

REQUEST FOR PROPOSALS FOR

Federal Title IV-E Compliance Services

ISSUING OFFICE

**Commonwealth of Pennsylvania
Department of Human Services
Bureau of Financial Operations
Division of Procurement and Contract Management
Room 402 Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120**

RFP NUMBER

04-17

DATE OF ISSUANCE

May 10, 2018

**REQUEST FOR PROPOSALS FOR
Federal Title IV-E Compliance Services**

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CALENDAR OF EVENTS

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

Activity	Responsibility	Date
Deadline to submit Questions via email to RA-PWRFPQUESTIONS@PA.GOV	Potential Offerors	May 24, 2018 2:00 PM EST
Pre-proposal Conference: Health & Welfare Building Room 129 625 Forster Street Harrisburg, PA 17120	DHS/Potential Offerors	May 24, 2018 9:30 AM EST
Answers to Potential Offeror questions posted to the DGS website at http://www.emarketplace.state.pa.us/Search.aspx no later than this date.	DHS	June 5, 2018
Please monitor website for all communications regarding the RFP.	Potential Offerors	Ongoing
Sealed proposal must be received by the Issuing Office at Commonwealth of Pennsylvania Department of Human Services Bureau of Financial Operations Division of Procurement & Contract Management Room 402 Health & Welfare Building 625 Forster Street Harrisburg, PA 17120	Offerors	June 25, 2018 2:00 PM EST

PART I

GENERAL INFORMATION

- I-1. Purpose.** This request for proposals (“RFP”) provides those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the Department of Human Services’ (“Department” or “DHS”) consideration on behalf of the Office of Children, Youth and Families (“OCYF”) to satisfy a need for Federal Title IV-E Compliance Services (“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. Issuing Office.** DHS, Office of Administration, Bureau of Financial Operations, Division of Procurement and Contract Management (“Issuing Office”) has issued this RFP on behalf of the Commonwealth of Pennsylvania (“Commonwealth”). The sole point of contact in the Commonwealth for this RFP shall be Karen Kern, RA-PWRFPQUESTIONS@PA.GOV, the Project Officer for this RFP. Please refer all inquiries to the Project Officer.
- I-3. Overview of Project.** Pennsylvania is a Commonwealth consisting of 67 counties that covers 46,055 square miles with approximately 12.8 million residents. It is the sixth most populous state and also one of the most rural states in the nation. The city of Philadelphia is Pennsylvania’s largest metropolitan area. The five counties surrounding Philadelphia encompass 31% of the total statewide population. Allegheny County is the second largest metropolitan area in Pennsylvania, and it encompasses the city of Pittsburgh and its surrounding suburbs. The diversity across the urban, suburban, and rural areas of Pennsylvania creates the need for both flexibility and consideration of the regional, county, cultural, and other differences in the child welfare and juvenile justice systems.

Pennsylvania's child welfare system is a state-supervised, county-administered program. Child welfare and juvenile justice services are organized, managed, and delivered by County Children and Youth Agencies (“CCYAs”) and Juvenile Probation Offices (“JPOs”). The United States Department of Health and Human Services (“DHHS”), Administration of Children and Families (“ACF”), provides funding and policy direction to OCYF for these child welfare and juvenile justice services. OCYF plans, directs, and coordinates statewide children’s programs, including social services, and is responsible for monitoring the child welfare programs and services that are offered by CCYAs and JPOs throughout the Commonwealth.

Federal Title IV-E is an assistance program that enables states to provide foster care, independent living, relative guardianship, and adoption assistance programs and services. ACF performs periodic financial and programmatic audits and reviews to confirm that states are adhering to federal policies. DHS/OCYF receives and disburses the Federal

Title IV-E funds, one of the primary funding sources for child welfare programs and services, among the 67 counties.

The selected Offeror will provide technical and consultative assistance to OCYF to achieve the goals of effectively monitoring child welfare programs and services while adhering to compliance with all applicable federal and state laws, regulations, directives, reviews, and policy statements promulgated by DHHS/ACF and the Social Security Act.

I-4. Objectives.

A. General. The Department is requesting proposals for services with the core focus of Federal Title IV-E compliance and review preparedness.

B. Specific. The selected Offeror will:

- Manage and operate OCYF’s federally-approved, quarterly Random Moment Time Study (“RMTS”) to ensure equitable allocation of county and contracted administrative staff time to participating programs for accurate administrative reimbursement.
- Conduct Onsite County Quality Assurance Reviews to ensure federal compliancy and review preparedness by effectively monitoring child welfare programs and services offered by the 67 CCYAs and JPOs.
- Provide Policy Analysis and Support by interpreting all applicable federal and state laws, regulations, directives, reviews, policies, and procedures. Provide Federal Title IV-E, and other related programs, expertise to OCYF by identifying “Best Practices” and/or new methods that will enhance processes, policies, and procedures.
- Provide On-Site Staff/Resources and Support to OCYF to effectively monitor and process financial controls of all administrative and placement maintenance procedures and claims.

I-5. Type of Contract. It is proposed that if the Department enters into a contract as a result of this RFP, it will be a Fixed Price contract containing the Standard Contract Terms and Conditions as shown in **Part VI**. All references to the term “Contractor” therein shall refer to the selected Offeror. The Department, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of DHS, show them to be qualified, responsible, and capable of performing the Project.

I-6. Rejection of Proposals. The Department, in its sole and complete discretion, may reject any proposal received as a result of this RFP.

- I-7. Incurring Costs.** DHS 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. Pre-Proposal Conference.** DHS will hold a Pre-Proposal Conference as specified in the Calendar of Events. The purpose of this conference is to provide opportunity for clarification of the RFP. Offerors should forward all questions to the Project Officer in accordance with **Part I, Section I-9** to ensure adequate time for analysis before DHS provides an answer. Offerors may also ask questions at the conference. 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 DHS. All questions and written answers will be posted on the Department of General Services' ("DGS") website as an addendum to, and shall become part of, this RFP. **Attendance at the Pre-Proposal Conference is optional, but strongly encouraged.**
- I-9. Questions & Answers.** If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line "RFP 04-17 Question"**) to the Project Officer named in **Part I, Section I-2** of the RFP. If the Offeror has questions, they must be submitted via email **no later than** the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Project Officer by any other means. The Department will post the answers to the questions on the DGS website by the date stated on the Calendar of Events.

An Offeror who submits a question *after* the deadline date for receipt of questions indicated on the Calendar of Events assumes the risk that its proposal will not be responsive or competitive because the Department 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 Project Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that DHS decides to respond to a non-administrative question *after* the deadline date for receipt of questions indicated on the Calendar of Events, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the DGS website 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 the DGS website for new or revised RFP information. DHS 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 DHS.

- I-10. Addenda to the RFP.** If DHS deems it necessary to revise any part of this RFP before the proposal response date, DHS will post an addendum to the DGS website at <http://www.emarketplace.state.pa.us/Search.aspx>. It is the Offeror's responsibility to periodically check the website for any new information or addenda to the RFP. Answers

to the questions asked during the Questions & Answers period also will be posted to the website as an addendum to the RFP.

I-11. Response Date. To be considered for selection, hard copies of proposals must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. DHS 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. DHS will reject, unopened, any late proposals.

I-12. Proposal Requirements.

A. Proposal Submission: To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in **Section I-12.B**, providing **six (6) paper copies [one marked “ORIGINAL”] of the Technical Submittal and two (2) paper copies of the Cost Submittal and two (2) paper copies of the Small Diverse Business and Small Business (“SDB/SB”) Participation Submittal and related Letter(s) of Intent.** In addition to the paper copies of the proposal, Offerors shall submit **two complete and exact copies** of the entire proposal (Technical, Cost and SDB/SB submittals, along with all requested documents) on CD-ROM or Flash drive in Microsoft Office or Microsoft Office-compatible format. The electronic copy must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. Additionally, on the CD-ROM or Flash Drive, include separate folders that contain a complete and exact copy of the entire Technical (excluding financial capability) Submittal in PDF (portable device format). To the extent that the Offeror designates information as confidential or proprietary or trade secret protected in accordance with **RFP Part I, Section I-18**, the Offeror must also include one (1) redacted version of the Technical Submittal, excluding financial capability, on a CD-ROM or Flash Drive in Microsoft Office or Microsoft Office-compatible format. The CD 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 or Flash drive before it was submitted. The Offerors may not lock or protect any cells or tabs. 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 **Proposal Cover Sheet (Appendix A** to this RFP) and the Proposal Cover Sheet is attached to the Offeror’s proposal, the requirement will be met. For this RFP, the proposal must remain valid for one hundred and twenty (120) days or until a contract is fully executed. If DHS selects the Offeror’s proposal for award, the contents of the selected Offeror’s proposal will become,

except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

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

B. Proposal Format: Offerors must submit their proposals in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all proposal requirements. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the proposal. All cost data relating to this proposal and all SDB and SB cost data should be kept separate from and not included in the Technical Submittal. Offerors should not reiterate technical information in the Cost Submittal. Each proposal shall consist of the following three (3) separately sealed submittals:

1. Technical Submittal:

a. In response to RFP Part III:

The Technical Submittal must include a Transmittal Letter and include Tabs 1 through 17. Offerors must format their responses as follows:

- Tab 1: Table of Contents
- Tab 2: Nature and Scope
- Tab 3: Requirements
- Tab 4: Statement of the Problem
- Tab 5: Management Summary
- Tab 6: Prior Experience
- Tab 7: Personnel
- Tab 8: Training
- Tab 9: Financial Capability
- Tab 10: Work Plan
- Tab 11: Reports & Project Control
- Tab 12: Performance Standards
- Tab 13: Objections to Standard Terms and Conditions
- Tab 14: Lobbying Certification **Appendix K**
- Tab 15: Conflict Free
- Tab 16: Corporate Reference Questionnaire **Appendix E**
- Tab 17: Key Personnel Reference Questionnaire **Appendix F**

- b. Complete, sign, and include Lobbying Certification and if applicable, the Disclosure of Lobbying Activities.
 - c. Complete, sign, and include **Appendix B – Domestic Workforce Utilization Certification.**
 - d. Complete, sign, and include **Appendix C – Iran Free Procurement Certification.**
- 2. Cost Submittal, in response to RFP **Part IV.**
- 3. SDB/SB Participation Submittal, in response to RFP **Part V:**
 - a. Complete and include **Appendix H - SDB/SB Participation Submittal Form.**
 - b. Complete and include **Appendix I - SDB/SB Letter of Intent.** Offeror must provide a Letter of Intent for each SDB and SB listed on the SDB/SB Participation Submittal Form.

Proposals must adhere to the following format:

- a. Pages must be 8.5 by 11 inches with right and left margins of one (1) inch; and be double-sided.
- b. Must use Arial or Times New Roman font with a size of twelve (12).
- c. Tab and Section headings, shown in **RFP Part I, Section I-12**, Proposal Requirements, **MUST** be used.
- d. Each page of the proposal must include a page number and identification of the Offeror in the page footer.
- e. Materials provided in any appendix must be specifically referenced by page numbers in the body of the proposal.
- f. Exceptions for paper and font size are permissible for project schedule (Microsoft Project) or for graphical exhibits and material in appendices which may be printed on white paper with dimensions of 11 by 17 inches.

DHS may at any point request additional information that, in DHS's opinion, is necessary to assure that the Offeror's competence, number of qualified employees, business organization, and financial resources are adequate to perform according to the RFP.

DHS may at any point 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. DHS may reject any proposal if the evidence submitted by, or investigation of, such Offeror fails to satisfy DHS that such Offeror is properly qualified to carry out the obligations of the RFP and to complete the Project as specified.

