". If the window still does not open, ensure all pop-up blockers are disabled.*

## Viewing and Responding to a Solicitation

Before creating a response, browse the **Header** and **Items** tabs for bid information.

1.  If you have not downloaded any bid documents, they can be found under the **Header** tab in the **Notes and Attachments** section. A description for the Solicitation can be found at the **Tendering Text** link. *Any questions about the attachments or description can be directed to the Solicitation Owner.*

Category	Description	File Name	Version	Processor	Checked Out	Type	Size (KB)
Standard Attachment	Bid Specification	SNOW SPECIFICATIONS-2018.doc	1		<input type="checkbox"/>	doc	33
Standard Attachment	Proof of Visit Form	PROOF OF VISIT FORM- SR Mercer Station.doc	1		<input type="checkbox"/>	doc	27
Legal Document	Terms and Conditions	Document	1		<input type="checkbox"/>	pdf	83

2.  Download all required attachments (if necessary) by clicking the linked **Description** of each one. *It is highly recommended that you download and complete all required documents before creating a response.*

3. To begin your response, select **Register** to register your company for any potential change notices, then select the **Create Response** button.

**Display Solicitation :**

Print Preview | | Close | **Register** | Export

Solicitation Number 6100046601 Description PSP Mercer Station Snow Removal Status Published Start Date 12:00:00 EST  
Version Type Active Version

**Display Solicitation :**

Print Preview | | Close | **Create Response** | Export

✔ You are registered to the RFX and will be informed of changes

Solicitation Number 6100046601 Description PSP Mercer Station Snow Removal Status Published Start Date 12:00:00 EST  
Version Type Active Version

4. A new **Create Response** window will open (see below). To complete your response, a maximum of three steps must be completed before submitting. These can be done in any order.

**Create Response**

Submit | Read Only | Print Preview | Check | Close | Save | Questions and Answers ( 0 )

Solicitation Response Number 6500122510 Solicitation Number 6100046601 Status In Process Submission Deadline 09/12/2018 13:30:00 EST Opening Date 09/12/2018 13:35:00 EST  
Response Version Number 0.00 USD Version Number Active Version RFX Version Number 1

**Header** Items Summary Tracking

Basic Data Questions Notes and Attachments

**Event Parameters** Currency: United States Dollar

**Status and Statistics**  
Created On: 08/29/2018 11:42:25 EST  
Created By: Mr. Randall Miller  
Last Processed On: 08/29/2018 11:42:25 EST  
Last Processed By: Mr. Randall Miller

5. Under the default **Header** tab, select **Questions** to answer two mandatory questions. Select "Yes" from the **Reply** drop-down menu on each one to indicate that you have read and understood the listed attachments.

**Header** Items Summary Tracking

Basic Data **Questions** Notes and Attachments

**Question** **Reply**

\* Is the offer in accordance with the "Representations and Authorizations" listed in section "Submission – 001.1" of the attached solicitation document? Y: Yes ▾

\* Has the submitter read, and does the submitter understand, the "Representations and Authorizations" listed in section "Submission – 001.1" of the attached solicitation document? | ▾

**Y: Yes**

6. Under the **Header** tab section **Notes and Attachments**, select the **Header Bidder's Remarks** link to add any additional notes or select the **Add Attachment** button (highlighted below) to add any additional documents.

**Header** Items Summary Tracking

Basic Data Questions **Notes and Attachments**

▼ Notes

Clear

Category	Description
Conditions of Participation	-Empty-
Bid Invitation/Auction Text	THIS BID IS SET ASIDE FOR SMALL BUSINESS. YOU MUST TO S...
Purchaser's Remarks	-Empty-
Header Bidder's Remarks	-Empty-

▼ Attachments

Add Attachment Edit Description Versioning Delete

Category	Description	File Name	Version	Processor	Checked Out	Type	Size (KB)
Standard Attachment	Bid Specification	SNOW SPECIFICATIONS-2018.doc	1		<input type="checkbox"/>	doc	33
Standard Attachment	Proof of Visit Form	PROOF OF VISIT FORM- SR Mercer Station.doc	1		<input type="checkbox"/>	doc	27
Legal Document	Terms and Conditions	Document	1		<input type="checkbox"/>	pdf	83

7. When the **Add Attachment window** pops up, select **Browse** to search your computer for a completed attachment, open the file, and click "OK" to add it to the list (see below). If you have more than one completed attachment to add, repeat this step as necessary. *If no attachments are required, skip this step.*

-Empty-							
	THIS BID IS SET ASIDE FOR						
	-Empty-						
	-Empty-						
		File Name			Processor	Checked Out	Type
		SNOW SPECIFICATIONS-2018.doc				<input type="checkbox"/>	doc
		PROOF OF VISIT FORM- SR Mercer Stat				<input type="checkbox"/>	doc

**Add Attachment** □ ×

Here, you can upload a file and attach it to the header

File: C:\Users\randmiller\De

Description:

8. Select the **Items** tab to enter line item prices. Prices should be entered in the **Price** column per unit of measure. Pressing Enter after each price will update the **Total Value** amount at the bottom right. If there are more than 10 total line items, scroll down to complete them all. *If a price sheet was completed as an attachment, skip this step.*

Header **Items** Summary Tracking

▼ Item Overview

Details Add New Copy Paste Delete Calculate Value Filter Expand All Collapse All Settings

Line Number	Description	Item Type	Product ID	Product Category	Product Category Description	Required Quantity	Unit	Price	Currency	Price Per	Delivery Date	Total Value	RFx / Response @	RFx / Response	Internal Item Number
	FY18 Snow Removal/Plowing	Material	72102901	SNOW REMOVAL SVCS		25,000	H	50.00	USD	1	On 11/01/2018	1,250.00	0/0	0/0	1
	FY18 Granular Deicing Material	Material	72102901	SNOW REMOVAL SVCS		25,000	TON	320.00	USD	1	On 11/01/2018	8,000.00	0/0	0/0	2
	FY18 Snow Removal/Sidewalks	Material	72102901	SNOW REMOVAL SVCS		25,000	H	40.00	USD	1	On 11/01/2018	1,000.00	0/0	0/0	3
	FY18 Deicing Material/Bags	Material	72102901	SNOW REMOVAL SVCS		15,000	EA	13.00	USD	1	On 11/01/2018	195.00	0/0	0/0	4
	FY18 Application Deicing Material	Material	72102901	SNOW REMOVAL SVCS		25,000	H	20.00	USD	1	On 11/01/2018	500.00	0/0	0/0	5
	FY19 Snow Removal/Plowing	Material	72102901	SNOW REMOVAL SVCS		25,000	H	65.00	USD	1	On 11/01/2019	1,625.00	0/0	0/0	6
	FY19 Granular Deicing Material	Material	72102901	SNOW REMOVAL SVCS		25,000	TON	300.00	USD	1	On 11/01/2019	7,500.00	0/0	0/0	7
	FY19 Snow Removal/Sidewalks	Material	72102901	SNOW REMOVAL SVCS		25,000	H	20.00	USD	1	On 11/01/2019	500.00	0/0	0/0	8
	FY19 Deicing Material/Bags	Material	72102901	SNOW REMOVAL SVCS		15,000	EA	15.00	USD	1	On 11/01/2019	225.00	0/0	0/0	9
	FY19 Application of Deicing Material	Material	72102901	SNOW REMOVAL SVCS		25,000	H	0.00	USD	1	On 11/01/2019	0.00	0/0	0/0	10
												Total Value		20,795.00	USD

9. Before submitting your response, select the **Summary** tab (see below) to review. Ensure that all applicable steps have been completed: all **Items** are responded to (if necessary), all **Questions** are answered (mandatory), all **Notes and Attachments** are included (if necessary), and the **Total Response Value** is accurate.

Header	Items	Summary	Tracking
<p>RFX Response Number: <input type="text" value="6500122510"/></p> <p>Items with Response: <input type="text" value="25 out of 25 items responded to"/></p> <p>Questions: <input type="text" value="2 out of 2 questions answered ( 2 out of 2 mandatk"/></p> <p>Notes: <input type="text" value="1 notes added"/></p> <p>Attachments: <input type="text" value="No Attachments Added"/></p> <p>Conditions: <input type="text" value="25 conditions added"/></p> <p>Total RFX Response Value: <input type="text" value="60,220.00 USD"/></p>			

10. When all information is correct, click the **Check** button at top. You will be prompted to submit the response.

### Create Response

⚠ In order to complete your bid as a valid bid response, you must select the Submit button.

Solicitation Response Number	6500122510	Solicitation Number	6100046601	Status	Saved	Submission Deadline
Response Version Number	60,220.00 USD	Version Number	Active Version	RFX Version Number		1

11. Finally, click the **Submit** button. An approval message will appear below.

### Create Response

Solicitation Response Number	6500122510	Solicitation Number	6100046601	Status	In Process	Submission Deadline
Response Version Number	60,220.00 USD	Version Number	C1	RFX Version Number		1

✔ RFX response 6500122510 submitted

12. If desired, a PDF copy of your bid can be viewed or saved by clicking the **Print Preview** button. Any attached documents will not be included. *You do not need to print or mail this file.*

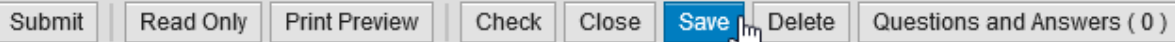
### Create Response

13. **Close** and **Log Off** to exit the PA Supplier Portal.

## Saving a Solicitation Response

1. To save a response, click the **Save** button at any time when working on it. *Please note that this will simply "freeze" the response until you are ready to resume work.*

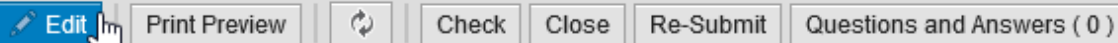
### Create Response



Submit | Read Only | Print Preview | Check | Close | **Save** | Delete | Questions and Answers ( 0 )

2. When ready to resume work, click the **Edit** button to pick up where you left off. *If you have logged off between sessions, open the Response Number link to find the Edit button.*

### Create Response

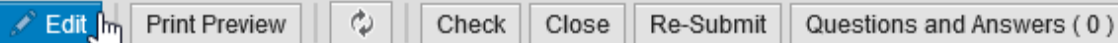


**Edit** | Print Preview | Refresh | Check | Close | Re-Submit | Questions and Answers ( 0 )

## Editing or Withdrawing a Response

1. To edit your response after submitting, open the **Response Number** link and click the **Edit** button. Make any desired changes and click the **Check** and **Submit** buttons as before. Your new response will overwrite the previous one. This can be done an unlimited number of times before the bid deadline.

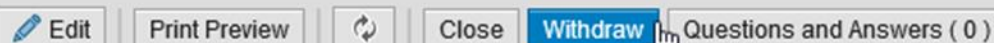
### Create Response



**Edit** | Print Preview | Refresh | Check | Close | Re-Submit | Questions and Answers ( 0 )

2. To withdraw a submitted bid response, open the **Response Number** link and click the **Withdraw** button any time after submitting. If desired, a withdrawn bid can still be re-submitted by clicking the **Re-Submit Bid** button on the same menu.

### Create Response



Edit | Print Preview | Refresh | Close | **Withdraw** | Questions and Answers ( 0 )

**Any additional questions about locating or responding to PA Supplier Portal Solicitations can be directed to the Help Desk at (877) 435-7363, Option #2.**



# REGISTERING AS A SUPPLIER



**The Commonwealth of Pennsylvania  
Department of General Services  
Bureau of Procurement**

**[www.dgs.pa.gov](http://www.dgs.pa.gov)**

# REGISTERING AS A SUPPLIER

If you have never done business with the Commonwealth of Pennsylvania, by following the four steps described in this guide, your company will become registered with us. These four steps are as follows:

## STEP 1 - VENDOR IDENTIFICATION

The screenshot displays the Pennsylvania Supplier Registration portal. At the top, there is a search bar and links for 'New Session' and 'Log in'. Below the search bar, the user is welcomed as 'PA Suppliers'. The main content area shows a progress bar with four steps: 1. Vendor Identification (highlighted), 2. Vendor Details, 3. Submit Registration Form, and 4. Create User ID. Below the progress bar, there are sections for 'Instructions' and 'Vendor Identification'. The 'Vendor Identification' section contains the following text: 'Employer Identification Number: [input field] OR Social Security Number: [input field]'. A 'Next' button is located below the input fields.

- A. Begin by going to [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us).
- B. Select Supplier Registration from the left sidebar menu.
- C. Enter your Employer Identification Number (EIN) or your Social Security Number (SSN), then select the Next button.



# STEP 2 - VENDOR DETAILS

## Vendor Registration, Commonwealth of Pennsylvania.



### Instructions

Complete the registration form below and select the **Next** button. Please do not use Parentheses to separate the area code within the telephone or fax numbers. Enter entire number as a string of 10 numbers or use dashes to separate the groups of numbers. Important: Fields with a \* indicate that an entry is required.

