REQUEST FOR PROPOSALS FOR

eDiscovery Software Platform

for the Office of Attorney General in
the Commonwealth of Pennsylvania

RFP NUMBER
6100042624

May 1, 2017
REQUEST FOR PROPOSALS FOR
eDiscovery Software Platform
RFP Number 6100042624

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## CALENDAR OF EVENTS

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

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsibility</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline to submit Questions via email to:</td>
<td>Potential Offerors</td>
<td>5/15/2017 3:00 p.m.</td>
</tr>
<tr>
<td>Alecia Peddigree: <a href="mailto:apeddigree@attorneygeneral.gov">apeddigree@attorneygeneral.gov</a></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Answers to Potential Offeror questions posted to the PAOAG website at</td>
<td>Issuing Office</td>
<td>5/22/2017 3:00 p.m.</td>
</tr>
<tr>
<td><a href="http://www.attorneygeneral.gov/Procurement/">www.attorneygeneral.gov/Procurement/</a> no later than this date.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Please monitor website for all communications regarding the RFP.</td>
<td>Potential Offerors</td>
<td>ONGOING</td>
</tr>
<tr>
<td><a href="http://www.attorneygeneral.gov/Procurement/">www.attorneygeneral.gov/Procurement/</a></td>
<td></td>
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<tr>
<td>Sealed proposal must be received by the Issuing Office at:</td>
<td>Offerors</td>
<td>5/31/2017 4:00 p.m.</td>
</tr>
<tr>
<td>Mrs. Alecia D. Peddigree</td>
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<tr>
<td>Office of Attorney General</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14th Floor, Strawberry Square</td>
<td></td>
<td></td>
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<tr>
<td>Harrisburg, PA 17120</td>
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<tr>
<td>Best and Final Offers – Presentations via electronically or in person at</td>
<td>Offerors</td>
<td>6/19/2017</td>
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<tr>
<td>the Issuing Office detailed above.</td>
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<tr>
<td>Selection of Awarded Vendor(s)</td>
<td>Issuing Office</td>
<td>7/5/2017</td>
</tr>
<tr>
<td>Mandatory Pre-implementation Kick-Off Meeting, see Part I, Section I-25</td>
<td>PAOAG &amp; Awarded Vendor(s)</td>
<td>7/17/2017 11:00 a.m.</td>
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<td>for details.</td>
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PART I

GENERAL INFORMATION

I-1. Purpose. This request for proposals (“RFP”) provides to those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the Pennsylvania Office of the Attorney General’s (“PAOAG”) consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for electronic discovery (“eDiscovery”) software. This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.

I-2. Issuing Office. The PAOAG (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be:

Alecia D. Peddigree, Issuing Officer  
Office of Attorney General  
14th Floor Strawberry Square  
Harrisburg, PA 17120  
apeddigree@attorneygeneral.gov

Please refer all inquiries to the Issuing Officer.

I-3. Overview of Project. The PAOAG initiates this RFP to solicit responses from qualified vendors for replacement of certain core stages of its electronic discovery (eDiscovery) platform.

I-4. Objectives.

A. General. The PAOAG is seeking to replace certain functional components of its existing eDiscovery platform. For the purposes of this RFP, these functional components have been divided into “lots”. The PAOAG may award all lots to a single vendor, or any number of lots to multiple vendors. The PAOAG also reserves the right not to award one or more lots to any vendor. Vendors may choose to respond to all lots, or any number thereof. Responses to each lot will be scored separately and will be compared only to responses for like lots. Therefore, there is no advantage or disadvantage to responding to all lots, or any lesser number of them. As well, responses to other sections of the RFP are required, regardless of the number of lots to which the vendor elects to respond. These areas are noted accordingly.

B. Specific. The lots are based upon functional components and are titled in this RFP as follows:

1. Early Data Assessment
2. Ingestion, Processing and Analytics
3. Review and Production
I-5. **Type of Contract.** It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a Firm, Fixed Price Contract that provides for the upward and downward revision of the stated contract price upon occurrence of certain contingencies to be defined in the contract, as per Chapter Part I, Chapter 8, Department of General Services Procurement Handbook of the Commonwealth of Pennsylvania. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

I-6. **Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP.