- I-13. 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-14. Alternate Proposals.** The DHS has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. DHS will not accept alternate proposals.
- I-15. Discussions for Clarification.** Offerors may, at the Department's sole discretion, be required to make an oral or written clarification of or discussion concerning their proposals to DHS to ensure thorough mutual understanding or Offeror responsiveness to the solicitation requirements. DHS will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.
- I-16. Oral Presentations.** Offerors may, at the Department's sole discretion, be required to make an oral presentation of their proposals to DHS to demonstrate an Offeror's capabilities and ability to provide the services required in the RFP. DHS will initiate requests for oral presentations, which may include a request that key personnel be present. The oral presentation will be held in Harrisburg, Pennsylvania. Oral presentations may be requested at any stage of the evaluation and selection process prior to contract execution.
- I-17. Prime Contractor Responsibilities.** The selected Offeror must perform at least 50% of the total contract value. Nevertheless, the contract will require the selected Offeror to assume full responsibility for all services offered in its proposal whether it produces them itself or by subcontract. Further, DHS will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.
- I-18. 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 C below and must additionally provide a redacted version of its proposal in accordance with RFP **Part I, Section I-12**, 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 and may be returned only at DHS's option. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal

becomes part of a contract. Notwithstanding any Offeror copyright designations contained on proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.

- C. Public Disclosure. After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Refer to **Appendix D** 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, Section III-8** of this RFP, such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

I-19. Best and Final Offers.

- A. While not required, DHS may conduct discussions with Offerors for the purpose of obtaining “best and final offers.” To obtain best and final offers from Offerors, DHS may do one or more of the following, in any combination and order:
1. Schedule oral presentations;
 2. Request revised proposals;
 3. Conduct a reverse online auction; and/or
 4. Enter into pre-selection negotiations.
- B. The following Offerors will **not** be invited by DHS to submit a Best and Final Offer:
1. Those Offerors, which DHS has determined to be not responsible or whose proposals DHS has determined to be not responsive.
 2. Those Offerors, which DHS has determined in accordance with **Part II, Section II-5**, from the submitted and gathered financial and other information, do not possess the financial capability, experience, or qualifications to assure good faith performance of the contract.
 3. Those Offerors whose score for their technical submittal of the proposal is less than 75% of the total amount of raw technical points allotted to the technical criterion.

DHS may further limit participation in the best and final offers process to those remaining responsible offerors that DHS has, within its discretion, determined to be within the top competitive range of responsive proposals.

- C. The Evaluation Criteria found in **Part II, Section II-4**, shall also be used to evaluate the Best and Final offers.
 - D. Price reductions offered through any reverse online auction shall have no effect upon the Offeror's Technical Submittal.
 - E. Any reduction to commitments to SDBs and SBs must be proportional to the reduction in the total price offered through any BAFO process or contract negotiations unless approved by DGS Bureau of Diversity, Inclusion and Small Business Opportunities ("BDISBO").
- I-20. 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 DHS, and then only in coordination with DHS.
- I-21. Restriction of Contact.** From the issue date of this RFP until DHS selects a proposal for award, the Project Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for DHS to reject the offending Offeror's proposal. If DHS later discovers that the Offeror has engaged in any violations of this condition, DHS 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-22. Department Participation.** Offerors shall provide all staff, services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in this **Part I, Section I-22**. The Department will assign a DHS Contract Administrator to manage the execution, administration, and monitoring of the contract as a result of this RFP. In addition, approximately five (5) OCYF managers responsible for specific aspects of tasks and deliverables described in **Part III** of this RFP will participate in the implementation of those tasks. OCYF will provide office space for up to eleven (11) cubicles, copying resources and equipment, or other logistical support for the selected Offeror to provide onsite staff resources. The Offeror will maintain a local facility or office space as described in the RFP to provide administrative, technical, and logistical support for the tasks and deliverables as needed.
- I-23. Term of Contract.** The term of the contract will commence on the Effective Date and will end two (2) years after the Effective Date. The Commonwealth shall have the option to renew the Contract on the same terms and conditions for three (3) additional one (1) year periods. DHS will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by

Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.

I-24. 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 DHS will rely upon the contents of the proposal in awarding the contract. The Commonwealth may treat any misstatement, omission, or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.
- B.** The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential Offeror.
- C.** The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential Offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- D.** The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- E.** The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- F.** To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four (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 DHS, any recommendations to DHS 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-25. Notification of Selection.

- A. **Contract Negotiations.** DHS will notify all Offerors in writing of the identity of Offeror selected for contract negotiations after DHS has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to DHS.
- B. **Contract Award.** Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and DHS has received the final negotiated contract signed by the selected Offeror.

I-26. Debriefing Conferences. 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 purpose of the debriefing is to assist the Offeror in understanding some of the strengths and weaknesses of certain aspects of its technical submittal. 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-27** of this RFP).

I-27. RFP Protest Procedure. Offerors and prospective Offerors who are aggrieved in connection with the solicitation or award of the contracts under this RFP may file a protest with the Department. Any such protest must be in writing and must comply with

the requirements set forth in the Commonwealth Procurement Code at 62 Pa. C.S. § 1711.1.

Any protest filed in relation to this RFP must be delivered to:

Department of Human Services
Office of Administration, Bureau of Financial Operations
Division of Procurement and Contract Management
Room 402 Health and Welfare Building
625 Forster Street
Harrisburg, Pennsylvania 17120
Attn: Mac Spiker
Email address: RA-PWRFPQUESTIONS@PA.GOV

Offerors and prospective Offerors must file a protest electronically via email to the resource account listed above, but also must simultaneously send an original and two hard copy versions of the protest to the address listed above. Protests will be deemed filed on the date received. The Issuing Office will notify OCYF (the contracting office) and any Offeror reasonably susceptible for award of the protest, and such notification shall start the timeline for any protest response.

I-28. 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 verify that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

I-29. Information Technology Policies. This RFP is subject to the Information Technology Policies ("ITPs") {formerly known as Information Technology Bulletins} issued by the Office of Administration, Office for Information Technology ("OA-OIT"); and DHS Business and Technical Standards created and published by DHS. ITPs may be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>. The DHS Business and Technical Standards may be found at <http://www.dhs.pa.gov/provider/busandtechstandards/index.htm>.

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

best interest of the Commonwealth to waive the pertinent ITP or DHS Business and Technical Standard.

PART II

CRITERIA FOR SELECTION

- II-1. Mandatory Responsiveness Requirements.** To be eligible for selection, a proposal must:
- A.** Be timely received from an Offeror (see **Part I, Section I-11**); and
 - B.** Be properly signed by the Offeror (see **Part I, Section I-12.A**).
- II-2. Technical Nonconforming Proposals.** The two (2) Mandatory Responsiveness Requirements set forth in **Section II-1** above (A-B) are the only RFP requirements that the Commonwealth will consider to be *non-waivable*. The Department may, in its sole discretion, (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal.
- II-3. Evaluation.** The Department has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BDISBO will evaluate the Small Diverse Business and Small Business Participation Submittal and provide the Department with a rating for this component of each proposal. The Department 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 Department after taking into consideration all of the evaluation factors.
- II-4. Evaluation Criteria.** The following criteria will be used in evaluating each proposal:
- A. Technical:** The Department has established the weight for the Technical criterion for this RFP as **50 %** of the total points. Evaluation will be based upon the following: **Soundness of Approach, Personnel Qualifications, Offeror Qualifications, and Understanding the Problem.**

The final Technical scores are determined by giving the maximum number of technical points available to the proposal 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>.
 - B. Cost:** The Department has established the weight for the Cost criterion for this RFP as **30%** of the total points. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage: <http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

C. SDB/SB Participation: BDISBO has established the evaluation weight for the SDB and SB Participation criterion for this RFP as **20%** of the total points.

1. The SDB/SB point allocation is based entirely on the percentage of the contract cost committed to SDBs and SBs.
2. A total combined SDB/SB commitment less than one percent (1%) of the total contract cost is considered de minimis and will receive no SDB or SB points.
3. Two thirds (2/3) of the total points are allocated to SDB participation (SDB %).
4. One third (1/3) of the total points is allocated to SB participation (SB %).
5. Based on a maximum total of 200 available points for the SDB and SB Participation Submittal, the scoring mechanism is as follows:

<p style="text-align: center;">SDB and SB Raw Score = 200 (SDB% + (1/3 * SB %))</p>

6. Each Offeror's raw score will be pro-rated against the Highest Offeror's raw score by applying the formula set forth on the following webpage: http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx.
 7. The Offeror's prior performance in meeting its contractual obligations to SDBs and SBs will be considered by BDISBO during the scoring process. To the extent the Offeror has failed to meet prior contractual commitments, BDISBO may recommend to the Issuing Office that the Offeror be determined non-responsible for the limited purpose of eligibility to receive SDB and SB points.
- D. Domestic Workforce Utilization:** Any points received for the Domestic Workforce Utilization ("DWU") 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 DWU 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 that it is not on the current list of persons engaged in investment activities in Iran created by the DGS pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501 – 3506 of the Procurement Code; or b) demonstrate that 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 C, 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/Documents/Procurement%20Forms/ProposedIranFreeProcurementList.pdf>

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

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

- A.** The total score for the technical submittal of the Offeror's proposal must be greater than or equal to **75%** of the **available raw 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 Commonwealth will review the Offeror's previous three financial statements, any additional information received from the Offeror, and any other publicly-available financial information concerning the Offeror, and assess each Offeror's financial capacity based on calculating and analyzing various financial ratios, and comparison with industry standards and trends.

An Offeror which fails to demonstrate sufficient financial capability to assure good faith performance of the contract as specified herein may be considered by the

Department, in its sole discretion, for Best and Final Offers or contract negotiation contingent upon such Offeror providing contract performance security for the first contract year cost proposed by the Offeror in a form acceptable to the Department. Based on the financial condition of the Offeror, DHS 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 Department will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

II-6. Final Ranking and Award.

- A.** After any best and final offer process is conducted, the Issuing Office will combine the evaluation committee's final technical scores, BDISBO's final SDB and SB 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 II.
- B.** The Issuing Office will rank responsible offerors according to the total overall score assigned to each, in descending order.
- C.** Except as provided in **Part II, Section II-6.D**, the Department must select for contract negotiations the Offeror with the highest overall score.
- D.** The Department has the discretion to reject all proposals or cancel the request for proposals, at any time prior to the time a contract is fully executed, when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the contract file.

PART III

TECHNICAL SUBMITTAL

III-1. Nature and Scope. The Department is requesting proposals for services with the core focus being on Federal Title IV-E compliance and review preparedness. The selected Offeror will provide technical and consultative assistance to OCYF to achieve the goals of effectively monitoring child welfare programs and services while adhering to compliance with all applicable federal and state laws, regulations, directives, reviews and policy statements promulgated by the DHHS/ACF and the Social Security Act. The consultant services will support and enhance DHS's Title IV-E Programs, which generate over \$300 million in federal funds annually for the Commonwealth. These funds are allocated to the 67 counties to sustain services to children, youth, and families. Programs such as foster care, independent living, relative guardianship, and adoption assistance are funded with Title IV-E resources. The selected Offeror will provide technical assistance to OCYF in accurate and timely quarterly RMTS operations; comprehensive and compliant Quality Assurance Reviews; thorough Policy Analysis and Support; and competent and dependable On-Site Staff/Resources Support. More specifics regarding these primary areas are detailed under **Tasks** in this section.

III-2. Requirements.

- A. Facility Requirements.** The selected Offeror must establish at least one (1) central office within a 25-mile radius of Harrisburg, Pennsylvania to establish the necessary operational capabilities, including, but not limited to, the housing of all data and documentation related to this operation and local administrative and management staff (Project Manager), not including personnel that are assigned to Task E (see **Part III, Section III-9.E**). The selected Offeror must have the appropriate equipment and network connectivity that will enable it to accomplish all tasks of the RFP. The selected Offeror must provide at least one (1) meeting room at its central office to accommodate a minimum of fifty (50) people for meetings, trainings, and other related functions. All sites must be accessible and comply the Americans with Disabilities Act ("ADA") standards.
- B. Health Insurance Portability and Accountability Act ("HIPAA") of 1996, Pub. L. 104-191, and accompanying regulations.** The selected Offeror will comply with all federal or state laws related to the use and disclosure of information, including information that constitutes Protected Health Information ("PHI") as defined by HIPAA. The selected Offeror will comply with the Business Associate language contained in **Appendix M**.
- C. Compliance.** The selected Offeror shall provide services as defined in the RFP and in accordance with state regulatory requirements contained in 55 Pa. Code, Chapters 3140 and 3170; federal statutory provisions of Title IV-E contained in the Social Security Act; federal regulatory provisions in 45 CFR Parts 1355, 1356 and 1357; and any laws, regulations, directives, reviews, policies, and procedures promulgated by the DHHS/ACF

and OCYF. All services provided must be compliant with the most current applicable federal, state, and local standards, laws, and regulations.