### Vendor Identification

Employer Identification Number (EIN):  Social Security Number (SSN):

### Address Data

Disregarded Entity:  Yes  No

\* Legal Name:

Name of the Company (if different than Legal Name):

\* Name of Person Creating Registration:

\* Business Type:

This text will appear on the W-9 Form

Exempt payee code (if any):

Exemption from FATCA reporting code (if any):

\* E-Mail Address:

\* Telephone:

Extension:

Fax:

Extension:

Street Number and Name:  If PO Box is used then Street Number and Name cannot be used

Street 2 (apt. or suite no., room no., floor no. etc.):

\* City:

\* County:

\* State:

\* Zip:

\* Country:

PO BOX:

If Street Number and Name are used then PO Box cannot be used

PO Box Country:

### Which Product Categories can you Deliver?

At least one product category must be selected

\* Select the language in which you want to send the questionnaires:

BUILDING & CONSTRUCT  MATERIAL/SERVICES

### Data Privacy Statement

Data Privacy Statement Terms must be accepted before being able to move to the next page

DISCLAIMER: Registering as a Commonwealth SRM vendor does not guarantee that your business will be awarded any contract or purchase order to provide supplies to or perform services for the Commonwealth of Pennsylvania. Further, registering does not guarantee that your business or organization will receive any financial assistance including state or federal grant monies from the Commonwealth of Pennsylvania. Registering as a Commonwealth SRM vendor should not be construed as applying for any necessary license to deliver supplies or perform services in a regulated industry in Pennsylvania. Your business would need to seek such a license from the appropriate Commonwealth Agency.

DATA PRIVACY: Information provided through the PA Vendor Portal will be used in the purchasing and accounting activities of the Commonwealth and will not be limited in its use to one Commonwealth agency. Information is retained in accordance with existing Commonwealth policy and laws, including the Pennsylvania Right to Know Law, 65 P.S. Section 66.1 et seq.

TERMS: By submitting information through the PA Supplier Portal, you are agreeing on behalf of the person or entity identified to one (1) default remit to address and one (1) Automatic Clearing House (ACH) bank account.

CERTIFICATION: By submitting information through the PA Vendor Portal, you certify that: (1) you are authorized to submit the information for, or on behalf of, the person or entity identified; and, (2) all of the information is true and correct to the best of your knowledge, information, and belief. Any false statements made by you on or in the PA Vendor Portal are subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Yes, I have read the data privacy statement and accept the terms.

## A. Complete the following fields in the Address Data section:

- **Legal Name:** The primary name by which your company (OR  the individual's name if registering with a social security number) is  currently listed with the IRS.

- **Name of the Company:** Complete this field if the name of your company is different than the legal name listed above.  Note clearly if this is a DBA (doing business as), a Disregarded Entity, etc.

- **Name of the Person Creating Registration**
- **Business Type:** Select the legal description of your business.
- **Exempt payee code or Exemption from FATCA reporting code** (if any)
- E-Mail Address:** Enter a valid e-mail address for the person who will set up the Administrative User account for your company.
- **Telephone and Fax:** These fields are each 10 digits and may  not contain any dashes.
- **Street:** Enter your company street address. If you use a PO  Box, please enter your PO Box in the “PO Box” field further down. *The system will not accept both fields being completed.*
- City, State, and Country:** Where your company is located.
- **ZIP Code:** Enter your state and entire nine-digit ZIP+4 code.  *The ZIP+4 can be found at [www.USPS.com](http://www.USPS.com).*
- **PO Box:** Enter your company’s PO Box. If none exists, please  enter your street address in the “Street” field. *The system will not accept both fields being completed.*

**B. Complete the Product Categories section by choosing *Building & Construct and/or Materials/Services* for your company type.**

- Below, carefully read the **Disclaimer, Data Privacy, Terms** and  **Certification Notices**, and check the box stating that you  accept the terms and conditions.
- Look over the responses carefully.
- Click the “Next” box once.

**C. Carefully review the information on the W9 form displayed on the next page. If the information is correct, select the checkbox to confirm your electronic signature on the form and then select the “Submit W9” button to proceed to the confirmation screen. If the information is not correct, select the “Back” button to revise it.**

**D. Upon submission, an e-mail acknowledgement will be sent that verifies your company information has been successfully received.**

After your information has been submitted, check the specified e-mail account for a message from **SRMSVC@pa.gov**. This e-mail should arrive within one business day. *If you do not receive the e-mail within this timeframe, contact the **Help Desk** at (877) 435-7363 and select **Option #1** from the menu.*

**A. When you receive your e-mail, read it carefully.**

The link contained in this e-mail can only be used once. This e-mail can not be forwarded, copied or pasted, or the link will not work.

**B. Follow the link within the e-mail and complete the following fields:**

- **User Name:** Create a user name of your choice.
- **Password:** Create a temporary password that must have at least 7 characters (including at least one upper case letter, one lower case letter, one number and one special character). Special characters are the symbols created by holding the SHIFT key and typing any number from 0-9, such as \$, #, @, or \*. *This password will need to be changed after the Administrative User is created and may not be re-used. It also cannot contain elements of the User Name.*
- **Confirm Password:** Re-enter the temporary password.
- **Salutation:** Select an option from the drop-down menu.
- **First Name / Last Name:** Enter the administrator's first / last name.
- **E-Mail Address:** Enter a valid e-mail address.
- **Country:** Select from the drop-down menu, if necessary.
- **Language:** Select from the drop-down menu, if necessary.
- **Telephone and Fax:** These fields are each 10 digits and may not contain any dashes.
- **Item and Department:** Use these two fields to help identify additional personnel and items.
- **Date Format:** Select your preferred date format from the drop-down menu.
- **Decimal Format:** Allow the default option to remain.
- **Time Zone:** Select your region's official time zone.
- **Registration ID:** PLEASE DO NOT ENTER OR CHANGE ANYTHING IN THIS FIELD. It contains a default from your encrypted e-mail. *If this field is blank, please call the Help Desk at (877) 435-7363 and select Option #1 from the menu.*

Review your selections to ensure everything is correct. Select the checkbox to confirm that you have read the statements and accept the terms.

**C. Select the Create button located below the checkbox. This will complete the "Create Administrative User" process.**

Upon submission, a confirmation message displays and states that the User and Password were successfully created. *This message will also contain your newly-assigned Vendor Number and a link to redirect you back to the PA Supplier Portal login page.*

pennsylvania Welcome PA Suppliers Help | Log On

**SUPPLIER LOGON**

Supplier  
Supplier Registration

Detailed Navigation

- PA Supplier Portal Home
- New Supplier Registration
- Existing Supplier Registration
- Supplier Service Center

PLEASE WRITE DOWN OR PRINT THE FOLLOWING INFORMATION:

- \* Your User Name
- \* Your Temporary Password
- \* Vendor Number 0000

THIS INFORMATION WILL BE NEEDED IN PHASE 3.

FIRST, you should Log In to the Supplier Portal at <http://www.pasupplierportal.state.pa.us>, to change your Temporary Password to a New Password.

NEXT, Log Out of the Supplier Portal and wait up to 20 minutes for the system to recognize your Administrative User information.

Once the system has recognized your Administrative User information, you may Log Back In to the PA Supplier Portal to Update your Company Data, Add Bank Data, Create Additional Users and Respond to Solicitations.

**PHASE 2 IS COMPLETE.**

Select "SUPPLIER LOGON" located in the upper left corner of the screen to begin PHASE 3.

## STEP 3 - SUBMIT REGISTRATION LOG IN / MANAGE BIDDER

pennsylvania PA

Welcome Pennsylvania Suppliers! If you are using a screen reader and would like to request the enhanced accessibility option for this website, please call the toll free number 877-435-7363, option 1, between 8:00 AM and 4:30 PM, Monday thru Friday.

The PA Supplier Portal is a secure site. The PA Supplier Portal certified browsers are Internet Explorer 8.0 through 11.0. Other products may work; however, full functionality cannot be assured.

User \*

Password \*

Login Problems? [Replace Password](#) Forgot your User ID? Contact the Payable Service Call Center at 877-435-7363, option 1  
Or email [PA-PSC-SRMPORTAL@pa.gov](mailto:PA-PSC-SRMPORTAL@pa.gov)

- Follow the Supplier Portal link ([www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us)) and log in using your User Name and temporary password.
- When prompted, change your temporary password to a new one. Your User Name will default in the User ID field. Please complete the following three fields to complete the process:

- **Old Password:** Type in your temporary password.
- **New Password:** Enter a new password, making sure to follow  the previously  outlined requirements (see Phase #2, section B).
- **Confirm Password:** Re  enter your new password.

Select the **Change** button to complete the password change. *You will now be logged in as the Vendor Administrator and taken to the welcome screen.*

**C. Once your password is changed, you will need to click “Log Out” in the upper right-hand corner and wait at least 30 minutes for the system to refresh your registration data before attempting to log in again or change any information.**

An e-mail titled “W9 Form for Vendor” will be sent to the e-mail address  submitted in Phase 1 requesting a signed and dated IRS W9 form. Please be sure to write the vendor number at the top of the W9 prior to returning it via fax or include the vendor number somewhere within the returning email.

- 
- 

**Once these three steps are completed, you’ll be officially registered with us. Congratulations on becoming a new supplier, and welcome to the Commonwealth of Pennsylvania!**

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**Now that you are registered with the PA Supplier Portal, please enter and update your Company Data and Administrative Information including the default remit-to address for receipt of payments as applicable. Please click <http://www.pasupplierportal.state.pa.us> to get started. The following actions are also recommended:**

- 
- **Enter Bank Data**  
This section can be found under the **Manage Bank Data & Product Categories** tab on the left navigation pane, and will enable your company to receive payments via ACH.
- **Register for E-Alerts**  
This valuable feature will enable you to “subscribe” to all upcoming  solicitations applicable to your company. For more information on E  Alerts or to register online, please visit <http://www.dgsweb.state.pa.us/EAlerts/>.

- 
-

□

**For more information about Registering  
as a Supplier, please contact:**

**Customer Support Center  
(877) 435-7363, Option #1**

**Department of General Services  
Bureau of Procurement  
555 Walnut Street, 6th Floor  
Harrisburg, PA 17101**

**[www.dgs.state.pa.us/procurement](http://www.dgs.state.pa.us/procurement)**

**Janice Pistor  
*Chief Procurement Officer***

**Kenneth Hess  
*Deputy Secretary, Procurement***

**Curtis Topper  
*Secretary, Department of General Services***

**Tom Wolf  
*Governor***

**Revised April 2019**

□

**SDB-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)  
PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

*PLEASE READ BEFORE COMPLETING THESE DOCUMENTS*  
*Bidders/Offerors do not need to return SDB-1 with their SDB Participation Submittal*

The following instructions include details for completing the SDB Participation Submittal (SDB-2) which Bidders or Offerors must submit in order to be considered responsive.

The following instructions also include details for completing the SDB Utilization Schedule (SDB-3), which Bidders or Offerors must submit for any portion of the SDB participation goal the Bidder or Offeror commits to meeting.

**A Bidder/Offeror's failure to meet the SDB participation goal in full or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of the SDB participation goal will result in the rejection of the Bid or Proposal as nonresponsive.**

I. **SDB Participation Goal:** The SDB participation goal is set forth in the **Solicitation**. The Bidder/Offeror is encouraged to use a diverse group of subcontractors and suppliers from the SDB classifications to meet the SDB participation goal.

II. **SDB Eligibility:**

1. **Finding SDB firms:** Offerors can access the directory of **DGS-verified** SDB firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
2. **Only SDBs verified by DGS** and as defined herein may be counted for purposes of achieving the SDB participation goal. In order to be counted for purposes of achieving the SDB participation goal, the SDB firm, including an SDB prime, **must be DGS-verified for the services, materials or supplies that it has committed to perform on the SDB Utilization Schedule (SDB-3).** A firm whose SDB verification is pending or incomplete as of the bid or proposal due date and time shall not be counted towards the SDB participation goal. Offerors cannot use self-certified SBs that do not have their SDB verification as of the bid or proposal due date and time to meet the SDB participation goal.
3. **SDB Requirements:** To be considered an SDB, a firm must be a **DGS-verified** small minority business enterprise (MBE); woman business enterprise (WBE); LGBT business enterprise (LGBTBE); Disability-owned business enterprise (DOBE); Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE); or otherwise deemed disadvantaged by the Uniform Certification Program.

Additional information on the DGS verification process can be found at:  
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>

## SDB-1

### INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.

4. Dually verified firms. If a DGS-verified SDB is dually verified as a VBE, the firm may receive credit towards both the SDB participation goal and the VBE participation goal as set forth on the SDB and VBE Participation Summary Sheet.

