

REQUEST FOR PROPOSALS FOR

COMMONWEALTH PUBLIC SAFETY BROADBAND NETWORK (CPSBN)

ISSUING OFFICE

**COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE
1800 ELMERTON AVE
HARRISBURG, PA 17110**

RFP NUMBER

6100043131

DATE OF ISSUANCE

JULY 2017

**REQUEST FOR PROPOSALS FOR
RADIO ACCESS NETWORK FOR PA-FIRSTNET**

TABLE OF CONTENTS

CALENDAR OF EVENTS		iv
Part I	GENERAL INFORMATION	1
Part II	CRITERIA FOR SELECTION	14
Part III	TECHNICAL SUBMITTAL	19
Part IV	NO-COST SUBMITTAL	38
Part V	SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL	39
Part VI	STANDARD CONTRACT TERMS AND CONDITIONS	44

APPENDICES

APPENDIX A, NON-DISCLOSURE AGREEMENT

APPENDIX B, QUESTIONS SUBMITTAL TEMPLATE

APPENDIX C, INTENT TO RESPOND FORM

APPENDIX D, ACRONYMS AND DEFINITION OF TERMS

APPENDIX E, PROPOSAL COVER SHEET

APPENDIX F, DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

APPENDIX G, IRAN FREE PROCUREMENT CERTIFICATION

APPENDIX H, SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL FORM

APPENDIX I, SMALL DIVERSE AND SMALL BUSINESS LETTER OF INTENT

APPENDIX J, MODEL FORM OF SMALL DIVERSE BUSINESS AND SMALL BUSINESS SUBCONTRACT AGREEMENT

APPENDIX K, TRADE SECRET CONFIDENTIAL PROPRIETARY INFORMATION NOTICE FORM

APPENDIX L, LOBBYING CERTIFICATION AND DISCLOSURE OF LOBBYING ACTIVITIES FORM

APPENDIX M, NO-COST SUBMITTAL WORKSHEET

APPENDIX N, QUALITY ASSURANCE SURVEILLANCE PLAN

CALENDAR OF EVENTS

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

Activity	Responsibility	Date
Deadline to submit completed Appendix C, Intent to Respond , via email to: mkieffer@pa.gov , RFP# 6100043131 (with the subject line “RFP# 6100043131 Intent to Respond) to attend the MANDATORY Pre-Proposal Conference	Potential Offerors	Wednesday, July 19, 2017 By 1:00 PM ET
MANDATORY Pre-Proposal Conference Location Pennsylvania State Police P&S Conference Room 1800 Elmerton Ave Harrisburg, PA 17110	Issuing Office/Potential Offerors	Friday, July 21, 2017 At 1:00 PM ET
Deadline to submit Questions on Appendix B, Questions Submittal Template , via email to mkieffer@pa.gov	Potential Offerors	Friday July 28, 2017 By 3:00 pm ET
Deadline to submit completed Appendix A, Non-Disclosure Agreement , via email to: mkieffer@pa.gov , RFP # 6100043131 (Non-Disclosure Agreement)	Potential Offerors	Friday July 28, 2017 By 3:00 pm ET
Answers to Potential Offeror questions posted to eMarketplace at http://www.emarketplace.state.pa.us/Search.aspx no later than this date.	Issuing Office	Friday August 4, 2017 By 3:00 pm ET
Please monitor website for all communications regarding the RFP.	Potential Offerors	Ongoing
The CD, DVD or Flash drive containing the electronic sealed, and 10 paper copies of the proposal must be received by the Issuing Office at: (Mary A. Kieffer) Bureau of Staff Services Division of Procurement & Supplies 1800 Elmerton Avenue Harrisburg, PA 17110 NOTE: Any hand-deliveries may only be made between 7:30 a.m. and 3:00 p.m., Monday through Friday, excluding Commonwealth holidays.	Offerors	Thursday, September 7, 2017 By 3:00 pm ET

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 consideration of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for a Commonwealth Public Safety Broadband Network (“CPSBN” or “Project”). 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. Points of Contact.**
- A. Issuing Office.** The **Pennsylvania State Police** (“PSP” or “Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be **Mary A Kieffer, Bureau of Staff Services/ Division of Procurement & Supplies, mkieffer@pa.gov, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.**
- B. Contracting Office.** PSP, Bureau of Communications & Information Services (BCIS), shall serve as the single point of contact for administration of the contract resulting from this RFP.
- I-3. Overview of Project.**
- A. Overview:** The Commonwealth invites qualified entities to submit a proposal for the design, installation, and operation of a statewide broadband wireless system to serve Pennsylvania public safety entities. It is the intent of this RFP to provide an alternative to the offer from the First Responder Network Authority (FirstNet). The CPSBN shall be fully interoperable with the FirstNet National Public Safety Broadband Network (NPSBN).

This RFP contemplates a relationship with an entity (the Offeror) that meets the qualifications of a wireless network operator.

No funds have been appropriated by the Pennsylvania Legislature to enter into an agreement with a supplier of goods and services described in this RFP. The CPSBN will need to be financially self-sustaining for the anticipated lifespan of the network. If the Commonwealth moves forward with this project as a result of this RFP, the Offeror will be required to develop a self-sustaining business model leveraging the licensed 20 MHz of Band 14 spectrum within Pennsylvania to build, deploy, operate, and maintain the Pennsylvania portion of the NPSBN to

serve public safety and may elect to monetize the excess capacity to provide commercial service to end users.

This RFP follows an objectives-based approach, in contrast to a requirements-based RFP in which much detail is contained. Objectives, provided in Section III-3, are generally in parallel with those expressed in the FirstNet RFP: FirstNet Nationwide Public Safety Broadband Network (NPSBN), Solicitation D15PS00295E, Department of the Interior, <http://www.fbo.gov>.

B. Non-Disclosure Agreement.

- i) **How to submit completed form:** Offerors are required to submit a completed and signed Appendix A, Non-Disclosure Agreement, by the deadline established in the Calendar of Events. The Issuing Office will accept the signed Non-Disclosure Agreement electronically via email at mkieffer@pa.gov (with the subject line “RFP #6100043131 Non-Disclosure Agreement”).
- ii) **Verification of information:** Offerors are encouraged to verify all information provided under the Non-Disclosure Agreement for accuracy.
- iii) **Unsuccessful Offerors:** Upon becoming aware of a contract resulting from this RFP, or if the Governor decides to Opt-In to the FirstNet NPSBN plan, Offerors must destroy all documentation and information obtained as a part of this RFP process.

I-4. Objectives.

- A. General.** It is the intent of this RFP to explore options available to the Commonwealth that will be most responsive to the needs of public safety entities and that will be sustainable over the coming 25-year period.

If the Commonwealth elects to move forward with this project, it will be on the basis of an opt-out decision made by Pennsylvania’s Governor (reference Section I-4.B) in response to the proposed FirstNet NPSBN offering. If the Governor decides to opt out, then he is required to notify FirstNet, National Telecommunications & Information Administration (NTIA), and the Federal Communications Commission (FCC). After providing the notification, the Governor has 180 days to develop and complete plans for the construction, maintenance, and operation of the Radio Access Network (RAN) within the Commonwealth. The Commonwealth is required to submit their State Alternate Plan Program (SAPP, Alternate Plan) for a RAN to the FCC to show that its CPSBN will be interoperable with the NPSBN and that it complies with the minimum technical interoperability requirements under the Act. **If the FCC does not approve the Commonwealth’s Alternate Plan, a contract may not be awarded as a result of this RFP.**

Following FCC approval, the Commonwealth is required to submit their Alternate Plan for a RAN to the NTIA to demonstrate it can provide coverage, quality of service, security, and cost effectiveness comparable to that of the NPSBN. **If the NTIA does not approve the Commonwealth's Alternate Plan, a contract may not be awarded as a result of this RFP.**

The Spectrum Management Lease Agreement (SMLA) is approved by the FirstNet Board. The FirstNet Board was established as part of the Middle Class Tax Relief and Job Creation Act of 2012. The FirstNet Board will have to approve a SMLA for the Commonwealth and its Offeror in order for the Commonwealth to enter into a contract for the RAN/CPSBN. **If the FirstNet Board does not approve a SMLA for the state, a contract may not be awarded as a result of this RFP.**

B. Background.

In February 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (“the Act”) was signed into law. The Act, among other things, created FirstNet as an independent authority within the NTIA. FirstNet was given the license to 20 megahertz (MHz) of spectrum within the 700 MHz band and charged with constructing a NPSBN dedicated to the needs of public safety. The network is expected to be built across all 50 states, plus six territories, and is intended to provide ubiquitous interoperability between jurisdictions. Massive planning efforts for the network have been underway since the date of the Act, and are expected to continue through 2022, the date mandated by the Act for the network to be fully functional.