D. Staff Clearances. The selected Offeror must arrange for, at its own expense, criminal background from the Pennsylvania State Police, and the Federal Bureau of Investigation (“FBI”) Criminal History and child abuse clearances from the Department and obtain written results for all staff that perform work related to this RFP prior to providing services. Criminal background checks are conducted via the Criminal History Request Online found at the Pennsylvania State Police website, under PSP Services, <http://www.psp.state.pa.us> and the Pennsylvania Child Abuse History Clearance can be submitted and paid for online through the **Child Welfare Information Solution** (“CWIS”) self-service portal. Submitting an application for a child abuse clearance online allows individuals to receive their results through an automated system that will notify them once their results have been processed. Applicants will be able to view and print their results online. The self-service portal also provides organizations the ability to create business accounts to prepay for child abuse clearances and have online access to the results. Get **more information** about the electronic submission of child abuse clearances, PSP criminal record check and FBI criminal background check requirements at <http://www.keepkidssafe.pa.gov/> and <http://www.dhs.pa.gov/publications/findaform/childabusehistoryclearanceforms/index.htm>.

See Part VI Standard Contract Terms and Conditions, Section 40 for additional information on background checks.

E. Conflict of Interest Requirements. During the term of the contract resulting from this RFP, the selected Offeror and its subcontractors, including its SDBs and SBs, are prohibited from providing compliance and audit preparation services of a similar nature to counties and providers within the Commonwealth. Prior to the commencement of the contract, the selected Offeror and its subcontractors must eliminate all conflicts of interest.

F. Document Security. The nature of federal Title IV-E and other related programs require the handling of sensitive information. The selected Offeror is responsible for establishing a process to ensure the protection and confidentiality of all OCYF and county records, and any other related information in its possession. Describe the process you will use to meet the following requirements:

1. Sensitive information may need to be transferred from other agencies or shared with the Commonwealth during the term of the contract, and/or transitioned to a successor Offeror at the conclusion of this contract. The selected Offeror must follow Commonwealth procedures for information handling and sharing.
2. Comply with applicable federal and state laws, regulations, and rules regarding the security and confidentiality of information pertaining to child welfare and other related programs.

3. Verify that all Offeror staff, as applicable, receives training in confidentiality regulations, including HIPAA Privacy and Security, and Medicaid confidentiality requirements.
4. All Offeror staff must sign a confidentiality agreement. Personnel policies must address disciplinary procedures relevant to violation of the signed confidentiality agreement.
5. Verify that all electronic data received from OCYF is kept, stored, and maintained in a confidential manner.
6. Verify that its computer systems are properly protected in a manner that maintains the security of all data stored on that computer system.
7. Verify that all printed information is kept, stored, and maintained in a confidential manner.
8. Both confidential and sensitive information must not be utilized by the selected Offeror or given to another entity other than for the purpose of carrying out obligations of the contract as a result of this RFP.
9. Verify that adequate measures are in place to prohibit unauthorized access, copying, and distribution of information during work on this project.
10. Verify that all information either printed or in digital form, is properly destroyed in a manner that facilitates continued confidentiality during work on this Project, as well as any remaining information upon the completion of the Project.
11. Verify that back-up of electronic media is maintained in a recoverable format in the event of system failure.
12. All data collected remains the sole property of the Department. The selected Offeror shall provide the Department with copies of the data and specific reports that are generated from the data, as requested by the Department. Any and all requests for information shall be referred to the DHS Contract Administrator.
13. Verify that all records are properly retained for five (5) years after becoming fully inactive or until the disposition of court hearings, audits, and appeals are complete. The selected Offeror must adhere to record retention procedures for all applicable federal, state, and local government agencies.
14. Establish and maintain all archived files in an accurate, secure and confidential manner and for the required period of time as mandated by applicable federal, state, and local rules and regulations.

15. Properly dispose of (i.e. shred, surrender) both hard and electronic working copies of confidential and sensitive information obtained as a result of work on this Project, as well as any remaining information upon the completion of the Project.

If a breach of security occurs, the selected Offeror will be monetarily responsible for necessary expenses, up to and including notification and monitoring services.

G. Disaster Recovery. The Offeror must develop and document a Disaster Recovery (“DR”) plan for electronic records and files maintained by the selected Offeror. The selected Offeror must utilize reasonable data backup and DR procedures to prevent loss of information and an interruption in the use of its proposed systems.

1. The Offeror must describe its data backup and DR plans for restoring and maintaining operations during natural or human-induced disasters, or any other occurrence that damages systems or data.
2. The Offeror must provide detailed information regarding its backup and DR systems, architecture/frameworks, capabilities, governance, and procedures.
3. The Offeror must describe how its backup and DR plans enable the continuation of critical business processes for the protection and security of the data and support the system restoration and availability.
4. The selected Offeror must provide an annual update of the data backup and DR plan and the DR plan testing process and testing frequency on the yearly anniversary start date of the fully executed agreement.

H. Emergency Preparedness. To support continuity of operations during an emergency, including a pandemic, the Commonwealth needs a strategy for maintaining operations for an extended period of time. One part of this strategy is to ensure that essential contracts that provide critical business services to the Commonwealth have planned for such an emergency and put contingencies in place to provide needed goods and services.

1. Describe how you anticipate such a crisis will impact your operations.
2. Describe your emergency response continuity of operations plan. Please attach a copy of your plan, or at a minimum, summarize how your plan addresses the following aspects of pandemic preparedness:
 - a. Employee training (describe your organization’s training plan, and how frequently your plan will be shared with employees)
 - b. Identified essential business functions and key employees (within your organization) necessary to carry them out
 - c. Contingency plans for:
 - i. How your organization will handle staffing issues when a portion of key employees are incapacitated due to illness.

- ii. How employees in your organization will carry out the essential functions if contagion control measures prevent them from coming to the primary workplace.
- d. How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc.
- e. How and when your emergency plan will be tested, and if the plan will be tested by a third-party.

I. Lobbying Certification and Disclosure of Lobbying Activities. This Project will be funded, in whole or in part, with federal monies. Public Law 101-121, Section 319, prohibits federal funds from being expended by the recipient or by any lower tier sub-recipients of a federal contract, grant, loan, or a cooperative agreement to pay any person for influencing, or attempting to influence a federal agency or Congress in connection with the awarding of any federal contract, the making of any federal grant or loan, or entering into any cooperative agreement. All parties who submit proposals in response to this RFP must sign the “Lobbying Certification Form”, (attached as **Appendix K**), and, if applicable, complete the “Disclosure of Lobbying Activities” form (attached as **Appendix K**). The signed form(s) must be included as **Tab 14** in the Technical Submittal.

III-3. Statement of the Problem. State in succinct terms your understanding of the problem presented or the service required by this RFP. The Offeror’s response should demonstrate that the Offeror fully understands the scope of services to be provided, the Offeror’s responsibilities, and how the Offeror will effectively manage the contract.

III-4. Management Summary. Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided. The summary will condense and highlight the contents of the Technical Submittal in a manner that allows a broad understanding of the entire Technical Submittal.

III-5. Prior Experience. The Offeror should include experience in Federal Title IV-E Compliance Services or other similar experience. Experience should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

A. Corporate Background. The Offeror must describe the corporate history and relevant experience of the Offeror and any subcontractors. This section must detail information on the ownership of the company (names and percent of ownership), the date the company was established, the date the company began operations, the physical location of the company, and the current size of the company. The Offeror must provide a corporate organizational chart.

The Offeror must describe its corporate identity, legal status and forms, including the name, address, telephone number, and email address for the legal entity that is submitting the proposal. In addition, the Offeror must provide the name of the principal officers, a description of its major services, and any specific licenses and accreditations held by the Offeror.

Offerors must provide similar organizational background information on any significant subcontractor for services. A significant subcontractor is defined as an organization undertaking more than ten (10%) on the total cost basis of the work associated with this RFP.

If an Offeror is proposing to use the services or products of a subsidiary or affiliated firm, the Offeror must describe the business arrangement with that entity and the scope of the services the entity will provide.

If the experience of any proposed subcontractor is being used to meet the qualifications and requirements of this RFP, the Offeror must provide the same information as listed above for the subcontractor. This information must be presented separately within this section, clearly identifying the subcontractor experience and name of the subcontractor.

B. References. The Offeror must provide a list of at least three (3) relevant contacts within the past three (3) years to serve as corporate references. The references must be outside clients (non-DHS). This list shall include the following for each reference:

1. Name of customer
2. Type of contract
3. Contract description, including type of service provided
4. Total contract value
5. Contracting officer's name and telephone number
6. Role of subcontractors (if any)
7. Time period in which service was provided

The Offeror must submit **Appendix E, Corporate Reference Questionnaire**, directly to the contacts listed. The references should return the completed questionnaires in sealed envelopes to the Offeror. The Offeror must include these sealed references with its technical submittal under **Tab 16**. The Offeror should provide this same information for any significant subcontractor, as defined in **Part III, Section III-5.A**.

The Offeror must disclose any contract or agreement cancellations, or terminations within five (5) years preceding the issuance of this RFP. If a contract or agreement was canceled or terminated for lack of performance, the Offeror must provide details on the customer's allegations, the Offeror's position relevant to the allegations, and the final resolution of the cancellation or the termination. The Offeror must include

each customer's Company or entity name, Address, Contact name, Phone number, and Email address.

The Department may disqualify an Offeror based on a failure to disclose such a cancelled or terminated contract or agreement. If the Department learns about such a failure to disclose after a contract is awarded, the Department may terminate the contract.

III-6. Personnel

- A. Offeror 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. Key personnel for this Project include: a Project Manager, an RMTS Administrator, a Quality Assurance Review Supervisor, and a Per Diem Analyst Supervisor. For key personnel, include the employee's name and, through a resume or similar document, the Project personnel's education and experience in similar in size and scope projects. Indicate the responsibilities each individual will have in this Project and how long each has been with your company. For non-Key personnel, include position descriptions and minimum qualifications.

Submitted responses are not to include personal information that will, or will be likely to, require redaction to release of the proposal under the Right-to-Know Law, including but not limited to home addresses and phone numbers, Social Security Numbers, Driver's License numbers or numbers from state identification cards issued in lieu of a Driver's License, and financial account numbers. If the Commonwealth requires any of this information for security validation or other purposes, the information will be requested separately and as necessary.

Include organizational charts outlining the staffing, reporting relationships, and staff members in its description. Show the total number of staff proposed and indicate the Full Time Equivalence ("FTE") to account for any additional non-Key Personnel, such as Quality Assurance Reviewers, Per Diem Analysts, Validation Analysts, and Policy Analysts, etc., that are assigned on a full-time and/or part-time basis. Provide similar information for any subcontractors that are proposed. The organizational chart must illustrate the lines of authority, designate the positions responsible and accountable for the completion of each component in the RFP, indicate the names and job title and number of personnel that will be assigned to each role, and the number of hours per week each person is projected to work on the Project. The organizational chart must clearly indicate any functions that are subcontracted along with the name of the subcontracting entities and the services they will perform.

A minimum of three (3) client references for each Key Personnel must be identified. All client references for Key Personnel must be outside clients (non-DHS) who can give information on the individual's experience and competence to perform project

tasks similar to those requested in this RFP. Key Personnel may be a member of the Contractor's organization, or any subcontractor included in the Contractor's proposal.

