



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

**CHANGE** Page 1 of 2  
**Contract No. 4600016542**  
 Contract Original Approval Date: 09/15/2021  
 Contract Change Approval Date: 08/26/2022

**Purchasing Agent:**  
 Name: John Jones  
 Phone: 717-346-3848  
 Fax: 717-214-9505

**Your SAP Vendor Number With Us: 164990**

Valid from/to: 08/05/2021 - 07/31/2025

**Supplier Name/Address:**  
 EASTERN SALT COMPANY INC  
 134 MIDDLE ST STE 210  
 LOWELL MA 01852-1867  
 USA  
 Supplier Telephone No: 978-251-8553  
 Supplier Fax No.: 978-251-8244

**Please Deliver To:**  
  
 See Item Level for Delivery Addresses.

Your Quotation:                      Date:  
 Collective No.:  
 Our Quotation:

**Payment Terms:**  
 NET 30 DAYS

The Commonwealth of Pennsylvania, through the Department of General Services, accepts the submission of the Bidder/Contractor for the awarded item(s) at the price(s) set forth below in accordance with: 1) the RFQ submitted by the Bidder/Contractor, if any; 2) the documents attached to this Contract or incorporated by reference, if any, and 3) the contract terms and conditions stored on the website address at www.dgs.state.pa.us for this type of Contract as of the date of the RFQ, if any, or other solicitation for this Contract, all of which, as appropriate, are incorporated herein by reference. When the Bidder/Contractor receives an order from a Commonwealth agency, the order constitutes the Bidder/Contractor's authority to furnish the item(s) to the agency at the time(s) and place(s) specified in the order. RFQ, as used herein, means Request for Quotations, Invitation for Bids, Invitation to Qualify, or Request for Proposals, as appropriate.

Item	Material/Service Desc	Est Qty	UOM	Net Price	Per Unit	Total
10	141194 SODIUM CHLORIDE ROCK SALT	45,748.00	US Ton	73.49	1 US Ton	3,362,020.52
	Valid from 08/05/2021 to 07/31/2022					
	Gross Price	63.90	USD	1	TON	
	Valid from 08/01/2022 to 07/31/2023					
	Gross Price	0.00	USD	1	TON	
	Please Deliver to:					
	PENNDOT Delaware					
	426 S Old Middletown Rd					
	MEDIA PA 19063					
	USA					
	Description of Changed Field:		Condition record added			
	Old Value:					
	New Value:					

SEE LAST PAGE FOR ESTIMATED  
TOTAL VALUE INFORMATION



**CHANGE** Page 2 of 2  
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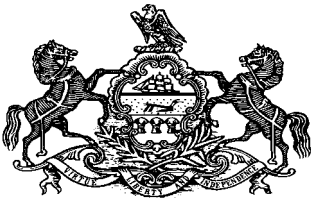
Item	Material/Service Desc	Est Qty	UOM	Net Price	Per Unit	Total
Description of Changed Field:		Target quantity changed				
Old Value:		37,948.000 TON				
New Value:		45,748.000 TON				
<hr/>						
20	141194 SODIUM CHLORIDE ROCK SALT Delaware	0.00	US Ton	73.49	1 US Ton	0.00
	Valid from 08/09/2021 to 07/31/2022					
	Gross Price	63.90	USD	1	TON	
	Valid from 08/01/2022 to 07/31/2023					
	Gross Price	0.00	USD	1	TON	
	To be determined at the time of the Purchase Order unless specified below					
Description of Changed Field:		Condition record added				
Old Value:						
New Value:						

**General Requirements for all Items:**

No further information for this contract.

**Estimated Total Value:**

Currency: USD



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Item	Material/Service Desc	Est Qty	UOM	Net Price	Per Unit	Total
10	141194 SODIUM CHLORIDE ROCK SALT	37,948.00	US Ton	73.49	1 US Ton	2,788,798.52
	Valid from 08/05/2021 to 07/31/2022					
	Gross Price	63.90	USD	1	TON	
	Please Deliver to: PENNDOT Delaware 426 S Old Middletown Rd MEDIA PA 19063 USA					
	Description of Changed Field:	Condition record added				
	Old Value:					
	New Value:					
	Description of Changed Field:	Target quantity changed				
	Old Value:	19,760.000 TON				

SEE LAST PAGE FOR ESTIMATED  
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**Contract Original Approval Date: 09/15/2021**

**Supplier Name:**  
 EASTERN SALT COMPANY INC

Item	Material/Service Desc	Est Qty	UOM	Net Price	Per Unit	Total
New Value:		37,948.000 TON				
20	141194 SODIUM CHLORIDE ROCK SALT Delaware Valid from 08/09/2021 to 07/31/2022	0.00	US Ton	73.49	1 US Ton	0.00
	Gross Price	63.90	USD	1	TON	
					To be determined at the time of the Purchase Order unless specified below	
	Description of Changed Field:	Condition record added				
	Old Value:					
	New Value:					

**General Requirements for all Items:**

No further information for this contract.

**Estimated Total Value:**  
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 Currency: USD



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**ORIGINAL** Page 1 of 2  
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**Payment Terms:**

NET 30 DAYS

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Item	Material/Service Desc	Est Qty	UOM	Net Price	Per Unit	Total
10	141194 SODIUM CHLORIDE ROCK SALT  Please Deliver to: PENNDOT Delaware 426 S Old Middletown Rd MEDIA PA 19063 USA	19,760.00	US Ton	63.90	1 US Ton	1,262,664.00
20	141194 SODIUM CHLORIDE ROCK SALT Delaware  To be determined at the time of the Purchase Order unless specified below	0.00	US Ton	63.90	1 US Ton	0.00

**General Requirements for all Items:**

SEE LAST PAGE FOR ESTIMATED  
TOTAL VALUE INFORMATION



**ORIGINAL** Page 2 of 2  
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No further information for this contract.

**Estimated Total Value:**

Currency: USD

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## **PART I - GENERAL INFORMATION**

### **PART I - GENERAL INFORMATION**

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

The Commonwealth of Pennsylvania (Commonwealth) is issuing this Invitation for Bids (IFB) to meet the needs of ALL USING AGENCIES to satisfy a need for Sodium Chloride (Bulk Road Salt).

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

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

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

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

#### **I.4 IFB-009.1 Questions (February 2012)**

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

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

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

#### **I.6 IFB-011.1B Submission of Bids – Electronic Submittal (May 2011)**

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

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

- c. Bids must be firm. If a Bid is submitted with conditions or exceptions or not in conformance with the terms

and conditions referenced in the IFB Form, it shall be rejected. The Bid shall also be rejected if the items offered by the Bidder are not in conformance with the specifications as determined by the Commonwealth.

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

#### **I.7 IFB-024.1 Bid Protest Procedure (April 2016)**

The Bid Protest Procedure is on the DGS website at

<http://www.dgs.pa.gov/Documents/Procurement%20Forms/Handbook/Pt1/Pt%20I%20Ch%2058%20Bid%20Protests.pdf>

#### **I.8 IFB-025.1 Electronic Version of this IFB (Oct 2006)**

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

#### **I.9 IFB-027.1 COSTARS Program (January 2017)**

**COSTARS Purchasers.** Section 1902 of the Commonwealth Procurement Code, 62 Pa.C.S. § 1902 (“Section 1902”), authorizes local public procurement units and state-affiliated entities (together, “COSTARS Members”) to participate in Commonwealth procurement contracts that the Department of General Services (“DGS”) may choose to make available to COSTARS Members. DGS has identified this Contract as one which will be made available for COSTARS Members’ participation.

A. Only those entities registered with DGS are authorized to participate as COSTARS Members in this Contract. A COSTARS Member may be either a local public procurement unit or a state-affiliated entity.

1. A “local public procurement unit” is:

- Any political subdivision (local government unit), such as a municipality, school district, or commission;
- Any public authority (including authorities formed under the Municipality Authorities Act of 1955 or other authorizing legislation, such as the Public Transportation Law or the Aviation Code);
- Any tax-exempt, nonprofit educational institution or organization;
- Any tax-exempt, nonprofit public health institution or organization;
- Any nonprofit fire, rescue, or ambulance company; and
- Any other entity that spends public funds for the procurement of supplies, services, and construction (such as a council of governments, an area government, or an organization that receives public grant funds).

The Department reserves the right to review and determine eligible applicants as Local Public Procurement Units on a case-by-case basis.

2. A state-affiliated entity is a Commonwealth authority or other Commonwealth entity that is not a Commonwealth agency. The term includes:

- The Pennsylvania Turnpike Commission;
- The Pennsylvania Housing Finance Agency;
- The Pennsylvania Municipal Retirement System;
- The Pennsylvania Infrastructure Investment Authority;
- The State Public School Building Authority;

- The Pennsylvania Higher Education Facilities Authority, and
- The State System of Higher Education.