*Example: The SDB participation goal is 10% and the VBE participation goal is 5%. A subcontractor is DGS-verified as both an SDB and a VBE and will perform 10% of the contract work. The prime contractor can satisfy both the SDB participation goal and the VBE participation goal through that subcontractor's performance of 10% of the contract work., unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office. However, an SDB firm verified as both a WBE and MBE may not be double counted toward satisfying the SDB participation goal.*

5. Participation by SDB firms as prime bidders/offerors or subcontractors. A Bidder/Offeror that qualifies as an SDB and submits a bid or proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Bidders/Offerors. An SDB may be included as a subcontractor with as many prime contractors as it chooses in separate bids or proposals and a prime contractor may not prohibit an SDB from committing to any other prime contractor.
6. Questions about SDB verification. Questions regarding the SDB program, including questions about the self-certification and verification processes can be directed to:

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

### III. Guidelines Regarding SDB Prime Self-Performance.

1. An SDB firm participating as a prime bidder or offeror on a procurement may receive credit towards the SDB Participation goal established for the procurement through their own self-performance.

*Example: A solicitation has a 15% SDB participation goal. An SDB prime offeror self-performing contract work valued at only 10% of contract costs (if permitted by the solicitation documents) must still satisfy the remaining 5% SDB participation goal through subcontracting or must request a Good Faith Efforts Waiver for the unmet SDB participation goal. Failure to satisfy the remaining 5% SDB participation goal or failure to obtain a Good Faith Efforts waiver for the*



## **SDB-1**

### **INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

*unmet portion of the SDB participation goal will result in rejection of that SDB prime's bid or proposal as nonresponsive.*

2. For an SDB prime bidder or offeror to receive credit for self-performance, the SDB prime bidder or offeror must list itself in the **SDB Utilization Schedule (SDB-3)**.
3. The SDB prime bidder or offeror must also include the classification category (MBE, WBE, LGBTBE, DOBE, and/or SDVBE) under which it is self-performing and include information regarding the work it will self-perform. For any portion of the SDB participation goal not met through the SDB prime bidder or offeror's self-performance, the SDB bidder or offeror must also identify on the **SDB Utilization Schedule (SDB-3)** the other SDB subcontractors it will use to meet the unmet portion of the goal or must request and receive a Good Faith Efforts waiver.

#### **IV. Calculating SDB participation**

1. The selected Bidder or Offeror may only count dollar amounts actually paid to an SDB for performance of a Commercially Useful Function (the performance of a distinct element of work required for the Contract, with the requisite skill and expertise) towards satisfying its SDB participation commitments. In addition, the SDB subcontractor, through its own employees, must perform at least 50% of the amount of the subcontract.

#### **V. Additional Required Documentation.**

1. The Bidder or Offeror must submit along with its SDB Participation Submittal (SDB-2) a letter of commitment (LOC) (SDB-3-1) for each subcontractor included in its SDB Utilization Schedule (SDB-3). At a minimum, each LOC must contain the following unless otherwise specified by the solicitation documents:
  - a. The fixed numerical percentage commitment and associated estimated gross dollar value of the commitment made to the SDB; and
  - b. A description of the services or supplies the SDB will provide; and
  - c. The timeframe during the initial contract term and any extensions, options and renewals when the SDB will perform or provide the services and/or supplies; and
  - d. The name and telephone number of the Bidder or Offeror's point of contact for SDB participation; and
  - e. The name, address, and telephone number of the primary contact person for the SDB; and
  - f. Signatures of representatives of both the Bidder/Offeror and the SDB subcontractor who are authorized to contractually bind their firm.

**SDB-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (SDB)  
PARTICIPATION SUBMITTAL AND SDB UTILIZATION SCHEDULE.**

**VI. Document Submittal Errors.**

1. **Fatal errors.** The following errors will result in rejection of a bid or proposal as non-responsive:
  - a. Failure to submit a completed **SDB Participation Submittal (SDB-2)**;
  - b. Failure to submit an **SDB Utilization Schedule (SDB-3)**, unless the bidder or offer is seeking a complete Good Faith Efforts waiver;
  - c. Failure to make commitments to and list **DGS-verified** SDBs that will be used to meet the SDB participation goal, unless the bidder or offeror's commitments to other DGS-verified SDBs meet or exceed the SDB Participation goal;
  - d. Failure to submit a Good Faith Efforts waiver request when not fully meeting the SDB participation goal.

*Example: A bidder/offeror lists a subcontractor that possesses a third-party certificate issued by one of the DGS-approved third party certifying entities; however, the subcontractor did not complete its DGS SDB verification as of the bid or proposal due date and time. The bidder/offeror does not receive credit for any commitments made to the subcontractor and has therefore not met the SDB participation goal. The bidder/offeror cannot cure this error. Therefore, the bid or proposal must be rejected as non-responsive.*

2. **Potentially curable errors.** The Issuing Office and BDISBO may provide Bidders or Offerors the opportunity to provide clarifications or to correct errors not listed as fatal errors above. If the additionally submitted information does not adequately address the or clarify the submittal, the bid or proposal may be rejected. **Bidders or Offerors are not permitted to add additional SDBs or make material changes as part of its clarifications or corrections in order to meet the SDB participation goal.**
3. **Solicitations with Multiple Lots or Base Bids.** If the Bid or Proposal contains separate Lots or multiple Base Bids, an Offeror must complete and submit a separate **SDB Participation Submittal (SDB-2)** and accompanying required documentation for EACH Lot or Base Bid for which it is submitting a bid or proposal. Each separate **SDB Participation Submittal** and accompanying required documentation must be labeled to identify the corresponding Lot or Base Bid. Failure to submit an **SDB Participation Submittal** and accompanying required documentation for each Lot or Base Bid will result in the rejection of the bid or proposal for each Lot or Base Bid for which an **SDB Participation Submittal** was not submitted.

**SDB-2**  
**SDB PARTICIPATION SUBMITTAL**

**CHECK ONE, AND ONLY ONE, BOX. FAILURE TO COMPLY WILL RESULT IN REJECTION OF YOUR BID/PROPOSAL.**

*Click on bold titles to navigate to that specific page.*

**I agree to meet the SDB participation goal in full.**

I have completed and am submitting with my bid or proposal an **SDB Utilization Schedule (SDB-3)**, which is required in order to be considered for award.

**I am requesting a partial waiver of the SDB participation goal.**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve the total SDB participation goal for this solicitation and am requesting a partial waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal both of the following, which are required in order to be considered for award:

1. an **SDB Utilization Schedule (SDB-3)** for that portion of the SDB participation goal that I will meet; AND
2. a **Good Faith Efforts Waiver Request** for the portion of the SDB participation goals that I am unable to meet.

**I am requesting a full waiver of the SDB participation goal**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the SDB Participation Goal**, I am unable to achieve any part of the SDB participation goal for this solicitation and am requesting a full waiver of the SDB participation goal.

I have completed and am submitting with my bid or proposal a **Good Faith Efforts Waiver Request** for the complete SDB participation goal, which is required in order to be considered for award.

NOTE: SDB primes who are submitting as bidders or offerors must complete an **SDB Utilization Schedule (SDB-3)** identifying any self-performance towards the SDB participation goal.

**SDB-3**  
**SDB UTILIZATION SCHEDULE**

List in the chart below SDBs (including where applicable a prime bidder or offeror is self-performing a portion of the work) that will be used to meet the SDB participation goal (add additional pages if necessary). Submit a **Letter of Commitment (SDB-3-1)** for each SDB subcontractor (add additional Letters of Commitment as necessary).

SDB Name SAP Vendor Number (6-digit number provided by SDB) SDB Verification Number (located on DGS SDB verification)	Type of SDB (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by SDB bidder/offeror)	Associated Dollar Value of Commitment
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> SDB Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: Premier Systems Sales Ltd SAP Vendor Number: 312788 SDB Verification Number: 312788-2020-02-SB	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		15 %	Fifteen percent of contract value.
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: SDB Verification Number:	<input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		%	
<b>Attach additional sheets if necessary</b>			Total % SDB commitment: <u>15%</u>	Total \$ amount: <u>TBD</u>

**SDB-3-1**  
**LETTER OF COMMITMENT**

This Letter of Commitment serves as confirmation of the commitment by the prime Bidder or Offeror to utilize the Small Diverse Business (SDB) on the below-referenced Solicitation/Project.

Solicitation Number: 6100057583

Solicitation Name: Enterprise Storage Hardware and Related Services

	Bidder/Offeror Information	SDB Information
Name	SHI International, Corporation	Premier Systems Sales Ltd
Address	290 Davidson Avenue Somerset, NJ 08873	149 Inverness Drive, Blue Bell, PA 19422
Point of Contact	Tom Schroeder	Stephen Reese, VP
Telephone number	717-979-4094	610-306-3175
Email address	tom_schroeder@shi.com	stephen.reese@pscltd.com

Services/Supplies and Time Frame. If Bidder/Offeror is the successful vendor, the SDB shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the SDB will provide:

Specific Time Frame the SDB will provide the services or supplies:

Percentage Commitment. These services or supplies represent 15 % of the total cost of the Bidder/Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the SDB will receive \$ TBD during the initial contract term.

SDB verified. By signing below, the SDB represents that it meets the SDB requirements set forth in the Solicitation and all required documentation has been provided to the Bidder/Offeror for its SDB submission.

Sincerely,

Acknowledged

Stephen Reese

Printed name

Printed name

Signature

Bidder/Offeror Point of Contact Name

Signature

SDB Point of Contact Name

*\* For purposes of monitoring compliance with SDB and VBE commitments, the work performed by a firm that is both an SDB and a VBE will be counted by BDISBO towards fulfilling both the SDB and VBE commitments unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office.*

**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

*Bidders/Offerors do not need to return SDB-4 with their SDB Participation Submittal*

In order for its bid or proposal to be responsive, the Bidder or Offeror must either (1) meet the SDB participation goal and document its commitments for participation of SDB firms, or (2) when it does not meet the SDB participation goal, submit a Good Faith Efforts waiver request as set forth in Section IV below and the **Good Faith Efforts Documentation to Support Waiver Request (SDB-5)** of the SDB Participation Goal.

## **I. Definitions**

**SDB participation goal** – “SDB participation goal” refers to the SDB participation goal set for a procurement for MBE, WBE, LGBTBE, DOBE, and SDVBE utilization.

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the SDB participation goal. Those steps are considered necessary and reasonable when their scope, intensity, and relevance could reasonably be expected to obtain sufficient SDB participation, even if those steps were not fully successful. The Issuing Agency and Department of General Services’ Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) will determine whether or not the Offeror requesting a Good Faith Efforts waiver made adequate Good Faith Efforts by considering the quality, quantity, and intensity of the Offeror’s efforts. Mere *pro forma* efforts are not Good Faith Efforts to meet the SDB participation requirements. The determination concerning the sufficiency of the Offeror's Good Faith Efforts is subjective; meeting quantitative formulas is not required.

**Identified Items of Work** – all reasonably identifiable subcontractable work opportunities under a resulting contract for performance by subcontractors.

**Identified SDBs**– all of the SDBs the Offeror has identified as available to perform the Identified Items of Work and should include all DGS-verified SDBs that are reasonably identifiable.

**Offeror** – for purposes of this **Good Faith Efforts Documentation to Support Waiver Request**, the term “Offeror” includes any entity responding to a solicitation, including invitations for bids, requests for proposals, and other types of best value solicitations.

**SDB** – “SDB” refers to Minority Business Enterprises (MBE), Women Business Enterprises (WBE), Disability-Owned Business Enterprises (DOBE), LGBT-Owned Business Enterprises (LGBTBE), Service-Disabled Veteran-Owned Small Business Enterprise (SDVBE) verified by BDISBO, or otherwise deemed disadvantaged by the Uniform Certification Program.

## **II. Types of Actions Agency and BDISBO will Consider**

The following is a list of types of actions the procuring agency and BDISBO will consider as part of the Offeror's Good Faith Efforts when the Offeror is unable to meet, in full, the SDB

**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL  
DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

participation goal. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A. Identify Proposal Items as Work for SDBs**

1. Identified Items of Work

- (a) Offerors should reasonably identify sufficient items of work to be performed by SDBs.
- (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate SDB participation, rather than perform these work items with their own forces. **The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts to meet the SDB participation goal.**

**B. Identify SDBs to Solicit**

1. Identified SDBs

- (a) Offerors must reasonably identify the SDBs that are available to perform the Identified Items of Work.
- (b) Any SDBs identified as available by the Offeror should be certified to perform the Identified Items of Work.