FirstNet issued an RFP on January 16, 2016, that is intended to result in the issuance of an Indefinite Delivery Indefinite Quantity (IDIQ) contract in the manner of a PPP to design, build, and operate the NPSBN. FirstNet announced the selected contractor, AT&T, at the end of March 2017.

Under the Act, the Governor of each state and territory will receive a plan for a FirstNet deployment of the NPSBN in their jurisdictions. Governors will be provided a review period of 90 days during which a decision will be expected as to whether the state or territory will accept the offer or “opt-out.” A decision to opt-out places the responsibility with a respective state for the design, implementation, and operation of a RAN that is fully compatible with FirstNet’s NPSBN. Opting out also triggers a period of 180 days within which time the alternate state plan is required to be submitted to the FCC.

C. Conditions. Offerors are advised that a contract will not be entered into by the Commonwealth unless:

- The Commonwealth opts-out of the FirstNet offer; and
- A plan for design, deployment, and operation of a Commonwealth RAN is approved by the FCC; and

- The Commonwealth can demonstrate to the NTIA it can provide coverage, quality of service, security, and cost effectiveness comparable to that of the NPSBN; and
- The SMLA is approved by the FirstNet Board; and
- The contract includes clear terms and plans for the Commonwealth RAN to be built and operated in a way that is financially self-sustaining.

D. Expectations. This RFP contemplates a relationship with an Offeror that will provide network design, deployment, operations, maintenance, and customer support for public safety entities in Pennsylvania.

Pennsylvania is seeking alternatives to the FirstNet Plan that will be submitted to each state and territory for the purpose of evaluating options and to select the best path forward to make available to public safety entities within PA a wireless broadband network that satisfies operational needs for the next 25 years.

The FirstNet RFP reflected that FirstNet was seeking:

“A comprehensive network solution covering each of the 56 states and territories. The comprehensive network solution shall provide FirstNet services that include: the deployment and provisioning of a nationwide Core Network (“Core”), and Radio Access Network (RAN) services; backhaul, aggregation, and the use of national transport networks and operation centers; a device ecosystem; use of network infrastructure; deployable capabilities; use of operational and business support systems; an applications ecosystem; network services; and the integration, maintenance, operational services, and ongoing evolution of these systems required to function fully as an operational wireless 3rd Generation Partnership Project (3GPP) standards-based Long Term Evolution (LTE) NPSBN.”

Offerors are encouraged to provide solutions that meet the needs of the Commonwealth to a greater degree than that of the FirstNet-proposed state plan. Creative solutions by offerors are sought and encouraged. Of particular importance are solutions for cost controls, no cost distribution, and avoiding any Commonwealth budget obligations.

I-5. Type of Contract. It is proposed that if the Contracting Office enters into a contract as a result of this RFP, it will be a No-Cost Contract. 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 6100043131 Questions”) to Ms. Mary A Kieffer, Bureau of Staff Services/ Division of Procurement & Supplies, mkieffer@pa.gov, the Issuing Officer for this RFP. If the Offeror has questions, they may be submitted as they arise to the email address indicated in the Calendar of Events, but no later than the date indicated on the Calendar of Events. All questions must be submitted on the Appendix B, Questions Submittal Template, as an email attachment. The Issuing Officer shall post the answers to the questions to eMarketplace at <http://www.emarketplace.state.pa.us/Search.aspx> on an ongoing basis until the deadline 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, the question and answer will be provided to all Offerors through an addendum.

All questions and responses as posted to eMarketplace are considered as an addendum to, and part of, this RFP in accordance with RFP Part I, Section I-10. Each Offeror shall be responsible to monitor eMarketplace 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 in Part I, Section I-25.

- 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 eMarketplace at <http://www.emarketplace.state.pa.us/Search.aspx>. It is the Offeror’s responsibility to periodically check eMarketplace for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period will also be posted to eMarketplace as addenda to the RFP.
- I-10. Response Date.** To be considered for selection, electronic proposal submissions as described in Part I, Section I-12 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.

I-11. Proposal Requirements.

- A. Pre-proposal Conference.** The Issuing Office will hold a **MANDATORY** Pre-proposal conference at PA State Police Headquarters as specified in the Calendar of Events. The purpose of the **MANDATORY** conference is to provide an opportunity for clarification of the RFP on **Friday, July 21, 2017**. Offerors should forward all questions to the Issuing Office in accordance with Part I, Section I-8 to ensure adequate time for analysis before this Issuing Office provides an answer. Offerors may also ask questions at the conference. In consideration of the limited space available for the conference, Offerors should limit their representation to three (3) individuals per Offeror. The Pre-proposal conference is for information only. Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. All questions and written answers will be posted on the DGS website as an addendum to, and shall become part of, this RFP. Attendance at the pre-proposal conference is **MANDATORY**. Notify the Issuing Office who will be attending the pre-proposal conference and complete the form, **Appendix C, Intent to Respond/Pre-proposal Conference Registration Form**. The deadline for potential offerors to submit the completed form to Mary Kieffer is **Wednesday, July 19, 2017 by 1:00 pm**.
- B. 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-11.C, providing a single electronic proposal and (10) ten hard copy booklets with separate files for the Technical Submittal; the No-Cost Submittal; and the Appendix H, Small Diverse Business and Small Business (SDB/SB) Participation Submittal, including related Appendix I, Letter(s) of Intent. The electronic submission must be on CD, DVD or Flash drive in Microsoft Office or Microsoft Office compatible format and any spreadsheets must be in Microsoft Excel. Offerors may not lock or protect any cells or tabs. The CD, DVD or 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 CD, DVD or 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 official authorized to bind the Offeror to its provisions must sign the proposal. If the official signs the Appendix E, Proposal Cover Sheet, to this RFP and the Proposal Cover Sheet is scanned and provided in a PDF version in the Offeror's electronically submitted proposal, the requirement will be met. For this RFP, the proposal must remain valid for 180 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 the proposal receipt deadline. An Offeror or its authorized representative may withdraw its proposal in person prior to the exact hour and date set for the proposal receipt deadline, provided the withdrawing person provides appropriate identification. An Offeror may modify its submitted proposal prior to the exact hour and date set for the proposal receipt deadline only by submitting a clearly identified revised electronic submission on CD, DVD or Flash drive marked as "Revised Proposal" which complies with the RFP requirements.

C. 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 no-cost data relating to this proposal and all Small Diverse Business and Small Business commitment and revenue data should be kept separate from, and not included in, the Technical Submittal. Offerors should not reiterate technical information in the No-Cost Submittal. Each electronic proposal shall consist of the following three (3) separate electronic files:

- i) Technical Submittal, in response to RFP Part III:
 - 1) Complete, sign and include Appendix F, Domestic Workforce Utilization Certification;
 - 2) Complete, sign and include Appendix G, Iran Free Procurement Certification Form; and
 - 3) Complete, sign and include Appendix L, Lobbying Certification and Disclosure of Lobbying Activities Form.
- ii) No-Cost Submittal, in response to RFP Part IV; and
- iii) Small Diverse Business and Small Business (SDB/SB) Participation Submittal Form, in response to RFP Part V:
 - 1) Complete and include Appendix H, SDB/SB Participation Submittal Form; and

- 2) 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 the requirements of 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 the requirements of the RFP. The Issuing Office will not accept alternate proposals.
- 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 responsiveness to the requirements of the RFP. 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. Offeror Responsibilities.** The contract will require the 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 Offeror to be the sole point of contact about all contractual matters.
- I-16. Proposal Contents.**
 - 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 I-16.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. 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 in 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, if any, 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 from public records disclosure under 65 P.S. § 67.708(b)(11). Refer to Appendix K 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 (BAFO).