I-7. **Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

I-8. **Questions & Answers.** If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (with the subject line “RFP 6100042624 Question”) to the Issuing Officer named in Part I, Section I-2 of the RFP. If the Offeror has questions, they must be submitted via email no later than the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions on the PAOAG website by the date stated on the Calendar of Events. An Offeror who submits a question after the deadline date for receipt of questions indicated on the Calendar of Events assumes the risk that its proposal will not be responsive or competitive because the Commonwealth is not able to respond before the proposal receipt date or in sufficient time for the Offeror to prepare a responsive or competitive proposal. When submitted after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer may respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Issuing Office decides to respond to a non-administrative question after the deadline date for receipt of questions indicated on the Calendar of Events, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the PAOAG website are considered as an addendum to, and part of, this RFP in accordance with RFP Part I, Section I-9. Each Offeror shall be responsible to monitor the PAOAG website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is described on the PAOAG website.

I-9. **Addenda to the RFP.** If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the PAOAG website. It is the Offeror’s responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to the website as an addendum to the RFP.

I-10. **Response Date.** To be considered for selection, hard copies of proposals must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. The Issuing Office will not accept proposals via email or facsimile transmission. Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be
automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject, unopened, any late proposals.


A. Proposal Submission: To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in Section I-11B, providing ten (10) paper copies [one marked “ORIGINAL”] of the Technical Submittal and one (1) paper copy of the Cost Submittal and two (2) paper copies of the Small Diverse Business and Small Business (SDB/SB) Participation Submittal and related Letter(s) of Intent. In addition to the paper copies of the proposal, Offerors shall submit two (2) complete and exact copy of the entire proposal (Technical, Cost and SDB/SB submittals, along with all requested documents) on a Flash drive in Microsoft Office or Microsoft Office-compatible format. The electronic copy must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. The Offerors may not lock or protect any cells or tabs. The Flash drive should clearly identify the Offeror and include the name and version number of the virus scanning software that was used to scan the Flash drive before it was submitted. The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant. Each proposal page should be numbered for ease of reference. An authorized official to bind the Offeror to its provisions must sign the proposal. If the official signs the Proposal Cover Sheet (Appendix A to this RFP) and the Proposal Cover Sheet is attached to the Offeror’s proposal, the requirement will be met. For this RFP, the proposal must remain valid for One Hundred Twenty (120) days or until a contract is fully executed. If the Issuing Office selects the Offeror’s proposal for award, the contents of the selected Offeror’s proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

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

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

1. Technical Submittal, in response to Part III:

   a. Complete and include Appendix B – Functional Components by Lots;

   b. Complete and include Appendix C – Additional Technical Components;
c. Complete, sign and include **Appendix E – Domestic Workforce Utilization Certification**;

d. Complete, sign and include **Appendix F – Iran Free Procurement Certification**;

2. Cost Submittal, in response to RFP Part IV;

   a. Complete and include **Appendix D – Cost Submittal**; and

3. Small Diverse Business and Small Business (SDB/SB) Participation Submittal, in response to RFP Part V:

   a. Complete and include **Appendix H - SDB/SB Participation Submittal Form**; and

   b. Complete and include **Appendix I - SDB/SB Letter of Intent**. Offeror must provide a Letter of Intent for each SDB and SB listed on the SDB/SB Participation Submittal Form

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

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

I-12. **Economy of Preparation.** Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror’s ability to meet the requirements of the RFP.

I-13. **Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will accept alternate proposals as long as the Offeror’s product and/or service capabilities align with a significant portion of the technical requirements described herein.

I-14. **Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

I-15. **Prime Contractor Responsibilities.** The selected Offeror must perform at least fifty (50%) of the services provided for in Offeror’s proposal. Nevertheless, the contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.

A. Confidential Information. The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors’ submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection c. below and must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

B. Commonwealth Use. All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania and may be returned only at the Issuing Office’s option. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained on proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

C. Public Disclosure. After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Refer to Appendix G of the RFP for a Trade Secret Confidential Proprietary Information Notice Form that may be utilized as the signed written statement, if applicable. If financial capability information is submitted in response to Part III of this RFP such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

I-17. Best and Final Offers.

A. While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining “best and final offers.” To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following, in any combination and order:

1. Schedule oral presentations;
2. Request revised proposals;
3. Conduct a reverse online auction; and
4. Enter into pre-selection negotiations.
B. The following Offerors will not be invited by the Issuing Office to submit a Best and Final Offer:

1. Those Offerors, which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive.

2. Those Offerors, which the Issuing Office has determined in accordance with Part II, Section II-5, from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.

3. Those Offerors whose score for their technical submittal of the proposal is less than 70% of the total amount of technical points allotted to the technical criterion.

The issuing office may further limit participation in the best and final offers process to those remaining responsible offerors which the Issuing Office has, within its discretion, determined to be within the top competitive range of responsive proposals.

