APPENDIX R

Trade Secret/Confidential Proprietary Information Notice

Instructions:

The Commonwealth will not assert on behalf of a third party an exception to the public release of materials containing information believed to be exempt from public disclosure, including trade secrets or confidential proprietary information, unless the materials are accompanied, at the time they are submitted, by this form or a document containing similar information. In addition, in order to protect the safety and security of individuals, infrastructure, and information technology systems, the Commonwealth requires third parties to designate as confidential any information submitted by the third parties that, if disclosed, would be reasonably likely to jeopardize safety or security.

It is the responsibility of the party submitting this form to ensure that all statements and assertions made below are legally defensible and accurate. The Commonwealth will not provide a submitting party any advice with regard to Pennsylvania's *Right-to-Know Law*, 65 P.S. §§ 67.101—67.3104, or laws relating to trade secret or confidential proprietary information.

Name of submitting party:

Contact information for submitting party:

Please provide a brief overview of the materials that you are submitting (e.g. bid proposal, quote, grant application, statement of work, technical schematics):

Please provide a brief explanation of why the materials are being submitted to the Commonwealth (e.g. response to bid, RFP or RFQ #12345, application for grant XYZ being offered by the Department of Health, documents required to be submitted under law ABC):

Please indicate if any information has been included that you believe is exempt from public disclosure by checking the appropriate box below: (***Note***: *Financial information submitted in response to an RFP or IFB to demonstrate economic capability is exempt from public disclosure in accordance with Section* 708(b)(26) *of the Right-to-Know Law*, 65 P.S. 67.708(b)(26)).

☐ **No information has been included that I believe is exempt from public disclosure.**

☐ **Information has been included that I believe is exempt from public disclosure.**

Please provide a list detailing which portions of the material being submitted you believe are exempt from public disclosure. This includes trade secret, confidential or proprietary information, or information that if disclosed would be reasonably likely to jeopardize the safety or security of an individual, infrastructure, or information technology system. Please provide an explanation of why you think those materials constitute a trade secret, confidential or proprietary information, or why disclosure of those materials would be reasonably likely to jeopardize safety or security. Also, please mark the submitted material in such a way to allow a reviewer to easily distinguish between the parts referenced below. (You may attach additional pages if needed)

Note: Without substantial justification, the following information will not be considered a trade secret or confidential proprietary information:

- Any information submitted as part of a vendor's cost response.
- Information submitted as part of a vendor's technical response or statement of work that does not implicate safety and security, or pertain to specific business practices or product specification.
- Information submitted as part of a vendor's technical or small diverse business and small business response that is otherwise publicly available or otherwise easily obtained.
- Information detailing the name, quantity, and price paid for any product or service being purchased by the Commonwealth.

Page Number	Description	Explanation

Acknowledgment

The undersigned party hereby agrees that it has read and completed this form, and has marked the material being submitted in accordance with the instructions above. The undersigned party acknowledges that the Commonwealth is not liable for the use or disclosure of trade secret, confidential or proprietary information, or information that if disclosed would be reasonably likely to jeopardize the safety or security of an individual, infrastructure or information technology system, where that data or information has not been clearly marked as such, and which was not accompanied by a specific explanation included with this form.

The undersigned agrees to defend any action seeking release of the materials it believes to be trade secret, confidential or proprietary, or would be reasonably likely to result in a safety or security risk if disclosed. The undersigned also agrees to indemnify and hold harmless the Commonwealth, its agents and employees, from any judgments awarded against the Commonwealth in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives so long as the Commonwealth has possession of the submitted material, and will apply to all costs unless and until the undersigned provides a written statement or similar notice to the Commonwealth stating that it no longer wishes to exempt the submitted material from public disclosure.

The undersigned acknowledges that the Commonwealth is required to keep all records for at least as long as specified in its published records retention schedule.

The undersigned acknowledges that the Commonwealth reserves the right to reject the undersigned's claim that the information is trade secret, confidential, proprietary or is reasonably likely to result in a safety or security risk if disclosed, if the Commonwealth determines that the undersigned has not met the burden of establishing that the information constitutes a trade secret, confidential, or is otherwise exempt. The undersigned also acknowledges that if only a certain part of the submitted material is found to constitute a trade secret, is confidential or proprietary, or is otherwise exempt, the remainder of the submitted material will become public; only the protected information will be removed and remain nonpublic.

If being submitted electronically, the undersigned agrees that the mark below is a valid electronic signature.

_____	_____	_____
Signature	Title	Date