- A.** While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining “best and final offers” (“BAFO”). To obtain BAFO from Offerors, the Issuing Office may do one or more of the following, in any combination and order:
 - i) Schedule oral presentations;
 - ii) Request revised proposals;
 - iii) Conduct an online auction; and
 - iv) Enter into pre-selection negotiations.

- B.** To be invited by the Issuing Office to submit a BAFO, an Offeror must be deemed responsible in accordance with Part II, Section II-5.

- C.** The Evaluation Criteria found in Part II, Section II-4, shall also be used to evaluate the BAFO.

- D.** The Issuing Office may further limit participation in the BAFO 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.
- 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 and other support necessary to complete the identified work.
- I-21. Term of Contract.** The term of the contract will commence on the Effective Date and will end after a period of twenty-five (25) years. The Issuing Office will establish 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 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 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 (related to unsworn falsification to authorities).
- B.** The Offeror has arrived at the self-funding financial model 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), self-funding financial model, 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 (4) 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. Debriefing Conferences. Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest (See Part I, Section I-25 of this RFP).

I-25. RFP Protest Procedure. The RFP Protest Procedure is provided at <http://www.dgs.pa.gov/Documents/Procurement%20Forms/Handbook/Pt1/Pt%20I%20Ch%2058%20Bid%20Protests.pdf>. A protest by a party that has not or has not yet submitted a proposal must be filed no later than the proposal submission deadline specified in the Calendar of Events of the RFP. Offerors may file a protest within seven (7) calendar 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 (7) calendar days after the date the notice of award of the contract is posted on the 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 calendar day.

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 ensure 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.

PART II

CRITERIA FOR SELECTION

- II-1. Responsive Proposals.** To be eligible for selection, a proposal must:
- A. Be timely received from an Offeror (see Part I, Section I-11); and
 - B. Be properly signed by the Offeror (see Part I, Section I-12B).
- II-2. Conforming Proposals.** The Issuing Office reserves the right, in its sole discretion, to consider technical nonconformity in the scoring of the Offeror's proposal. To be eligible for selection, a proposal must:
- A. Address all objectives and requirements in Part III, Technical Submittal; and
 - B. Address all objectives and requirements in Part IV, No-Cost Submittal.
- II-3. Evaluation.** The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, the Bureau of Diversity, Inclusion and Small Business Opportunities (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 the evaluation factors.
- II-4. Evaluation Criteria.** The following criteria will be used in evaluating each proposal:
- A. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as 50% of the total points available, or 500 points. The final Technical scores are determined by giving the maximum number of technical points available to the proposal(s) with the highest raw technical score. The remaining proposals are rated by applying the Technical Scoring Formula set forth at the following webpage:
<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.
Evaluation criteria that will be used in scoring, as outlined in Part III, will be:
 1. Statement of the Project;
 2. Capabilities; and
 3. Objectives.
 - B. **No-Cost:** The Issuing Office has established the weight for the no-cost criterion for this RFP as 30% of the total points available, or 300 points, which will be assigned to the No-Cost Submittal for establishing a self-funding financial model. The no-cost criterion is rated by giving the proposal with the highest total raw

score the maximum number of no-cost points available. The remaining proposals are rated by applying a prorated formula.

C. 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 available, or 200 points.

- i) The Small Diverse and Small Business point allocation is based entirely on the percentage of the total gross revenue committed to Small Diverse Businesses (“SDB”) and Small Businesses (“SB”).
- ii) 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.
- iii) Two thirds (2/3) of the total points are allocated to Small Diverse Business participation (SDB %).
- iv) One third (1/3) of the total points are allocated to Small Business participation (SB %).
- v) 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:

$$\text{Small Diverse Business and Small Business Raw Score} = 200 (\text{SDB \%} + (1/3 * \text{SB \%}))$$

- vi) 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:
http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx
- vii) 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 that 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.

- D. 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:

<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

- E. 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 *Commonwealth Procurement Code* and is eligible to contract with the Commonwealth under Sections 3501-3506 of the *Commonwealth 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 G, 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#>.

- II-5. Responsible Offerors.** To be considered 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 BAFO 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 75% 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 (3) 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 who 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 BAFO 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*, located at http://www.oa.pa.gov/Policies/md/Documents/215_9.pdf.

II-6. Final Ranking and Award.

- A. After any BAFO process conducted, the Issuing Office will combine the evaluation committee's final technical scores, BDISBO'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.

- 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. Additionally, a contract may not be awarded if the Governor opts-in to the FirstNet NPSBN proposal. The reasons for the rejection or cancellation shall be made part of the contract file.

PART III

TECHNICAL SUBMITTAL

- III-1. Statement of the Project.** The Offeror shall state in succinct terms their understanding of the Project presented and the service required by this RFP.
- III-2. Capabilities.**
- A. Company Overview.** Include an overview of company and organization structure and how it will support this project.
 - B. Organization.** Demonstrate that the organization of the team lead has the capabilities, processes, experience, and tools to successfully implement a project of the contemplated scope. Demonstrate that the Offeror team is committed to fulfilling the requirements of an agreement with the Commonwealth. Submit evidence of this commitment, including: teaming agreements, corporate authority to enter an agreement of the magnitude of the financial and operational commitment required, and an organizational chart that identifies teaming relationships and reporting structure. Also, submit qualification to do business in the state of Pennsylvania for the offeror and its partners.
 - C. Relevant Experience.** Provide evidence of the operational history of the firm, years in business, types of businesses, and its eight (8) largest customers. Provide a description of experience in performing contracts in the state of Pennsylvania. Provide a description of relevant experience in partnerships with governmental entities or similar finance-design-build-operate contracts of the magnitude of the CPSBN.
 - D. Personnel.** Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel, include the employee's name and, through a resume or similar document, the Project personnel's education and experience in the role they will serve on this Project. Indicate the responsibilities each individual will have in this Project and how long each has been with the company.
 - E. Financial Management.** Present a financial plan that will lead to program success, while demonstrating clear understanding that the contract will be a No-Cost Contract. Describe the source of funds that will be used for the initial network rollout, for working capital purposes as the network is deployed, and before break-even operations are achieved. Demonstrate corporate financial stability, and that of key team members, by providing audited financial statements for the last five fiscal years. If the firm has a bond rating, the source and documentation of that rating shall be supplied. If an Offeror relies on an outside

lender or equity partner for funds, that source shall be identified and financial data shall be provided that demonstrates the capability to fund the CPSBN.

- F. Technology Partners.** Identify technology partners to be employed in the supply, provisioning, and operation of the RAN and backhaul network for the CPSBN. Identify the products these partners shall supply. Provide evidence that technology partners shall be financially stable and capable of delivery and service on products supplied for the expected lifespan of the network.
- G. Network Design.** If the State elects to opt-out, the Offeror shall be responsible for the design of the RAN and backhaul network. Identify and document experience, engineering licensure, capabilities, and software tools to be employed in the design process. A description of design experience of a minimum of three (3) LTE/3GPP networks of the magnitude of the proposed CPSBN shall be provided.
- H. Network Construction.** Provide evidence of prior experience in the construction, maintenance, and operation of wireless networks of the size, technology, and complexity of the proposed CPSBN.
- I. Network Operations.** Identify the provider of the control center and the network operations system that will be employed to monitor the proposed CPSBN and its connection to the NPSBN. Describe the experience and qualifications of this provider.
- J. Network Maintenance.** Identify the maintenance provider of the RAN, standby power supplies, backhaul network, and other components of the CPSBN. Describe the experience and qualifications of the maintenance provider.
- K. Sales and Marketing Plans.** If the State elects to opt-out, it shall be the responsibility of the Offeror to provide an interface to public safety entities in Pennsylvania for the purpose of supplying user equipment on the CPSBN. This function will require availability of user equipment, development of a fee schedule, establishment of a sales network, and educating public safety entities regarding the capabilities of user equipment. Describe the sales and marketing team that will be assigned to the CPSBN. Provide information about the location of sales personnel, accessibility by email, on-line ordering, or telephone. Identify and describe customer support tools that will be employed to service orders and network access requests. Identify and describe strategies for marketing to the public safety entities throughout the Commonwealth.
- L. User Equipment Distribution.** Identify manufacturers and distributors of user equipment that will be offered to the State. Provide evidence of agreements between the offeror and manufacturers and distributors. Identify any other entities that will provide support of the user equipment that will be supplied to the State. Provide information about the qualifications of these entities.