C. The Evaluation Criteria found in Part II, Section II-4, shall also be used to evaluate the Best and Final offers.

D. Price reductions offered through any reverse online auction shall have no effect upon the Offeror’s Technical Submittal.

E. Any reduction to commitments to Small Diverse Businesses and Small Businesses must be proportional to the reduction in the total price offered through any BAFO process or contract negotiations unless approved by BDISBO.

I-18. News Releases. Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

I-19. Restriction of Contact. From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror’s proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror’s proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.

I-20. Issuing Office Participation. Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in this Part I, Section I-22.

I-21. Term of Contract. The term of the contract will commence on the Effective Date and will end Three (3) Years after the Effective Date. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.
I-22. **Offeror’s Representations and Authorizations.** 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.

I-23. Notification of Selection.

A. Contract Negotiations. The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.

B. Award. Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contract signed by the selected Offeror.

I-24. RFP Protest Procedure. The RFP Protest Procedure is on the PAOAG website at https://www.attorneygeneral.gov/Bid_Protest/. A protest by a party not submitting a proposal must be filed within seven days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the proposal submission deadline specified in the Calendar of Events of the RFP. Offerors may file a protest within seven days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than seven days after the date the notice of award of the contract is posted on the PAOAG website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh day.

I-25. Pre-Implementation Kick-Off Meeting: A MANDATORY ATTENDANCE Pre-Implementation Kick-Off Meeting will occur at 11:00 a.m. on Monday, July 17, 2017, at the Pennsylvania Office of Attorney General, 14th Floor Strawberry Square, Harrisburg, PA 17120. The attendance of the Project Manager assigned to the PAOAG is mandatory along with any personnel said vendor(s) would deem integral in the implementation of the eDiscovery Software Platform.

I-26. Use of Electronic Versions of this RFP. This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror’s possession and the Issuing Office’s version of the RFP, the Issuing Office’s version shall govern.

I-27. Information Technology Policies.

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

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

CRITERIA FOR SELECTION

II-1. Mandatory Responsiveness Requirements. To be eligible for selection, a proposal must:

A. Be timely received from an Offeror (see Part I, Section I-10); and

B. Be properly signed by the Offeror (see Part I, Section I-11A).

II-2. Technical Nonconforming Proposals. The two (2) Mandatory Responsiveness Requirements set forth in Section II-1 above (A-B) are the only RFP requirements that the Commonwealth and the PAOAG will consider to be non-waivable. The Issuing Office reserves the right, in its sole discretion, to (1) waive any other technical or immaterial nonconformities in an Offeror’s proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror’s proposal.

II-3. Evaluation. The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BDISBO will evaluate the Small Diverse Business and Small Business Participation Submittal and provide the Issuing Office with a rating for this component of each proposal. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to the Commonwealth as determined by the Issuing Office after taking into consideration all of the evaluation factors.

II-4. Evaluation Criteria. The following criteria will be used in evaluating each proposal:

A. Functional Components: The Issuing Office has established the weight for the Functional Components criterion for this RFP as 50% of the total points. Evaluation will be based upon the functional capabilities described within each lot in Appendix B. The final functional scores are determined by giving the maximum number of functional points available for each lot to the proposal with the highest raw score for each lot.

B. Technical, Service, Qualifications, Timelines and Plan: The Issuing Office has established the weight for the Technical, Service, Qualifications, Timelines and Plan criterion for this RFP as 10% of the total points. Evaluation will be based upon the capabilities described in Appendix C. The final scores are determined by giving the maximum number of points available to the proposal with the highest raw score.

C. Cost: The Issuing Office has established the weight for the Cost criterion for this RFP as 20% of the total points. Evaluation will be based upon the response to Appendix D. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage:

D. Small Diverse Business and Small Business Participation:

BDISBO has established the minimum evaluation weight for the Small Diverse Business and Small Business Participation criterion for this RFP as 20% of the total points.
1. The Small Diverse and Small Business point allocation is based entirely on the percentage of the contract cost committed to Small Diverse Businesses and Small Businesses.

2. A total combined SDB/SB commitment less than one percent (1%) of the total contract cost is considered de minimis and will receive no Small Diverse Business or Small Business points.

3. Two thirds (2/3) of the total points are allocated to Small Diverse Business participation (SDB %).

4. One third (1/3) of the total points is allocated to Small Business participation (SB %).

5. Based on a maximum total of 200 available points for the Small Diverse Business and Small Business Participation Submittal, the scoring mechanism is as follows:

\[
\text{Small Diverse Business and Small Business Raw Score} = 200 \times (\text{SDB} \% + \frac{1}{3} \times \text{SB} \%)
\]

6. Each Offeror’s raw score will be pro-rated against the Highest Offeror’s raw score by applying the formula set forth on the following webpage:

7. The Offeror’s prior performance in meeting its contractual obligations to Small Diverse Businesses and Small Businesses will be considered by BDISBO during the scoring process. To the extent the Offeror has failed to meet prior contractual commitments, BDISBO may recommend to the Issuing Office that the Offeror be determined non-responsible for the limited purpose of eligibility to receive Small Diverse Business and Small Business points.