The Offeror must submit **Appendix F, Key Personnel Reference Questionnaire**, directly to the contacts listed. The references should return completed questionnaires in sealed envelopes to the Offeror. The Offeror should include these sealed references with its proposal under **Tab 17**.

Key Personnel Diversions or Replacement. Once Key Personnel are approved by DHS, the selected Offeror may not divert or replace personnel without prior approval of the DHS Contract Administrator. The selected Offeror must provide notice of a proposed diversion or replacement to the DHS Contract Administrator at least thirty (30) days in advance and provide the name, qualifications, and background check (if required) of the person who will replace the diverted personnel. The DHS Contract Administrator will notify the selected Offeror within ten (10) business days of the diversion notice whether the proposed diversion is acceptable and if the replacement was approved.

Divert or diversion is defined as the transfer of personnel by the selected Offeror or its subcontractor to another assignment within the control of either the Offeror or subcontractor. Advance notification and approval does not include changes in Key Personnel due to resignations, death and disability, dismissal for cause or dismissal as a result of the termination of a subcontract or any other causes that are beyond the control of the selected Offeror or its subcontractor. DHS must approve the replacement personnel.

The DHS Contract Administrator may request that the selected Offeror remove a person from this Project at any time. In the event that a person is removed from the Project, the selected Offeror will have ten (10) days to fill the vacancy with a person acceptable in terms of experience and skills, subject to the DHS Contract Administrator's approval.

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

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

8. Resumes (if appropriate and available).

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

III-7. Training. The Offeror must describe its approach for meeting the following requirements utilizing training material provided and/or approved by OCYF. The selected Offeror must provide:

- A.** Training to all Offeror staff within thirty (30) calendar days of their start date for all major aspects of their respective job assignments.
- B.** On-going training for all Offeror staff related to updates or changes to any aspect of their respective job assignments, as needed.
- C.** Cross training of Offeror staff to assure that core functions can be performed in the event of staff vacancies and/or absences.

III-8. Financial Capability. Describe your company's financial stability and economic capability to perform the contract requirements. The Commonwealth reserves the right to request additional information to evaluate an Offeror's financial capability.

III-9. Work Plan. Describe in narrative form your technical plan for accomplishing the work using the task descriptions as your reference point. Modifications to the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review Technique ("PERT") or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

Describe your management approach and how the proposed work plan will be executed. Include detailed information to demonstrate that your work plans meet all requirements included in this RFP. Where possible, provide specific examples of methodologies or approaches that will be used to fulfill the various requirements, and how these methodologies will be adapted and implemented for the contract. Describe the processes to be followed and the management controls that will be used to ensure the quality of the work as well as the ability to meet all contract requirements. Also address your approach to internally monitor and evaluate the effectiveness in meeting the contract requirements throughout the course of the contract.

The work plan must include the planned approach and process for establishing and maintaining communication between all parties and a technical approach that is aligned with all written specifications and requirements contained in the RFP.

Tasks.

For all tasks, the selected Offeror must consult with OCYF to obtain approval before starting any assignments or research to ensure a complete understanding of what is required. The selected Offeror must also confer with OCYF for clarity and consensus of any questions and answers before responding to questions posed by the counties and/or stakeholders. The Department will only consider Deliverables to be satisfactorily completed following approval from OCYF.

A. Transition. The selected Offeror shall be afforded up to a three (3) month period to develop and ramp-up services. Describe your transition plan to meet the following requirements. Include a PERT or similar display, time related, showing each event.

1. Orientation/Knowledge Acquisition (“OKA”). OKA refers to those activities necessary for the selected Offeror to start-up and complete implementation plans to provide the required services. At a minimum, the selected Offeror must:

- a. Acquire sufficient knowledge of Pennsylvania’s child welfare policies and Title IV-E Program to successfully carry out the Project requirements in an effective and timely manner.
- b. Coordinate and work with designated DHS stakeholders, the incumbent, and third party vendors, if applicable during the transition phase to perform and manage all tasks.
- c. Identify the transition team, including their roles and responsibilities, and provide an organizational chart. Include your processes and protocols for project governance.
- d. Provide a smooth transition of the on-going business and operational activities currently being executed and gain sufficient knowledge to understand the underlying data structures, its processing sequences, and its key data input mechanisms, necessary to perform all the tasks required in this RFP.
- e. Have a detailed approach to knowledge transfer so that it occurs in such a manner to enable its staff to confidently assume ownership and independently manage the operational business functions and timely delivery of services to the Department, CCYAs, or JPOs without disruption and undue risks.

Describe your plan for accomplishing these requirements.

2. Transition Quality Management. Describe your approach to provide quality management of the transition phase, including processes, procedures, assessments, and accountability controls.

3. **Transition Progress.** During the transition, the selected Offeror is responsible for providing DHS with transition progress assessments and status updates. The selected Offeror will coordinate with DHS regarding transition tasks, prioritization issues, or conflicting activities interfering with maintaining business operations. Describe how you will meet this requirement.
 4. **Transition Results.** At the end of the transition phase, the selected Offeror will be responsible for preparing a Transition Results Report. This will document the completion of transition activities, and will provide status of each high-level task and activity that took place during the transition period. The report will highlight how each of the objectives stated in the transition plan have been achieved and the resolution of issues identified and prioritized during the transition process. Describe how you will meet this requirement.
- B. RMTS Operations.** Pennsylvania's RMTS is a federally-approved sampling process that captures, on a quarterly basis, valid moments of activities performed by staff of CCYAs and JPOs (including county subcontracted staff) that qualify for administrative reimbursement through the federal Title IV-E Foster Care and other programs. The CCYAs and JPOs staff performing case management activities, each having an equal opportunity to be chosen, are selected randomly from a statewide roster of CCYAs and JPOs staff. The results of the observation moments are recorded. Currently, there are 5,700 samples of statistically valid moments drawn: 3,000 for CCYAs and 2,700 for JPOs. Refer to **Appendix L, RMTS Sampling Plan and Bulletins**, for further information. The selected Offeror will be responsible for developing and implementing the technical infrastructure in order to manage the RMTS in accordance with the following process:
1. The selected Offeror will conduct a statewide RMTS process for CCYAs and JPOs in cooperation with DHS and the counties.
 2. Prior to the beginning of each quarter, the selected Offeror will develop each CCYA and JPO's random sample list and issue quarterly mass mailings of employee rosters to each CCYA and JPO, observation forms, worksheets with appropriate employee information along with resulting factors via electronic mail, fax and/or U.S. Mail.
 - a. The selected Offeror must deliver employee rosters to CCYAs and JPOs for review (and, if necessary, updating) **forty-five (45) business days** before the start of a new quarter. The CCYAs and JPOs will have **fifteen (15) business days** to deliver the updated rosters to the selected Offeror.
 - b. Provided that the selected Offeror receives the updated employee rosters from the CCYAs and JPOs at least **thirty (30) business days** before the start of the new quarter, the selected Offeror must complete the sample generation **fourteen (14) business days** before the start of the new quarter.
 - c. The selected Offeror must forward observation forms to the CCYAs and JPOs at least **seven (7) business days** prior to the start of the new quarter.

3. On a weekly basis, the CCYAs and JPOs shall forward their recorded moments to the selected Offeror. Upon receipt, the selected Offeror will run validity checks for completeness to determine whether all observation forms are correct in that the forms contain all required elements, including but not limited to, case number, case name, date, signature, and response logic flow on the forms. The selected Offeror will return any incorrect forms to the CCYAs and JPOs for resubmission.
4. The selected Offeror shall review the observation forms and determine with **100% accuracy** if all elements of the form are valid, complete, and in agreement with policy and procedures.
5. The selected Offeror must date-stamp and scan all incoming and outgoing observation forms; convert the observation forms into a searchable file document format, and subsequently transmit to OCYF for viewing **within one (1) business day** of receipt.
6. The selected Offeror must review for completeness all observation forms received from CCYAs and JPOs **within one (1) business day** of receipt. Any forms that contain errors must be returned to the CCYAs and JPOs **within one (1) business day**.
7. Upon final validity check, the selected Offeror will enter contents of observation forms into an automated RMTS tracking system with 100% error-free outcomes. OCYF must have the capability to access and log into this automated system. Also, **within one (1) business day** of receipt, the selected Offeror must enter data from the observation forms into the RMTS tracking database.
8. On a monthly basis, the selected Offeror will:
 - Generate and maintain any standard management tracking and reporting required by OCYF (i.e. RMTS Tracking (by county – missing forms, errors, and preliminary roster and response rates).
 - Generate Ad Hoc Reports/Queries as requested by OCYF. The selected Offeror must establish an internal monitoring process for such requests.

Refer to **Part III, Sections III-10.A. and D.** for more specifics about the reports.

9. At the end of each quarter, the selected Offeror will:
 - Compile an aggregate Statewide Results Report and return it to OCYF. OCYF will distribute the quarterly statewide moment results summary to the counties to assist them in equitably distributing that time across all programs and for its use in preparing the federal Title IV-E and other related programs administrative claims for reimbursement.
 - Generate and maintain any standard management tracking and reporting required by OCYF (i.e. Statewide RMTS Tracking (by county – missing

forms, errors, and final response rates), Roster Report, Final Variance Reports, etc.)

- Generate Ad hoc Reports/Queries as requested by OCYF.

Refer to **Part III, Sections III-10.C. and D.** for more specifics about the reports.

10. The selected Offeror must have the ability, expertise, and capability to provide services so no interruption in the RMTS observation data collection and processing procedure occurs and the quarterly county/state/federal reimbursement claim process complies with federal requirements.
11. The selected Offeror must be prepared to manually operate any aspect of the electronic/automated RMTS process if necessary.
12. The selected Offeror must provide prompt customer service, responses and guidance to counties and other stakeholders, within two (2) business days.
13. The selected Offeror must have the ability to provide training development and delivery to counties and other stakeholders as needed.

C. Quality Assurance Reviews. The selected Offeror will assist OCYF in conducting Quality Assurance Reviews and related activities as outlined below. The purpose of these reviews is to determine if the CCYAs and JPOs are properly applying and documenting Title IV-E eligibility requirements and complying with all aspects of federal and state requirements applicable to Title IV-E and related programs' processing and claiming. The selected Offeror will:

1. Travel to each local county agency office on a semi-annual basis to complete a comprehensive review of county policies, procedures, and practices.
2. Assist in analyzing case file documentation and presenting findings to CCYAs and JPOs.
3. Use the Adoption and Foster Care Reporting System ("AFCARS") federal requirements to determine Title IV-E applicability.
4. Review a variety of county child welfare case files to verify that the documentation is current, logically organized, accurate, and contains required language pertinent to federal Title IV-E and related programs.
5. Analyze file information to ascertain placement/discharge dates and validity of the placement claimed.
6. Confirm that the operating license or certification for the foster care placement is valid and current.

7. Determine if CCYAs and JPOs are invoicing correctly based upon the on-site reviews.
8. Perform county exit interview upon completion of assessment.
9. Maintain and operate computer data management systems consistent with the Commonwealth's IT policies and procedures. OCYF currently uses the Social Solutions ETO Software program.
10. Provide OCYF with summary reports of findings and recommendations of the county reviews. Identify strengths and weaknesses of the documentation retrieved and make recommendations for compliance, performance, outcome improvement, processes, procedures, etc.
11. Survey other states as requested to determine focus of federal and state reviews and to enhance the Commonwealth's compliance and performance.
12. Provide prompt customer service, responses and guidance to counties and other stakeholders, within two (2) business days.
13. Provide training development and delivery to counties and other stakeholders as needed.
14. Assist and provide support to OCYF in federal or state Compliance Reviews and Audits as necessary. ACF performs Federal Title IV-E Reviews every three years. The next Federal Title IV-E Review for Pennsylvania will be in 2019. Such activities for the Federal Review include, but are not limited to, the following:
 - Collecting, reviewing, organizing, and securely storing eligibility files and documentation;
 - Retrieving documentation from closed, active, adoption, and archived files, when necessary;
 - Reviewing eligibility criteria source documents from caseworkers, officers, and court files/records;
 - Researching and locating facility approvals and contracts of providers, when necessary;
 - Compiling existing eligibility documents;
 - Copying/Providing all documentation for all involved parties, when necessary;
 - Reporting a summary of findings, concerns, and recommendations for defense; and
 - Participating in conference calls and meetings, when necessary.