M. Administration and Billing Support. If the State elects to opt-out, the Offeror will be responsible for billing Pennsylvania public safety entities for access to and use of the CPSBN. Describe the administrative and billing support that will be used to provide these functions. In particular, provide details about who will provide the administrative and billing support functions (whether provided as an integral part of the offeror's firm or whether this is outsourced in all or part to a third-party). Provide the location(s) of account administration, customer service, and billing operations. Provide information about the experience and qualifications of any third-party that will perform these functions. Provide information about applications that will be used in this service as well as the sources of these applications.

III-3. Objectives. Propose a phased deployment schedule that will begin immediately following acceptance of the RAN/CPSBN proposal by federal agencies, including FCC, NTIA, and FirstNet. The phased deployment will follow the Initial Operational Capability (IOC) milestones and Final Operational Capability (FOC) milestones identified in the FirstNet RFP Section J, Attachment J-8. Temporary coverage provided by deployable radio base station systems may be used to complement persistent coverage, but does not count in satisfaction of IOC/FOC coverage deployment percentage goals. These deliverables are not all inclusive. Offerors may propose other deliverables.

Objectives established for the CPSBN parallel those established by FirstNet for the NPSBN. The Commonwealth shares these objectives in order to develop a RAN that will be fully compliant with the objectives of FirstNet and that will provide seamless interoperability now and in the future with the NPSBN. The Offeror shall be responsible for meeting these objectives as tailored for Pennsylvania.

In responding to the Pennsylvania RFP, offerors should address the following deliverables as adapted to an opt-out decision:

A. Build, Deploy, Operate, and Maintain a CPSBN.

In its RFP, FirstNet sought to:

“Provide nationwide interoperable public safety broadband network service that ensures network coverage 24 hours a day, 7 days a week, 365 days a year and complies with the technical requirements...throughout the RFP and its attachments.”

Alignment with this objective provides for RAN deployment within Pennsylvania for interoperable PSBN service that ensures network coverage 24 hours a day, 7 days a week, 365 days a year and complies with the technical requirements of the FirstNet NPSBN, including future upgrades to the nationwide network as 3GPP standards revisions are adopted by FirstNet.

The minimum requirements for the CPSBN are as established in Recommended Minimum Technical Requirements to Ensure Nationwide Interoperability for the Nationwide Public Safety Broadband Network, and in the FirstNet RFP, Section J, Attachment J-4. (Ref: FirstNet RFP, FirstNet Nationwide Public Safety Broadband Network (NPSBN), Solicitation D15PS00295E, Department of the Interior, <http://www.fbo.gov>.)

It is contemplated that the Offeror will manage the design, construction, deployment, and optimization of the RAN with inspection and approval by the Commonwealth. Operation of the CPSBN will be required, including provision of functions such as customer service, sales and service of user equipment, network monitoring, routine and emergency maintenance, and operation and maintenance of the backhaul facilities. The Offeror will work with the Commonwealth to validate public safety entities and personnel for access to the CPSBN.

Hardening of the network to public safety-grade is a primary requirement of the Commonwealth. Public safety-grade is defined as the recommendations of the National Public Safety Telecommunications Council (NPSTC) in its report Defining Public Safety Grade Systems and Facilities, dated 5/22/2014 (http://www.npstc.org/download.jsp?tableId=37&column=217&id=3066&file=Public_Safety_Grade_Report_140522.pdf). To the greatest extent possible, the recommendations of the NPSTC report shall be applied to the CPSBN.

Offerors must describe the design and operation of the RAN based upon the needs of the state's public safety entities. Offerors shall provide a technical description of the solution, including but not limited to: equipment, software, design, and services to be provided; system design information, including a complete detailed description, block diagrams, and network designs necessary to provide a complete and comprehensive description. Offerors should describe warranties that will be applicable to the RAN, site improvements, backhaul network, or other equipment or software that will be the basis of the CPSBN.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

B. Financial Sustainability.

No funds have been appropriated by the Pennsylvania Legislature to enter into an agreement with a supplier of goods and services described in this RFP. The CPSBN will need to be financially self-sustaining for the anticipated lifespan of the network.

In its RFP, FirstNet sought to:

“Maximize the impact of government funding and leverage all 20 MHz of Band 14 to build, deploy, operate, and maintain the NPSBN to serve public safety and for secondary use while ensuring a self-sustaining business model.”

In addressing financial sustainability, offerors shall provide a financial model outlining the 25-year relationship with the Commonwealth that demonstrates the sustainability of the CPSBN and explain how their offer will provide the coverage, capacity, availability, quality of service, security, and other objectives within the scope of services described in this RFP, while remaining self-funded through the monetization of excess Band 14 capacity within Pennsylvania and through other revenue sources.

Offerors shall provide a financial plan that explains how the offeror will monetize excess capacity on the leased Band 14 spectrum within the state of Pennsylvania and will meet the terms of the SMLA.

Offerors should address the integration of the Band 14 infrastructure into legacy LTE networks in order to provide service in the Initial Operational Configuration and subsequent configurations in a manner that provides roaming services as well as an opportunity to optimize revenue, while preserving the integrity of the CPSBN.

Offerors shall provide a financial plan for constructing the RAN and backhaul network for the coverage area defined by the Commonwealth. This coverage area is considered to be the baseline coverage area, and it is understood that further investment in the network by the offeror may be needed to meet the needs of Pennsylvania public safety entities during the contemplated lifetime of the network.

Offerors shall offer a method for future network expansion and technology refreshment, to maintain compatibility with the FirstNet NPSBN. This method may include expansion of the Band 14 network in a manner that increases fees from monetization of excess network capacity. Coverage solutions such as small cells or coverage through 5G devices (at such time they are available and compatible with the NPSBN) should be described and quoted.

Offerors shall address in the financial plan the allocation to the Commonwealth of some portion of the user fees paid by public safety entities for work and services provided by the Commonwealth in support of the CPSBN (i.e. user profile assignments, validation of public safety entities and personnel for access to the CPSBN), within the constraints of the SMLA.

The Commonwealth intends that the monthly user fees for access to the CPSBN will be maintained at the lowest practical level. Surveys of public safety entities

within the state indicated price sensitivity and fees are a potential hurdle to achieving maximum use of the network. FirstNet restricts states' application of user fees in an opt-out scenario to maintenance of the RAN. Offerors shall address the issue of user fees, including the cost and variety of user subscription fee pricing, in their financial models as a component of determining the sustainability of the CPSBN.

Some payments to FirstNet will be required to be made under the SMLA and in support of the FirstNet core infrastructure. The terms and conditions of the lease agreement are currently unknown, as is the calculation of the payments for access to and support of the FirstNet core infrastructure. Offerors shall identify the method by which such payments would be calculated and paid.

Offerors shall identify and demonstrate their financial capability of providing the operating capital that will be needed to bridge the gaps between payment milestones and other investment to the Commonwealth. Offerors shall provide a description of the source of funds that will be used for the initial network rollout, and for working capital purposes as the network is deployed and before break-even operations are achieved, as well as any additional capital contributions that may be required to be made by the offeror to facilitate construction and operation of the CPSBN.

Offerors shall demonstrate financial stability, and that of its key suppliers/operating team, through the provision of audited financial statements for the last five fiscal years. If the firm has a bond rating, the source and documentation of that rating shall be supplied.