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

To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those Offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. See the following webpage for the Domestic Workforce Utilization Formula:

F. Iran Free Procurement Certification and Disclosure. Prior to entering a contract worth at least $1,000,000 or more with a Commonwealth entity, an offeror must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by 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 offerors must complete and return the Iran Free Procurement Certification form, (Appendix F, Iran Free Procurement Certification Form), which is attached hereto and made part of this RFP. The completed and signed Iran Free Procurement Certification form must be submitted as part of the Technical Submittal.

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

http://www.dgs.pa.gov/businesses/materials%20and%20services%20procurement/procurement-resources/pages/default.aspx#.WDNfJJgo6Ht

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

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

A. The total score for the technical submittal of the Offeror’s proposal must be greater than or equal to 70% of the available technical points; and

B. The Offeror’s financial information must demonstrate that the Offeror possesses the financial capability to assure good faith performance of the contract. The Issuing Office will review the Offeror’s previous three financial statements, any additional information received from the Offeror, and any other publicly-available financial information concerning the Offeror, and assess each Offeror’s financial capacity based on calculating and analyzing various financial ratios, and comparison with industry standards and trends.

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

Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.
II-6. Final Ranking and Award.

A. After any best and final offer process conducted, the Issuing Office will combine the evaluation committee’s final technical scores, BDISO’S final Small Diverse Business and Small Business Participation Submittal scores, the final cost scores, and (when applicable) the domestic workforce utilization scores, in accordance with the relative weights assigned to these areas as set forth in this Part.

B. The Issuing Office will rank responsible offerors according to the total overall score assigned to each, in descending order.

C. The Issuing Office must select for contract negotiations the offeror with the highest overall score but reserves the right to negotiate with the top three offerors should the committee determine that multiple vendors offer a better overall solution than a single provider.

D. The Issuing Office has the discretion to reject all proposals or cancel the request for proposals, at any time prior to the time a contract is fully executed, when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the contract file.
III-1. Overview.

The PAOAG initiates this RFP to solicit responses from qualified vendors for initial replacement of certain functional components of its electronic discovery (eDiscovery) platform.

The PAOAG is the Commonwealth’s chief law enforcement agency. The PAOAG has three legal divisions, comprised of the Criminal Law Division, Civil Law Division and Public Protection Division. Collectively, the PAOAG’s mission is to serve the citizens of the Commonwealth by adhering to the highest standards of excellence, ethics and effectiveness and to deliver the highest quality legal services to the public officials, agencies, and citizens that it represents. The PAOAG is comprised of more than 600 attorneys and professional staff who work in 38 separate legal sections located in 15 different physical locations across the Commonwealth.

The PAOAG’s Litigation Support Section (“LSS”) is responsible for managing eDiscovery and related support operations across the agency. The LSS provides services related to a substantial number of litigation cases annually, as well as services related to the agency’s obligation to respond to public records requests. The manner in which the current eDiscovery platform is leveraged varies based on the internal section requesting the services and the type of case at issue. By way of most complete example, the Civil Litigation Section within the Civil Law Division defends the Commonwealth and its agencies in civil matters before the federal and state courts. Requested services typically span the full scope of the Electronic Data Reference Model (“EDRM”), including the preservation, collection, processing, analysis, review, and ultimate production of Electronically Stored Information (“ESI”). Presentation of ESI and other evidence before the courts is handled by LSS employees that utilize inData’s TrialDirector software together with specialized hardware. Accordingly, though contemplated by the EDRM, the presentation component of the model is not viewed as a constituent part of the eDiscovery platform sought herein.

This section provides an outline for the materials expected in Offeror’s proposal. It is not strictly necessary to follow the outline provided, but it is highly recommended that each component in Sections III-2 through Section III-8 below are compressively addressed in a fashion easily understood by the reviewers.

For purposes of this RFP, terms describing various aspects of eDiscovery processes and technologies shall be as generally defined by the EDRM found at: [http://www.edrm.net/frameworks-and-standards/edrm-model/](http://www.edrm.net/frameworks-and-standards/edrm-model/).