The COSTARS Program is not available for use by Executive Agencies and Independent Agencies as defined by the Commonwealth Procurement Code, or any agency or entity using funds appropriated to the Department of General Services through Capital Budget Project Itemization legislation for the procurement of furniture, fixtures, and equipment.

3. A complete list of local public procurement units and state-affiliated entities that have registered with DGS and that are authorized to procure items from the Contract can be found at <http://www.costars.state.pa.us/SearchCOMember.aspx>

B. COSTARS Members have the option to purchase from this Contract, from any DGS contract established exclusively for COSTARS Members in accordance with the requirements of Section 1902, from any other cooperative procurement contracts, or from their own procurement contracts established in accordance with the applicable laws governing such procurements. The Contractor understands and acknowledges that there is no guarantee that a COSTARS Member will place an order under this Contract, and that the decision to procure from this Contract is within the sole discretion of each COSTARS Member.

C. DGS is acting as a facilitator for COSTARS Members who may wish to purchase under this Contract. COSTARS Members that participate in this Contract and issue purchase orders (“POs”) to Contractors are third party beneficiaries who have the right to sue and be sued for breach of this Contract without joining the Commonwealth or DGS as a party. The Commonwealth will not intervene in any action between a Contractor and a COSTARS Member unless substantial interests of the Commonwealth are involved.

D. COSTARS Members electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.

E. Those Contractors electing to permit COSTARS Members to procure from this Contract shall pay the Required Administrative Fee applicable to the Contractor’s classification:

<b>Contractor Classification</b>	<b>Required Administrative Fee</b>
DGS-verified Small Diverse Business Bidder	\$166
DGS Self-Certified Small Business Bidder	\$500
All Other Bidders	\$1,500

1. Each bidder electing to permit COSTARS Members to participate in the Contract must submit the COSTARS Program Election to Participate form with its bid submittal and pay the applicable Administrative Fee upon Contract award in order to sell the awarded items/services to COSTARS Members. If the bidder is a Department of General Services Self-Certified Small Business or Department of General Services-verified Small Diverse Business, a copy of its active Small Business Contracting Program certificate must be included with the bid submittal.

2. At the beginning of each Contract year and upon any Contract renewal, the Contractor shall submit a check for the required amount, payable to “Commonwealth of PA”. The Contractor must pay the Administrative Fee at each contract renewal date to continue to sell the awarded items/services to COSTARS Members.

F. DGS has registered the COSTARS name and logo (together, the “COSTARS Brand”) as a trademark with the Pennsylvania Department of State. Therefore, the Contractor may use the COSTARS Brand only as permitted under in this Subsection.

1. The Contractor shall pay the Administrative Fee covering its participation in the program, including without limitation any use of the COSTARS Brand, for each year of the Contract period. The fee is payable upon Contract

award and prior to the renewal date for each succeeding Contract period.

2. DGS grants the Contractor a nonexclusive license to use the COSTARS Brand, subject to the following conditions:

a. The Contractor agrees not to transfer to any third party, including without limitation any of its subcontractors or suppliers, any privileges it may have to use the COSTARS Brand under this Contract.

b. The Contractor agrees not to use the COSTARS Brand to represent or imply any Commonwealth endorsement or approval of its products or services.

c. The Contractor is permitted to use the COSTARS Brand in broadcast, or Internet media solely in connection with this Contract and any other Contract with the Commonwealth under which it has agreed to make sales to COSTARS Purchasers. The Contractor may use the COSTARS Brand on business cards, brochures, and other print publications so long as the purpose is to identify the Contractor as a COSTARS vendor, and only so long as the required Contract fee is kept current.

d. Should this Contract terminate for any reason, the Contractor agrees promptly to remove the COSTARS Brand from any and all print and electronic media and to refrain from using the COSTARS Brand for any purpose whatsoever from the date of Contract termination forward.

e. The Contractor agrees to defend, indemnify, and hold harmless the Commonwealth of Pennsylvania and DGS from and against all claims, demands, liabilities, obligations, costs, and expenses of any nature whatsoever arising out of or based upon the Contractor's use of the COSTARS Brand.

f. The Contractor agrees it has no property rights in the use of the COSTARS Brand by virtue of this nonexclusive license. The Contractor expressly waives any claims, including without limitation due process claims that may otherwise be available under the law in the event of any dispute involving these terms of use.

G. The Contractor shall furnish to the DGS COSTARS Program Office a quarterly electronic Contract sales report detailing the previous quarter's Contract purchasing activity, using the form and in the format prescribed by DGS. The Contractor shall submit its completed quarterly report no later than the fifteenth calendar day of the succeeding Contract quarter.

1. The Contractor shall submit the reports through the web-based COSTARS Suppliers' Gateway of the PA Supplier Portal at <https://pasupplierportal.state.pa.us/irj/portal/anonymous>, Enterprise Applications. If a Contractor does not have access to the Internet, the Contractor shall send the reports, using the form and in the format prescribed by DGS, on compact disc via US Postal Service to the DGS COSTARS Program Office, Bureau of Procurement, 6th Floor Forum Place, 555 Walnut Street, Harrisburg, PA 17101-1914.

2. For each PO received, the Contractor shall include on the report the name and address of each COSTARS-Registered Purchaser that has used the Contract along with the sales date, and dollar volume of sales to the specific Purchaser for the reporting period.

3. DGS may suspend the Contractor's participation in the COSTARS Program for failure to provide the Quarterly Sales Report within the specified time.

H. Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at [www.costars.state.pa.us](http://www.costars.state.pa.us).

1. If the Contractor is aware of any qualified entity not currently registered and wishing to participate in the COSTARS Program, please refer the potential purchaser to the DGS COSTARS Website at [www.costars.state.pa.us](http://www.costars.state.pa.us), where it may register by completing the online

registration form and receiving DGS confirmation of its registration. To view a list of currently-registered COSTARS member entities, please visit the COSTARS website.

2. Direct all questions concerning the COSTARS Program to:

Department of General Services  
COSTARS Program  
555 Walnut Street, 6th Floor  
Harrisburg, PA 17101  
Telephone: 1-866-768-7827  
E-mail [GS-PACostars@pa.gov](mailto:GS-PACostars@pa.gov)

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

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

**I.11 IFB-030.1 Approved Equal (Nov 2006)**

Whenever an item is defined in this IFB by trade name and catalogue number of a manufacturer or vendor, the term 'or approved equal,' if not inserted therewith shall be implied. Any reference to a particular manufacturer's product either by trade name or by limited description is solely for the purpose of more clearly indicating the minimum standard of quality desired, except where a 'no substitute' is requested. When a 'no substitute' is requested, the Issuing Office will consider Bids for the referenced product only. The term 'or approved equal' is defined as meaning any other make which, in the sole opinion of the Issuing Office, is of such character, quality, and performance equivalence as to meet the standard of quality of products specified for which it is to be used equally as well as that specified. A Bidder quoting on a product other than the referenced product shall: a) furnish complete identification in its Bid of the product it is offering by trade name, brand and/or model number; b) furnish descriptive literature and data with respect to the substitute product it proposes to furnish; and c) indicate any known specification deviations from the referenced product.

**I.12 IFB-031.1 Alternates (Oct 2013)**

A Bidder who wants to offer an alternate must notify the Issuing Office in writing, at least five (5) days prior to the scheduled Bid opening, that the Bidder intends to offer an alternate in its Bid. An "alternate" is a product that deviates from the requirements of the specifications in its composition, qualities, performance, size dimension, etc. The written notification from the Bidder must include a complete description of the alternate and must identify the product's deviations from the specifications. Upon receipt of the notification, the Issuing Office will determine whether the alternate is acceptable. If the Issuing Office, in its discretion, determines that the alternate is acceptable, the Issuing Office will issue a change notice to the invitation for bids that revises the specifications. If no change notice is issued revising the specification, a Bid offering the alternate will not be considered for award. If an item or items in the IFB are designated "no substitute," this provision does not apply and no alternate may be proposed by a bidder nor will any alternate be considered by the Issuing Office.