If an offeror relies on an outside lender or equity partner for funds, that source shall be identified and audited financial statements for the last five fiscal years shall be provided that demonstrates the capability to fund the CPSBN.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

C. First Responder User Adoption.

The Commonwealth seeks to have as many first responders as possible utilizing the CPSBN to promote and encourage interoperability throughout the Commonwealth and the United States.

In its RFP, FirstNet sought to:

“Establish (i) compelling, differentiated, and competitively priced service packages and (ii) sales, distribution, and marketing capabilities to ensure adoption of FirstNet products and services by a majority of eligible Public Safety Entities (PSEs) within four years of award...NPSBN services, at a minimum, shall include

data, voice services, messaging, machine-to-machine, virtual private network (VPN), video, unique public safety mission-critical services, and location services.”

The Commonwealth expects the same or better from the Offeror. In Pennsylvania, there are 130,000 first responders; therefore, for the purposes of this RFP, there are 130,000 eligible PSEs in Pennsylvania.

Deliverable: Describe in detail, your proposed solution to meet these requirements and encourage first responder engagement, including Commonwealth roles and Offeror roles.

D. Device Ecosystem.

The selected offeror shall establish a device ecosystem to provide a variety of compatible devices to public safety entity users of the NPSBN including support of bring your own device. As the CPSBN evolves, the network shall maintain backwards compatibility with user devices.

In its RFP, FirstNet sought to:

“Provide and maintain a 3GPP-compliant, Band-14-capable device portfolio that evolves with the 3GPP standards and provides functionality and price points that meet the needs of the FirstNet public safety customer base and drive substantial subscribership. FirstNet anticipates NPSBN public safety customers will expect mass market as well as ruggedized devices that are capable of gloved, one-handed, or hands-free operation as well as those capable of multimedia and high-definition data transmission both from humans and machine-based sensors. The ecosystem shall support Bring Your Own Device (BYOD) as well as, at a minimum, devices that:

- Operate seamlessly on the NPSBN and roam onto networks, including non-Band 14 commercially available networks.
- Interoperate with FirstNet’s applications ecosystem.
- Support associated Universal Integrated Circuit Card (UICC) features and options, including the ability to home and, if applicable, roam on to multiple networks while prioritizing them appropriately.
- Support software containers to isolate FirstNet applications.
- Operate seamlessly with a comprehensive device management system to allow remote provisioning and control.”

Offerors shall identify the types of user equipment that will be compatible with the CPSBN and that will provide full interoperability with the NPSBN. Offerors shall identify the manufacturers or distributors of user equipment that will be offered to the Commonwealth. Evidence of an agreement between the Offeror and the manufacturer or distributor shall be provided to the Commonwealth in response to Section III-2.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

Offerors shall describe the availability of devices through the offeror organization, as well as the types of purchase or lease options that may be available.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

Offerors responding to this RFP shall explain how they would access this ecosystem, or how a separate ecosystem tailored to the needs of Pennsylvania would be established.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

E. Applications Ecosystem.

If the Commonwealth elects to opt-out of the federal program, the CPSBN is intended to provide services to public safety entities that will improve first responder safety and increase efficiency in the provision of those services.

In its RFP, FirstNet sought to:

“Provide an applications ecosystem that supports the NPSBN with capabilities and services relevant to public safety. The ecosystem shall include, at a minimum:

- An evolving portfolio of mobile and enterprise applications, as well as cloud services
- An applications development platform
- A vibrant third-party applications developer community
- An applications store
- Local control of users, subscriptions, services, and applications
- User friendly federation of identity management
- Data, application, and resource sharing across diverse PSEs
- Core service and application delivery platforms
- Data and applications security and privacy compliance across local, tribal, state, regional, and federal users”

At the Federal level, the FirstNet RFP required the Offeror to establish an Applications Ecosystem to provide public safety entities a source of applications compatible with the NPSBN. It is understood by Pennsylvania that many applications used by public safety entities are customized to the needs of specific operating parameters that are unique from location to location.

Offerors shall identify any partners on its team that will be providers of software applications and the experience and qualifications of those firms. Any system integrators or other parties that will be involved in the deployment of applications shall be identified.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

Offerors shall provide information on how they would access the FirstNet applications ecosystem, or how such products, either custom or off-the-shelf would be provided.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

F. Accelerated Speed to Market.

In its RFP Section J, Attachment J-8, FirstNet established an Initial Operational Capability (IOC) timeline that is correlated with the 3rd Generation Partnership Project (3GPP) standard body release timeline. Persistent coverage that satisfies the coverage requirements of the RFP are used in establishing IOC milestones and Final Operational Capability (FOC) milestones. Temporary coverage provided by deployable radio base station systems may be used to complement persistent coverage, but does not count in satisfaction of IOC/FOC coverage deployment percentage goals.

In its RFP, FirstNet sought to:

“Achieve operational capabilities in accordance with the schedule and feature sets denoted in RFP Section J, Attachment J-8, FirstNet Section J, IOC/FOC Target Timeline, which may include an initial provision for operating the NPSBN using existing wireless services (similar to that of a mobile virtual network operator [MVNO]), Band 14 capabilities, significant subscribership to the NPSBN, and substantial rural coverage milestones in accordance with the IOC/FOC milestones.”

For the purposes of this RFP, it is the intent of the Commonwealth to comply with the IOC/FOC goals of FirstNet to the extent practical (subject to a decision to opt-out, and subsequent approval of the Pennsylvania plan by the FCC, events which may create a delay when compared to the FirstNet projected dates of completion of milestones).

FirstNet, in its RFP J-8, Table 1, sets milestones for IOC-1 that will be completed six months after award to a contractor. The coverage and capacity solution is nationwide coverage on Band 14 or non-Band 14 spectrum. Achievement of this milestone is largely dependent on the availability of devices, applications, and

services that will be compatible with an existing commercial wireless network that provides LTE service.

Pennsylvania shall meet the goals of IOC-1 in a similar manner, provided that the network offered by the Offeror will operate using a compatible LTE network configuration at 3GPP Release 12. Compatible, as used in this paragraph, means compatible with the 3GPP LTE release that will be used on the initial deployment of FirstNet's NPSBN and the CPSBN.

Pennsylvania requires that the CPSBN be phased in over a period of five years from contract award, in close approximation to the IOC/FOC timeline specified by FirstNet. Deployment of the network will be governed by coverage priorities, public safety entity demand, and strategic objectives of the Commonwealth based on hazards, emergency response plans and protocols, and other factors.

Offerors shall describe how they intend to meet these requirements.

Deliverable: Describe in detail, your proposed solution to meet these requirements (five-year phase-in; meeting milestones; etc.), including Commonwealth roles and Offeror roles.

The Commonwealth assumes that in the initial configuration of the RAN the Offeror will provide roaming service on a compatible LTE network that will provide coverage and capacity on an interim basis until the CPSBN is deployed to the extent that it provides reliable service in defined areas of Pennsylvania. It is a critical requirement that the offeror will be ready, within the first six months after award of contract, to provide roaming coverage on a network that it controls or on which it is authorized to act as an agent.

Offerors shall identify the existing LTE network(s) proposed for the initial operational configuration, and ongoing roaming service for the proposed CPSBN. If roaming will require reverse compatibility with a 3G technology, the standard and version of that technology shall be specified.

Deliverable: Describe in detail, your proposed solution to meet these requirements, including Commonwealth roles and Offeror roles.

G. User Service Availability.

The sole reason a CPSBN would exist is to provide a robust broadband service to the Commonwealth's public safety community. The continuing availability of a public safety broadband network is paramount to user adoption.

In its RFP, FirstNet sought to:

“Provide a broadband service with availability of 99.99% as measured in a rolling 12 - month window within each reporting area. Offerors should consider areas that contain mission-critical infrastructure as needing enhanced hardening and increased availability. Service restoration activities shall be undertaken with the highest available priority but shall not exceed two hours for any impaired service. For restoration of service via temporary or secondary service capabilities, the temporary or secondary service must be transparent to the users and provide similar capability.”

Pennsylvania will comply with the user service availability objective of 99.99 percent on a rolling 12-month window. Offerors shall describe the services that will provide for 24-hours a day, 7-days a week priority response to network outages or service-interrupting events with a response time goal of two hours or less in urban areas and four hours or less in rural areas. Offerors should consider all locations in Pennsylvania as either urban or rural. Rural means not urban, where urban is defined as cities with populations greater than 50,000 inhabitants.