Your proposal should describe how your solutions will provide the functionality and the compatibility requirements outlined herein. Offerors should use the information provided in this document as context and background for the proposal. Vendors that fail to meet a substantial portion of the requirements found within this section may be disqualified. The PAOAG may select one single vendor to provide all functionality described in this proposal, or it may select different vendors to provide solutions for different functional components. As well, the PAOAG may elect not to select any of the proposed solutions for one or more functional areas.
III-2. Functional Components / Lots

The PAOAG is seeking to replace certain functional components of its existing eDiscovery platform. For the purposes of this RFP, these functional components have been divided into “lots”. Vendors may choose to respond to all lots, or any number thereof. Responses to each lot will be scored separately and will be compared only to responses for like lots. Therefore, there is no advantage or disadvantage to responding to all lots, or any lesser number of them.

The lots in Appendix B to which Offer may respond are as follows:

L1 - Early Data Assessment
L2 – Ingestion, Processing and Analytics
L3 – Review and Production

Offeror should complete the forms appearing in Appendix B and include narrative responses that describe how the Offeror’s solution manages each of the lots for which they desire to respond. Offeror is encouraged to explain in narrative form how its solution is different from or superior to competing software platforms.

An Offeror may find that a particular process, feature or function is listed in a lot that differs from where they view the process as occurring within their proposed solution and/or that a function appears in a lot to which they are otherwise not responding. The PAOAG cannot anticipate where all potential Offeror’s might view these functions as taking place. If a particular functional process or feature is present in the solution proposed in response to a specific lot, but is found in another lot to which Offeror is not responding, the Offeror should utilize the appropriate narrative question to outline additional or overlapping functions included in the lot(s) to which they have chosen to respond. (e.g. Offeror’s EDA tool provides analytical functions described in the Analysis lot, but Offeror is not proposing a solution for or responding to the Analysis lot. Offeror therefore notes this functionality in the opening EDA narrative question.)

As a general aid for responses, a description of the terms used to describe these lots follows:

**Early Data Assessment** - ECA (“Early Case Assessment”) and EDA (“Early Data Assessment”) are often used interchangeably, though arguably have quite different meanings. Use of the acronym EDA, to describe a lot within this RFP, is defined as a solution that provides both a holistic view and for the initial triage of an ESI collection. Specifically, this solution must aid in understanding the volume of potentially relevant material, testing and refining potential search terms, identifying potential custodians, and ultimately in the narrowing of potentially relevant ESI.

**Ingestion** - If separate from “processing”, ingestion is a mechanism by which native ESI is first loaded to the platform, before processing and other functions may take place. It may also execute preliminary
processing steps, including the initial unpacking of compound files and embedded objects and establishing family relationships. Proposed solutions must be able to ingest both native file collections and incoming eDiscovery productions already in common eDiscovery delivery formats.

**Processing** - This solution is responsible for executing optical character recognition (“OCR”) on image-only documents. It may also be responsible for extraction of compound files, establishing family relationships, and for the extraction of text and metadata from native files. Additionally, a variety of culling techniques may also be applied here, to include; hashing, de-duplication, de-NISTing and markup image rendering.

**Analytics** - Analytical tools leverage technology to process documents in a manner that aids in understanding content, context, patterns, topics, people and discussions. These tools include the technology necessary to re-thread email chains, find most-inclusive emails, and utilize predictive coding technology. Portions of the preparation necessary to accomplish these tasks may occur in the processing stage.

**Review** - The review platform is utilized by attorneys, paralegals and investigators to explore ESI. Reviewers should be able to investigate collections not already culled, by executing searches and utilizing filters. Reviewers should also be able to operate against assigned document review sets where they code issues, evaluate documents for relevance and privilege and apply redactions.

**Production** - This component is responsible for preparing an eDiscovery production for transfer to an opposing party. Such productions typically include some combination of images, native files, extracted text and structured data in one or more common eDiscovery formats.

### III-3. Consistency with PAOAG Operational Environment

The solution proposed for any given lot should permit a **fully on premise installation** of that solution, utilizing the existing PAOAG computing environment. Proposed solutions requiring transmission or storage of data or documents outside the internal networks of the PAOAG may be disqualified.

The following operating system, database, virtualization, deployment and end-user software products are currently in use by the PAOAG. Solutions must be effectively “compatible” with these products. Compatibility includes the ability to integrate with, or; capability of being used together without special modification, adaptation, or purchase of additional hardware/software external to the eDiscovery solution itself.