**C. Solicit SDBs**

- 1. Offerors must solicit a reasonable number of identified SDBs for all Identified Items of Work by providing written notice. The Offeror must:
  - (a) provide the written solicitation to the Identified SDBs at least 10 days prior to Bid or Proposal due date to allow sufficient time for the Identified SDB to respond;
  - (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the BDISBO Directory, unless the Offeror has a valid basis for using different contact information; and
  - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the Identified SDB, and other requirements of the contract to assist Identified SDBs in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

## SDB-4

### GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL

2. “All” Identified SDBs includes any SDB Firms the Offeror identifies as potentially available to perform the Identified Items of Work, but it does not include Identified SDBs who are no longer certified to perform the work as of the date the Offeror provides written solicitations.
3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested SDB cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested SDB.
4. Offerors must follow up on initial written solicitations by contacting Identified SDBs to determine their interest in bidding. The follow up contact may be made:
  - (a) by telephone using the contact information in BDISBO’s Directory, unless the Offeror has a valid basis for using different contact information; or
  - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, offerors must use all other reasonable and available means to solicit the interest of Identified SDBs certified to perform the work of the contract. Examples of other means include:
  - (a) attending any Supplier Forums, or Pre-Proposal or Pre-Bid conferences at which SDBs could be informed of contracting and subcontracting opportunities; and
  - (b) if recommended by the procurement, advertising with or effectively using the services of at least two diversity-focused entities or media, including trade associations, minority/women/disability/LGBT community organizations, minority/women/disability/LGBT contractors' groups, and local, state, and federal minority/women/disability/LGBT business assistance offices.

#### **D. Negotiate with Interested SDBs**

Offerors must negotiate in good faith with interested SDBs.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of SDBs that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and



**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

- (c) evidence as to why additional agreements could not be reached for SDBs to perform the work.
2. In negotiating with subcontractors, the offeror should consider a subcontractor's price and capabilities as well as the SDB participation goal.
  3. Additional costs incurred in finding and using SDBs are not sufficient justification for the Offeror's failure to meet the SDB participation goal, as long as such costs are reasonable. Factors to take into consideration when determining whether an SDB's quote is excessive or unreasonable include, without limitation, the following:
    - (a) dollar difference between the SDB subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (b) percentage difference between the SDB subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (c) percentage that the SDB subcontractor's quote represents of the total contract cost;
    - (d) whether the work described in the SDB and Non-SDB subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
    - (e) number of quotes received by the Offeror for that portion of the work.
  4. The factors in paragraph 3 above are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
  5. The Offeror may not use its price for self-performing work as a basis for rejecting an SDB's quote as excessive or unreasonable.
  6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an SDB and one quote from a non-SDB.
  7. The Offeror shall not reject an SDB as unqualified without sound justification based on a thorough investigation of the SDB's capabilities. For each SDB that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement outlining the justification for its conclusion. The Offeror also must document the steps taken to verify the capabilities of the SDB and non-SDB Firms quoting similar work.

## **SDB-4**

### **GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

- (a) The factors to take into consideration when assessing the capabilities of an SDB include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
- (b) The SDB's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the SDB participation goal.

#### **E. Assisting Interested SDBs**

When appropriate under the circumstances, the procuring agency and BDISBO will consider whether the Offeror made reasonable efforts to assist interested SDBs in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
2. Necessary equipment, supplies, materials, or related assistance or services.

#### **III. Other Considerations**

In making a determination of Good Faith Efforts, the procuring agency and BDISBO may consider engineering estimates, catalogue prices, general market availability and availability of certified SDBs in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between SDB and non-SDB costs of participation, and their impact on the overall cost of the contract to the Commonwealth and any other relevant factors.

The procuring agency and BDISBO may consider whether the Offeror decided to self-perform potentially subcontractable work with its own forces. The procuring agency and BDISBO also may consider the performance of other Offerors in meeting the SDB participation goal. For example, when the apparent successful Offeror fails to meet the SDB participation goal, but others meet it, this raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the SDB participation goal. If the apparent successful Offeror fails to meet the SDB participation goal but meets or exceeds the average SDB participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

#### **IV. Documenting Good Faith Efforts**

At a minimum, the Offeror seeking a Good Faith Efforts waiver of the SDB participation goal or a portion thereof must provide written documentation of its Good Faith Efforts along with its bid or proposal. The written documentation shall include the following:

**SDB-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

**A. Items of Work (complete SDB-5, Part 1 – Identified Items of Work Offeror Made Available to SDBs)**

A detailed statement of the efforts made to select portions of the contract work proposed to be performed by SDBs in order to increase the likelihood of achieving the SDB participation goal.

**B. Outreach/Solicitation/Negotiation**

1. A detailed statement of the efforts made to contact and negotiate with SDBs including:
  - (a) the names, addresses, and telephone numbers of the SDBs who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) **(complete SDB-5, Part 2 – Identified SDB Firms and Records of Solicitations. Include letters, fax cover sheets, e-mails, etc. documenting solicitations);** and
  - (b) a description of the information provided to SDBs regarding the plans, specifications, and anticipated time schedule for portions of the contract work to be performed and the means used to provide that information.
2. The record of the Offeror's compliance with the outreach efforts set forth in **SDB-5, Part 3 - Outreach Efforts Compliance Statement.**

**C. Rejected SDBs (complete SDB-5, Part 4 - Additional Information Regarding Rejected SDB Quotes)**

1. For each SDB that the Offeror concludes is not acceptable or qualified, provide a detailed statement of the reasons for this conclusion, including the steps taken to verify the capabilities of the SDB and non-SDB firms quoting similar work.
2. For each SDB that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all SDB and non-SDB firms proposing on the same or comparable work. **(Include copies of all quotes received.)**

**D. Unavailable SDBs (complete SDB-5, Part 5 – SDB Subcontractor Unavailability Certificate)**

1. **For each SDB that the Offeror contacted but found to be unavailable, submit an SDB Subcontractor Unavailability Certificate** signed by the SDB, an email from the SDB indicating the SDB is unavailable, or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

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**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL  
DIVERSE BUSINESS (SDB) PARTICIPATION GOAL**

**E. Other Documentation**

1. Submit any other documentation requested by BDISBO or the Procuring Agency to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help BDISBO or the Procuring Agency ascertain its Good Faith Efforts.

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

<b>Project Description:</b>	
<b>Commonwealth Agency Name:</b>	
<b>Solicitation #:</b>	
<b>Solicitation Due Date and Time:</b>	

<b>Bidder/Offeror Company Name:</b>	
Bidder/Offeror Contact Name:	
Bidder/Offeror Contact Email:	
Bidder/Offeror Contact Phone Number:	

**Part 1 – Identified Items of Work Offeror Made Available to SDBs**

Identify those items of contract work that the Offeror made available to SDBs. This includes, where appropriate, those items the Offeror identified and subdivided into economically feasible units to facilitate the SDB participation. For each item listed, show the anticipated percentage of the total contract cost. Offeror must demonstrate that enough work to meet the SDB participation goal was made available to SDBs, and the total percentage of the items of work identified for SDB participation met or exceeded the SDB participation goal set for the procurement.

Identified Items of Work	Was this work listed in the solicitation?	Does Offeror normally self-perform this work?	Was this work made available to SDB Firms? If not, explain why.
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no
	___ yes ___ no	___ yes ___ no	___ yes ___ no

Attach additional sheets if necessary.

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

**Part 2 – Identified SDBs and Record of Solicitations**

Identify the SDBs solicited to provide quotes for the Identified Items of Work made available for SDB participation. Include the name of the SDB solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the SDB provided a quote, and whether the SDB is being used toward meeting the SDB participation goal. SDBs used to meet the SDB participation goal must be listed on the **SDB Utilization Schedule (SDB-2)**.

Note: Copies of all written solicitations and documentation of follow-up calls to SDBs must be attached to this form. For each Identified SDB listed below, Offeror should submit an SDB Subcontractor Unavailability Certificate signed by the SDB or a statement from the Offeror that the SDB refused to sign the SDB Subcontractor Unavailability Certificate.

Name of Identified SDB and Classification	Describe Item of Work Solicited	Initial Solicitation Date & Method	Follow-up Solicitation Date & Method	Details for Follow-up Calls	Quote Received?	Quote Used?	Reason Quote Rejected
SDB Name:  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date and Time of Call:  Spoke with:  Left Message:	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> Used other SDB <input type="checkbox"/> Used non-SDB <input type="checkbox"/> Self performing
SDB Name:  <input type="checkbox"/> MBE <input type="checkbox"/> WBE <input type="checkbox"/> LGBTBE <input type="checkbox"/> DOBE <input type="checkbox"/> SDVBE		Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date:  <input type="checkbox"/> mail <input type="checkbox"/> email <input type="checkbox"/> fax	Date and Time of Call:  Spoke with:  Left Message:	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> Used other SDB <input type="checkbox"/> Used non-SDB <input type="checkbox"/> Self performing

Attach additional sheets as necessary.

**SDB-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**SDB PARTICIPATION GOAL**

**Part 3 – SDB Outreach Compliance Statement**

- 1. List the Identified Items of Work for subcontracting opportunities for the solicitation along with specific work categories:**

- 2. Attach to this form copies of written solicitations (with Bid or Proposal instructions) used to solicit Identified SDBs for these subcontract opportunities.**

- 3. Offeror made the following attempts to contact the Identified SDBs:**

- 4. Bonding Requirements (Please Check One):**

\_\_\_\_\_ This project does not involve bonding requirements.

\_\_\_\_\_ Offeror assisted Identified SDBs to fulfill or seek waiver of bonding requirements.  
(DESCRIBE EFFORTS):

- 5. Pre-Bid/Proposal Conference or Supplier Forum (Please Check One):**

\_\_\_\_\_ Offeror did attend the pre-Bid/Proposal conference or Supplier Forum

\_\_\_\_\_ No pre-Bid/Proposal conference or Supplier Forum was held

\_\_\_\_\_ Offeror did not attend the pre-Bid/Proposal conference or Supplier Forum

**SDB-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF SDB PARTICIPATION GOAL**

**Part 4 – Additional Information Regarding Rejected SDB Quotes**

This form must be completed if Part 2 indicates that an SDB quote was rejected because the Offeror is using a non-SDB or is self-performing the Identified Items of Work. List the Identified Items of Work, state whether the work will be self-performed or performed by a non-SDB, and if applicable, state the name of the non-SDB firm. Also include the names of all SDBs and non-SDB firms that provided a quote and the amount of each quote.

<b>Describe Identified Items of Work not being performed by SDBs (include specific section from bid or proposal)</b>	<b>Self-performing or using non-SDB (provide name of non-SDB if applicable)</b>	<b>Amount of non-SDB quote \$</b>	<b>Name of other firms that provided quotes and whether they are SDB</b>	<b>Amount quoted \$</b>	<b>Reason why SDB quote was rejected along with brief explanation</b>
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-SDB Name:		<input type="checkbox"/> SDB <input type="checkbox"/> Non-SDB Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other

Attach additional sheets as necessary.



**SDB-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**SDB PARTICIPATION GOAL**

**Part 5 – SDB Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of SDB)

located at \_\_\_\_\_  
(Number) (Street)

\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_

by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_ (SDB), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_  
(Signature of SDB's Representative) (Title) (Date)

\_\_\_\_\_  
(DGS SDB Certification #) (Telephone #)

\*\*\*\*\*

3. If the SDB does not complete this form, the prime contractor must complete the following:

To the best of my knowledge and belief, the above-listed SDB is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
(Signature of Bidder/Offeror) (Title) (Date)

**VBE-1**  
**INSTRUCTIONS FOR COMPLETING THE VETERAN BUSINESS ENTERPRISE  
(VBE) PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.**

*PLEASE READ BEFORE COMPLETING THESE DOCUMENTS*  
*Bidders/Offerors do not need to return VBE-1 with their VBE Participation Submittal*

The following instructions include details for completing the VBE Participation Submittal (VBE-2) which Bidders or Offerors must submit in order to be considered responsive.

The following instructions also include details for completing the VBE Utilization Schedule (VBE-3), which Bidders or Offerors must submit for any portion of the VBE participation goal the Bidder or Offeror commits to meeting.

**A Bidder/Offeror's failure to meet the VBE participation goal in full or their failure to receive an approved Good Faith Efforts waiver for any unmet portion of the VBE participation goal will result in the rejection of the Bid or Proposal as nonresponsive.**

I. **VBE Participation Goal:** The VBE participation goal is set forth in the solicitation. The Bidder/Offeror is encouraged to use a diverse group of subcontractors and suppliers from the VBE classifications to meet the VBE participation goal.

II. **VBE Eligibility:**

1. **Finding VBE firms:** Offerors can access the directory of **DGS-verified** VBE firms from the DGS Supplier Search directory at: <http://www.dgs.internet.state.pa.us/suppliersearch>.
2. **Only VBEs verified by DGS** and as defined herein may be counted for purposes of achieving the VBE participation goal. In order to be counted for purposes of achieving the VBE participation goal, the VBE firm, including an VBE prime, **must be DGS-verified for the services, materials or supplies that it has committed to perform on the VBE Utilization Schedule (VBE-3).** A firm whose VBE verification is pending or incomplete as of the bid or proposal due date and time shall not be counted towards the VBE participation goal. Offerors cannot use self-certified SBs that do not have their VBE verification as of the bid or proposal due date and time to meet the VBE participation goal.
3. **VBE Requirements:** To be considered an VBE, a firm must be a **DGS-verified** Veteran-Owned Small Business Enterprise or Service-Disabled Veteran-Owned Small Business Enterprise.