**I.13 IFB-032.1 New Equipment (Nov 2006)**

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

#### **I.14 I-IFB-033.1 Modification or Withdrawal of Bid (Nov 2006)**

- a. Bid Modification Prior to Bid Opening. Bids may be modified only by written notice or in person prior to the exact hour and date specified for Bid opening.
- 1) If a Bidder intends to modify its Bid by written notice, the notice must specifically identify the Bid to be modified and must be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the modification to modify the Bid on behalf of the Bidder. The Bid modification must be received in a sealed envelope. The sealed envelope must identify the assigned Collective Number and the Bid Opening Time, and should state that enclosed in the envelope is a Bid modification
  - 2) If a Bidder intends to modify its Bid in person, the individual who will modify the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to modify the Bid on behalf of the Bidder. If a Bidder intends to modify its Bid in person, the Bidder may do so only in the presence of an agency employee. (The agency employee will observe the actions taken by the individual to modify the Bid, but will not read the Bid or the modification).
- b. Bid Withdrawal Prior to Bid Opening. Bids may be withdrawn only by written notice or in person prior to the exact hour and date specified for Bid opening.
- 1) If a Bidder intends to withdraw its Bid by written notice, the notice shall specifically identify the Bid to be withdrawn and shall be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the bid withdrawal to withdraw the bid on behalf of the Bidder. Except as provided in Subparagraph c, below, bid withdrawals received after the exact hour and date specified for the receipt of Bids shall not be accepted.
  - 2) If a Bidder intends to withdraw its Bid in person, the individual who will withdraw the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to withdraw the Bid on behalf of the Bidder.
- c. Bid Withdrawal After Bid Opening. Bidders are permitted to withdraw erroneous Bids after Bid opening only if the following conditions are met:
- 1) The Bidder submits a written request for withdrawal.
  - 2) The Bidder presents credible evidence with the request that the reason for the lower Bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the Bid.
  - 3) The request for relief and supporting evidence must be received by the Issuing Office within three (3) business days after Bid opening, but before award of the contract.
  - 4) The Issuing Office shall not permit a Bid withdrawal if the Bid withdrawal would result in the award of the contract on another Bid of the same Bidder, its partner, or a corporation or business venture owned by or in which the bidder has a substantial interest.
  - 5) If a Bidder is permitted to withdraw its Bid, the Bidder cannot supply any material or labor or perform any subcontract or other work agreement for the awarded contractor, without the written approval of the Issuing Office.
- d. Firm Bid. Except as provided above, a Bid may not be modified, withdrawn, or cancelled by any Bidder for a period of sixty (60) days following the time and date designated for Bid opening, unless otherwise specified by the Bidder in its Bid. If the lowest responsible Bidder, as determined by the Issuing Office, withdraws its Bid prior to the expiration of the award period or fails to comply with the requirements set forth in the IFB including but not limited to any requirement to submit performance or payment bonds or insurance certificates within the

required time period, the Bidder shall be liable to the Commonwealth for all costs and damages associated with the re-award or re-bid including the difference between the Bidder's price and the actual cost that the Commonwealth pays for the awarded items.

- e. Clarification and Additional Information. After the receipt of Bids, the Issuing Office shall have the right to contact Bidders for the purpose of seeking:
- 1) Clarification of the Bid which confirms the Issuing Office's understanding of statements or information in the Bid or;
  - 2) Additional information on the items offered; provided the IFB does not require the rejection of the Bid for failure to include such information.

#### **I.15 I-IFB-034.1 Rejection of Bids (Nov 2006)**

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

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

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

A. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.

B. The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.

C. The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.

D. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.

E. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.

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

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

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

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

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

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

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



## **PART II - REQUIREMENTS**

### **PART II - REQUIREMENTS**

#### **II.1 IFB-006.1b COSTARS Program Election to Participate (July 2012)**

If the bidder is willing to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to COSTARS members, the bidder should complete and return the COSTARS Program Election to Participate form which is an attachment to this IFB. If the bidder is asserting that it is a Department of General Services Certified Small Business, the bidder must submit its active certification with the bid response.

#### **II.2 II-IFB-008.1b Lobbying Certification and Disclosure – Electronic Submission. (Oct 2006).**

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

#### **II.3 II-IFB-016.1 Post-Submission Descriptive Literature (Dec 2006)**

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

#### **II.4 II-IFB-017.1b Reciprocal Limitations Act – Electronic Submittal (February 2007)**

This procurement is subject to the Reciprocal Limitations Act. Bidders must complete and submit with the Bid Response the State of Manufacture Chart, which is contained in GSPUR-89 ("Reciprocal Limitations Act Requirements") which is attached to and made part of this IFB. The completed State of Manufacture Chart should be submitted as part of the Bid Response

#### **II.5 II-IFB-018.1b Iran Free Procurement Certification and Disclosure – Electronic Submittal (November 2016)**

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

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

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

## **PART III - SELECTION CRITERIA**

### **PART III - SELECTION CRITERIA**

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

To be eligible for selection, a bid must be:

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

#### **III.2 III-IFB-006.1b Method of Award - By Lot (February 2012)**

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

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

Unless all Bids are rejected, and except as otherwise provided by law, award will be made through the issuance of a contract/purchase order in accordance with the method of award. Unless otherwise specified by the Issuing Office in the IFB form the Commonwealth reserves the right to award by item or on a total Bid basis, whichever is deemed more advantageous to the Commonwealth. In cases of discrepancies in prices, the unit price will be binding unless the unit price is obviously in error and the extended price is obviously correct, in which case the erroneous unit price will be corrected. As a condition for receipt of award of a contract/purchase order, the Bidder must be registered in the Commonwealth of Pennsylvania's Vendor Master file. In order to register, bidders must visit the Pa Supplier Portal at <https://www.pasupplierportal.state.pa.us/> or call the Customer Support Center at 877-435-7363 or 717-346-2676.

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

All tie bids will be broken by the Issuing Office.

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

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

#### **III.6 III-IFB-010.1 Option for Separate Competitive Bidding Procedure (Nov 2006)**

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

#### **III.7 III-IFB-014.1 Rebates (Nov 2006)**

Any rebate applicable at the time of bid should be taken into consideration by the bidder in calculating its bid price. Bidders must specifically state in their bid proposal, when applicable, that rebates have been considered in arriving at the bid price. Following award, the Commonwealth will assign to the awarded bidder, any rebates which the bidder stated that he took into consideration. If the bidder fails to include such a statement, the Commonwealth will

receive the full benefit of the manufacturer's rebate.

**PART IV - WORK STATEMENT**

**PART IV - WORK STATEMENT**

**IV.1 IFB-001.1a Specifications (Nov 2006)**

The Commonwealth is seeking bids to procure the item(s) set forth in the attached document entitled "Specifications."

## **PART V - CONTRACT TERMS and CONDITIONS**

### **PART V - CONTRACT TERMS and CONDITIONS**

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

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

#### **V.2 CONTRACT-002.1a Term of Contract – Contract (May 2012)**

The initial term of the Contract shall be 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-002.2b Renewal of Contract Term – Mutual (Oct 2013)**

The Contract may be mutually renewed for a maximum of 4 additional 1 year term(s), so long as the Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter dated not less than 090 days prior to the expiration of the term of the agreement, or any extension thereof, and the Contractor consents to the renewal not less than 060 days prior to the expiration of the term of the agreement or any extension thereof. The renewal may be exercised as individual or multiple year terms(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

#### **V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)**

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

#### **V.5 CONTRACT-003.1a Signatures – Contract (July 2015)**

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor. No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.

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

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

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding

contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

#### **V.6 CONTRACT-004.1a Definitions (Oct 2013)**

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

a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".

b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.

c. Days: Unless specifically indicated otherwise, days mean calendar days.

d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.

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

f. Services: All Contractor activity necessary to satisfy the Contract.

#### **V.7 CONTRACT-005.1a Purchase Orders (July 2015)**

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

Purchase Orders may be electronically signed by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the Contractor to proceed.

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

a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.

b. The parties agree that no writing shall be required in order to make the Purchase Order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain

agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Purchase Order or acknowledgement were not in writing or signed by the parties. A Purchase Order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase Orders under ten thousand dollars (\$10,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

#### **V.8 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)**

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

#### **V.9 CONTRACT-007.01a 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-007.02 Estimated Quantities (Nov 30 2006)**

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

#### **V.11 CONTRACT-007.4 Delivery Ticket (Oct 2006)**

The Contractor shall furnish, with each shipment, an original and one copy of a certified delivery ticket. In cases where computerization requires the Contractor to retain the original copy, two copies of the delivery ticket will be acceptable. However, one of the copies must be stamped or otherwise state: "Original due to computerized or automatic machine accounting."

#### **V.12 CONTRACT-007.5 Weighing (Oct 2006)**

The Contractor is required to notify the Department of Transportation County Manager when shipment is to be made so that the Department weight checker may be present. Scales used must be approved by the Department of Transportation. Department of Transportation-approved weight slip forms must be used to certify the weight

for invoicing.

**V.13 CONTRACT-007-6 Overweight Truck (Oct 2006)**

If it is determined that a vehicle owned or leased by the Contractor has been operated on public highways carrying a weight in excess of the registered gross or axle weight limits established in Chapter 49 of the Motor Vehicle Code, the Commonwealth shall not be liable for payment for that amount of material which is equal to the excess over the registered gross and/or axle weight limits. The Contractor may elect to deliver the excess material to the Commonwealth Delivery Location without charge or to retain the material in the vehicle.

**V.14 CONTRACT-007.7 Spill Plates (Oct 2006)**

Whenever bituminous material is delivered by the Contractor's vehicles to a Department of Transportation paver, the vehicles shall be equipped with spill plates which shall prevent spillage of paving materials between the paver and the back of vehicle while the vehicle is unloading material.