1. Virtualized Microsoft Server (64-bit) 2012R2 or 2016 (2016 preferred) network operating system based servers in an Ethernet networked environment;
3. Citrix Zen App 7.6;
4. VMware 5.5 or above;
5. Microsoft Windows 10 (64 bit) desktop OS;
6. Microsoft Internet Explorer 11, Chrome, or Firefox;
10. Must meet current federal guidelines for recommended security and patching including service packs, the operating system, Microsoft Office and SQL.

The PAOAG has no intentions of re-training existing (or hiring additional) staff to establish, interact with, secure, or otherwise maintain any non-Microsoft operating system environment (i.e. Linux, etc.).

The PAOAG has no intention of selecting a solution that primarily stores eDiscovery case databases and/or user work-product in database platforms other than Microsoft SQL Server (i.e. Oracle, etc.). This requirement is not designed to foreclose the use of solutions that partially rely upon other database technologies that operate within the platform itself and do not require specialized interaction or maintenance, but rather to preclude the use of systems that are not primarily compatible with existing Microsoft SQL Server based business, backup and technical processes that already protect existing eDiscovery-related ESI and the PAOAG work-product related thereto.

In addition to the requirements listed above, the eDiscovery solution must permit integration with Active Directory for purposes of general user authentication for both administrative and end-user interfaces, whether application or web-based. This requirement does not preclude the underlying solution from operating under a privileged service account, if such design is employed to permit the solution itself to provide granular user access permissions and management based upon the Active Directory authenticated identities of users.

The PAOAG utilizes SAN storage appliances (NetApp) to provide standard Windows CIFS share services as they relate to existing eDiscovery document storage requirements. The PAOAG has no intentions of purchasing additional hardware-based / appliance-based storage solutions that are duplicative of investments in existing storage solutions.

The PAOAG has no intentions of purchasing hardware-based / appliance-based solutions that are duplicative of investments in existing hardware designed to permit the virtualization of servers and applications (VMware).

Application-based solutions must be compatible with Citrix Zen App 7.6 and above, for purposes of deploying the eDiscovery solution to end-users external to the PAOAG networks. However, this requirement is focused upon deployment of the end-user review component(s) of the solution and does not preclude solutions which may require alternative recommended means of interaction (direct RDP to servers, etc.) for certain non-review component operations relating to administration, maintenance, loading, production, etc.

Application-based review component solutions must operate on the Windows 10 (64-bit) desktop OS.

Web-based review component solutions are preferred compatible with Microsoft Internet Explorer 11 (64-bit) browsers, the browser that will be present in standard user desktop images after May, 2017. Web-based review component solutions will also be made available to internal and external users through publication of a browser deployed via Citrix. Ideally, solutions will be browser agnostic. If web-based solutions are not fully compatible with Microsoft Internet Explorer 11 (64-bit), common alternative web browsers (Chrome, Firefox, Safari, etc.) are acceptable, so long as the alternative browser(s) may be reliably deployed as an application or on a desktop via Citrix Zen App 7.6 and above.
If a web server other than Microsoft’s server role “Web Server (IIS)” is required to serve a web-based review component, it must be included and deployable within the solution and must not require separate procurement and licensure outside the scope of this RFP.

III-4. Service, Training and Support Requirements

The PAOAG will require implementation and training services on its premises in Harrisburg, Pennsylvania. Specifically, the proposal should describe how the Offer can assist with:

A. Pre-installation review of infrastructure with appropriate PAOAG personnel

B. Installation of software and any required functional testing

C. Training for administrative and technical personnel responsible for the management of the platform

D. Supervised loading of discovery materials for a small sample selection of ongoing cases, to be defined in advance by PAOAG Litigation Support, in order to demonstrate production platform stability and best practices for migration of ESI into the new solution.

E. Training for between 15 and 25 litigators and support staff in an initial “train the trainers” effort, to include:
   1. Functional use of the system
   2. Analytic components
   3. Processing
   4. Other topics to be determined in advance by the PAOAG

F. Ongoing training and educational requirements, such as the availability of educational content and access to online training materials.

G. Technical support availability, as well as specific guarantees for software availability as stated in the vendors Service Level Agreement (SLA) for proposed components or configurations that include cloud/off site resources. This should include a flow chart or list of escalation points within the company for technical support, major and minor bug fixes, compatibility issues, and error correction.

H. Routine software maintenance. The availability and frequency of major and minor releases, and programs that the company has to maintain compatibility with the technical components described in Section III-3 above.

III-5. Qualifications and Personnel

The Offeror should provide narrative responses in its proposal to each of the items below.