Additional information on the DGS verification process can be found at:  
<https://www.dgs.pa.gov/Small%20Diverse%20Business%20Program/Pages/default.aspx>

## VBE-1

### INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.

4. Dually verified firms. If a DGS-verified SDB is dually verified as a VBE, the firm may receive credit towards both the SDB participation goal and the VBE participation goal as identified for the solicitation.

*Example: The SDB participation goal is 10% and the VBE participation goal is 5%. A subcontractor is DGS-verified as both an SDB and a VBE and will perform 10% of the contract work. The prime contractor can satisfy both the SDB participation goal and the VBE participation goal through that subcontractor's performance of 10% of the contract work., unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office.*

5. Participation by VBE firms as prime bidders/offerors or subcontractors. A Bidder/Offeror that qualifies as an VBE and submits a bid or proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Bidders/Offerors. An VBE may be included as a subcontractor with as many prime contractors as it chooses in separate bids or proposals and a prime contractor may not prohibit an VBE from committing to any other prime contractor.
6. Questions about VBE verification. Questions regarding the VBE program, including questions about the self-certification and verification processes can be directed to:

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

### III. Guidelines Regarding VBE Prime Self-Performance.

1. An VBE firm participating as a prime bidder or offeror on a procurement may receive credit towards the VBE Participation goal established for the procurement through their own self-performance.

*Example: A solicitation has a 15% VBE participation goal. An VBE prime offeror self-performing contract work valued at only 10% of contract costs (if permitted by the solicitation documents) must still satisfy the remaining 5% VBE participation goal through subcontracting or must request a Good Faith Efforts Waiver for the unmet VBE participation goal. Failure to satisfy the remaining 5% VBE participation goal or failure to obtain a Good Faith Efforts waiver for the unmet portion of the VBE participation goal will result in rejection of that VBE prime's bid or proposal as nonresponsive.*

## VBE-1

### INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.

2. For an VBE prime bidder or offeror to receive credit for self-performance, the VBE prime bidder or offeror must list itself in the **VBE Utilization Schedule (VBE-3)**.
3. The VBE prime bidder or offeror must also include the classification category (Veteran-Owned Small Business Enterprise or Service-Disabled Veteran-Owned Small Business Enterprise) under which it is self-performing and include information regarding the work it will self-perform. For any portion of the VBE participation goal not met through the VBE prime bidder or offeror's self-performance, the VBE bidder or offeror must also identify on the **VBE Utilization Schedule (VBE-3)** the other VBE subcontractors it will use to meet the unmet portion of the goal or must request and receive a Good Faith Efforts waiver.

#### IV. Calculating VBE participation

1. The selected Bidder or Offeror may only count dollar amounts actually paid to an VBE for performance of a Commercially Useful Function (the performance of a distinct element of work required for the Contract, with the requisite skill and expertise) towards satisfying its VBE participation commitments. In addition, the VBE subcontractor, through its own employees, must perform at least 50% of the amount of the subcontract.

#### V. Additional Required Documentation.

1. The Bidder or Offeror must submit along with its VBE Participation Submittal (VBE-2) a letter of commitment (LOC) (VBE-3-1) for each subcontractor included in its VBE Utilization Schedule (VBE-3). At a minimum, each LOC must contain the following unless otherwise specified by the solicitation documents:
  - a. The fixed numerical percentage commitment and associated estimated gross dollar value of the commitment made to the VBE; and
  - b. A description of the services or supplies the VBE will provide; and
  - c. The timeframe during the initial contract term and any extensions, options and renewals when the VBE will perform or provide the services and/or supplies; and
  - d. The name and telephone number of the Bidder or Offeror's point of contact for VBE participation; and
  - e. The name, address, and telephone number of the primary contact person for the VBE; and
  - f. Signatures of representatives of both the Bidder/Offeror and the VBE subcontractor who are authorized to contractually bind their firm.

**VBE-1**  
**INSTRUCTIONS FOR COMPLETING THE SMALL DIVERSE BUSINESS (VBE)  
PARTICIPATION SUBMITTAL AND VBE UTILIZATION SCHEDULE.**

**VI. Document Submittal Errors.**

1. **Fatal errors.** The following errors will result in rejection of a bid or proposal as non-responsive:
  - a. Failure to submit a completed **VBE Participation Submittal (VBE-2)**;
  - b. Failure to submit an **VBE Utilization Schedule (VBE-3)**, unless the bidder or offer is seeking a complete Good Faith Efforts waiver;
  - c. Failure to make commitments to and list **DGS-verified** VBEs that will be used to meet the VBE participation goal, unless the bidder or offeror's commitments to other DGS-verified VBEs meet or exceed the VBE Participation goal;
  - d. Failure to submit a Good Faith Efforts waiver request when not fully meeting the VBE participation goal.

*Example: A bidder/offeror lists a subcontractor that possesses a third-party certificate issued by one of the DGS-approved third party certifying entities; however, the subcontractor did not complete its DGS VBE verification as of the bid or proposal due date and time. The bidder/offeror does not receive credit for any commitments made to the subcontractor and has therefore not met the VBE participation goal. The bidder/offeror cannot cure this error. Therefore, the bid or proposal must be rejected as non-responsive.*

2. **Potentially curable errors.** The Issuing Office and BDISBO may provide Bidders or Offerors the opportunity to provide clarifications or to correct errors not listed as fatal errors above. If the additionally submitted information does not adequately address the or clarify the submittal, the bid or proposal may be rejected. **Bidders or Offerors are not permitted to add additional VBEs or make material changes as part of its clarifications or corrections in order to meet the VBE participation goal.**
3. **Solicitations with Multiple Lots or Base Bids.** If the Bid or Proposal contains separate Lots or multiple Base Bids, an Offeror must complete and submit a separate **VBE Participation Submittal (VBE-2)** and accompanying required documentation for EACH Lot or Base Bid for which it is submitting a bid or proposal. Each separate **VBE Participation Submittal** and accompanying required documentation must be labeled to identify the corresponding Lot or Base Bid. Failure to submit an **VBE Participation Submittal** and accompanying required documentation for each Lot or Base Bid will result in the rejection of the bid or proposal for each Lot or Base Bid for which an **VBE Participation Submittal** was not submitted.

**VBE-2**  
**VBE PARTICIPATION SUBMITTAL**

**CHECK ONE, AND ONLY ONE, BOX. FAILURE TO COMPLY WILL RESULT IN REJECTION OF YOUR BID/PROPOSAL.**

*Click on bold titles to navigate to that specific page.*

**I agree to meet the VBE participation goal in full.**

I have completed and am submitting with my bid or proposal an **VBE Utilization Schedule (VBE-3)**, which is required in order to be considered for award.

**I am requesting a partial waiver of the VBE participation goal.**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the VBE Participation Goal**, I am unable to achieve the total VBE participation goal for this solicitation and am requesting a partial waiver of the VBE participation goal.

I have completed and am submitting with my bid or proposal both of the following, which are required in order to be considered for award:

1. an **VBE Utilization Schedule (VBE-3)** for that portion of the VBE participation goal that I will meet; AND
2. a **Good Faith Efforts Waiver Request** for the portion of the VBE participation goals that I am unable to meet.

**I am requesting a full waiver of the VBE participation goal**

After making good faith outreach efforts as more fully described in the **Guidance for Documenting Good Faith Efforts to Meet the VBE Participation Goal**, I am unable to achieve any part of the VBE participation goal for this solicitation and am requesting a full waiver of the VBE participation goal.

I have completed and am submitting with my bid or proposal a **Good Faith Efforts Waiver Request** for the complete VBE participation goal, which is required in order to be considered for award.

NOTE: VBE primes who are submitting as bidders or offerors must complete an **VBE Utilization Schedule (VBE-3)** identifying any self-performance towards the VBE participation goal.

**VBE-3**  
**VBE UTILIZATION SCHEDULE**

List in the chart below VBEs (including where applicable a prime bidder or offeror is self-performing a portion of the work) that will be used to meet the VBE participation goal (add additional pages if necessary). Submit a **Letter of Commitment (VBE-3-1)** for each VBE subcontractor (add additional Letters of Commitment as necessary).

VBE Name SAP Vendor Number (6-digit number provided by VBE) VBE Verification Number (located on DGS VBE verification)	Type of VBE (check all that apply)	Description of Work to be Performed (Statement of Work/Specification reference)	% Commitment (or % of work to be self-performed by VBE bidder/offeror)	Associated Dollar Value of Commitment
Name: <u>ABC IT Solutions</u> SAP Vendor Number: <u>123456</u> VBE Verification Number: <u>123456-2016-09-SB-M</u>	MBE	IT staffing resources	%	\$
Name: Berry Solutions Group SAP Vendor Number: 0000543498 VBE Verification Number: 43498505007-VBE-S	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		3 %	Three percent of contract value.
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
Name: SAP Vendor Number: VBE Verification Number:	<input type="checkbox"/> VBE <input type="checkbox"/> SDVBE		%	
<b>Attach additional sheets if necessary</b>			Total % VBE commitment: <u>3%</u>	Total \$ amount: <u>TBD</u>

**VBE-3-1**  
**LETTER OF COMMITMENT**

This Letter of Commitment serves as confirmation of the commitment by the prime Bidder or Offeror to utilize the Small Diverse Business (VBE) on the below-referenced Solicitation/Project.

Solicitation Number: 6100057583

Solicitation Name: Enterprise Storage Hardware and Related Services

	Bidder/Offeror Information	VBE Information
Name	SHI International Corporation	Berry Solutions Group
Address	290 Davidson Avenue Somerset, NJ 08873	39000 Industrial Park Dr. Altoona, PA 16602
Point of Contact	Tom Schroeder	Jeff Wilson
Telephone number	717-979-4094	814-283-4338
Email address	tom_schroeder@shi.com	jeff@berrysolutionsgroup.com

Services/Supplies and Time Frame. If Bidder/Offeror is the successful vendor, the VBE shall perform or provide the following services or supplies during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below:

Services or supplies the VBE will provide:

Specific Time Frame the VBE will provide the services or supplies:

Percentage Commitment. These services or supplies represent 3 % of the total cost of the Bidder/Offeror's cost submittal for the initial term of the contract. Depending on actual contract usage or volume, it is expected the VBE will receive \$ TBD during the initial contract term.

VBE verified. By signing below, the VBE represents that it meets the VBE requirements set forth in the Solicitation and all required documentation has been provided to the Bidder/Offeror for its VBE submission.

Sincerely,

Sarah St John

Printed name



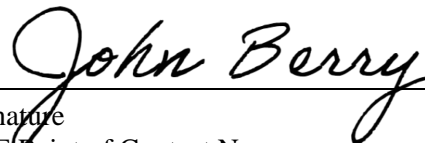
Signature

Bidder/Offeror Point of Contact Name

Acknowledged

John Berry

Printed name



Signature

VBE Point of Contact Name

*\* For purposes of monitoring compliance with SDB and VBE commitments, the work performed by a firm that is both an SDB and a VBE will be counted by BDISBO towards fulfilling both the SDB and VBE commitments unless otherwise agreed to by the parties in writing and approved by BDISBO and the Issuing Office.*



**VBE-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

*Bidders/Offerors do not need to return VBE-4 with their VBE Participation Submittal*

In order for its bid or proposal to be responsive, the Bidder or Offeror must either (1) meet the VBE participation goal and document its commitments for participation of VBE firms, or (2) when it does not meet the VBE participation goal, submit a Good Faith Efforts waiver request as set forth in Section IV below and the **Good Faith Efforts Documentation to Support Waiver Request (VBE-5)** of the VBE Participation Goal.

## **I. Definitions**

**Good Faith Efforts** - The “Good Faith Efforts” requirement means that when requesting a waiver, the Offeror must demonstrate that it took all necessary and reasonable steps to achieve the VBE participation goal. Those steps are considered necessary and reasonable when their scope, intensity, and relevance could reasonably be expected to obtain sufficient VBE participation, even if those steps were not fully successful. The Issuing Agency and Department of General Services’ Bureau of Diversity, Inclusion and Small Business Opportunities (BDISBO) will determine whether or not the Offeror requesting a Good Faith Efforts waiver made adequate Good Faith Efforts by considering the quality, quantity, and intensity of the Offeror’s efforts. Mere *pro forma* efforts are not Good Faith Efforts to meet the VBE participation requirements. The determination concerning the sufficiency of the Offeror's Good Faith Efforts is subjective; meeting quantitative formulas is not required.

**Identified Items of Work** – all reasonably identifiable subcontractable work opportunities under a resulting contract for performance by subcontractors.

**Identified VBEs**– all of the VBEs the Offeror has identified as available to perform the Identified Items of Work and should include all DGS-verified VBEs that are reasonably identifiable.