D. Policy Analysis and Support. The selected Offeror will conduct an analysis of federal/state draft legislation, laws, policies, procedures, and regulations, as well as

policy revisions affecting child welfare programs and funding sources. The selected Offeror will provide consultant services and technical assistance to OCYF regarding Title IV-E and other related federal programs such as Temporary Assistance for Needy Families (“TANF”), Medical Assistance (“MA”), Supplemental Security Income/Supplemental Security Disability (“SSI/SSD”), and Titles IV-B, IV-D, and XX of the Social Security Act. The selected Offeror will also:

1. Prepare a report/summary describing draft policies and their fiscal and programmatic impact on Pennsylvania’s child welfare system.
2. Assist with the implementation of new and revised federal/state policies and assist in the maintenance and updating of Pennsylvania’s relevant laws, regulations, policies, manuals, bulletins, special transmittals, waivers, and clarifications, when necessary.
3. Assist with the implementation and management of policies, programs, and processes as a result of Fostering Connections Act, Title IV-E Waiver Demonstration Project, Preventing Sex and Human Trafficking, and other federal/state legislation as requested.
4. Conduct national comparisons and literature searches relative to the practices of OCYF and within federal rules and regulations as with other states with similar size programs and operations. The selected Offeror will document findings and prepare reports on performance indicators of child welfare services and programs.
5. Recommend ways and means to enhance Pennsylvania’s child welfare system and provide suggestions of nationally-accepted, current “Best Practices” in child welfare.
6. Provide prompt customer service, responses and guidance to counties and other stakeholders within two (2) business days.
7. Provide training development and delivery to counties and other stakeholders as needed.

E. On-site Staff Resources and Support. The selected Offeror will have the Per Diem Analysts, Policy Analysts, and Validation Analysts, on-site to effectively monitor and process financial controls of all administrative and placement maintenance procedures and claims. The selected Offeror may also propose alternatives to on-site resources if it can meet the needs of the Department in a more effective and efficient manner. The selected Offeror will:

1. Gain and maintain a knowledge base of Pennsylvania’s policy and procedures for Title IV-E eligibility determination and claiming.

2. Gain and maintain a knowledge base of current federal and state regulations and updates of child welfare laws.
 3. Analyze and prepare complex data.
 4. Assist with the preparation of bulletins, policies, and/or procedures consistent with federal and state regulations.
 5. Review provider contract documentation to validate that provider payments, as well as state and federal reimbursements, adhere to state and federal mandates.
 6. Calculate provider per diem and reimbursement rates.
 7. Review financial invoices for state and federal funding reimbursement.
 8. Provide education, information, and ongoing technical assistance to provider and county staff.
 9. Provide prompt customer service, responses and guidance to counties, providers and other stakeholders, within two (2) business days.
 10. Produce management reports and policy analysis/recommendations in a timeframe established by OCYF.
 11. Maintain and operate computer data system consistent with the Commonwealth's IT policies and procedures.
 12. Provide training development and delivery to counties and other stakeholders as needed.
- F. Turnover.** Turnover is defined as those activities that the selected Offeror must perform at the end of the contract to transition contract service delivery to a successor Offeror or to Commonwealth resources. During the turnover period, the selected Offeror will work cooperatively with any successor and the Department.

Upon expiration or termination of the Contract, the selected Offeror shall provide for a smooth and timely transition of its services to the Department, CCYAs and JPOs. The selected Offeror must cooperate with the Department and supply the Department and its vendor with all information required by the Department and/or its vendor during the turnover process; and pay all costs related to the transfer of materials and responsibilities as a normal part of doing business with the Commonwealth.

1. **Turnover Requirements.** The selected Offeror must plan and manage the turnover in an orderly fashion so that there is no disruption of service to the Department, CCYAs, and JPOs. The selected Offeror must:

- a. Provide a Turnover Work Plan six (6) months prior to the end of the contract term.
 - b. Implement the approved Turnover Work Plan three (3) months prior to the end of the contract term.
 - c. Maintain service delivery staffing levels during the turnover period with no reduction in staffing.
 - d. Not restrict or prevent the selected Offeror's staff from accepting employment or positions with DHS or with any successor Offeror. DHS will work with the selected Offeror and successor Offeror on the timing of any transition of its staff.
 - e. Provide to DHS or its agent, within fifteen (15) business days of the request, all other documentation and records required by the DHS or its agents.
 - f. Respond in a reasonable time to all DHS requests regarding turnover information.
 - g. Work closely with DHS so that this turnover of responsibilities and the necessary knowledge transfer are completed by the end of the contract period.
 - h. Execute the approved Turnover Work Plan in cooperation with the successor Offeror's Transition Plan.
2. **Turnover Work Plan.** The selected Offeror shall provide a plan of its proposed turnover approach in a turnover work plan. The selected Offeror must identify a manager to manage and coordinate all turnover activities outlined in the Turnover Plan.

The Turnover Work Plan must include, at a minimum:

- a. A description of staffing resources, including skill sets and experience required, and resource allocation strategies (roll-on or roll-off) to support a successful turnover.
- b. A turnover organizational chart.
- c. An outline of key points and considerations, turnover success criteria, and the major tasks and subtasks the Offeror believes are pertinent to ensuring a successful turnover with minimal impact to business operations.
- d. An explanation of how the selected Offeror will manage the plan, accurately assess progress, and mitigate variances for a successful turnover.
- e. A description of the selected Offeror's approach and schedule for transfer of operational support information.
- f. Copies of all relevant data, documentation, or other pertinent information necessary for DHS or its designee to take over and successfully assume operational business activities.
- g. Correspondence, documentation of outstanding issues, and other service delivery support documentation.
- h. An inventory of assets (Hardware, Software, Manuals, etc.).

III-10. Reports and Project Control. On a monthly, quarterly, yearly and ad hoc basis, the selected Offeror will compile, aggregate, generate and maintain standard management tracking reports required by OCYF as indicated below.

A. Status Report. A weekly and/or monthly progress report summarizing activities, problems and recommendations for the time period is required. These reports must correspond to the work plan the selected Offeror submitted, as amended or approved by the DHS Contract Administrator.

1. **Weekly Report.** Weekly reports covering the status of current activities of a task, as needed and requested by DHS. The weekly report will include current sampling results and status of outstanding issues/items. This report must be submitted by Friday at 3 pm when requested.
2. **Monthly Report.** A monthly report covering activities and issues for the previous month along with recommendations for the coming month. At a minimum, this report must include the following information: Overall Contract Monitoring, RMTS Tracking (by county - missing forms, errors, response rates, preliminary results), Quality Assurance Reviews completed and issues identified, Title IV-E Demonstration Project updates, Per Diem packets completed and issues identified and Policy updates. This report must correspond with the work plan the selected Offeror submitted as part of its proposal, as amended or approved by DHS; and must be submitted to DHS three (3) business days prior to the scheduled monthly status meeting.

B. Status Meetings. The selected Offeror will meet with DHS monthly, or as needed, to discuss the progress of the Project, tasks, activities, assignments, staff, subcontracts, and issues.

C. Quarterly Reports for RMTS.

1. **Roster Report.** As described above in **Part III, Section III-9.B.9**, this report will list the eligible employees, by name, position, and location as submitted by county CCYAs and JPOs to be included in each time study. Rosters are updated by counties, and reviewed with OCYF, prior to the beginning of each quarter. Significant changes are identified.
2. **Sample Report.** This report will list the statistically valid dates and times, matched up with employees by county (3000 for CCYAs and 2700 for JPOs). Samples are generated, and reviewed with OCYF, prior to printing and distributing to counties at least two (2) weeks before the start of each quarter.
3. **Statewide RMTS Tracking Report.** As described above in **Part III, Section III-9.B.9**, this report will show the number of sampled, outstanding, completed and validated moments (response rates) by code, county, CCYA and JPO three (3) weeks after the end of the quarter.

4. **Statewide Results Report.** As described above in **Part III, Section III-9.B.9**, this report will list the total validated moments by code in each time study three (3) weeks after the end of the quarter.
5. **Final Variance Report.** As described above in **Part III, Section III-9.B.9**, this report compares and contrasts the current statewide final results with the prior quarter's statewide final results, highlighting changes for each time study three (3) weeks after the end of the quarter.

D. Misc. Ad hoc Reports/Queries. As described above in **Part III, Sections III-9.B.8-.9**, these reports may be requested by OCYF on an as needed basis and will contain information collected in the RMTS process.

E. Problem Identification Report. An "as required" report, identifying problem areas. The report should describe the problem and its impact on the overall project and on each affected task. It should list possible courses of action with advantages and disadvantages of each, and include Offeror recommendations with supporting rationale.

F. Annual Report. An annual report that lists the accomplishments of the previous year. The Offeror shall submit to OCYF for review a draft version of the annual report ninety (90) days after the end of a contract year. At a minimum, the report shall:

1. Abstract or summarize the result of the study or service in terminology that will be meaningful to management and others generally familiar with the subject areas.
2. Describe data collection and analytical and other techniques used during the study.
3. Summarize findings, conclusions and recommendations developed in each task.
4. Include all supporting documentation; e.g., flow-charts, forms, questionnaires, etc.
5. Recommend a time-phased work plan for implementing the recommendations.

III-11. Performance Standards. The Commonwealth has developed a set of minimum Performance Standards defined below, which the selected Offeror must meet, or exceed in order to be in good standing. The Department may, at its discretion, assess liquidated damages as indicated below; up to a maximum of five percent (5%) of the RMTS invoice amount. The Department will not assess liquidated damages during the first three (3) months of the contract for any applicable Performance Standard. Unless otherwise specified, the selected Offeror's performance will be reviewed and assessed on a monthly basis. The DHS Contract Administrator will give written notice of each failure to meet a

performance standard to the selected Offeror. If DHS does not assess liquidated damages in a particular instance, DHS is not precluded from pursuing other or future assessments relating to those performance standards.