A. **Company Overview.** Provide an overview of your company and describe how it has demonstrated an ongoing commitment to the government customer, and, specifically, the law enforcement community.
B. **Prior Experience.** Describe your company’s experience in implementing eDiscovery solutions for government customers, specifically Attorneys General and District Attorneys, if available. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

C. **Personnel.** Each offeror must name a Project Manager who will be the main point of contact for all PAOAG personnel. Offeror must describe the qualifications of this person, through a resume or of similar document, as well as the names and qualifications of any other individuals that the Offeror deems essential to the success of the project. Those individuals designated in the proposal as allocated more than 80% to the project will be deemed by the PAOAG as essential personnel; Offeror must provide notice of no less than fifteen (15) days of the departure of any such personnel during the course of the project. Indicate the responsibilities each individual will have in this Project and how long each has been with your company.

D. **Subcontractors:** If applicable, provide a subcontracting plan for all subcontractors, including small diverse business and small business subcontractors, who will be assigned to the Project. The selected Offeror is prohibited from subcontracting or outsourcing any part of this Project without the express written approval from the Commonwealth. Upon award of the contract resulting from this RFP, subcontractors included in the proposal submission are deemed approved. For each position included in your subcontracting plan provide:

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

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

III-6. **Financial Capability.** Describe your company’s financial stability and economic capability to perform the contract requirements. Provide your company’s financial statements (audited, if available) for the past three fiscal years. Financial statements must include the company’s Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report, if
available. If your company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The Commonwealth reserves the right to request additional information it deems necessary to evaluate an Offeror’s financial capability.

III-7. Work Plan. Describe in narrative form your technical plan for accomplishing the work using the task descriptions as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task.

III-8. Reports and Project Control. Offeror must provide the following reports to the PAOAG in conjunction with its performance under any award.

A. Status Report. A monthly progress report covering activities, problems and recommendations. This report should be keyed to the work plan the Offeror developed in its proposal, as amended or approved by the PAOAG.

B. Final Report. Within thirty (30) days of the conclusion of the project, Offeror must submit a final report, summarizing:

1. A summary of all major tasks completed during the performance of the contract

2. Any license information or other documentation required for the maintenance, support and ongoing use of the software

3. Customer support information, including contact information, escalation procedures, and any other relevant documentation

4. A flow chart and/or network diagram indicating any dependencies that the software may have on other software components, describing potential issues that may arise in software performance if dependent components are upgraded.

5. A summary of any findings, conclusions, vulnerabilities, or observations that may assist the PAOAG in the use of this software platform

III-9. Objections and Additions to Standard Contract Terms and Conditions. The Offeror will identify which, if any, of the terms and conditions (contained in Part VI) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror’s failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office’s sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for Part VI. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror’s, or any other, online guides or online terms and conditions contained in any proposal.
Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in Part VI. The Issuing Office will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in Part VI or to other provisions of the RFP as specifically identified above.
IV-1. **Cost Submittal.** The information requested in this **Part IV** shall constitute the Cost Submittal. The Cost Submittal shall be placed in a separate sealed envelope within the sealed proposal, separated from the technical submittal. The total proposed cost should be broken down into the components set forth in **Appendix D – Cost Submittal.** The percentage of commitment to Small Diverse Businesses and Small Businesses should not be stated in the Cost Submittal. Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office pursuant to **Part I, Section I-8** of this RFP any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office’s written answer so that all proposals are submitted on the same basis.

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

SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL

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

A Small Business must meet each of the following requirements:

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

For credit in the RFP scoring process, a Small Business must complete the DGS/BDISBO self-certification process. Additional information on this process can be found at: [http://www.dgs.pa.gov/Businesses/Small%20Business%20Contracting%20Program/Pages/default.aspx](http://www.dgs.pa.gov/Businesses/Small%20Business%20Contracting%20Program/Pages/default.aspx).

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

For credit in the RFP scoring process, a Small Diverse Business must complete the DGS verification process. Additional information on this process can be found at: [http://www.dgs.pa.gov/Businesses/Minority,%20Women%20and%20Veteran%20Businesses/Pages/default.aspx](http://www.dgs.pa.gov/Businesses/Minority,%20Women%20and%20Veteran%20Businesses/Pages/default.aspx).

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

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

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

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

V-2. Small Diverse Business and Small Business (SDB/SB) Participation Submittal. All Offerors are required to submit two (2) copies of the Small Diverse Business and Small Business Participation Submittal Form contained in (Appendix H) and related Letter(s) of Intent (Appendix I). The submittal must be sealed in its own envelope, separate from the remainder of the proposal, and must be provided on the Small Diverse Business and Small Business Participation Submittal form, with information as follows:

A. Offerors must indicate their status as a Small Diverse Business and as a Small Business through selection of the appropriate checkboxes.

B. Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Diverse Businesses and Small Businesses as subcontractors.