**Offeror** – for purposes of this **Good Faith Efforts Documentation to Support Waiver Request**, the term “Offeror” includes any entity responding to a solicitation, including invitations for bids, requests for proposals, and other types of best value solicitations.

**VBE** – “VBE” refers to Veteran-Owned Small Business Enterprises or Service-Disabled Veteran-Owned Small Business Enterprise verified by BDISBO.

**VBE participation goal** – “VBE participation goal” refers to the VBE participation goal set for a procurement for Veteran-Owned Small Businesses and Service-Disabled Veteran-Owned Small Businesses.

## **II. Types of Actions Agency and BDISBO will Consider**

The following is a list of types of actions the procuring agency and BDISBO will consider as part of the Offeror's Good Faith Efforts when the Offeror is unable to meet, in full, the VBE

**VBE-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL  
DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

participation goal. This list is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

**A. Identify Proposal Items as Work for VBEs**

1. Identified Items of Work

- (a) Offerors should reasonably identify sufficient items of work to be performed by VBEs.
- (b) Where appropriate, Offerors should break out contract work items into economically feasible units to facilitate VBE participation, rather than perform these work items with their own forces. **The ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the Offeror of the responsibility to make Good Faith Efforts to meet the VBE participation goal.**

**B. Identify VBEs to Solicit**

1. Identified VBEs

- (a) Offerors must reasonably identify the VBEs that are available to perform the Identified Items of Work.
- (b) Any VBEs identified as available by the Offeror should be certified to perform the Identified Items of Work.

**C. Solicit VBEs**

- 1. Offerors must solicit a reasonable number of identified VBEs for all Identified Items of Work by providing written notice. The Offeror must:
  - (a) provide the written solicitation to the Identified VBEs at least 10 days prior to Bid or Proposal due date to allow sufficient time for the Identified VBE to respond;
  - (b) send the written solicitation by first-class mail, facsimile, or e-mail using contact information in the BDISBO Directory, unless the Offeror has a valid basis for using different contact information; and
  - (c) provide adequate information about the plans, specifications, anticipated time schedule for portions of the work to be performed by the Identified VBE, and other requirements of the contract to assist Identified VBEs in responding. (This information may be provided by including hard copies in the written solicitation or by electronic means as described in C.3 below.)

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### GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION GOAL

2. “All” Identified VBEs includes any VBE Firms the Offeror identifies as potentially available to perform the Identified Items of Work, but it does not include Identified VBEs who are no longer certified to perform the work as of the date the Offeror provides written solicitations.
3. “Electronic Means” includes, for example, information provided *via* a website or file transfer protocol (FTP) site containing the plans, specifications, and other requirements of the contract. If an interested VBE cannot access the information provided by electronic means, the Offeror must make the information available in a manner that is accessible to the interested VBE.
4. Offerors must follow up on initial written solicitations by contacting Identified VBEs to determine their interest in bidding. The follow up contact may be made:
  - (a) by telephone using the contact information in BDISBO’s Directory, unless the Offeror has a valid basis for using different contact information; or
  - (b) in writing *via* a method that differs from the method used for the initial written solicitation.
5. In addition to the written solicitation set forth in C.1 and the follow up required in C.4, offerors must use all other reasonable and available means to solicit the interest of Identified VBEs certified to perform the work of the contract. Examples of other means include:
  - (a) attending any Supplier Forums, or Pre-Proposal or Pre-Bid conferences at which VBEs could be informed of contracting and subcontracting opportunities; and
  - (b) if recommended by the procurement, advertising with or effectively using the services of at least two veteran-focused entities or media, including trade associations, veteran community organizations, veteran contractors' groups, and local, state, and federal veteran business assistance offices.

#### **D. Negotiate with Interested VBEs**

Offerors must negotiate in good faith with interested VBEs.

1. Evidence of negotiation includes, without limitation, the following:
  - (a) the names, addresses, and telephone numbers of VBEs that were considered;
  - (b) a description of the information provided regarding the plans and specifications for the work selected for subcontracting and the means used to provide that information; and

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- (c) evidence as to why additional agreements could not be reached for VBEs to perform the work.
2. In negotiating with subcontractors, the offeror should consider a subcontractor's price and capabilities as well as the VBE participation goal.
  3. Additional costs incurred in finding and using VBEs are not sufficient justification for the Offeror's failure to meet the VBE participation goal, as long as such costs are reasonable. Factors to take into consideration when determining whether an VBE's quote is excessive or unreasonable include, without limitation, the following:
    - (a) dollar difference between the VBE subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (b) percentage difference between the VBE subcontractor's quote and the average of other subcontractors' quotes received by the Offeror;
    - (c) percentage that the VBE subcontractor's quote represents of the total contract cost;
    - (d) whether the work described in the VBE and Non-VBE subcontractor quotes (or portions thereof) submitted for review is the same or comparable; and
    - (e) number of quotes received by the Offeror for that portion of the work.
  4. The factors in paragraph 3 above are not intended to be mandatory, exclusive, or exhaustive, and other evidence of an excessive or unreasonable price may be relevant.
  5. The Offeror may not use its price for self-performing work as a basis for rejecting an VBE's quote as excessive or unreasonable.
  6. The "average of the other subcontractors' quotes received" by the Offeror refers to the average of the quotes received from all subcontractors. Offeror should attempt to receive quotes from at least three subcontractors, including one quote from an VBE and one quote from a non-VBE.
  7. The Offeror shall not reject an VBE as unqualified without sound justification based on a thorough investigation of the VBE's capabilities. For each VBE that is rejected as unqualified or that placed a subcontract quotation or offer that the Offeror concludes is not acceptable, the Offeror must provide a written detailed statement outlining the justification for its conclusion. The Offeror also must document the steps taken to verify the capabilities of the VBE and non-VBE Firms quoting similar work.

## **VBE-4**

### **GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

- (a) The factors to take into consideration when assessing the capabilities of an VBE include, but are not limited to the following: financial capability, physical capacity to perform, available personnel and equipment, existing workload, experience performing the type of work, conduct and performance in previous contracts, and ability to meet reasonable contract requirements.
  
- (b) The VBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of Proposals in the efforts to meet the VBE participation goal.

#### **E. Assisting Interested VBEs**

When appropriate under the circumstances, the procuring agency and BDISBO will consider whether the Offeror made reasonable efforts to assist interested VBEs in obtaining:

1. The bonding, lines of credit, or insurance required by the procuring agency or the Offeror; and
  
2. Necessary equipment, supplies, materials, or related assistance or services.

#### **III. Other Considerations**

In making a determination of Good Faith Efforts, the procuring agency and BDISBO may consider engineering estimates, catalogue prices, general market availability and availability of certified VBEs in the area in which the work is to be performed, other Proposals or offers and subcontract Proposals or offers substantiating significant variances between VBE and non-VBE costs of participation, and their impact on the overall cost of the contract to the Commonwealth and any other relevant factors.

The procuring agency and BDISBO may consider whether the Offeror decided to self-perform potentially subcontractable work with its own forces. The procuring agency and BDISBO also may consider the performance of other Offerors in meeting the VBE participation goal. For example, when the apparent successful Offeror fails to meet the VBE participation goal, but others meet it, this raises the question of whether, with additional reasonable efforts, the apparent successful Offeror could have met the VBE participation goal. If the apparent successful Offeror fails to meet the VBE participation goal but meets or exceeds the average VBE participation obtained by other Offerors, this, when viewed in conjunction with other factors, could be evidence of the apparent successful Offeror having made Good Faith Efforts.

#### **IV. Documenting Good Faith Efforts**

At a minimum, the Offeror seeking a Good Faith Efforts waiver of the VBE participation goal or a portion thereof must provide written documentation of its Good Faith Efforts along with its bid or proposal. The written documentation shall include the following:

**VBE-4**  
**GUIDANCE FOR DOCUMENTING GOOD FAITH EFFORTS TO MEET THE SMALL  
DIVERSE BUSINESS (VBE) PARTICIPATION GOAL**

**A. Items of Work (complete VBE-5, Part 1 – Identified Items of Work Offeror Made Available to VBEs)**

A detailed statement of the efforts made to select portions of the contract work proposed to be performed by VBEs in order to increase the likelihood of achieving the VBE participation goal.

**B. Outreach/Solicitation/Negotiation**

1. A detailed statement of the efforts made to contact and negotiate with VBEs including:
  - (a) the names, addresses, and telephone numbers of the VBEs who were contacted, with the dates and manner of contacts (letter, fax, e-mail, telephone, etc.) **(complete VBE-5, Part 2 – Identified VBE Firms and Records of Solicitations. Include letters, fax cover sheets, e-mails, etc. documenting solicitations)**; and
  - (b) a description of the information provided to VBEs regarding the plans, specifications, and anticipated time schedule for portions of the contract work to be performed and the means used to provide that information.
2. The record of the Offeror's compliance with the outreach efforts set forth in **VBE-5, Part 3 - Outreach Efforts Compliance Statement.**

**C. Rejected VBEs (complete VBE-5, Part 4 - Additional Information Regarding Rejected VBE Quotes)**

1. For each VBE that the Offeror concludes is not acceptable or qualified, provide a detailed statement of the reasons for this conclusion, including the steps taken to verify the capabilities of the VBE and non-VBE firms quoting similar work.
2. For each VBE that the Offeror concludes has provided an excessive or unreasonable price, a detailed statement of the reasons for the Offeror's conclusion, including the quotes received from all VBE and non-VBE firms proposing on the same or comparable work. **(Include copies of all quotes received.)**

**D. Unavailable VBEs (complete VBE-5, Part 5 – VBE Subcontractor Unavailability Certificate)**

1. **For each VBE that the Offeror contacted but found to be unavailable, submit an VBE Subcontractor Unavailability Certificate** signed by the VBE, an email from the VBE indicating the VBE is unavailable, or a statement from the Offeror that the VBE refused to sign the VBE Subcontractor Unavailability Certificate.

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**E. Other Documentation**

1. Submit any other documentation requested by BDISBO or the Procuring Agency to ascertain the Offeror's Good Faith Efforts.
2. Submit any other documentation the Offeror believes will help BDISBO or the Procuring Agency ascertain its Good Faith Efforts.

**VBE-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF VBE PARTICIPATION GOAL**

<b>Project Description:</b>	
<b>Commonwealth Agency Name:</b>	
<b>Solicitation #:</b>	
<b>Solicitation Due Date and Time:</b>	

<b>Bidder/Offeror Company Name:</b>	
Bidder/Offeror Contact Name:	
Bidder/Offeror Contact Email:	
Bidder/Offeror Contact Phone Number:	

**Part 1 – Identified Items of Work Offeror Made Available to VBEs**

Identify those items of contract work that the Offeror made available to VBEs. This includes, where appropriate, those items the Offeror identified and subdivided into economically feasible units to facilitate the VBE participation. For each item listed, show the anticipated percentage of the total contract cost. Offeror must demonstrate that enough work to meet the VBE participation goal was made available to VBEs, and the total percentage of the items of work identified for VBE participation met or exceeded the VBE participation goal set for the procurement.

Identified Items of Work	Was this work listed in the solicitation?	Does Offeror normally self-perform this work?	Was this work made available to VBE Firms? If not, explain why.
	yes no	yes no	yes no
	yes no	yes no	yes no
	yes no	yes no	yes no
	yes no	yes no	yes no
	yes no	yes no	yes no

Attach additional sheets if necessary.



**VBE-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF VBE PARTICIPATION GOAL**

**Part 2 – Identified VBEs and Record of Solicitations**

Identify the VBEs solicited to provide quotes for the Identified Items of Work made available for VBE participation. Include the name of the VBE solicited, items of work for which quotes were solicited, date and manner of initial and follow-up solicitations, whether the VBE provided a quote, and whether the VBE is being used toward meeting the VBE participation goal. VBEs used to meet the VBE participation goal must be listed on the **VBE Utilization Schedule (VBE-2)**.

Note: Copies of all written solicitations and documentation of follow-up calls to VBEs must be attached to this form. For each Identified VBE listed below, Offeror should submit an VBE Subcontractor Unavailability Certificate signed by the VBE or a statement from the Offeror that the VBE refused to sign the VBE Subcontractor Unavailability Certificate.

<b>Name of Identified VBE and Classification</b>	<b>Describe Item of Work Solicited</b>	<b>Initial Solicitation Date &amp; Method</b>	<b>Follow-up Solicitation Date &amp; Method</b>	<b>Details for Follow-up Calls</b>	<b>Quote Received?</b>	<b>Quote Used?</b>	<b>Reason Quote Rejected</b>
VBE Name:  __ VBE __ SDVBE		Date:  __ mail __ email __ fax	Date:  __ mail __ email __ fax	Date and Time of Call:  Spoke with:  Left Message:	  __ yes __ no	  __ yes __ no	  __ Used other VBE __ Used non-VBE __ Self performing
VBE Name:  __ VBE __ SDVBE		Date:  __ mail __ email __ fax	Date:  __ mail __ email __ fax	Date and Time of Call:  Spoke with:  Left Message:	  __ yes __ no	  __ yes __ no	  __ Used other VBE __ Used non-VBE __ Self performing

Attach additional sheets as necessary.