If the potential Offeror is teamed with rural telecommunications providers in the state, a description shall be provided in the proposal of the operating procedures that will be implemented to create a single point of contact and response for network management.

Network monitoring of the RAN shall be provided to the Commonwealth at a network operations center (NOC). The Commonwealth assumes that primary NOC service will be provided by the Offeror. Offerors shall describe the NOC and associated systems that will provide network monitoring and alarms, service dispatch and notification to the Commonwealth of outages, trouble ticket management, and generation of management reports related to network performance, availability, and related metrics. Offerors shall identify the provider and location of the NOC. Qualifications and experience of any third-party firm that will be involved in staffing, operating, maintaining, and backing up the NOC shall be identified.

Offerors shall identify the maintenance provider of the RAN, standby power supplies, backhaul network, and other components of the CPSBN. If this service is provided by employees of the Offeror, the responsible person (title) shall be provided and identified on the organizational chart submitted in the proposal. If maintenance support is provided by a third-party, that firm shall be identified. Experience and qualifications of the firm, including references, shall be provided to the Commonwealth.

Offerors shall describe the preventative maintenance schedule for the network, and a description of the services that will be provided to meet the operational availability objective of this project.

Deliverable: Describe in detail, your proposed solution to meet these service availability requirements, including Commonwealth roles and Offeror roles.

H. Service Capacity.

The CPSBN shall comply with the service capacity as referenced in the FirstNet RFP Section J-3 Interoperability for the Nationwide Public Safety Broadband Network.

In its RFP, FirstNet sought to:

“Provide service capacity to support geographically dispersed public safety usage (in accordance with FCC TAB RMTR 4.4.6.5, Capacity) throughout the life of the contract ... Coverage and Capacity Definitions, includes a map noting first responder density and current mobile data usage. This will serve as a baseline for public safety data demand, and mobile data demand is expected to increase throughout the life of the contract.”

Offerors shall describe how the CPSBN will provide the capacity needed to accommodate the mix of traffic described in the user survey results.

Deliverable: Describe in detail, your proposed solution to meet service capacity requirements, including Commonwealth roles and Offeror roles.

I. Cybersecurity.

The security of a broadband network for public safety users must be without compromise. The public safety user community must have confidence that any data transmission over the CPSBN will be transmitted and received without nefarious interference, redirection, or manipulation.

In its RFP, FirstNet sought to:

“Provide cybersecurity solutions using the extensive set of industry standards and best practices contained in the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) security guidance for networks (ISO/IEC 27033, ISO/IEC 17099, and ISO/IEC 27002), FCC TAB RMTR, and 3GPP specifications (TS23.401, TS33.102, TS33.210, TS33.310, TS33.401, and TS33.402). ... Provide encryption capabilities to support federal, state, and local public safety users. Protective measures will need to be applied end to end across the FirstNet enterprise environment and will include securing user equipment (UE), applications running on UE, and the RAN... Additionally, considerations to support Identity, Credential, and Access Management in a user friendly, secure, federated fashion will be key to any successful cybersecurity

solution (details can be found in FirstNet nationwide RFP, Section J, Attachment J-10, Cybersecurity).”

Offerors shall comply with the FirstNet cybersecurity requirements. Alignment with this objective means protective measures shall be applied across the CPSBN environment and shall include securing UE, applications running on UE, and the RAN.

Deliverable: Describe in detail, your proposed solution to meet cybersecurity requirements, including Commonwealth roles and Offeror roles.

Offerors shall coordinate with providers of local, state, and federal criminal justice information systems that will be connected to the CPSBN to determine the method of secure interconnection. Interfaces shall meet network security requirements established now or in the future by FirstNet and applicable criminal justice information system standards (CJIS).

Deliverable: Describe in detail, your proposed solution to meet interconnection security requirements, including Commonwealth roles and Offeror roles.

Offerors shall describe what type of connections to the network core will be accommodated, the location of such connections, and the redundancy that will be provided for such connections.

Deliverable: Describe in detail, your proposed solution to meet these connectivity requirements, including Commonwealth roles and Offeror roles.

J. Priority Services.

Public safety users of the CPSBN must be given ruthless priority and preemption over the Band 14 spectrum or any Offeror solution to this RFP.

In its RFP, FirstNet sought to:

“Provide a solution that allows the assignment of quality of service, priority, and preemption (QPP) parameters to user profiles using the standard service control parameters defined by 3GPP and the Internet Engineering Task Force, including Access Class, Quality Class Indicator (QCI), Allocation and Retention Priority (ARP), and Differentiated Service (Diff Serve). Allow control and management of static and dynamic assigned QPP parameters for public safety users and the ability to change user profiles in real time in response to incidents. User profile assignments and changes should be managed locally by PSEs.”

Offerors shall comply with these requirements to provide full compatibility with the NPSBN. Authentication of users, setting of static priority, and control of user profile assignments and changes shall be under the control of the Commonwealth.

Offerors are asked to provide a description of how these services would be provided, and what systems will be in place to accommodate access by authorized personnel in the user agencies

Deliverable: Describe in detail, your proposed solution to meet the NPSBN compatibility requirements, including Commonwealth roles and Offeror roles.

Public safety communications shall have the highest priority on the CPSBN, including ruthless preemption. Offerors shall describe how that priority will be maintained during peaks of activity, and the methods of preemption of commercial traffic that will be implemented to provide dynamic shifts in priority to support emergency operations.

Deliverable: Describe in detail, your proposed solution to meet the ruthless prioritization and preemption requirements, including Commonwealth roles and Offeror roles.

K. Integration of Commonwealth-Deployed RANs.

The CPSBN must be continuously seamlessly interoperable with the NPSBN.

In its RFP, FirstNet seeks to,

“Integrate the NPSBN across state and territory deployed RANs so that users operate without service interruptions, including when crossing RAN service area boundaries”.

The offeror will be responsible for interface of the CPSBN with the NPSBN in accordance with the FirstNet RFP, Section J, Attachment J-4. The Offeror will be responsible for maintaining compatibility of this interface in accordance and with full compatibility with the future evolution of such connectivity by the NPSBN.

Deliverable: Describe in detail, your proposed solution to meet these integration requirements, including Commonwealth roles and Offeror roles.

The CPSBN shall utilize routing diversity to the extent necessary to meet the network availability goal of FirstNet and to eliminate single points of failure. Interoperability shall comply with the Recommended Minimum Technical Requirements to Ensure Nationwide Interoperability for the Nationwide Public Safety Broadband Network, in accordance with the FirstNet RFP, Section J, Attachment J-3.

Deliverable: Describe in detail, your proposed solution to meet these network availability and interoperability requirements, including Commonwealth roles and Offeror roles.

Interfaces to the NPSBN shall be configured in such a manner that the CPSBN will remain operational for, at a minimum, intrastate operation in the event of failure of the FirstNet interconnecting network or its network components including network core functionality. Redundancy in connections to FirstNet shall be provided in a manner to eliminate single points of failure. Applications connected to the network at the state and local government levels in Pennsylvania shall not be interrupted as a result of a failure in the FirstNet operated infrastructure.

Deliverable: Describe in detail, your proposed solution to meet these operational and sustainability requirements, including Commonwealth roles and Offeror roles.

Mobile and handheld devices associated with the CPSBN shall remain functional within the coverage area of the CPSBN in the event of FirstNet interconnecting network failure, or other network components failure, including the core. Access to local or state applications, databases, and communications capabilities (such as peer to peer communications) shall remain functional during FirstNet failures.

Deliverable: Describe in detail, your proposed solution to meet these functionality requirements, including Commonwealth roles and Offeror roles.

Offerors shall specify the manner in which the CPSBN would be connected to the NPSBN in accordance with the design requirements of FirstNet and maintain continuity of intrastate operations.

Deliverable: Describe in detail, your proposed solution to meet connectivity requirements, including Commonwealth roles and Offeror roles.