**V.15 CONTRACT-007.8 Delivery (Source) (Oct 2006)**

An order may be issued for a tonnage to be taken on an uninterrupted basis to completion of the order, or any order may be issued for estimated tonnage for approximately a 60-day usage (to minimize paperwork). After an order is issued, material shall be furnished within 48 hours after notification by the Department of Transportation County Maintenance Manager.

**V.16 CONTRACT-007.9 First Come, First Served Basis (Oct 2006)**

For F.O.B. Source material picked up by the Department of Transportation, Department trucks must be served on a first come, first served basis. If this condition is violated, the Contractor will be liable for damages for lost time and/or any excess in price if the material must be purchased elsewhere.

**V.17 CONTRACT-007.10 One Price (FOB Source of Supply Loaded on Department of Transportation Trucks (Oct 2006)**

The Commonwealth will pay one (1) price for a specific type of material delivered from the same Contractor's source of supply. Any discrepancies that occur in bidding within District (between counties) will be resolved by the Commonwealth taking the lowest price for subject material. Other prices will be changed via contract change circular(s) to agree with the Contractor's lowest price for a specific type of material from the same source of supply. The Department of Transportation will assist the Department of General Services in monitoring any discrepancies that occur at bid opening time.

**V.18 CONTRACT-008.1a Warranty. (Oct 2006)**

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

**V.19 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)**

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement



concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report, document or other material provided to the Commonwealth under the contract.

The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract.

This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same.

As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action.

If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract.

If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing.

If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

#### **V.20 CONTRACT-009.1d Ownership Rights (Oct 2006)**

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

#### **V.21 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.22 CONTRACT-010.2 Product Conformance (March 2012)**

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

1. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
2. Supply published manufacturer product documentation.
3. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
4. Complete a survey/questionnaire relating to the bid requirements and specifications.
5. Provide customer references.
6. Provide a product demonstration at a location near Harrisburg or the using agency location.

#### **V.23 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.24 CONTRACT-011.1b Compliance With Law – Road Materials (Oct 2006)**

The Contractor shall comply with all federal and state laws and regulations and obtain all federal and state approvals and permits that allow the materials offered by the Contractor to be sold and used for the Commonwealth's required use.

#### **V.25 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.26 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.27 CONTRACT-014.3 Recycled Content Enforcement (February 2012)**

The Contractor may be required, after delivery of the Contract item(s), to provide the Commonwealth with documentary evidence that the item(s) was in fact produced with the required minimum percentage of post-consumer and recovered material content.

### **V.28 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.29 CONTRACT-015.2 Billing Requirements (February 2012)**

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

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

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

### **V.30 CONTRACT-016.1 Payment (Oct 2006)**

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the

Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

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

#### **V.31 CONTRACT-016.2 Payment – Electronic Funds Transfer (February 2014)**

- 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.32 CONTRACT-017.1 Taxes (Dec 5 2006)**

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

#### **V.33 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.34 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.35 CONTRACT-020.1 Audit Provisions (Oct 2006)**

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

### **V.36 CONTRACT-021.1 Default (Oct 2013)**

a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:

- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
- 2) Failure to perform the work with sufficient labor, equipment, or material to ensure the completion of the specified work in accordance with the Contract or Purchase Order terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
- 5) Improper delivery;
- 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
- 7) Delivery of a defective item;
- 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 9) Discontinuance of work without approval;
- 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
- 11) Insolvency or bankruptcy;
- 12) Assignment made for the benefit of creditors;
- 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
- 14) Failure to protect, to repair, or to make good any damage or injury to property;
- 15) Breach of any provision of the Contract;

16) Failure to comply with representations made in the Contractor's bid/proposal; or

17) Failure to comply with applicable industry standards, customs, and practice.

b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.

c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.

d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

#### **V.37 CONTRACT-022.1 Force Majeure (Oct 2006)**

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

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

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

#### **V.38 CONTRACT-023.1a Termination Provisions (Oct 2013)**

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons.

Termination shall be effective upon written notice to the Contractor.

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

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

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

#### **V.39 CONTRACT-024.1 Contract Controversies (Oct 2011)**

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

#### **V.40 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)**

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

b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

#### **V.41 CONTRACT-026.1 Other Contractors (Oct 2006)**

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

#### **V.42 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (August 2018)**

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.

3. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under the contract.

4. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner



discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the *Public Employee Relations Act*, *Pennsylvania Labor Relations Act* or *National Labor Relations Act*, as applicable and to the extent determined by entities charged with such Acts' enforcement, and shall comply with any provision of law establishing organizations as employees' exclusive representatives.

5. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.

6. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

7. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers' subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

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

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

10. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

#### **V.43 CONTRACT-028.1 Contractor Integrity Provisions (January 2015)**

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

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

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

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

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

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

**e. "Financial Interest"** means either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

g. When contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

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

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

j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with

the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

#### **V.44 CONTRACT-029.1 Contractor Responsibility Provisions (Nov 2010)**

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

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

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

#### **V.45 CONTRACT-030.1 Americans with Disabilities Act (April 1, 2010)**

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the

basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph a above.

#### **V.46 CONTRACT-031.1 Hazardous Substances (April 2017)**

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 Subparagraphs (1) through (4):

1) Hazardous substances:

- a) The chemical name or common name,
- b) A hazard warning, and
- c) The name, address, and telephone number of the manufacturer.

2) Hazardous mixtures:

- a) The common name, but if none exists, then the trade name,
- b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
- c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
- d) A hazard warning, and
- e) The name, address, and telephone number of the manufacturer.

3) Single chemicals:

- a) The chemical name or the common name,
- b) A hazard warning, if appropriate, and
- c) The name, address, and telephone number of the manufacturer.

4) Chemical Mixtures:

- a) The common name, but if none exists, then the trade name,
- b) A hazard warning, if appropriate,
- c) The name, address, and telephone number of the manufacturer, and
- d) The chemical name or common name of either the top five substances by volume or those substances

consisting of 5.0% or more of the mixture.

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

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

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

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

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

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

#### **V.47 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)**

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

#### **V.48 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.49 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.50 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.51 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.52 CONTRACT-035.1a Changes (Oct 2006)**

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

#### **V.53 CONTRACT-037.1a Confidentiality (Oct 2013)**

(a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

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

(1) already known to the recipient at the time of disclosure other than through the contractual relationship;

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

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

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

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

**V.54 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.55 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.56 CONTRACT-052.1 Right to Know Law (Feb 2010)**

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



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

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

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

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

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

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

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

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

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



**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES**

**SPECIFICATIONS**

**Sodium Chloride (Bulk Road Salt)  
Invitation for Bid No. 6100053321**



**SPECIFICATIONS 2021-2022**  
**Sodium Chloride (Bulk Road Salt)**  
Solicitation No. 6100053321

**I. GENERAL REQUIREMENTS**

1. **SCOPE:** The Commonwealth of Pennsylvania, Department of General Services, is issuing this Invitation for Bid (IFB) for Sodium Chloride (Bulk Road Salt) for Commonwealth agencies and pre-registered COSTARS members. In addition to this Specifications document, the following documents are incorporated as exhibits and are made part of these Specifications.

On March 19, 2020, the Governor’s Office issued a General Purchasing Ban to limit spending of goods or services that are not critical to operations. The issuing agency has determined through its internal approval processes that this solicitation is absolutely critical to operations and does not violate the Governor’s General Purchasing Ban. Additionally, the issuing agency conducted due diligence via positive vendor affirmation that there is sufficient competition due to the prevalence of telework allowing a preponderance of suppliers to have access to respond to the solicitation. The Commonwealth’s electronic bidding systems can be accessed via teleworking by the Commonwealth and suppliers due to the phased reopening of counties across the Commonwealth.

Exhibit 1	Sodium Chloride (Bulk Road Salt) Estimates 2021-2022
Exhibit 2	Reverse Auction Package <ul style="list-style-type: none"> <li>• Attachment A – Intent to Participate</li> <li>• Attachment B – Final Reverse Auction Bid Sheet</li> </ul>
Exhibit 3	Initial Reverse Auction Bid Sheet
Exhibit 4	<del>Small Diverse Business Participation Information</del>
Exhibit 5	<del>Veteran Business Enterprise Participation Information</del>
Exhibit 6	<del>Small Diverse Business Participation Submittal</del>
Exhibit 7	<del>Veteran Business Enterprise Participation Submittal</del>
Exhibit 8	<del>Model Form of SDB/VBE Subcontractor Agreement</del>
Exhibit 9	Manufacturer Guarantee Form
Exhibit 10	Specifications for Sodium Chloride
Exhibit 11	Sample Report
Exhibit 12	Contractor Point of Contact Form
Exhibit 13	PennDOT Plant Locations
Exhibit 14	Map of PennDOT Districts and Counties
Exhibit 15	COSTARS Program Election to Participate
Exhibit 16	GSPUR-89 Reciprocal Limitations Act Requirements
Exhibit 17	Iran Free Certification Form
Exhibit 18	Lobbying Certification Form

This IFB is comprised of sixty-seven (67) lots with each lot representing an individual county within the Commonwealth. A breakdown of Sodium Chloride estimates for 2021-2022 for each county for Pennsylvania Department of Transportation, COSTARS members, and other Commonwealth Agencies is set forth in Exhibit 1 to these Specifications.