**VBE-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**VBE PARTICIPATION GOAL**

**Part 3 – VBE Outreach Compliance Statement**

- 1. List the Identified Items of Work for subcontracting opportunities for the solicitation along with specific work categories:**

- 2. Attach to this form copies of written solicitations (with Bid or Proposal instructions) used to solicit Identified VBEs for these subcontract opportunities.**

- 3. Offeror made the following attempts to contact the Identified VBEs:**

- 4. Bonding Requirements (Please Check One):**

\_\_\_\_\_ This project does not involve bonding requirements.

\_\_\_\_\_ Offeror assisted Identified VBEs to fulfill or seek waiver of bonding requirements.  
(DESCRIBE EFFORTS):

- 5. Pre-Bid/Proposal Conference or Supplier Forum (Please Check One):**

\_\_\_\_\_ Offeror did attend the pre-Bid/Proposal conference or Supplier Forum

\_\_\_\_\_ No pre-Bid/Proposal conference or Supplier Forum was held

\_\_\_\_\_ Offeror did not attend the pre-Bid/Proposal conference or Supplier Forum

**VBE-5**

**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF VBE PARTICIPATION GOAL**

**Part 4 – Additional Information Regarding Rejected VBE Quotes**

This form must be completed if Part 2 indicates that an VBE quote was rejected because the Offeror is using a non-VBE or is self-performing the Identified Items of Work. List the Identified Items of Work, state whether the work will be self-performed or performed by a non-VBE, and if applicable, state the name of the non-VBE firm. Also include the names of all VBEs and non-VBE firms that provided a quote and the amount of each quote.

<b>Describe Identified Items of Work not being performed by VBEs (include specific section from bid or proposal)</b>	<b>Self-performing or using non-VBE (provide name of non-VBE if applicable)</b>	<b>Amount of non-VBE quote \$</b>	<b>Name of other firms that provided quotes and whether they are VBE</b>	<b>Amount quoted \$</b>	<b>Reason why VBE quote was rejected along with brief explanation</b>
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other
	<input type="checkbox"/> self-performing <input type="checkbox"/> using Non-VBE Name:		<input type="checkbox"/> VBE <input type="checkbox"/> Non-VBE Name:		<input type="checkbox"/> price <input type="checkbox"/> capabilities <input type="checkbox"/> other

Attach additional sheets as necessary.

**VBE-5**  
**GOOD FAITH EFFORTS DOCUMENTATION TO SUPPORT WAIVER REQUEST OF**  
**VBE PARTICIPATION GOAL**

**Part 5 – VBE Subcontractor Unavailability Certificate**

1. It is hereby certified that the firm of \_\_\_\_\_  
(Name of VBE)

located at \_\_\_\_\_  
(Number) (Street)

\_\_\_\_\_  
(City) (State) (Zip)

was offered an opportunity to bid on Solicitation No. \_\_\_\_\_

by \_\_\_\_\_  
(Name of Prime Contractor's Firm)

\*\*\*\*\*

2. \_\_\_\_\_(VBE), is either unavailable for the work/service or unable to prepare a Proposal for this project for the following reason(s):

\_\_\_\_\_  
(Signature of VBE's Representative) (Title) (Date)

\_\_\_\_\_  
(DGS VBE Certification #) (Telephone #)

\*\*\*\*\*

3. If the VBE does not complete this form, the prime contractor must complete the following:

To the best of my knowledge and belief, the above-listed VBE is either unavailable for the work/service for this project, is unable to prepare a Proposal, or did not respond to a request for a price Proposal and has not completed the above portion of this submittal.

\_\_\_\_\_  
(Signature of Bidder/Offeror) (Title) (Date)

## Dedicated Contacts

	Contact Name	Contact Email	Contact Phone
A	Tom Schroeder	Tom_Schroeder@shi.com	717-979-4094
	Jodi Taylor	Jodi_Taylor@shi.com	732-403-54447
	<a href="https://support.hpe.com/">https://support.hpe.com/</a>	<a href="https://support.hpe.com/">https://support.hpe.com/</a>	877-262-6672
	Randy deBrauwere	randy.debrauwere@hpe.com	215-378-6991

## **APPENDIX G, COST SUBMITTAL COST SUBMITTAL INSTRUCTIONS**

- 1.) All sheets must be filled out completely. Prices or percentages must be entered for every yellow highlighted cells on each sheet.**
- 2.) Formulas are imbedded in the Worksheets. Bidder's must verify that all calculations, subtotal costs and grand total cost are correct.**
- 3.) The Manufacturer and Model Number entered for the Sample Configurations in the Storage (Object) and Storage (Block) tabs must meet or exceed minimum requirements listed in the tab.**
- 4.) The Bidder must enter a Discount off of List on the corresponding Storage (Object) and Storage (Block) tabs. The discount will automatically calculate on the Cost Summary tab.**
- 5.) Please contact the Issuing Officer, Ray Jaime, at [RA-GSITPROCUREMENT@PA.GOV](mailto:RA-GSITPROCUREMENT@PA.GOV) with any questions or concerns.**
- 6.) The quantities listed are estimates based upon Historical Data and are for evaluation purposes only and will not be binding.**
- 7.) Additional Services are items or services that may be requested by the Commonwealth and the pricing will not be evaluated.**

**NOTE: The cost submittal should not be altered in any way.**

<b>BIDDER NAME</b>	<b>CONTACT PERSON</b>
SHI International Corp.	Tom Schroeder
<b>BIDDER ADDRESS</b>	<b>EMAIL ADDRESS</b>
290 Davidson Avenue	tom_schroeder@shi.com
Somerset, NJ 08873	<b>PHONE NUMBER</b>
	717-979-4094
	<b>SAP VENDOR NUMBER (IF AVAILABLE)</b>
	115889
	<b>FEDERAL TAX ID Number(TIN)</b>
	22-3009648

Bidder Name	SHI International Corp.
Bidder Vendor Number	115889
Bidder TIN	22-3009648

**NOTE: Bidders must be able to provide the OEM’s full storage product line, at the minimum discount off catalog list price are set.**

Storage Object Based Minimum Requirements			List Price	Discount %	Price after Discount	Historical Volume	Annual Cost For Object Based Storage
Component	Minimum Requirements	Proposed Model and Capability	\$ 40,044.00	50%	\$ 20,022.00	650	\$ 13,014,300.00
Manufacturer		HPE					
Model Number		MSA-2060					
Required minimum requirements	Hard Drive	support for RAID 1, 5, and 10.					
	Configured Disk Space	20 TB Usable with On-line sparing					
	Storage Controller Interface	Four (4) Port 10 GB/sec Network Connectivity					
	Software	Base operating software included at no charge					
	Capacity Licensing	Confirm required software licensing to enable the solution to operate at requested capacity (include in total cost)					
	Functional	OPEN device attachment – Vendor should provide assurance that all major vendor (standards based) hardware (tape / disk) will be supported					
	Functional	Redundant controllers and power					
	Functional	Ability to support 1.2TB and larger drives					
	Functional	Write cache backup integrity and dual copy (battery backed cache)					
	Functional	Support for RAID 1, 5, and 10.					
	Functional	Encryption					
	Warranty	5 Years 24x7x4: Keep your hard drive					



Bidder Name	SHI International Corp.
Bidder Vendor Number	115889
Bidder TIN	22-3009648

**NOTE: Bidders must be able to provide the OEM’s full storage product line, at the minimum discount off catalog list price are set.**

Storage Block Based Minimum Requirements			List Price	Discount %	Price after Discount	Historical Volume	Annual Cost For Block Based Storage
Component	Minimum Requirements	Proposed Model and Capability	\$ 590,847.00	67%	\$ 194,979.51	1550	\$ 302,218,240.50
Manufacturer		HPE					
Model Number		HPEALLETRA-6010					
Required minimum requirements	Hard Drive	1.92 TB SSD Hot-Swap					
	Configured Disk Space	50 TB (RAID 5) with at least 1 hot spare					
	Storage Controller Interface	Four (4) Port 16 GB/sec Fiber Channel Interface					
	Fiber Channel Switch	Switch(es) to support Twenty (20) 16 GB/sec ports					
	Software	Base operating software included at no charge					
	Capacity Licensing	Confirm required software licensing to enable the solution to operate at requested capacity (include in total cost)					
	Functional	Switch Port Count Scale - scalability from 20 to 64 ports without any performance impact					
	Functional	OPEN device attachment – Vendor should provide assurance that all major vendor (standards based) hardware (tape / disk) will be supported within the fabric switches.					
	Functional	Redundant controllers and power					
	Functional	Ability to support 1.92TB and larger drives					
	Functional	Hard drive size intermix capability within the storage subsystem					
	Functional	Write cache backup integrity and dual copy (battery backed cache)					
	Functional	Support for RAID 1, 5, and 10					
	Functional	Encryption					
Warranty	5 years 24x7x4; Keep Your Hard Drive						

Bidder Name	SHI International Corp.
Bidder Vendor Number	115889
Bidder TIN	22-3009648

**Storage Options/Upgrades**

Instructions for Bidders: Please describe the options/upgrades you have available that are applicable to Storage. Please provide Storage-specific options/upgrades available and the corresponding description and cost per service and/or option. Cost entered in this worksheet will not be used for evaluation purposes.

Options / Upgrades	Unit of Measure	Notes, If Any	Cost per Unit (Purchase)
Cache Upgrade - Additional 4 TB	Per Unit	Support included	\$12,000
Cache Upgrade - Additional 8 TB	Per Unit	Support included	\$20,000
Cache Upgrade - Additional 16 TB	Per Unit	Support included	40,000
Storage Controller Fiber Channel Interface Upgrade - Additional 16 GB	Per Unit	Support included	\$35,000
Storage Controller Fiber Channel Interface Upgrade - Additional 32 GB	Per Unit	Support included	\$45,000
iSCSI Component (Network Interface Card)	Per Unit	Systems are upgradeable based on customer requirements, to be determined.	This requirement would determine pricing.
IP Based	Per Unit	Systems are upgradeable based on customer requirements, to be determined.	This requirement would determine pricing.
Storage Virtualization Options	Per Unit	Systems are upgradeable based on customer requirements, to be determined.	This requirement would determine pricing.
Encryption Options	Per Unit	Systems are upgradeable based on customer requirements, to be determined.	This requirement would determine pricing.
Data Deduplication Options	Per Unit	Systems are upgradeable based on customer requirements, to be determined.	This requirement would determine pricing.
Compression Alternatives	Per Unit	Systems are upgradeable based on customer requirements, to be determined.	This requirement would determine pricing.
Nodes Alternatives	Per Unit	Systems are upgradeable based on customer requirements, to be determined.	This requirement would determine pricing.
Hourly Rate Per Training	Per Hour Rate	HPE TRAINING CREDITS FOR STORAGE SVC	\$1,500

Bidder Name	SHI International Corp.
Bidder Vendor Number	115889
Bidder TIN	22-3009648

**NOTE: Cost entered in this worksheet will not be used for evaluation purposes.**

Additional Services for Storage Devices	Unit of Measure	Historical Annual Volume	Cost per Unit	Estimated Annual Spend
Post Warranty Service - Basic	Per year / per Machine	5	\$ 75,000.00	\$ 375,000.00
Post Warranty Service - Enhanced	Per year / per Machine	10	\$ 85,000.00	\$ 850,000.00
Post Warranty Service - Critical	Per year / per Machine	5	\$ 95,000.00	\$ 475,000.00
Installation	Per Machine	15	\$ 675.00	\$ 10,125.00
Data Transfer	Per 1 TB	20	\$ 1,929.00	\$ 38,580.00
Hard Drive Removal	Per Machine	15	\$ 339.00	\$ 5,085.00
On-Premise Disk Wipe	Per Machine	45	\$ 509.00	\$ 22,905.00
Off-Premise Disk Wipe	Per Machine	10	\$ 509.00	\$ 5,090.00
Preparation for Shipment	Per Machine	65	\$ 339.00	\$ 22,035.00
Relocation in same building	Per Machine	2	\$ 929.00	\$ 1,858.00
Relocation within 25 miles	Per Machine	20	\$ 1,099.00	\$ 21,980.00
Relocation outside of 25 miles	Per Machine	2	\$ 2,449.00	\$ 4,898.00
Transport to DGS Warehouse	Per Machine	15	\$ 1,099.00	\$ 16,485.00
<b>TOTAL COST</b>				\$ 1,849,041.00

Bidder Name	SHI International Corp.
Bidder Vendor Number	115889
Bidder TIN	22-3009648

## COST SUMMARY

Product Catalog Discount off of List	
*Minimum Discount off of Catalog List Price - Storage(Object)	50%
*Minimum Discount off of Catalog List Price - Storage(Block)	67%

Storage Object Based Annual Spend	\$ 13,014,300.00
Storage Block Based Annual Spend	\$ 302,218,240.50
<b>Total Evaluated Cost</b>	<b>\$ 315,232,540.50</b>

ADDITIONAL SERVICES ARE NOT FOR COST EVALUATION	
Additional Services Annual Spend	\$ 1,849,041.00

\*This percentage discount is applicable to the the full storage product line.