L. Integration of Existing Infrastructure to Support CPSBN Services.

The opportunity **MAY** exist for the offeror to utilize existing PA STARNet land mobile radio (LMR) tower sites to augment the coverage and capacity of the CPSBN. Any use of PA STARNet LMR tower sites would be subject to current Commonwealth and PA STARNet tower sharing agreement contracts, policies and protocols.

In its RFP, FirstNet sought to:

“Integrate existing assets— where economically desirable in accordance with Section 6206 of the Act and as further interpreted in FirstNet’s request for public comments — with an emphasis on assets owned and operated by rural telecommunications providers.”

Offerors shall describe how they intend to pursue and accomplish this objective, including whether, and, if so, how, LMR towers would be used in a cellular LTE

system despite the disadvantages of their heights and locations. Offerors are strongly encouraged to focus on rural telecommunications providers, as required by FirstNet’s enabling statute.

Deliverable: Describe in detail, your proposed solution to utilize existing infrastructure, including Commonwealth roles and Offeror roles.

M. Life-Cycle Innovation.

The technology and standards utilized to operate the CPSBN shall evolve in sync with the technology and standards utilized by the NPSBN.

In its RFP, FirstNet sought to:

“Evolve the NPSBN solution—including products and services—and incorporate 3GPP LTE standards as they evolve and mature throughout the life of the contract, in accordance with the FCC TAB RMTR, the Act, including in particular Section 6206(c)(4), and the attachments in Section J.”

Offerors should specify how their offer complies with this objective. This includes the method by which the network may be expanded, lifecycle innovations, and maintaining compatibility with FirstNet throughout the 25-year period of this contract.

Deliverable: Describe in detail, your proposed solution to ensure evolution and adaptability throughout the term of the contract, including Commonwealth roles and Offeror roles.

N. Program and Business Management.

It is expected that offerors adopt and establish articulable management guidelines.

Offerors shall provide program management in accordance with the Project Management Institute (PMI) standards and the Government Accountability Office (GAO) Cost Guidelines. Provide operational and other reporting information to the Commonwealth that demonstrates compliance with the Act.

Offerors shall provide documentation on their approach to project management, financial controls, and reporting in alignment with this objective and to any grant(s) that may be provided by NTIA.

Deliverable: Describe in detail, your proposed program and business management solutions, including Commonwealth roles and Offeror roles.

O. Customer Care and Marketing.

Users of the CPSBN shall be supported by a comprehensive and continuously available customer care infrastructure.

In its RFP, FirstNet sought to:

“Market NPSBN products and services to public safety users in all states, territories, and tribal lands. Provide highly responsive and quality customer acquisition, service, and customer care. Support development and refinement of state plans, in consultation with FirstNet, and an online tool for their delivery. Provide life-cycle service and support to all users.”

Public safety entities will be customers on the CPSBN and will require some of the same services that consumer wireless customers would expect. The Offeror will also provide assistance to the Commonwealth in marketing to public safety entities access to the CPSBN that will result in user fees to fund the operation and maintenance of the RAN.

Offerors shall describe what services will be provided in support of users and public safety entities in daily operations, such as account management, operational help desk, and other functions.

Offerors shall identify any other entities that will provide support of the user equipment that will be supplied to the Commonwealth. Information of the qualifications of these entities shall be provided to the Commonwealth.

The Offeror will be responsible for billing Pennsylvania public safety entities for access and usage of the CPSBN. Offerors shall describe the administrative and billing support it will provide for this function. Information concerning any applications that will be employed in this service and the sources of these applications shall be provided. Detail shall be provided about who will provide the administrative and billing support functions (whether provided as an integral part of the Offeror’s firm or whether this is outsourced, in all or part, to a third-party). The location(s) of account administration, customer service, and billing operations shall be provided. If applicable, information shall be provided about the experience and qualifications of any third-party that will perform these functions.

It will be the responsibility of the selected Offeror to provide an interface to public safety entities in Pennsylvania for the purpose of supplying user equipment on the CPSBN. This function will require availability of user equipment, development of a fee schedule, and educating public safety entities regarding the capabilities of user equipment.

Offerors shall describe the sales and marketing team that will be assigned to the CPSBN. Information shall be supplied on the location of sales personnel, accessibility by email, on-line ordering, or telephone. Customer support tools that will be employed to service orders and network access requests shall be identified and described.

Offerors shall identify the manufacturers or distributors of user equipment that will be offered to the Commonwealth. Evidence of an agreement between the Offeror and the manufacturer or distributor shall be provided to the Commonwealth.

Deliverable: Describe in detail, your proposed solution to meet these sales, marketing, and customer service requirements, including Commonwealth roles and Offeror roles.

P. Facilitation of FirstNet’s Compliance with the Act and Other Laws.

The CPSBN shall comply with all lawful mandates and statutory requirements.

In its RFP, FirstNet sought to:

“Perform all objectives and provide information and services in a manner that facilitates FirstNet’s compliance with its statutory requirements under the Act and all other applicable laws.”

Under a SMLA with FirstNet, the Commonwealth is likely to be required to assist FirstNet in compliance with the terms of the Act and other laws as they apply to the CPSBN and its connection to the NPSBN.

Offerors shall describe the steps they would take to assist the Commonwealth in this responsibility if selected as the Offeror.

Deliverable: Describe in detail, your proposed solution to meet compliance requirements, including Commonwealth roles and Offeror roles.

Q. Offeror and Commonwealth Relationship.

It is clear to the Commonwealth that if it chooses to opt-out of the federal program, it will need an Offeror with wireless network experience at the national level, financial stability, consumer sales channels, and access to and integration of Band 14 infrastructure into a legacy network(s) that provides both LTE coverage and capacity in Pennsylvania as well as the rest of the United States for roaming purposes. Roaming provisions on a national wireless carrier during the initial operational stages of the CPSBN shall be a requirement of the Offeror.

This RFP contemplates a relationship with a wireless network operator with one or more national wireless networks for roaming service. A consortium or team that provides the equivalent services will be considered for qualification.

Offerors shall demonstrate their ownership and management of a commercial wireless broadband network based on long-term evolution (LTE) technology compatible with the requirements of FirstNet or shall have a teaming partner that operates such a network and is committed to a 25-year marketing and interoperability agreement with the Offeror. Offerors shall identify all teaming partners. The Commonwealth has right of refusal to any change of identified teaming partners.

Deliverable: Describe in detail, your capabilities and options to meet these requirements, including Commonwealth roles and Offeror roles.

R. Coverage and Capacity Requirements.

Rural coverage is a priority for the Pennsylvania public safety community. These areas also have limited commercial communications capabilities. Urban coverage is anticipated to be comparable to current commercial cellular coverage, with similar coverage levels. The preferred level of coverage within urban areas is “in-building” coverage to the greatest extent possible.

Offerors shall provide coverage and capacity mapping at the level of actual signal strength necessary for broadband use, 10Mbps downlinks and 1Mbps uplinks, for deployment phases IOC-1 through IOC-5 and the FOC as defined in FirstNet RFP J-8 Section F.4.2.2.

Offerors shall provide maps that identify the proposed coverage provided by the Band 14 service offering for roaming service for: 1) the Commonwealth of Pennsylvania; 2) each county within the state; and 3) the national roaming coverage. The maps shall be submitted in both .jpg and shapefile formats that support image overlays and provide standard image manipulation features such as zoom in, zoom out, move, etc. Offerors shall take into account terrain, bodies of water, and natural or manmade obstructions that may impact projections.

Offerors shall provide maps that identify the proposed capacity provided by the Band 14 service offering for roaming service for: 1) the Commonwealth of Pennsylvania; 2) each county within the state; and 3) the national roaming coverage. The maps shall be submitted .jpg and shapefile formats that support image overlays and provides standard image manipulation features such as zoom in, zoom out, move, etc. Offerors shall take into account terrain, bodies of water, and natural or manmade obstructions that may impact projections.

Coverage and capacity mapping shall be provided to the Commonwealth for vehicular-mounted user equipment (high- and low-powered), portable devices in-

vehicle and on-street, and handheld devices (smartphones) in-vehicle, on-street, and in-building (6,15, and 30 decibels [dB] penetration loss). Offerors shall take into account terrain, bodies of water, and natural or manmade obstructions that may impact projections.