The Commonwealth, as part of this solicitation, will be utilizing a Reverse Auction to secure competitive market pricing while maintaining or improving quality. Specific information regarding the auction is contained in the Reverse Auction Package, which is attached to and made part of this solicitation as Exhibit 2. In order to participate in the reverse auction, Suppliers must

agree to the terms and conditions contained within the Reverse Auction Package, including, but not limited to, individual supplier training provided by the Department of General Services.

2. **SMALL DIVERSE BUSINESS (SDB) AND VETERAN BUSINESS ENTERPRISE (VBE)**

**PARTICIPATION:** ~~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). Information related to the SDB and VBE participation, goals, and compliance are set forth in Exhibits 4 and 5, respectively.~~

~~Proposers 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 proposal as nonresponsive.~~ The goals that have been established for this Project are set forth below:

~~SDB—11%  
VBE—3%~~

In addition to other mandatory responsiveness requirements set forth elsewhere in this IFB, to be eligible for award, a Bid ~~must~~:

- ~~1. Contain a completed SDB Participation submittal, which is attached as Exhibit 6 to these Specifications, and additional required documentation; and either (a) agree to meet the SDB participation goal in full or (b) receive an approved GFE waiver from any unmet portion of the SDB participation goal; and~~
- ~~2. Contain a completed VBE Participation submittal, which is attached as Exhibit 7 to these Specifications, and additional required documentation; and either (a) agree to meet the VBE participation goal in full or (b) receive an approved VBE waiver from any unmet portion of the VBE participation goal.~~

~~The Model Form of SDB/VBE Subcontractor Agreement can be found in Exhibit 8 to these Specifications.~~

~~**NOTE: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of SDB or VBE Status or entitle a Bidder to receive credit towards the SDB participation goal or the VBE participation goal.**~~

3. **BIDDING INFORMATION:** The Commonwealth is requesting bidders submit bids for Sodium Chloride (Bulk Road Salt). Do not enter pricing on the electronic Invitation for Bid, rather Bidders must enter initial bid pricing into the attached Initial Reverse Auction Bid Sheet and submit it along with the bid response.

The following documents are required to be completed and returned/attached with your electronic bid. These are in addition to any other requirements to submit documentation within the bid specifications. Bids may be rejected for failure to complete and return required documents.

- Intent to Participate Form, Attachment A to the Reverse Auction Package
- GSPUR-89, Exhibit 16 to these Specifications
- One (1) original completed Excel Initial Reverse Auction Bid Sheet, Exhibit 3 to these Specifications. Do *not* provide in PDF format. Must be Excel format
- Contractor Point of Contact Form, Exhibit 12 to these Specifications
- Material Safety Data Sheet
- COSTARS Program Election to Participate form, Exhibit 15 to these Specifications
- Copy of active DGS Certified Small Business certification (if applicable)
- Manufacturer Guarantee, Exhibit 9 to these Specifications (if applicable)
- Quality Control Plan (follow instructions in specifications)

~~In addition to the above referenced documents, a failure to submit the following documents shall result in the bid being determined to be non-responsive:~~

- ~~• Small Diverse Business Submittal packet~~
- ~~• Veteran Business Enterprise submittal packet~~

Following the completion of the reverse auction, Suppliers must submit to the issuing office, a Final Reverse Auction Bid Sheet, Attachment B to Reverse Auction Package.

The attached Excel Initial Reverse Auction Bid Sheet has two tabs. The first tab contains the Initial and Winter fill price submittal by County. The second tab covers the Supplier stockpile pick-up pricing.

**Tab 1 County Bid Sheet: Reflects 67 counties. You can select any/all Counties to bid on, however, in order to be considered for participation in the subsequent reverse auction for a specific county, pricing must be submitted for that county on the Initial Reverse Auction Bid Sheet.**

**Tab 2 Stockpile Pick Up Pricing: Pick up pricing to unrestricted supplier stockpiles. These prices will not be part of the reverse auction or used in evaluations for award. Pick up pricing is fixed for the initial term of the contract.**

4. **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. Offerors may ask questions in accordance with I.4 IFB-009.1 Questions (February 2012) of this IFB. Bidders may also 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.

The location, date, and time of the SDB and VBE Goal Information Session are as follows:

SDB and VBE Goal Information Session – Via a virtual presentation on Thursday June 16, 2021 at 1:00 PM EDT.

An RSVP to the SDB and VBE Goal Information Session is due via email to John Jones at [jotjones@pa.gov](mailto:jotjones@pa.gov) by Tuesday June 15, 2021 at 2:00PM ET. Once the RSVP has been received and processed, a follow-up email will be sent to the requestor with the online meeting invitation.

5. **METHOD OF AWARD:** Notwithstanding the language contained in the Terms and Conditions regarding the method of award (III.2 III-IFB-006.1b), the Commonwealth intends to award by line item/County set forth in this IFB to the lowest responsive and responsible bidder resulting from the Reverse Auction. The Commonwealth reserves the right to award by any or all line items/Counties based upon the pricing contained in the Initial Reverse Auction Bid Sheet if it is in the best interest of the Commonwealth regardless of the reverse auction results.
6. **TERM OF CONTRACT:** The Contract shall commence on the Effective Date no earlier than August 1, 2021 and expire on July 31, 2022.
7. **OPTION TO RENEW:** The Contract or any part of the Contract may be renewed for four (4) additional one (1) year terms by mutual agreement between the Commonwealth and the Supplier(s). The renewal may be exercised as individual or multiple year terms(s).

Renewals shall be negotiated and mutually agreed upon by the Department of General Services (DGS) and the Supplier(s). Non-renewed contracts will be competitively re-bid. Estimated requirements (quantities) for the renewal period will be provided. Upon renewal the Contract terms and conditions shall apply as the prior year. Renewal pricing will be negotiated at the base bid price per ton awarded. All negotiated renewal pricing shall be effective August 1st of the renewed contract period.

8. **QUALIFICATIONS OF BIDDERS:** Bidders must own an approved source, that is approved and listed in Pennsylvania Department of Transportation (PennDOT) Publication 35, Bulletin 15, of Sodium Chloride Type 1, Grade 1, or provide the Commonwealth with a guarantee from an approved source, that is approved and listed in PennDOT Publication 35 Bulletin 15, of supply from the owner of the approved source. For award, those bidders who do not own an approved source must furnish with their bids a Manufacturer's Guarantee Form (Exhibit 9 to these Specifications) signed by the owner of an approved source of Sodium Chloride Type 1, Grade 1 IAW, AASHTO M143 or ASTM D632. Failure to include a signed guarantee with the bid shall result in the rejection of the bid unless the bidder is offering to provide material from an approved source they own.

**NO Blanket Delivery Orders are authorized on this contract.**

9. **NEW SOURCES:** In the event that a new source is developed and placed in operation by an approved source already in Bulletin 15 during the life of this contract, the new source is subject to approval by PennDOT before material is delivered to users of this contract.
10. **ACCEPTANCE OF SODIUM CHLORIDE:** On the basis of certification in accordance with the current Quality Control Plan on file with PennDOT, Bureau of Maintenance and Operations (BOMO) and the specifications for Sodium Chloride Type 1, Grade 1 IAW, AASHTO M143 or ASTM D632. A current Quality Control Plan (QC Plan) shall be forwarded to the Bureau of Maintenance and Operation (BOMO) within 15 working days of Notification of Award. Failure to supply the required Quality Control Plan may result in award to the next lowest supplier. Mail to:

- **Winter Operations Section**  
PA Department of Transportation  
Bureau of Maintenance and Operations

400 North Street - 6th Floor  
Harrisburg PA 17120

11. **SPECIFICATIONS:** Suppliers shall comply with Department of Transportation Publication 408 Section 722 – Sodium Chloride. In addition, the supplier must furnish sodium chloride from a manufacturer listed in Publication 35 Bulletin 15, and meeting the requirements Publication 408, Section 722 – Sodium Chloride. *See* Exhibit 10 to these Specifications.
12. **TESTING:** Testing will be conducted randomly by the PennDOT Laboratory. Suppliers will be notified, via certified letter, of test failures. Notification will occur on a regular basis. After a Supplier has received three such letters, their level of certification may change. The changing of the level of certification will require more frequent testing of the material being delivered and the resubmission of an updated quality control plan that address the areas of the test results where the material did not meet specification.
13. **MATERIAL SAFETY DATA SHEET:** The material safety data sheet for each product being bid shall be included with the bid proposal. Failure to include the material safety data sheet may be cause for rejection of the bid
14. **STOCKPILE INSPECTION:** The Commonwealth, at its own discretion, may inspect any awarded supplier's stockpile/storage area used to store and from which the awarded material is shipped.