## RECIPROCAL LIMITATIONS ACT REQUIREMENTS

Please Complete Applicable Portion of Pages 3 & 4 and Return with Bid.

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NOTE: These Requirements Do Not Apply To Bids Under \$10,000.00

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### I. REQUIREMENTS

- A.** The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering supplies produced, manufactured, mined or grown in Pennsylvania as against those bidders offering supplies produced, manufactured, mined or grown in any state that gives or requires a preference to supplies produced, manufactured, mined or grown in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular supply.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state supplies and the amount of the preference:

	<b>STATE</b>	<b>PREFERENCE</b>
1.	Alaska	7% (applies only to timber, lumber, and manufactured lumber products originating in the state)
2.	Arizona	5% (construction materials produced or manufactured in the state only)
3.	Hawaii	10%
4.	Illinois	10% for coal only
5.	Iowa	5% for coal only
6.	Louisiana	4% meat and meat products 4% catfish 10% milk & dairy products 10% steel rolled in Louisiana 7% all other products
7.	Montana	5% for residents * 3% for non-residents* *offering in-state goods, supplies, equipment and materials
8.	New Mexico	5%
9.	New York	3% for purchase of food only
10.	Oklahoma	5%
11.	Virginia	4% for coal only
12.	Washington	5% (fuels mined or produced in the state only)
13.	Wyoming	5%

- B.** The Reciprocal Limitations Act requires the Commonwealth to give preference to those bidders offering printing performed in Pennsylvania as against those bidders offering printing performed in any state that gives or requires a preference to printing performed in that state. The amount of the preference shall be equal to the amount of the preference applied by the other state for that particular category of printing.

The following is a list of states which have been found by the Department of General Services to have applied a preference for in-state printing and the amount of the preference:

	<b>STATE</b>	<b>PREFERENCE</b>
1.	Hawaii	15%
2.	Idaho	10%
3.	Louisiana	3%
4.	Montana	8%
5.	New Mexico	5%
6.	Wyoming	10%

- C.** The Reciprocal Limitations Act, also requires the Commonwealth to give resident bidders a preference against a nonresident bidder from any state that gives or requires a preference to bidders from that state or exclude bidders from states that exclude nonresident bidders. The amount of the preference shall be equal to the amount of the preference applied by the state of the nonresident bidder. The following is a list of the states which have been found by the Department of General Services to have applied a preference for in-state bidders and the amount of the preference:

	<b>STATE</b>	<b>PREFERENCE</b>
1.	Alaska	5% (supplies only)
2.	Arizona	5% (construction materials from Arizona resident dealers only)
3.	California	5% (for supply contracts only in excess of \$100,000.00)
4.	Connecticut	10% (for supplies only)
5.	Montana	3%
6.	New Mexico	5% (for supplies only)
7.	South Carolina	2% (under \$2,500,000.00) 1% (over \$2,500,000.00)
		This preference does not apply to construction contracts nor where the price of a single unit exceeds \$10,000.
8.	West Virginia	2.5% (for the construction, repair or improvement of any buildings)
9.	Wyoming	5%

	<b>STATE</b>	<b>PROHIBITION</b>
1.	New Jersey	For supply procurements or construction projects restricted to Department of General Services Certified Small Businesses, New Jersey bidders shall be excluded from award even if they themselves are Department of General Services Certified Small Businesses.

D. The Reciprocal Limitations Act also requires the Commonwealth not to specify, use or purchase supplies which are produced, manufactured, mined or grown in any state that prohibits the specification for, use, or purchase of such items in or on its public buildings or other works, when such items are not produced, manufactured, mined or grown in such state. The following is a list of the states which have been found by the Department of General Services to have prohibited the use of out-of-state supplies:

	<b>STATE</b>	<b>PROHIBITION</b>
1.	Alabama	Only for printing and binding involving "messages of the Governor to the Legislature", all bills, documents and reports ordered by and for the use of the Legislature or either house thereof while in session; all blanks, circulars, notices and forms used in the office of or ordered by the Governor, or by any state official, board, commission, bureau or department, or by the clerks of the supreme court . . ./and other appellate courts/; and all blanks and forms ordered by and for the use of the Senate and Clerk or the House of Representatives, and binding the original records and opinions of the Supreme Court . . . /and other appellate courts/
2.	Georgia	Forest products only
3.	Indiana	Coal
4.	Michigan	Printing
5.	New Mexico	Construction
6.	Ohio	Only for House and Senate bills, general and local laws, and joint resolutions; the journals and bulletins of the Senate and house of Representatives and reports, communications, and other documents which form part of the journals; reports, communications, and other documents ordered by the General Assembly, or either House, or by the executive department or elective state officers; blanks, circulars, and other work for the use of the executive departments, and elective state officers; and opinions of the Attorney General.
7.	Rhode Island	Only for food for state institutions.

\*If the bid discloses that the bidder is offering to supply one of the above-listed products that is manufactured, mined, or grown in the listed state, it shall be rejected. Contractors are prohibited from supplying these items from these states.

**II. CALCULATION OF PREFERENCE**

In calculating the preference, the amount of a bid submitted by a Pennsylvania bidder shall be reduced by the percentage preference which would be given to a nonresident bidder by its state of residency (as found by the Department of General Services in Paragraph C\_above). Similarly, the amount of a bid offering Pennsylvania goods, supplies, equipment or materials shall be reduced by the percentage preference which would be given to another bidder by the state where the goods, supplies, equipment or materials are produced, manufactured, mined or grown (as found by the Department of General Services in Paragraphs A and B above).

THIS FORM MUST BE COMPLETED AND RETURNED WITH THE BID

**III. STATE OF MANUFACTURE**

All bidders must complete the following chart by listing the name of the manufacturer and the state (or foreign country) of manufacture for each item. If the item is domestically produced, the bidder must indicate the state in the United States where the item will be manufactured. **This chart must be completed and submitted with the bid or no later than two (2) business days after notification from the Issuing Office to furnish the information. Failure to complete this chart and provide the required information prior to the expiration of the second business day after notification shall result in the rejection of the bid.**

ITEM NUMBER	NAME OF MANUFACTURER	STATE (OR FOREIGN COUNTRY) OF MANUFACTURE
N/A- SHI is a reseller and not a manufacturer.	Juniper	California
	Palo Alto	California
	Extreme Networks	California
	Cisco	California
	HPE	Texas
	Fortinet	California
	VMWare	California
	Zscaler	California
	Cradlepoint	Idaho

**IV. BIDDER'S RESIDENCY**

**A.** In determining whether the bidder is a nonresident bidder from a state that gives or requires a preference to bidders from that state, the address given on the first page of this invitation to bid shall be used by the Commonwealth. If that address is incorrect, or if no address is given, the correct address should be provided in the space below:

Correct Address: 290 Davidson Ave.

Somerset, NJ 08879

\_\_\_\_\_  
 \_\_\_\_\_ 

- B.** In order to claim the preference provided under Section I.B., Pennsylvania resident bidders must complete the following or have such information on file with the Issuing Office:
- 1.** Address of bidder's bona fide establishment in Pennsylvania at which it was transacting business on the date when bids for this contract/requisition were first solicited: \_\_\_\_\_
  - 2. a.** If the bidder is a corporation:
    - (1)** The corporation  is or  is not incorporated under the laws of the Commonwealth of Pennsylvania.
      - (a)** If the bidder is incorporated under the laws of the Commonwealth of Pennsylvania, provide date of incorporation: \_\_\_\_\_
      - (b)** If the bidder is not incorporated under the laws of the Commonwealth of Pennsylvania, it must have a certificate of authority to do business in the Commonwealth of Pennsylvania from the Pennsylvania Department of State as required by the Pennsylvania Business Corporation Law (15 P.S. §2001). Provide date of issuance of certificate of authority: Please see attached resale tax certificate.
    - (2)** The corporation  is or  is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must register the fictitious name with the Secretary of the Commonwealth and the office of the prothonotary of the county wherein the registered office of such corporation is located as required by the Fictitious Corporate Name Act, as amended 15 P.S. §51 et seq. Corporate bidders conducting business under an assumed or fictitious name must provide date of registry of the assumed or fictitious name: \_\_\_\_\_
  - b.** If the bidder is a partnership:
    - (1)** The partnership  is or  is not conducting business in Pennsylvania under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, it must file with the Secretary of the Commonwealth and the office of the prothonotary the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended 54 P.S. §28.1. Partnerships conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: \_\_\_\_\_
    - (2)** The partnership  is or  is not a limited partnership formed under the laws of any jurisdiction other than the Commonwealth of Pennsylvania. If the bidder is an Out-of-state limited partnership, it must register with the Pennsylvania Department of State as required by the Act of July 10, 1981, P.L. 237, as amended, 59 Pa. C.S.A. §503. Out-of-state limited partnerships must provide the date of registry with the Pennsylvania Department of State: \_\_\_\_\_
  - c.** If the bidder is an individual:

He or she  is or  is not conducting business under an assumed or fictitious name. If the bidder is conducting business under an assumed or fictitious name, he or she must file with the Secretary of the Commonwealth and the office of the prothonotary in the county wherein the principal place of business is located as required by the Fictitious Name Act of May 24, 1945, P.L. 967, as amended, 54 P.S. §28.1. Individuals conducting business under an assumed or fictitious name must provide the date of filing of the assumed or fictitious name with the Secretary of the Commonwealth: \_\_\_\_\_







# ELECTION TO PARTICIPATE FORM

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## COSTARS PROGRAM

**If awarded a Contract, our firm agrees to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Members who elect to participate in the contract.**

**Our firm also agrees to pay the applicable Administrative Fee at the beginning of each contract year and/or upon each contract renewal date:**

\$166 for a Department of General Services-verified Small Diverse Business or  
Small, Veteran Business Enterprise

\$500 for a Department of General Services Self-Certified Small Business

\$1,500 for all other businesses

*If you are a Department of General Services Self-Certified Small Business or  
Department of General Services-verified Small Diverse Business,  
you must submit a copy of your active **Small Business Contracting Program**  
certificate with your bid response.*

<b>Corporate or Legal Entity Name:</b>	SHI International Corp.
<b>Signature:</b>	
<b>Date:</b>	May 10, 2023
<b>Contract Description:</b>	The Commonwealth intends to award multiple statewide contracts for the procurement of Enterprise Storage Hardware, IFB 6100057583 as well as associated Installation, Service Integration, and Support Services to responsive Bidders who meet the requirements of this IFB. The Commonwealth is seeking Bidders who offer the best discounts from the manufacturer's nationally publicized price list and respond to purchase orders in a timely fashion.

## 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: Senior Proposal Specialist DATE: May 10, 2023



## **WORKER PROTECTION AND INVESTMENT CERTIFICATION FORM**

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

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

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

### **CERTIFICATION**

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

<b>Signature:</b> <u>Sarah St John</u>	<b>Date:</b> <u>May 10, 2023</u>
<b>Name (Printed):</b> <u>Sarah St John</u>	
<b>Title of Certifying Official (Printed):</b> <u>Senior Proposal Specialist</u>	
<b>Contractor/Grantee Name (Printed):</b> <u>SHI International Corp.</u>	

**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>	
SHI International Corp.	
<i>By (Authorized Signature)</i>	
	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>
Sarah St John	May 10, 2023

**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>



## Hewlett Packard Enterprise

Hewlett Packard Enterprise Company  
11445 Compaq Center  
Drive WEST  
Houston TX, 77070

May 12, 2023

### **SHI International Corp**

290 Davidson Ave  
Somerset, NJ, 08873-4145  
HPE Partner Agreement #: 58CMW

To whom it may concern:

SHI International Corp. is an HP Enterprise Authorized Partner in the US, which includes access to all commercial products and the services associated with them – not requiring additional authorization and includes all Open products from an authorized HPE US Commercial Distributor, for resale to end user customers in the USA.

**SHI International Corp** holds the following additional authorizations:

EG Selected Products

HPE Point of Contacts for Partner Authorization verification are listed below:  
Support Team: [AMSpartersupport@hpe.com](mailto:AMSpartersupport@hpe.com) / 1-888-629-6914

Customers can also locate or confirm partners through the HPE Partner Locator at <http://findapartner.hpe.com/>

Sincerely,

### **Shelly D. Deal**

AMS Lead, PFS BRM Global Partner Contracts  
Sales Operations