C. Offerors must include a listing of and required information for each of the Small Diverse Businesses and/or Small Businesses with whom they will subcontract to achieve the participation percentages outlined on the Small Diverse Business and Small Business Participation Submittal form.

D. Offerors must include a Letter of Intent (attached as Appendix I is a Letter of Intent template which may be used to satisfy these requirements) signed by both the Offeror and the Small Diverse Business or Small Business for each of the Small Diverse Businesses and Small Businesses identified in the Small Diverse Business and Small Business Participation Submittal form. At minimum, the Letter of Intent must include the following:

1. The fixed numerical percentage commitment and associated estimated dollar value of the commitment made to the Small Diverse Business or Small Business; and

2. A description of the services or supplies the Small Diverse Business or Small Business will provide; and

3. The timeframe during the initial contract term and any extensions, options and renewals when the Small Diverse Business or Small Business will perform or provide the services and/or supplies; and

4. The name and telephone number of the Offeror’s point of contact for Small Diverse Business and Small Business participation; and
5. The name, address, and telephone number of the primary contact person for the Small Diverse Business or Small Business.

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

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

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


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

A. Each Small Diverse Business and Small Business commitment which was credited by BDISBO and the total percentage of such Small Diverse Business and Small Business commitments made at the time of proposal submittal, BAFO or contract negotiations, as applicable, become contractual obligations of the selected Offeror upon execution of its contract with the Commonwealth.

B. All Small Diverse Business and Small Business subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.

C. The individual percentage commitments made to Small Diverse Businesses and Small Businesses cannot be altered without written approval from BDISBO.

D. Small Diverse Business and Small Business commitments must be maintained in the event the contract is assigned to another prime contractor.

E. The selected Offeror and each Small Diverse Business and Small Business for which a commitment was credited by BDISBO must submit a final, definitive subcontract agreement signed by the selected Offeror and the Small Diverse Business and/or Small Business to BDISBO within 30 days of the final execution date of the Commonwealth contract. A Model Subcontract Agreement which may be used to satisfy this requirement is provided in Appendix J – Model Form of Small Diverse and Small Business Subcontract Agreement. The subcontract must contain:

1. The specific work, supplies or services the Small Diverse Business and/or Small Business will perform; location for work performed; how the work, supplies or services relate to the project; and the specific timeframe during the initial term and any extensions, options and renewals of the prime contract when the work, supplies or services will be provided or performed.
2. The fixed percentage commitment and associated estimated dollar value that each Small Diverse Business and/or Small Business will receive based on the final negotiated cost for the initial term of the prime contract.

3. Payment terms indicating that the Small Diverse Business and/or Small Business will be paid for work satisfactorily completed within 14 days of the selected Offeror’s receipt of payment from the Commonwealth for such work.

4. Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the selected Offeror’s contract with the Commonwealth and that do not place disproportionate risk on the Small Diverse Business and/or Small Business relative to the nature and level of the Small Diverse Business’ and/or Small Business’ participation in the project.

F. If the selected Offeror and a Small Diverse Business or Small Business credited by BDISBO cannot agree upon a definitive subcontract within 30 days of the final execution date of the Commonwealth contract, the selected Offeror must notify BDISBO.

G. The Selected Offeror shall complete the Prime Contractor’s Quarterly Utilization Report and submit it to the contracting officer of the Issuing Office and BDISBO within ten (10) business days at the end of each quarter of the contract term and any subsequent options or renewals. This information will be used to track and confirm the actual dollar amount paid to Small Diverse Business and Small Business subcontractors and suppliers and will serve as a record of fulfillment of the contractual commitment. If there was no activity during the quarter, the form must be completed by stating “No activity in this quarter.” A late fee of $100.00 per day may be assessed against the Selected Offeror if the Utilization Report is not submitted in accordance with the schedule above.

H. The Selected Offeror shall notify the Contracting Officer of the Issuing Office and BDISBO when circumstances arise that may negatively impact the selected Offeror’s ability to comply with Small Diverse Business and/or Small Business commitments and to provide a corrective action plan. Disputes will be decided by the Issuing Office and DGS.

I. If the Selected Offeror fails to satisfy its Small Diverse Business and/or Small Business commitment(s), it may be subject to a range of sanctions BDISBO deems appropriate. Such sanctions include, but are not limited to, one or more of the following: a determination that the selected Offeror is not responsible under the Contractor Responsibility Program; withholding of payments; suspension or termination of the contract together with consequential damages; revocation of the selected Offeror’s Small Diverse Business status and/or Small Business status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.
PART V

See attached Commonwealth Terms and Conditions