The inspection may include, but not limited to the following:

- a. Are the piles of material covered properly to ensure protection from adverse weather?
- b. Proper sampling of material. Samples may be taken and forward to PennDOT Laboratory for testing for conformance to specifications listed in this contract.

If the inspection results in piles of material not being covered and/or failing test results, the awarded Supplier using said stockpile/storage area may be notified to discontinue shipping material to PennDOT locations from that stockpile/storage area.

If such notification is necessary, it shall be made by PennDOT in conjunction with DGS.

15. **STORAGE FEES:** In the event that an entity does not order and receive their required minimum quantity by July 31, 2022, they may be subject to storage fees from the awarded Supplier(s), with the following exception: In the event the total tonnage purchased for all COSTARS participants for a single Supplier equals at least 100% of the COSTARS estimates for that Supplier; the minimum requirements will be considered satisfied and the Supplier may not pursue storage charges for any specific COSTARS entity which did not meet their 60% minimum requirement.

Should an awarded Supplier elect to assess storage fees, the following conditions shall be met:

- a. Suppliers may assess a one-time storage fee at a rate not to exceed \$3.00 per ton for any remaining required tonnage being stored between August 1, 2022 and December 31, 2022.
- b. The ordering entity is only liable to receive the exact tonnage remaining to meet their minimum requirement. For example, if an entity needs 15 tons to meet their minimum, they may order, and the supplier shall deliver only 15 tons. The entity may, at their

discretion, agree to take additional tonnage if they have the storage and financial capability to do so.

Suppliers shall have the option of selling any remaining salt to another entity or outside source. Should a Supplier elect to sell the salt, the using entity shall be released from any storage fees equivalent to the amount of salt sold.

16. **REPLENISH:** PennDOT and all Non PennDOT State Agency locations reserve the right to replenish stockpiles between May 1st and July 31<sup>st</sup> of the contract period, which may exceed the established maximum quantities.

Replenishment orders for PennDOT, placed after April 30<sup>th</sup>, shall be delivered and complete within 30 business days after the awarded Supplier receives the purchase order. The minimum daily delivery requirement is 175 tons per day to a PennDOT stockpile listed on the purchase order, unless the entire quantity ordered for a stockpile delivery is less than 175 tons, in such cases the entire order for that stockpile will be delivered same day.

17. **DELIVERIES:** Each using entity will accept deliveries between the hours of 7:00 AM and 3:00 PM, Monday through Friday, except holidays, in absence of a prior agreed upon schedule. The initial fill and remainder of the season (winter fill) deliveries are shipped in accordance with the following:

- a. Department/using entity personnel must be present to receive all materials being shipped unless otherwise agreed upon. Shipments shall be made in a continuous manner so that the availability of receiving personnel is scheduled efficiently.
- b. The Supplier and or his Transportation Company shall confirm the schedule of deliveries 24 hours prior to delivery. The Supplier and or his Transportation Company shall coordinate notification of deliveries with the County Maintenance Manager / using entity or his designee prior to delivery.
- c. Deliveries any time other than weekdays between the hours of 7:00 AM and 3:00 PM will be scheduled only upon agreement and coordination with the County Maintenance Manager / using entity or his designee.
- d. Protect all deliveries of salt by waterproof covering throughout the shipping process. The Department/using entity may reject unprotected shipments.
- e. Department/using entity personnel receiving all materials should clearly note any issues regarding the material on the bill of lading whether material is received or rejected.
- f. Form CS-4171 is to be included with each delivery as referenced in the specifications of the contract and PennDOT Publication 408
- g. In lieu of providing Form CS-4171 with each delivery, awarded Suppliers must adhere to the following:
  1. The original CS-4171 for deliveries must be kept on file by the awarded Sodium Chloride Supplier and available to the Commonwealth if requested.
  2. A Bill of Lading, (BOL), is furnished with each delivery.
- h. If an awarded Supplier decides not to include Form CS-4171 with each delivery, then each BOL must contain the language required in the specifications of the contract as listed below:



1. SHIPMENT: Suppliers shall be required to use their own bill of lading, which contains a statement indicating that “this material has been tested and meets the required specifications.” The form shall also include:

- SAP Purchase Order Number
- Purchase Order Line Item Number
- Plant Supplier Code (Producer, Name and Location)
- Stockpile or Producing Plant Location
- Company Laboratory Report Number
- Consignee, Name and Location
- Lot Number
- Material Type/Class/Number (SAP)
- Date and Time Ticketed
- Unique Truck ID
- Mass (Weight), Gross, Tare, Net
- Running Daily Total in Tons of material being transported by Purchase Order Line Item Number
- Name and license number of Licensed Public Weighmaster (signature or e-signature)

2. INVOICE:

- In addition to the invoice requirements as listed in the specifications of the contract, the lot number of each respective delivery must be included if not already included on the BOL.

18. **PENNDOT E-TICKETING INITIATIVE (PILOT)**: Supplier participation is on a voluntary basis. If a supplier opts to participate, they will coordinate set-up and management of their e-ticketing solution directly with PennDOT.

i. DESCRIPTION - This work is providing an electronic ticketing system for deliveries or pick-up of salt material to a project or stockpile to report individual and cumulative loads of material.

ii. MATERIAL - The electronic ticketing system must be fully integrated with the load read-out system at the plant. The system software and hardware must prevent alteration of the data inputs from the scales. For acceptance on a project, stockpile or picked-up the electronic ticket must contain the following information:

- SAP Purchase Order Number
- Purchase Order Line Item Number
- Plant Supplier Code
- Material Type/Class/Number (SAP)
- Date and Time Ticketed
- Unique Truck ID
- Mass (Weight), Gross, Tare, Net
- Running Daily Total in Tons of material being transported by Purchase Order Line Item Number

- Name and license number of Licensed Public Weighmaster

iii. MAINTENANCE -

(a) Maintenance Requirements.

1. Electronic ticketing system requirements will comply with DGS contract terms. Include details for how supplemental paperwork and certifications will be delivered to PennDOT.
2. Incorporate shipment information into the PennDOT electronic Construction and Materials Management System (eCAMMS).
3. Incorporate the electronic ticket system process into the Contractor's applicable QC Plan.
4. If the project contains locations with limited cellular service, an alternative course of action must be agreed upon; e-ticketing submissions must also be sent between the producer and PennDOT.
5. Provide access to the electronic ticketing system to personnel identified by SAP role.

(b) Data Deliverables.

1. Provide to the Representative a means to gather report summaries by way of iOS apps or web browser in real-time. Provide an available space for the Representative to add comments pertaining to the material on each ticket. Record the user's name for all entered and updated information.
2. Provide access to all ticket information in a CSV or Excel file to PennDOT.

iv. MEASUREMENT AND PAYMENT – Incidental for all costs related to providing the electronic ticketing system and all equipment required for the reporting process. Include all quality control procedures.

17. **PENNDOT PLANT LOCATIONS:** For reference purposes, the PennDOT plant location listing is attached as Exhibit 13 to these Specifications. These locations are subject to change and the Commonwealth reserves the right to add, delete and/or alter locations as necessary. For the purposes of this contract, the quantity delivered on a given day to a specific stockpile is considered a lot for delivery. A map of the counties and PennDOT districts is contained forth in Exhibit 14 to these Specifications.
18. **EMERGENCY DELIVERY PROVISIONS:** In the event of, and for the duration of, any state of emergency or disaster declared by the Governor, the Supplier for any county in which the emergency of disaster is officially declared shall attempt to provide continuous twenty-four hour service as directed by the Commonwealth. For the purpose of maintaining necessary communications and services, the Supplier shall designate on the Contractor Point of Contact Form

(Exhibit 12) a primary and, if available, a secondary contact person or title. The Supplier guarantees that the persons so designated will be available throughout the emergency.

19. **CONTRACTOR POINT OF CONTACT:** Each awarded Supplier is required to designate a point of contact person who is available to answer questions regarding the Supplier's ability to deliver the product. This person is responsible for monitoring the Supplier's supply sodium chloride, and will notify the Commonwealth of any problems meeting in-season delivery schedules before they exceed the shipping deadline. Supplier shall complete the Contractor Point of Contact Form as set forth in Exhibit 12 to these Specifications.
20. **POSTED BRIDGES:** Pennsylvania frequently reviews the structural integrity of its bridges and posts weight limits on bridges that degrade to a point that is hazardous to the traveling public. The Department shall not be held responsible for any alteration in individual shipping routes due to the posting of a bridge and the supplier is responsible for all costs associated with an altered individual shipping route.
21. **WEIGHING:** On all bulk shipments originating outside the Commonwealth of Pennsylvania, certified weight slips from the Supplier must accompany each truck. Shipments originating within the Commonwealth are weighed by a licensed Public Weigh Master and accompanied by a certified weight slip. An electronic digital measuring device is acceptable if a source has the capability in its scale. The scale used require approval by the department of Agriculture, Bureau of Rides and Measures Standards, or tested and approved by a scale repair service with testing capabilities with appropriate weights and procedures as contained in Scale Code NIST Handbook 44. Electronic signatures certifying the weight slip are acceptable.  
The Supplier is responsible for the preparation of accurate weight slips, certification attesting to the accuracy of the weights recorded, and assuring conformance with Department of Transportation Publication 408 or latest version, Section 107.23 (b) Mass (Weight) Limits and Weighing, including the payment of liquidated damages as specified herein.
22. **INSPECTION:** (Includes PennDOT, State Agencies, and COSTARS) Because of the seasonal nature of the Commonwealth's winter program, materials received in the field must satisfy the specifications and be ready for immediate use by the Commonwealth. The use of substandard materials has a direct bearing on winter road maintenance operations. The using agency/entity will collect samples per the PennDOT Maintenance Manual, Publication 23, Chapter 4. The samples will be tested to ensure that they meet specifications. A delivery is defined as the required daily tonnage of material.