CATEGORY	CRITERIA	IF NON COMPLIANT, AMOUNT OWED
RMETS - 1 Task B <u>ACCURACY</u> <u>Initial Forms</u> <u>Review</u>	<p>The selected Offeror shall review the observation forms and determine with 100% accuracy if all elements of the form are valid, complete, and in agreement with policy and procedures.</p>	<p>If errors are identified while reviewing the contents of the observation forms, the selected Offeror must correct all errors. If the errors are not corrected, the selected Offeror has three (3) business days to correct the errors, after DHS identifies the errors needing correction. If the selected Offeror fails to correct all errors within three (3) business days, the Department may assess liquidated damages not to exceed half a percent (.5%) of the RMETS invoice amount for the quarter. The Department will review compliance with this performance standard at the end of each quarter.</p>
RMETS - 2 Task B <u>TIMELINESS</u> <u>Employee</u> <u>Rosters</u>	<p>The Offeror must deliver all employee rosters to CCYAs and JPOs for review (and, if necessary, updating) forty-five (45) business days before the start of a new quarter.</p>	<p>If the selected Offeror does not deliver all employee rosters timely, and the selected Offeror does not advise the DHS Contract Administrator of delay and receive Department approval, the Department may assess liquidated damages not to exceed half a percent (.5%) of the RMETS invoice amount for the quarter.</p>
RMETS - 3 Task B <u>TIMELINESS</u> <u>Sample</u> <u>Generation</u>	<p>Provided that the selected Offeror receives the updated employee rosters from the CCYAs and JPOs at least thirty (30) business days before the start of the new quarter, the selected Offeror must complete the sample generation fourteen (14) business days before the start of the new quarter.</p>	<p>If timeliness is not met and the selected Offeror does not advise the DHS Contract Administrator of delay and receive Department approval, the Department may assess liquidated damages not to exceed half a percent (.5%) of the RMETS invoice amount for the quarter.</p>

<p>RMTS - 4 Task B <u>TIMELINESS</u> <u>Dissemination</u> <u>of Forms</u></p>	<p>The selected Offeror must forward observation forms to all CCYAs and JPOs at least seven (7) business days prior to the start of the new quarter.</p>	<p>If all observation forms are not forwarded timely, and the selected Offeror does not advise the DHS Contract Administrator of delay and receive Department approval, the Department may assess liquidated damages, based on the chart below, not to exceed half a percent (.5%) of the RMTS invoice amount for the quarter.</p> <table border="1" data-bbox="886 527 1427 793"> <thead> <tr> <th data-bbox="886 527 1135 600">Number of Days Late</th> <th data-bbox="1135 527 1427 600">% of Quarterly Invoice Assessed</th> </tr> </thead> <tbody> <tr> <td data-bbox="886 600 1135 638">1</td> <td data-bbox="1135 600 1427 638">0.1</td> </tr> <tr> <td data-bbox="886 638 1135 676">2</td> <td data-bbox="1135 638 1427 676">0.2</td> </tr> <tr> <td data-bbox="886 676 1135 714">3</td> <td data-bbox="1135 676 1427 714">0.3</td> </tr> <tr> <td data-bbox="886 714 1135 751">4</td> <td data-bbox="1135 714 1427 751">0.4</td> </tr> <tr> <td data-bbox="886 751 1135 793">5 or more</td> <td data-bbox="1135 751 1427 793">0.5</td> </tr> </tbody> </table>	Number of Days Late	% of Quarterly Invoice Assessed	1	0.1	2	0.2	3	0.3	4	0.4	5 or more	0.5
Number of Days Late	% of Quarterly Invoice Assessed													
1	0.1													
2	0.2													
3	0.3													
4	0.4													
5 or more	0.5													
<p>RMTS - 5 <u>Reports</u></p>	<p>On a monthly, quarterly, yearly and ad hoc basis, the selected Offeror will compile, aggregate, generate and maintain any standard management tracking reports, required by OCYF, on a timely basis.</p>	<p>If timeliness is not met and the selected Offeror does not advise the DHS Contract Administrator of delay and receive Department approval, the Department may assess liquidated damages not to exceed half a percent (.5%) of the RMTS invoice amount for the quarter.</p>												

- A. For any deficiency, including ones relating to the performance standards, the selected Offeror will prepare and submit a corrective action plan for any observation or finding contained in a notice of deficiency. The selected Offeror must submit the corrective action plan to DHS within ten (10) business days of notification of the deficiency or such longer time as may be agreed to by DHS.
- B. The corrective action plan must include, but is not limited to:
1. Brief description of the findings;
 2. Specific steps the selected Offeror will take to correct the situation or reasons why it believes corrective action is not necessary;
 3. Name(s) and title(s) of responsible staff person(s);
 4. Timetable for performance of the corrective action steps;
 5. Monitoring that will be performed to ensure that corrective action steps were implemented;
 6. Signature of the selected Offeror’s Contract Administrator or a senior executive.
- C. The selected Offeror must implement the corrective action plan within the timeframe agreed to by the parties for that particular corrective action plan. Failure to

implement a corrective action plan, in the manner agreed to, may result in further action by DHS, including, but not limited to, a finding of default.

- D. In the event DHS determines a deficiency to be a serious non-compliance with the selected Offeror's obligations under the contract, DHS may find the selected Offeror in default.

III-12. Objections and Additions to Standard Contract Terms and Conditions. The Offeror will identify which, if any, of the terms and conditions (contained in **Part VI**) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but DHS may consider late objections and requests for additions if to do so, in the DHS's sole discretion, would be in the best interest of the Commonwealth. DHS may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Part VI**. All terms and conditions must appear in one integrated contract. DHS will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in **Part VI**. DHS will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in **Part VI** or to other provisions of the RFP as specifically identified above.

PART IV

COST SUBMITTAL

IV-1. Cost Submittal. The information requested in this **Part IV** shall constitute the Cost Submittal. The Cost Submittal shall be placed in a separate sealed envelope within the sealed proposal, separated from the technical submittal. The total proposed cost should be broken down into the components set forth in **Appendix G – Cost Submittal Worksheet**. The percentage of commitment to Small Diverse Businesses and Small Businesses should not be stated in the Cost Submittal. Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, DHS may reject the proposal. Offerors should direct in writing to the Project Officer pursuant to **Part I, Section I-9** of this RFP any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the DHS's written answer so that all proposals are submitted on the same basis.

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

PART V

SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL

V-1. SDB and SB General Information. The Department encourages participation by SDBs and SBs as prime contractors, and encourages all prime contractors to make significant commitments to use SDBs and SBs as subcontractors and suppliers.

A SB 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 SB must complete the DGS/BDISBO self-certification process. Additional information on this process can be found at: <http://www.dgs.pa.gov/Businesses/Small%20Business%20Contracting%20Program/Page/default.aspx>.

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

For credit in the RFP scoring process, a SDB must complete the DGS verification process. Additional information on this process can be found at: <http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Pages/default.aspx>.

An Offeror that qualifies as a SDB or a SB 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 SDB or SB may be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

The Department's directory of self-certified SBs and DGS/BDISBO-verified SDBs can be accessed from:

<http://www.dgs.pa.gov/Businesses/Small%20Diverse%20Business%20Program/Small-Diverse-Business-Verification/Pages/Finding-Small-Diverse-Businesses.aspx>.

Questions regarding the SDB and SB Programs, including questions about the self-certification and verification processes can be directed to:

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

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

- A.** Offerors must indicate their status as a SDB and as a SB through selection of the appropriate checkboxes.
- B.** Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to SDBs and SBs as subcontractors.
- C.** Offerors must include a listing of and required information for each of the SDBs and/or SBs with whom they will subcontract to achieve the participation percentages outlined on the SDB/SB 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 SDB or SB for each of the SDBs and SBs identified in the SDB/SB Participation Submittal form. At minimum, the Letter of Intent must include the following:
 - 1.** The fixed numerical percentage commitment and associated estimated dollar value of the commitment made to the SDB or SB; and
 - 2.** A description of the services or supplies the SDB or SB will provide; and

3. The timeframe during the initial contract term and any extensions, options and renewals when the SDB or SB will perform or provide the services and/or supplies; and
 4. The name and telephone number of the Offeror's point of contact for SDB and SB participation; and
 5. The name, address, and telephone number of the primary contact person for the SDB or SB.
- E. Each SDB and SB commitment which is credited by BDISBO along with the overall percentage of SDB and SB commitments will become contractual obligations of the selected Offeror.

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

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

- V-3. Contract Requirements—SDB/SB Participation.** All contracts containing SDB/SB Participation must contain the following contract provisions to be maintained through the initial contract term and any subsequent options or renewals:
- A. Each SDB and SB commitment which was credited by BDISBO and the total percentage of such SDB and SB commitments made at the time of proposal submittal, BAFO or contract negotiations, as applicable, become contractual obligations of the selected Offeror upon execution of its contract with the Commonwealth.
 - B. All SDB and SB subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.
 - C. The individual percentage commitments made to SDBs and SBs cannot be altered without written approval from BDISBO.
 - D. SDB and SB commitments must be maintained in the event the contract is assigned to another prime contractor.
 - E. The selected Offeror and each SDB and SB for which a commitment was credited by BDISBO must submit a final, definitive subcontract agreement signed by the selected Offeror and the SDB and/or SB to BDISBO within 30 days of the final execution date of the Commonwealth contract. A Model Subcontract Agreement which may be used

to satisfy this requirement is provided in **Appendix J – Model Form of Small Diverse and Small Business Subcontract Agreement**. The subcontract must contain:

1. The specific work, supplies or services the SDB and/or SB will perform; location for work performed; how the work, supplies or services relate to the project; and the specific timeframe during the initial term and any extensions, options and renewals of the prime contract when the work, supplies or services will be provided or performed.
 2. The fixed percentage commitment and associated estimated dollar value that each SDB and/or SB will receive based on the final negotiated cost for the initial term of the prime contract.
 3. Payment terms indicating that the SDB and/or SB will be paid for work satisfactorily completed within 14 days of the selected Offeror's receipt of payment from the Commonwealth for such work.
 4. Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the selected Offeror's contract with the Commonwealth and that do not place disproportionate risk on the SDB and/or SB relative to the nature and level of the SDBs' and/or SBs' participation in the project.
- F.** If the selected Offeror and a SDB or SB credited by BDISBO cannot agree upon a definitive subcontract within 30 days of the final execution date of the Commonwealth contract, the selected Offeror must notify BDISBO.
- G.** The Selected Offeror shall complete the Prime Contractor's Quarterly Utilization Report and submit it to the contracting officer of the Issuing Office and BDISBO within ten (10) business days at the end of each quarter of the contract term and any subsequent options or renewals. This information will be used to track and confirm the actual dollar amount paid to SDB and SB subcontractors and suppliers and will serve as a record of fulfillment of the contractual commitment. If there was no activity during the quarter, the form must be completed by stating "No activity in this quarter." A late fee of \$100.00 per day may be assessed against the Selected Offeror if the Utilization Report is not submitted in accordance with the schedule above.
- H.** The Selected Offeror shall notify the Contracting Officer of the Issuing Office and BDISBO when circumstances arise that may negatively impact the selected Offeror's ability to comply with SDB and/or SB commitments and to provide a corrective action plan. Disputes will be decided by the Issuing Office and DGS.
- I.** If the Selected Offeror fails to satisfy its SDB and/or SB commitment(s), it may be subject to a range of sanctions BDISBO deems appropriate. Such sanctions include, but are not limited to, one or more of the following: a determination that the selected

Offeror is not responsible under the Contractor Responsibility Program; withholding of payments; suspension or termination of the contract together with consequential damages; revocation of the selected Offeror's SDB status and/or SB status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.

PART VI

STANDARD CONTRACT TERMS AND CONDITIONS

1. TERM OF CONTRACT

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 fixed by the Contracting Officer after the Contract has been fully executed by the Contractor and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The Contract shall not be a legally binding contract until after the Effective Date is affixed and the fully-executed Contract has been sent to the Contractor. The Contracting Officer shall issue a written Notice to Proceed to the Contractor directing the Contractor to start performance on a date which is on or after the Effective Date. The Contractor shall not start the performance of any work prior to the date set forth in the Notice to Proceed and the Commonwealth shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No agency employee has the authority to verbally direct the commencement of any work under this Contract.

2. EXTENSION OF CONTRACT TERM

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

3. DEFINITIONS

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.

4. INDEPENDENT PRIME CONTRACTOR

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.

5. DELIVERY

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

6. ESTIMATED QUANTITIES

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.

7. WARRANTY

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.

8. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

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.

9. OWNERSHIP RIGHTS

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.

10. ACCEPTANCE

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.

11. PRODUCT CONFORMANCE

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

- a. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
- b. Supply published manufacturer product documentation.
- c. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
- d. Complete a survey/questionnaire relating to the bid requirements and specifications.
- e. Provide customer references.

- f. Provide a product demonstration at a location near Harrisburg or the using agency location.

12. REJECTED MATERIAL NOT CONSIDERED ABANDONED

The Commonwealth shall have the right to regard any rejected material as abandoned and to demand that the Contractor remove the rejected material from the premises within thirty (30) days of notification. The Contractor shall be responsible for removal of the rejected material as well as proper clean-up. If the Contractor fails or refuses to remove the rejected material as demanded by the Commonwealth, the Commonwealth may seek payment from, or set-off from any payments due to the Contractor under this or any other Contract with the Commonwealth, the costs of removal and clean-up. This is in addition to all other rights to recover costs incurred by the Commonwealth.