Deliverable: Describe in detail, your proposed solution to meet these requirements and Commonwealth roles and Offeror roles. A complete response would include the above described comprehensive coverage and capacity mapping.

PART IV

NO-COST SUBMITTAL

- IV-1. Revenue Submittal.** Bidders shall provide a Financial Plan that explains how their offer will meet the objectives described in this RFP while remaining self-funding, with revenue sources to include monetization of excess Band 14 capacity within Pennsylvania.
- IV-2. User Fees.** The Commonwealth expects that the monthly user fees for access to the CPSBN will be maintained at the lowest practical level. Surveys of public safety entities within the Commonwealth indicated price sensitivity, and fees are a potential hurdle to achieving maximum use of the network. Offerors shall address the issue of user fees in their Financial Plan as a component of proving that CPSBN shall remain permanently self-funded.
- IV-3. Other Financial Considerations.** Bidders must provide in their Financial Plans their plans for addressing other financial considerations, including, but not limited to: spectrum lease, core connection fees, upgrade costs, and any sources of revenue the bidders might propose or acquire, such as federal grants.
- IV-4. Maintenance.** Bidders shall also address in the Financial Plan the allocation of funds for operations and maintenance of the RAN and backhaul network. FirstNet restricts states' application of user fees in an opt-out scenario to maintenance of the RAN.
- IV-5. Financial Reports.** If selected, the Offeror shall provide quarterly reports and payments to the Commonwealth, accounting for all sources and uses of funds and for all revenue sharing.

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 BDISBO self-certification process. Additional information on this process can be found at:
<http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Pages/default.aspx>

A Small Diverse Business is a 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/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.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.

The Department's directory of self-certified Small Businesses and BDISBO-verified Small Diverse Businesses can be accessed from:

<http://www.dgs.pa.gov/Businesses/Minority,%20Women%20and%20Veteran%20Businesses/Small-Diverse-Business-Verification/Pages/Finding-Small-Diverse-Businesses.aspx>.

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: <http://www.dgs.pa.gov>

V-2. Small Diverse Business and Small Business (SDB/SB) Participation Submittal. All Offerors are required to submit the Small Diverse Business and Small Business Participation Submittal Form contained in (Appendix H) and related Letter(s) of Intent (Appendix I) electronically as described in Part I, Section I-11. The submittal must be in its own electronic file, 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 gross revenue 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.
- 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:

- i) The fixed numerical percentage commitment and associated estimated dollar value of the commitment made to the Small Diverse Business or Small Business; and
- ii) A description of the services or supplies the Small Diverse Business or Small Business will provide; and
- iii) 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
- iv) The name and telephone number of the Offeror's point of contact for Small Diverse Business and Small Business participation; and
- v) 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 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.

V-3. Contract Requirements—Small Diverse Business and 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:

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 Offeror upon execution of its Contract with the Commonwealth.

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

- A.** The individual percentage commitments made to Small Diverse Businesses and Small Businesses cannot be altered without written approval from BDISBO.
- B.** Small Diverse Business and Small Business commitments must be maintained in the event the contract is assigned to another prime contractor.
- C.** The 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 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:
 - i) 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.
 - ii) The fixed percentage commitment and associated estimated dollar value that each Small Diverse Business and/or Small Business will receive based on the estimated total gross revenue for the initial term of the prime Contract.
 - iii) Payment terms indicating that the Small Diverse Business and/or Small Business will be paid for work satisfactorily completed within 14 days of the Small Diverse Business' or Small Business' completion of the work.
 - iv) Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the 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.
- D.** If the 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 Offeror must notify BDISBO.
- E.** The 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 Offeror if the Utilization Report is not submitted in accordance with the schedule above.

- F.** The Offeror shall notify the Contracting Officer of the Issuing Office and BDISBO when circumstances arise that may negatively impact the 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 PSP.

- G.** If the 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 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 Offeror's Small Diverse Business status and/or Small Business status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.

PART VI

STANDARD CONTRACT TERMS and CONDITIONS

VI.1 CONTRACT-001.1a Contract Terms and Conditions (Nov 30 2006)

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

VI.2 CONTRACT-002.1d Term of Contract – Contract (May 2012)

The initial term of the Contract shall be 25 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 Contractor and the Commonwealth (signed and approved as required by Commonwealth contracting procedures) or b) the "Valid from" date printed on the Contract, whichever is later.

VI.3 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.

VI.4 CONTRACT-003.1b Signatures – Contract (July 2015)

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor. No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date. The Contract may be signed in counterparts. The Contractor shall sign the Contract and return it to the Commonwealth. After the Contract is signed by the Contractor and returned to the Commonwealth, it will be processed for Commonwealth signatures and approvals. When the Contract has been signed and approved by the Commonwealth as required by Commonwealth contracting procedures, the Commonwealth shall create a Contract output form which shall: 1) clearly indicate "Fully executed" at the top of the form; 2) include a printed Effective Date and 3) include the printed name of the Purchasing Agent indicating that the document has been electronically signed and approved by the Commonwealth. Until the Contractor receives the Contract output form with this information on the Contract output form, there is no legally binding contract between the parties. 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.

VI.5 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.

VI.6 CONTRACT-005.1b Agency Purchase Orders (July 2015)

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

conditions set forth in the Contract. Purchase Orders 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. The Commonwealth and the Contractor specifically agree as follows:

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

VI.7 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.

VI.8 CONTRACT-007.01b Delivery of Services (Nov 30 2006)

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

VI.9 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.

VI.10 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.

VI.11 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.

VI.12 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.

VI.13 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.

VI.14 CONTRACT-011.1a Compliance With Law (Oct 2006)

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

VI.15 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.

VI.16 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>.

VI.17 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)

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

VI.18 CONTRACT-015.1A Compensation/Expenses (May 2008)

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

VI.19 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.

VI.20 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.

VI.21 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.

VI.22 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.

VI.23 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.

VI.24 CONTRACT-020.1 Audit Provisions (Oct 2006)

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

VI.25 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.

VI.26 CONTRACT-022.1 Force Majeure (Oct 2006)

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.

VI.27 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.

VI.28 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.

VI.29 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.

VI.30 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.

VI.31 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (March 2015)

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 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 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. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees 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 contract services are performed shall satisfy this requirement.
4. The Contractor and each subcontractor shall not discriminate 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.
5. 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 and regulations 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 Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

6. 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.

7. 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.

8. 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.

VI.32 CONTRACT-028.1 Contractor Integrity Provisions (Jan 2015)

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

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.

VI.33 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

VI.34 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

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

VI.35 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.

VI.36 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.

VI.37 CONTRACT-034.1a Integration – RFP (Dec 12 2006)

This Contract, including the Request for Proposals, Contractor's Proposal, Contractor's Best and Final Offer, if any, 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.

VI.38 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 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 RFP, the Best and Final Offer, if any; the Contractor's Proposal in Response to the RFP.

VI.39 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.

VI.40 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.

VI.41 CONTRACT-036.1 Background Checks (February 2016)

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

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

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

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

VI.42 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.

VI.43 CONTRACT-041.1 Contract Requirements-Small Diverse Business and Small Business Participation (July 2016)

The provisions contained in the RFP concerning Contract Requirements - Small Diverse Business and Small Business Participation are incorporated by reference herein.

VI.44 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.

VI.45 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.

VI.46 CONTRACT-053.1 Enhanced Minimum Wage Provisions (July 2016)

1. Enhanced Minimum Wage. Contractor/Lessor agrees to pay no less than \$10.15 per hour to its employees for all the hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.

2. Adjustment. Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

3. Exceptions. These Enhanced Minimum Wage Provisions shall not apply to employees:

a. exempt from the minimum wage under the Minimum Wage Act of 1968;

b. covered by a collective bargaining agreement;

c. required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or

d. required to be paid a higher wage under any state or local policy or ordinance

4. Notice. Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.

5. Records. Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

6. Sanctions. Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.

7. Subcontractors. Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.