Caking: sufficient non-caking additive must be incorporated in the delivered material in order to prevent caking under normal storage conditions

Salt protection: All trucks and stockpiles other than mine locations must be adequately covered to assure the sodium chloride will be delivered in free flowing, usable condition.

Moisture content shall not exceed 2.0% by weight for stockpile delivery as determined by drying at 230+- 9 degrees F to constant weight. All material shall be covered in transit by using waterproof covering.

Material That Does Not Appear To Meet Specifications: Upon inspection of delivered salt, the material shall be uniform in appearance, free flowing and free from visual evidence of foreign matter including but not limited to dirt, stone, chips, trash, or any other material that could reasonably be expected to interfere with the use, handling, and storage of the salt. Salt shall be received in a free-flowing and usable condition.

Materials that do not appear to meet specifications at the time of delivery the using agency/entity may reject and turn away. Samples will be taken from deliveries that do not appear to meet specification and these samples will be forwarded to the PennDOT laboratory for testing to determine whether, in fact, the material did or did not meet specifications.

If the using agency/entity accepts and uses these materials and testing later determines that the material did not meet specifications, the procedures established under the Testing paragraph of these Contract Specifications will apply. If the accepted materials are found to have met specifications, no actions are taken against the awarded Supplier.

If the using agency/entity rejects delivery of materials that do not appear to meet specifications and testing later determines that the materials in fact did not meet specifications, the awarded Supplier is deemed to have failed to make a delivery and this addressed under the Liquidated Damages provision of this contract. If, however, testing later determines that the materials did meet specifications, the Department of General Services will take no action against the awarded Supplier.

23. **LIQUIDATED DAMAGES:** (Includes PennDOT, State Agencies, and COSTARS) During the period of November 1<sup>st</sup> through April 30<sup>th</sup> deliveries that do not meet the daily delivery tonnage requirements and/or the established order completions period as stated in the Contract, shall be considered cause for interruption of the proper implementation of the Commonwealth's winter roadway safety program. The Commonwealth and the awarded Supplier, therefore, presume that in the event of any such delay, the amount of damage which will be sustained from a delay daily delivery tonnage requirements and/or the established order completions period specified will be \$100.00 per business day per delivery. A delivery is defined as the required daily tonnage of material. The Commonwealth and the awarded Supplier further agree that in the event of any such delay, the awarded Supplier shall pay such amount as liquidated damages not as a penalty. The Commonwealth shall be held responsible for roadways that are officially closed, obstructed, or impassable due to winter weather conditions and is required to releases the Supplier from the liquidated damages for the day(s) of obstruction to traffic.

The Commonwealth has the following option for deducting amounts due to the Commonwealth as liquidated damages:

- May deduct such from any money payable to the awarded Supplier or
- May bill the awarded Supplier as a separate item.

It is the responsibility of DGS to investigate instances of late or incomplete deliveries by gathering information from the using agency/entity and the contractor. DGS will determine whether liquidated damages are an appropriate remedy in each instance. The Commonwealth shall notify the awarded Supplier in writing of any claims for liquidated damages pursuant to this paragraph before the date the Commonwealth deducts such sums from the money payable to the awarded Supplier.

24. **SUPPLIER STOCKPILE PICKUP & PRICING:**

- a. This price per ton will provide the price per ton for pick-up from a Supplier stockpile location. Suppliers are to list all stockpiles and the price per ton for pick-up during the Winter Fill period. All stockpiles the supplier lists must have unrestricted access.

- b. The PennDOT County Maintenance Manager / end user or their designee must contact the awarded Supplier at least 48 hours prior to day of pick-up
  - c. Picked up materials are to be loaded in official Department trucks served on a first come, first serve basis.
  - d. The minimum order quantity for any one F.O.B. source pick-up purchase order is 22 tons.
  - e. All PennDOT F.O.B. pick-ups must have PennDOT Bureau of Maintenance Operations salt manager's approval.
25. **NON-CONTRACT PURCHASE:** The Commonwealth reserves the right to purchase Sodium Chloride from another supplier in the event the awarded contract supplier has failed to meet the delivery requirements established in this bid proposal and that failure interferes with the proper implementation of the Commonwealths' programs. Department's may process an emergency purchase requisition upon receipt of facsimile/email approval from the Department of General Service
26. **DEPARTMENT OF TRANSPORTATION, NON DOT STATE AGENCIES AND COSTARS WEEKLY & MONTHLY REPORTS:** The awarded supplier is required to send a weekly report to the DGS Commodity Specialist listed in the contract and Department of Transportation designee. A sample report can be found as Exhibit 11 to these Specifications. The Suppliers shall furnish weekly reports during the period of November 1<sup>st</sup> to April 30<sup>th</sup>. Do not include running amounts on one spreadsheet throughout the reporting period. Each weekly report shall include a tab on the spreadsheet for each week's reporting period so that at the end of the reporting period one spreadsheet will reflect a tab for each weeks reporting period and include the information below for each week reported.

Suppliers are to provide one (1) spreadsheet for PennDOT/Non PennDOT State Agencies and one (1) spreadsheet for COSTARS.

A complete list of COSTARS Members can be found on the "LPPU" tab on the estimate spreadsheet included with this bid.

Each report shall include the following data (see sample report attached as Exhibit 11 for a sample reference)

- Supplier Name
- Contract number
- Confirmation # / Purchase Order #
- Costars Member/Agency Name
- Period covered by report
- County
- Awarded Tons
- Tons Shipped to date
- Tons Shipped during Reporting Period
- % of awarded tons shipped to date
- Max % permitted by contract
- Tons not shipped to date
- % over/under Max permitted by contract
- Total cost
- Weekly shipping (tonnage rate)

- Delivery Backlog (including order date)
- Anticipated Backlog delivery date

Suppliers shall also furnish, within the first week of each new month, the previous month's total COSTARS sales (dollars & tons). This information can be provided in an email format to the issuing officer. This information shall be provided beginning the first week of September and continue through the life of the contract.

\*DGS reserves the right to request reports (weekly or otherwise) prior to November 1<sup>st</sup> and/or after April 30<sup>th</sup> if deemed necessary, as well as to adjust reporting criteria as needed.

27. **INVOICING FOR PENNDOT AND COMMONWEALTH AGENCIES:** The PA Office of the Budget has initiated an E-Invoicing program that enables vendors to submit invoices via email. Submitting invoices via email enables vendors to save printing and postage costs, paper supplies, and mailing time needed to transmit paper invoices. The program's guidelines are available on the E-Invoicing website, located at [www.budget.pa.gov/programs/pages/e-invoicing.aspx](http://www.budget.pa.gov/programs/pages/e-invoicing.aspx).
28. **POST AWARD ADMINISTRATION:** The Contractors performance shall be monitored and evaluated in accordance with the requirements outlined in the Contract. At a minimum, the Contractors' performance shall be evaluated on an annual basis. Contractors may be required to attend Contract Performance Review meetings. These meetings will be for the purpose of providing Contractor performance reviews, discussion of issues either party may have concerning the Contract or to evaluate the overall progress of the Contract. The meetings will be held quarterly, semi-annually or annually at the discretion of the Department of General Services, or upon special request of the using agencies. Specific supplier performance issues may be addressed through weekly or bi-weekly conference calls, as a way to assess supplier progress.
29. **INQUIRIES:** Direct all questions concerning this proposal to the appropriate commodity specialist named herein.

John Jones, Commodity Specialist  
 Department of General Services  
 Bureau of Procurement  
 6th Floor Forum Place, 555 Walnut Street  
 Harrisburg PA 17101-1914  
 Telephone: 717-346-3848  
 E-mail: [jotjones@pa.gov](mailto:jotjones@pa.gov)

## II. PENNDOT SODIUM CHLORIDE REQUIREMENTS

30. **ESTIMATED QUANTITIES:** PennDOT has supplied estimates for this contract that reflect their needs for delivery from August 1, 2021 through July 31, 2022. It is further understood and agreed that PennDOT will purchase a minimum 75% of their estimates, and that the Supplier will provide this commodity to a maximum 130% of the Department's estimates at the awarded contract prices.