13. COMPLIANCE WITH LAW

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

14. ENVIRONMENTAL PROVISIONS

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. § 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. § 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. § 693.1.

15. POST-CONSUMER RECYCLED CONTENT

- a. 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 on the Department of General Services website at www.dgs.state.pa.us on the date of submission of the bid, proposal or contract offer.
- b. **Recycled Content Enforcement:** 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.

16. COMPENSATION

- a. **Compensation for Supplies:** The Contractor shall be required to furnish the awarded item(s) at the price(s) quoted in the Contract. All item(s) shall be delivered within the time period(s) specified in the Contract. The Contractor shall be compensated only for item(s) that are delivered and accepted by the Commonwealth.
- b. **Compensation for Services:** 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.

17. BILLING REQUIREMENTS

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:

- a. Vendor name and "Remit to" address, including SAP Vendor number;
- b. Bank routing information, if ACH;
- c. SAP Purchase Order number;
- d. Delivery Address, including name of Commonwealth agency;
- e. Description of the supplies/services delivered in accordance with SAP Purchase Order (include purchase order line number if possible);
- f. Quantity provided;
- g. Unit price;
- h. Price extension;
- i. Total price; and
- j. 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.

18. PAYMENT

- 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.
- c. The Commonwealth will make contract payments through Automated Clearing House (ACH).
 - 1) Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth’s procurement system (SRM).

- 2) The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.
- 3) It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

19. TAXES

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. 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.

20. ASSIGNMENT OF ANTITRUST CLAIMS

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.

21. COMMONWEALTH HELD HARMLESS

- 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.

22. AUDIT PROVISIONS

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

23. DEFAULT

- 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 insure 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.

24. FORCE MAJEURE

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

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

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

25. TERMINATION PROVISIONS

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 Subparagraph a.

26. CONTRACT CONTROVERSIES

- 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.

27. ASSIGNABILITY AND SUBCONTRACTING

- 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.

28. OTHER CONTRACTORS

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.

29. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

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

orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.

- c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- d. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII* of the *Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- f. 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.
- g. 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.

- h. 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.

30. CONTRACTOR INTEGRITY PROVISIONS

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 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.

31. CONTRACTOR RESPONSIBILITY PROVISIONS

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

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

suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- f. The Contractor may 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

32. AMERICANS WITH DISABILITIES ACT

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 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. § 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.

33. HAZARDOUS SUBSTANCES

The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the “Worker and Community Right to Know Act” (the “Act”) and the regulations promulgated pursuant thereto at 4 Pa. Code Section 301.1 et seq.

- a. **Labeling.** The Contractor shall insure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the

following substances(as defined by the Act and the regulations) supplied by the Contractor is clearly labeled, tagged or marked with the information listed in Paragraph (1) through (4):

- 1) Hazardous substances:
 - a) The chemical name or common name,
 - b) A hazard warning, and
 - c) The name, address, and telephone number of the manufacturer.
- 2) Hazardous mixtures:
 - a) The common name, but if none exists, then the trade name,
 - b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
 - c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
 - d) A hazard warning, and
 - e) The name, address, and telephone number of the manufacturer.
- 3) Single chemicals:
 - a) The chemical name or the common name,
 - b) A hazard warning, if appropriate, and
 - c) The name, address, and telephone number of the manufacturer.
- 4) Chemical Mixtures:
 - a) The common name, but if none exists, then the trade name,
 - b) A hazard warning, if appropriate,
 - c) The name, address, and telephone number of the manufacturer, and

- d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture

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

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

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

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

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

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

34. COVENANT AGAINST CONTINGENT FEES

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.

35. APPLICABLE LAW

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.

36. INTEGRATION

This Contract, including all referenced documents, 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.

37. ORDER OF PRECEDENCE

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 solicitation; and the Contractor's response to the solicitation.

38. CONTROLLING TERMS AND CONDITIONS

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.

39. CHANGES

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.

40. BACKGROUND CHECKS

- 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.

41. CONFIDENTIALITY

- a. The Contractor agrees to guard the confidentiality of the Commonwealth's confidential information with the same diligence with which it guards its own proprietary information. If the Contractor needs to disclose all or part of project materials to third parties to assist in the work or service performed for the Commonwealth, it may do so only if such third parties sign agreements containing substantially the same provisions as contained in this Section. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this Contract. Each copy of such confidential information shall be marked by the party making the copy with all confidentiality 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. 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.
- b. 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 from 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 the recipient by law, regulation, court order, or other legal process.
- c. 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.

42. NOTICE

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.

43. RIGHT TO KNOW LAW

- 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.

- j. 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.

44. ENHANCED MINIMUM WAGE PROVISIONS

- a. **Enhanced Minimum Wage.** Contractor/Lessor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty percent (20%) of their time performing ancillary services in a given work week.
- b. **Adjustment.** Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an 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.
- c. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
 - 1. exempt from the minimum wage under the Minimum Wage Act of 1968;
 - 2. covered by a collective bargaining agreement;
 - 3. 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
 - 4. required to be paid a higher wage under any state or local policy or ordinance.
- d. **Notice.** Contractor/Lessor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
- e. **Records.** Contractor/Lessor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.

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

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

DEPARTMENT OF HUMAN SERVICES ADDENDUM TO
STANDARD CONTRACT TERMS AND CONDITIONS

A. APPLICABILITY

This Addendum is intended to supplement the Standard Terms and Conditions. To the extent any of the terms contained herein conflict with terms contained in the Standard Contract Terms and Conditions, the terms in the Standard Contract Terms and Conditions shall take precedence. Further, it is recognized that certain terms contained herein may not be applicable to all the services which may be provided through Department contracts.

B. CONFIDENTIALITY

The parties shall not use or disclose any information about a recipient of the services to be provided under this contract for any purpose not connected with the parties' contract responsibilities except with written consent of such recipient, recipient's attorney, or recipient's parent or legal guardian.

C. INFORMATION

During the period of this contract, all information obtained by the Contractor through work on the project will be made available to the Department immediately upon demand. If requested, the Contractor shall deliver to the Department background material prepared or obtained by the Contractor incident to the performance of this agreement. Background material is defined as original work, papers, notes and drafts prepared by the Contractor to support the data and conclusions in final reports, and includes completed questionnaires, materials in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings and all data directly related to the services being rendered.

D. CERTIFICATION AND LICENSING

Contractor agrees to obtain all licenses, certifications and permits from Federal, State and Local authorities permitting it to carry on its activities under this contract.

E. PROGRAM SERVICES

Definitions of service, eligibility of recipients of service and other limitations in this contract are subject to modification by amendments to Federal, State and Local laws, regulations and program requirements without further notice to the Contractor hereunder.

F. CHILD PROTECTIVE SERVICE LAWS

In the event that the contract calls for services to minors, the contractor shall comply with the provisions of the Child Protective Services Law (Act of November 26, 1975, P.L. 438, No. 124;

23 P.S. SS 6301-6384, as amended by Act of July 1, 1985, P.L. 124, No. 33) and all regulations promulgated thereunder (55Pa. Code, chapter 3490).

G. PRO-CHILDREN ACT OF 1994

The Contractor agrees to comply with the requirements of the Pro-Children Act of 1994; Public Law 103-

277, Part C-Environment Tobacco Smoke (also known as the Pro-Children Act of 1994) requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health care services, day care and education to children under the age of 18, if the services are funded by Federal programs whether directly or through State and Local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug and alcohol treatment.

H. MEDICARE/MEDICAID REIMBURSEMENT

1. To the extent that services are furnished by contractors, subcontractors, or organizations related to the contractor/subcontractor and such services may in whole or in part be claimed by the Commonwealth for Medicare/Medicaid reimbursements, contractor/subcontractor agrees to comply with 42 C.F.R., Part 420, including:
 - a. Preservation of books, documents and records until the expiration of four (4) years after the services are furnished under the contract.
 - b. Full and free access to (i) the Commonwealth, (ii) the U.S. Comptroller General, (iii) the U.S. Department of Health and Human Services, and their authorized representatives.
2. Your signature on the proposal certifies under penalty of law that you have not been suspended/terminated from the Medicare/Medicaid Program and will notify the contracting DPW Facility or DPW Program Office immediately should a suspension/termination occur during the contract period.

I. TRAVEL AND PER DIEM EXPENSES

Contractor shall not be allowed or paid travel or per diem expenses except as provided for in Contractor's Budget and included in the contract amount. Any reimbursement to the Contractor for travel, lodging or meals under this contract shall be at or below state rates as provided in Management Directive 230.10, Commonwealth Travel Policy, as may be amended, unless the Contractor has higher rates which have been established by its offices/officials, and published prior to entering into this contract. Higher rates must be supported by a copy of the minutes or other official documents, and submitted to the Department. Documentation in support of travel and per diem expenses will be the same as required of state employees.

J. INSURANCE

1. The contractor shall accept full responsibility for the payment of premiums for Workers' Compensation, Unemployment Compensation, Social Security, and all income tax deductions required by law for its employees who are performing services under this contract. As required by law, an independent contractor is responsible for Malpractice Insurance for health care personnel. Contractor shall provide insurance Policy Number and Provider's Name, or a copy of the policy with all renewals for the entire contract period.
2. The contractor shall, at its expense, procure and maintain during the term of the contract, the following types of insurance, issued by companies acceptable to the Department and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:
 - a. Worker's Compensation Insurance for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.
 - b. Public liability and property damage insurance to protect the Commonwealth, the Contractor, and any and all subcontractors from claim for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property, including loss of use resulting from any property damage, which may arise from the activities performed under this contract or the failure to perform under this contract whether such performance or nonperformance be by the contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than \$500,000 each person and \$2,000,000 each occurrence, personal injury and property damage combined. Such policies shall be occurrence rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured. The insurance shall not contain any endorsements or any other form designated to limit or restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the contract and during the term of the contract, the Contractor shall provide the Department with current certificates of insurance. These certificates shall contain a provision that the coverages afforded under the policies will not be cancelled or changed until at least thirty (30) days' written notice has been given to the Department.

K. PROPERTY AND SUPPLIES

1. Contractor agrees to obtain all supplies and equipment for use in the performance of this contract at the lowest practicable cost and to purchase by means of competitive bidding whenever required by law.
2. Title to all property furnished in-kind by the Department shall remain with the Department.
3. Contractor has title to all personal property acquired by the contractor, including purchase by lease/purchase agreement, for which the contractor is to be reimbursed under this contract. Upon cancellation or termination of this contract, disposition of such purchased personal property which has a remaining useful life shall be made in accordance with the following provisions.
 - a. The contractor and the Department may agree to transfer any item of such purchased property to another contractor designated by the Department. Cost of transportation shall be borne by the contractor receiving the property and will be reimbursed by the Department. Title to all transferred property shall vest in the designated contractor. The Department will reimburse the Contractor for its share, if any, of the value of the remaining life of the property in the same manner as provided under subclause b of this paragraph.
 - b. If the contractor wishes to retain any items of such purchased property, depreciation tables shall be used to ascertain the value of the remaining useful life of the property. The contractor shall reimburse the Department in the amount determined from the tables.
 - c. When authorized by the Department in writing, the contractor may sell the property and reimburse the Department for its share. The Department reserves the right to fix the minimum sale price it will accept.
4. All property furnished by the Department or personal property acquired by the contractor, including purchase by lease-purchase contract, for which the contractor is to be reimbursed under this contract shall be deemed "Department Property" for the purposes of subsection 5, 6 and 7 of this section.
5. Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, preservation and insurance of Department Property so as to assure its full availability and usefulness.
6. Department property shall, unless otherwise approved in writing by the Department, be used only for the performance of this contract.
7. In the event that the contractor is indemnified, reimbursed or otherwise compensated for any loss, destruction or damage to Department Property, it shall

use the proceeds to replace, repair or renovate the property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall reimburse the Department, at the Department's direction.