**The minimum/maximum will be based on the total amount ordered by PennDOT for all counties serviced by the same vendor.**

In the event that the Supplier elects to discontinue re-supply above the 130% of the estimated quantity, the Supplier shall notify DGS and PennDOT in writing of their intentions not to continue

to supply this commodity above 130%. The notification is made prior to the actual receipt quantity reaching 100% of the original estimated quantity.

31. **INITIAL FILL:** PennDOT will issue purchase orders for initial fill between August 1<sup>st</sup> and September 30<sup>th</sup> for delivery no later than October 31<sup>st</sup> of the current year.

August 1, 2021 to October 31, 2021 reflects the estimated tonnage of Sodium Chloride that may be ordered by each County Maintenance District between August 1, 2021 and September 30, 2021 for delivery no later than October 31, 2021. The amount of material estimated for the initial fill period may be decreased due to storage and/or financial constraints. If an initial fill estimated order quantity is reduced, the 75% of the total estimated order quantity will still be purchased. The minimum order quantity for PennDOT orders only is 150 tons per stockpile location unless a stockpile location has a maximum storage capacity of 150 tons or less. The minimum delivery quantity, for PennDOT only, during the initial fill period is 150 tons per stockpile per day, unless the ordered quantity is less than 150 tons, in such cases the entire order for that stockpile is delivered same day.

32. **BALANCE OF SEASON - WINTER FILL:**

Reflects the re-supply of the estimated quantity from November 1<sup>st</sup> through July 31<sup>st</sup> up to the established maximum of the original estimated quantities. These quantities are predicated on the severity of winter weather conditions and may be increased or decreased in accordance with the actual needs.

Upon completion of the initial fill each County Maintenance District may request re-supply (winter fill) of sodium chloride from their awarded Supplier on or after November 1<sup>st</sup> of the current year. Purchase Orders are to be completed by County Maintenance Districts as re-supply is needed and the Supplier will deliver within 7 business days of receipt of the Purchase Order.

The minimum order quantity for PennDOT orders is 175 tons per stockpile location; unless a stockpile location maximum storage capacity is 175 Tons or less. For the time period of November 1<sup>st</sup> through April 30<sup>th</sup>, delivery of material to PennDOT locations shall be complete within seven (7) business days after receipt of the purchase order. Orders received at the Supplier's place of business prior to 11:59 am daily are delivered within seven (7) business days of the order received date. Orders received at the Supplier's place of business after 12:00 noon are considered the next business days order, and shall be delivered within seven (7) business days of the next day. Orders placed after April 30<sup>th</sup> shall be delivered and complete within 30 business days after the awarded Supplier receives the purchase order.

All awarded Suppliers will acknowledge receipt of the winter fill re-supply order by faxing or emailing the County of Origin. The minimum delivery for the balance of season/Winter fill is 175 tons per stockpile per day, unless the ordered quantity is less than 175 tons, in such cases the entire order for that stockpile is delivered.

### **III. COSTARS / POLITICAL SUBDIVISION SODIUM CHLORIDE REQUIREMENTS**

33. **ESTIMATED QUANTITIES:** The Supplier agrees and is bound to supply, in accordance with these Contract specifications, such quantities of Sodium Chloride as are represented by the actual requirements of participating political subdivisions. As such, COSTARS participation is mandatory. See attached COSTARS PROGRAM CLAUSE. Those Political Subdivisions that have decided to participate in the Contract have filed binding agreements with DGS that require:

- a. The Political Subdivision to purchase a minimum 60% of required quantities of Sodium Chloride, up to a maximum 140% of the tonnage requirements listed, exclusively from the Supplier; and
- b. The Political Subdivision is responsible directly to the Supplier for payment under each purchase order.
- c. In the event that the Supplier elects to discontinue re-supply above the 140% of the estimated quantity, the Supplier shall notify DGS and PennDOT in writing of their intentions not to continue to supply this commodity above 140%. The notification is made prior to the actual receipt quantity reaching 100% of the original estimated quantity.
- d. In the event the total tonnage purchased for all COSTARS participants for a single Supplier equals at least 100% of the COSTARS estimates for that Supplier; the minimum requirements will be considered satisfied and the Supplier may not pursue storage charges for any specific COSTARS entity which did not meet their 60% minimum requirement.

The Supplier acknowledges that the participating Political Subdivisions are intended beneficiaries under the Contract and are real parties in interest with the capacity to sue and be sued in their own name and without joining the Commonwealth of Pennsylvania, Department of General Services.

34. **INITIAL FILL:** COSTARS/Political Subdivisions will place orders during the initial fill period of August 1<sup>st</sup> and October 31<sup>st</sup> of the current year, for delivery within thirty (30) calendar days of receipt of the order.

August 1, 2021 to October 31, 2021 reflects the estimated tonnage of Sodium Chloride that may be ordered by each COSTARS entity between August 1, 2021 and October 31, 2021 for delivery within thirty (30) calendar days of receipt of the order. The amount of material estimated for the initial fill period may be decreased due to storage and/or financial constraints.

If an initial fill estimated order quantity is reduced, the 60% of the total estimated order quantity will still be purchased with the exception of the following language: “In the event the total tonnage purchased for all COSTARS participants for a single Supplier equals at least 100% of the COSTARS estimates for that Supplier; the minimum requirements will be considered satisfied and the Supplier may not pursue storage charges for any specific COSTARS entity which did not meet their 60% minimum requirement.”

The minimum order quantity for municipalities using this contract is 22 tons per stockpile location. The minimum delivery quantity during the initial fill period is 150 tons per stockpile per day, unless the ordered quantity is less than 150 tons, in such cases the entire order for that stockpile is delivered same day. All political subdivisions (COSTARS Members) are encouraged to have the minimum requirement (60%) delivered before November 1<sup>st</sup> of the current year.

35. **BALANCE OF SEASON - WINTER FILL:** COSTARS participants may order and receive their winter fill from November 1<sup>st</sup> through July 31<sup>st</sup> of the contract period.

The minimum order quantity for municipalities (COSTARS) using this contract is 22 tons per stockpile location. The minimum delivery is 175 tons per stockpile per day, unless the ordered quantity is less than 175 tons, in such cases the entire order for that stockpile is delivered same day with the exception of the City of Philadelphia. Deliveries to the City of Philadelphia are 10 trucks or 250 tons per stockpile per day. Delivery of material to these locations shall be complete within seven (7) business days after receipt of the purchase order unless the municipality/Political



Subdivision's stockpile capacity is less than 175 tons in which case delivery shall be completed within five (5) business days. Orders received at the Supplier's place of business prior to 11:59 am daily are considered the same business day's order. Orders received at the Supplier's place of business after 12:00 noon are considered the next business day's order.

#### **IV. NON-PENNDOT STATE AGENCIES SODIUM CHLORIDE REQUIREMENTS**

36. **ESTIMATED QUANTITIES:** There is no minimum purchase amount for the Agency estimates; however the Supplier will provide this commodity to 130% of the Agencies estimates at the awarded contract price. In the event that the Supplier elects to discontinue re-supply above the 130% of the estimated quantity, the Supplier shall notify DGS in writing of their intentions when the actual receipt quantity reaches 100% of the estimated quantity.
37. **INITIAL FILL:** Non-PennDOT State Agencies may place orders during the initial fill period of August 1<sup>st</sup> and October 31<sup>st</sup> of the current year, for delivery within thirty (30) calendar days of receipt of the order.  
(August 1, 2021 to October 31, 2021) The minimum order quantity for non-PennDOT state agencies using this contract is 22 tons per stockpile location. The minimum delivery quantity during the initial fill period is 150 tons per stockpile per day, unless the ordered quantity is less than 150 tons, in such cases the entire order for that stockpile is delivered same day. All non-PennDOT state agencies are encouraged to have their stockpiles filled to capacity prior to November 1<sup>st</sup> of the current year.

DGS does not have initial fill estimates for the 2021-2022 season for non-PennDOT state agencies who wish to participate in the initial fill period. As such, those non-PennDOT state agencies wanting to participate in the initial fill program must issue purchase orders to the awarded supplier no later than October 31, 2021 for delivery within thirty (30) calendar days of receipt of order.

38. **BALANCE OF SEASON - WINTER FILL:**

The minimum order quantity for non-PennDOT state agencies using this contract is 22 tons per stockpile location. The minimum delivery is 175 tons per stockpile per day, unless the ordered quantity is less than 175 tons, in such cases the entire order for that stockpile is delivered. Delivery of material to these locations shall be complete within seven (7) business days after receipt of the purchase order unless the Agency's stockpile capacity is less than 175 tons in which case delivery shall be completed with five (5) business days. Orders received at the Supplier's place of business prior to 11:59 am daily are considered the same business day's order. Orders received at the Supplier's place of business after 12:00 noon are considered the next business day's order.