L. DISASTERS

If, during the terms of this contract, the Commonwealth's premises are so damaged by flood, fire or other Acts of God as to render them unfit for use; then the Agency shall be under no liability or obligation to the contractor hereunder during the period of time there is no need for the services provided by the contractor except to render compensation which the contractor was entitled to under this agreement prior to such damage.

M. SUSPENSION OR DEBARMENT

In the event of suspension or debarment, 4 Pa Code Chapter 60.1 through 60.7, as it may be amended, shall apply.

N. COVENANT AGAINST CONTINGENT FEES

The contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee (excepting 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 Department shall have the right to annul this contract without liability or, in its discretion, to deduct from the consideration otherwise due under the contract, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

O. CONTRACTOR'S CONFLICT OF INTEREST

The contractor hereby assures that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The contractor further assures that in the performance of this contract, it will not knowingly employ any person having such interest. Contractor hereby certifies that no member of the Board of the contractor or any of its officers or directors has such an adverse interest.

P. INTEREST OF THE COMMONWEALTH AND OTHERS

No officer, member or employee of the Commonwealth and no member of its General Assembly, who exercises any functions or responsibilities under this contract, shall participate in any decision relating to this contract which affects his personal interest or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested; nor shall any such officer, member or employee of the Commonwealth or member of its General Assembly have interest, direct or indirect, in this contract or the proceeds thereof.

Q. CONTRACTOR RESPONSIBILITY TO EMPLOY WELFARE CLIENTS

(Applicable to contracts \$25,000 or more)

1. The contractor, within 10 days of receiving the notice to proceed, must contact the Department's Contractor Partnership Program (CPP) to present, for review and approval, the contractor's plan for recruiting and hiring recipients currently receiving cash assistance. If the contract was not procured via Request for Proposal (RFP); such plan must be submitted on Form PA-778. The plan must identify a specified number (not percentage) of hires to be made under this contract. If no employment opportunities arise as a result of this contract, the contractor must identify other employment opportunities available within the organization that are not a result of this contract. The entire completed plan (Form PA-778) must be submitted to the Bureau of Employment and Training Programs (BETP): Attention CPP Division. (Note: Do not keep the pink copy of Form PA-778). The approved plan will become a part of the contract.
2. The contractor's CPP approved recruiting and hiring plan shall be maintained throughout the term of the contract and through any renewal or extension of the contract. Any proposed change must be submitted to the CPP Division which will make a recommendation to the Contracting Officer regarding course of action. If a contract is assigned to another contractor, the new contractor must maintain the CPP recruiting and hiring plan of the original contract.
3. The contractor, within 10 days of receiving the notice to proceed, must register in the Commonwealth Workforce Development System (CWDS). In order to register the selected contractor must provide business, location and contact details by creating an Employer Business Folder for review and approval, within CWDS at [HTTPS://WWW.CWDS.State.PA.US](https://www.cwds.state.pa.us) . Upon CPP review and approval of Form PA-778 and the Employer Business Folder in CWDS, the Contractor will receive written notice (via the pink Contractor's copy of Form PA-778) that the plan has been approved.
4. Hiring under the approved plan will be monitored and verified by Quarterly Employment Reports (Form PA-1540); submitted by the contractor to the Central Office of Employment and Training – CPP Division. A copy of the submitted Form PA-1540 must also be submitted (by the contractor) to the DPW Contract Monitor (i.e. Contract Officer). The reports must be submitted on the DPW Form PA- 1540. The form may not be revised, altered, or re-created.
5. If the contractor is non-compliant, CPP Division will contact the Contract Monitor to request corrective action. The Department may cancel this contract upon thirty (30) days written notice in the event of the contractor's failure to implement or abide by the approved plan.

R. TUBERCULOSIS CONTROL

As recommended by the Centers for Disease Control and the Occupational Safety and Health Administration, effective August 9, 1996, in all State Mental Health and Mental Retardation Facilities, all full-time and part-time employees (temporary and permanent), including contract service providers, having direct patient contact or providing service in patient care areas, are to be tested serially with PPD by Mantoux skin tests. PPD testing will be provided free of charge from the state MH/MR facility. If the contract service provider has written proof of a PPD by Mantoux method within the last six months, the MH/MR facility will accept this documentation in lieu of administration of a repeat test. In addition, documented results of a PPD by Mantoux method will be accepted by the MH/MR facility. In the event that a contractor is unwilling to submit to the test due to previous positive reading, allergy to PPD material or refusal, the risk assessment questionnaire must be completed. If a contractor refuses to be tested in accordance with this new policy, the facility will not be able to contract with this provider and will need to procure the services from another source.

S. ACT 13 APPLICATION TO CONTRACTOR

Contractor shall be required to submit with their bid information obtained within the preceding one-year period for any personnel who will have or may have direct contact with residents from the facility or unsupervised access to their personal living quarters in accordance with the following:

1. Pursuant to 18 Pa.C.S. Ch. 91(relating to criminal history record information) a report of criminal history information from the Pennsylvania State Police or a statement from the State Police that their central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa.C.S. 9121(b)(2) (relating to general regulations).
2. Where the applicant is not, and for the two years immediately preceding the date of application has not been a resident of this Commonwealth, the Department shall require the applicant to submit with the application a report of Federal criminal history record information pursuant to the Federal Bureau of Investigation's under Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544, 86 Stat. 1109). For the purpose of this paragraph, the applicant shall submit a full set of fingerprints to the State Police, which shall forward them to the Federal Bureau of Investigation for a national criminal history check. The information obtained from the criminal record check shall be used by the Department to determine the applicant's eligibility. The Department shall insure confidentiality of the information.
3. The Pennsylvania State Police may charge the applicant a fee of not more than \$10 to conduct the criminal record check required under subsection 1. The State Police may charge a fee of not more than the established charge by the Federal

Bureau of Investigation for the criminal history record check required under subsection 2.

The Contractor shall apply for clearance using the State Police Background Check (SP4164) at their own expense. The forms are available from any State Police Substation. When the State Police Criminal History Background Report is received, it must be forwarded to the Department. State Police Criminal History Background Reports not received within sixty (60) days may result in cancellation of the contract.

T. AUDIT CLAUSE (applicable to contracts \$100,000 or more)

This contract is subject to audit in accordance with the Audit Clause attached hereto and incorporated herein.

SUBRECIPIENT / CONTRACTOR AUDITS

AUDIT CLAUSE C – CONTRACTOR Service Organizations

The Commonwealth of Pennsylvania, Department of Human Services (DHS), distributes federal and state funds to local governments, nonprofit, and for-profit organizations. Federal expenditures are subject to federal audit requirements, and federal funding and state funding passed through DHS are subject to DHS audit requirements. If any federal statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the subsequent statute shall govern.

Contractor means a dealer, distributor, merchant, or other seller providing goods or services to an auditee that are required for the **administrative support** of a program. These goods or services *may be for an organization's own use or for the use of beneficiaries of the federal program*. The contractor's responsibility is to meet the requirements of the procurement contract.

Department of Human Services Audit Requirements

If in connection with the agreement, an entity **expends \$500,000 or more in combined state and federal funds** during the program year, the entity shall ensure that, for the term of the contract, an independent auditor conducts annual examinations of its compliance with the terms and conditions of this contract. These examinations shall be conducted in accordance with the American Institute of Certified Public Accountants' Statements on Standards for Attestation Engagements No 10, Compliance Attestation (SSAE 10), and shall be of a scope acceptable to the DHS. The contractor shall also ensure that an independent auditor performs an audit or examination of its controls applicable to the processing of transactions on behalf of the Department. These examinations shall be performed in accordance with Statement on Standards for Attestation Engagements No. 16, Reporting on Controls at a Service Organization (SSAE 16). All SSAE 16 reports provided shall be "Type 2" reports (reports on controls placed in operation and tests of operating effectiveness throughout a specified period of time). The initial SSAE 16 examination shall be conducted for the first official annual reporting period required by this agreement and conducted annually thereafter.

The Commonwealth reserves the right for state and federal agencies, or their authorized representatives, to perform financial and performance audits if deemed necessary. If it is decided that an audit of this contract will be performed, the contractor will be given advance notice. The contractor shall maintain books, records, and documents that support the services provided, that the fees earned are in accordance with the contract, and that the contractor has complied with contract terms and conditions. The contractor agrees to make available, upon reasonable notice, at the office of the contractor, during normal business hours, for the term of this contract and the retention period set forth in this Audit Clause, any of the books, records, and documents for inspection, audit, or reproduction by any state or federal agency or its authorized representative.

The contractor shall preserve all books, records, and documents related to this contract for a period of time that is the greater of five years from the contract expiration date, until all questioned costs or activities have been resolved to the satisfaction of the Commonwealth, or as required by applicable federal laws and regulations, whichever is longer. If this contract is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of five years from the date of any resulting final settlement.

SUBRECIPIENT / CONTRACTOR AUDITS

AUDIT CLAUSE C – CONTRACTOR Service Organizations

Records that relate to litigation or the settlement of claims arising out of performance or expenditures under this contract to which exception has been taken by the auditors, shall be retained by the contractor or provided to the Commonwealth at the DHS' option until such litigation, claim, or exceptions have reached final disposition.

Except for documentary evidence delivered pursuant to litigation or the settlement of claims arising out of the performance of this contract, the contractor may, in fulfillment of his obligation to retain records as required by this Audit Clause, substitute photographs, microphotographs, or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Commonwealth.

DHS Required Audit Report Submission

The contractor shall submit the SSAE 10 report and SSAE 16 reports to the DHS within 90 days after the required period of audit has ended. When either the SSAE 10 or SSAE 16 reports are other than unqualified, the contractor shall submit to the DHS, in addition to the audit reports, a plan describing what actions the contractor will implement to correct the situation that caused the auditor to issue a qualified opinion, a timetable for implementing the planned corrective actions, and a process for monitoring compliance with the timetable and the contact person who is responsible for resolution.

Submit **two copies** of the DHS required audit report package.

1. Independent Accountant's Report – on the Attestation of an entity's compliance with specific requirements during a period of time in accordance with the contract and the appropriate schedule, as required.
2. Submit the audit report directly to the program office.

REMEDIES FOR NONCOMPLIANCE

The provider's failure to provide an acceptable audit, in accordance with the requirements of the Audit Clause Requirements, may result in the DHS' not accepting the report and initiating sanctions against the contractor that may include the following:

- Disallowing the cost of the audit.
- Withholding a percentage of the contract funding pending compliance.
- Suspending subsequent contract funding pending compliance.

SUBRECIPIENT / CONTRACTOR AUDITS

AUDIT CLAUSE C – CONTRACTOR Service Organizations

TECHNICAL ASSISTANCE

Technical assistance on the DHS' audit requirements will be provided by:

Department of Human Services
Bureau of Financial Operations
Division of Audit and Review
Audit Resolution Section
1st Floor, Forum Place
555 Walnut Street
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675
Email: RA-pwauditresolution@pa.gov

SUBRECIPIENT / CONTRACTOR AUDITS

AUDIT CLAUSE C – CONTRACTOR Service Organizations ENCLOSURE I

The Department of Human Services (DHS) requires an Independent Accountant's Report on the Attestation to be in the format described by the American Institute of Certified Public Accountants (AICPA). The following is the form of report an Independent Accountant should use when expressing an opinion on an entity's compliance with specified requirements during a period of time. For further guidance, refer to the AICPA Professional Standards.

Independent Accountant's Report

[Introductory Paragraph]

We have examined [*name of entity*]'s compliance with [*list specific compliance requirement*] during the [*period*] ended [*date*]. Management is responsible for [*name of entity*]'s compliance with those requirements. Our responsibility is to express an opinion on [*name of entity*]'s compliance based on our examination.

[Scope Paragraph]

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about [*name of entity*]'s compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on [*name of entity*]'s compliance with specified requirements.

[Opinion Paragraph]

In our opinion, [*name of entity*] complied, in all material respects, with the aforementioned requirements for the year ended December 31, 20XX.

[DATE]

[SIGNATURE]