



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE

Division of Procurement  
Room 525, Health & Welfare Building  
625 Forster Street  
PO Box 2675  
Harrisburg, PA 17120

Daniel R. Boyd  
Director

Telephone 717-783-3767  
Fax 717-787-3560

November 17, 2010

**SUBJECT: RFP NO. 07-10 - Consultation and Technical Assistance for HealthChoices Behavioral Health Managed Care Program**

Dear Prospective Offeror:

You are invited to submit a proposal for the above subject RFP for the Commonwealth of Pennsylvania, Department of Public Welfare in accordance with the Request for Proposal (RFP).

Offerors must submit one (1) original and eight (8) copies of the Technical submittal, and two (2) copies each of Cost, Disadvantaged Business, Contractor Partnership Program, and Mentor Protégé Program submittals to the Pennsylvania Department of Public Welfare, Procurement Section, Room 525, Health and Welfare Building, 625 Forster Street, Harrisburg, Pennsylvania, 17120. **All proposals must be received at the above address no later than two o'clock p.m. (2:00 P.M.) on January 20, 2011. Late proposals will not be considered regardless of the reason.**

All questions should be directed, in writing, to Valerie J. Vicari, Project Officer, Pennsylvania Department of Public Welfare, Office of Mental Health and Substance Abuse Services, Beechmont Bldg. #32, Room 112, DGS Annex Complex, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110; fax 717-705-8165, and e-mail at [vavicari@state.pa.us](mailto:vavicari@state.pa.us), no later than December 15, 2010. All Offerors will be provided with answers to questions asked by any one Offeror.

**There will be a Preproposal conference at 1:00 p.m. on December 15, 2010 at Rm. 145, Beechmont Bldg. #32, DGS Annex grounds, Harrisburg, PA.** Since facilities are limited, it is requested that you limit your representation to three (3) individuals per Offeror. Other interested parties may attend, with a limit of three (3) individuals per organization. Attendees must R.S.V.P. prior to the Preproposal Conference to Valerie Vicari.

Proposal must be signed by an official authorized to bind the Offeror to its provision. Also, please include the Point of Contact's email address on the cover sheet of your proposal. Evaluation of proposal and selection of vendors will be completed as quickly as possible after receipt of proposals.

Offerors should be reminded that there will be a black out regarding information about this procurement upon the release of this RFP. All questions regarding the procurement should be directed to the Project Officer only, and discussion about the RFP or procurement with other state employees is forbidden and may result in the rejection of the proposal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Daniel R. Boyd".

Daniel R. Boyd, Director  
DPW Division of Procurement

<p>From:</p> <p>RFP #: 07-10  Due Date: January, 20, 2011, 2:00 PM  Department of Public Welfare  Division of Procurement  Room 525 Health and Welfare Building  625 Forster Street  Harrisburg, PA 17120</p> <p style="text-align: center;"><b>Technical Submittal</b></p>	<p>From:</p> <p>RFP #: 07-10  Due Date: January, 20, 2011, 2:00 PM  Department of Public Welfare  Division of Procurement  Room 525 Health and Welfare Building  625 Forster Street  Harrisburg, PA 17120</p> <p style="text-align: center;"><b>Disadvantaged Business (DB) Submittal</b></p>
<p>From:</p> <p>RFP #: 07-10  Due Date: January, 20, 2011, 2:00 PM  Department of Public Welfare  Division of Procurement  Room 525 Health and Welfare Building  625 Forster Street  Harrisburg, PA 17120</p> <p style="text-align: center;"><b>Cost Submittal</b></p>	<p>From:</p> <p>RFP #: 07-10  Due Date: January, 20, 2011, 2:00 PM  Department of Public Welfare  Division of Procurement  Room 525 Health and Welfare Building  625 Forster Street  Harrisburg, PA 17120</p> <p style="text-align: center;"><b>Mentor Protégé Submittal</b></p>
<p>From:</p> <p>RFP #: 07-10  Due Date: January, 20, 2011, 2:00 PM  Department of Public Welfare  Division of Procurement  Room 525 Health and Welfare Building  625 Forster Street  Harrisburg, PA 17120</p> <p><b>Contractor Partnership Program (CPP) Submittal</b></p>	<p>From:</p> <p>RFP #: 07-10  Due Date: January, 20, 2011, 2:00 PM  Department of Public Welfare  Division of Procurement  Room 525 Health and Welfare Building  625 Forster Street  Harrisburg, PA 17120</p> <p style="text-align: center;"><b>Innovative Solution(s) Submittal</b></p>



**Directions: DGS ANNEX COMPLEX (former HARRISBURG STATE HOSPITAL)**

**From Points East or Northeast (Using Turnpike):**

Take Exit 247 Harrisburg East off the Turnpike, traveling 283 West to I-83/81. At the three-way split, stay in the middle lane and follow the signs to I-83 North. Stay on I-83 North, to I-81 interchange. As you approach I-81, move to the far left lane, and take I-81 South towards Carlisle. Move to the middle lane of I-81 South and take the Cameron St. Exit ramp to 22/322 East. Continue with the instructions below (From I-81 North or South).

**From Points West or Northwest (Using Turnpike):**

Take Exit 226 from Turnpike at Carlisle. Stay in the far left lane of the ramp, and follow the signs to Harrisburg, Route 11 East and I-81. At the end of the Exit ramp, turn right onto Route 11 East and the I-81 Interchange. At the I-81 Interchange, follow the signs to I-81 North entrance ramp. Follow I-81 North to the Cameron Street Exit and go South on Cameron St. Continue with the instructions below (From I-81 North or South).

**From Points North, Northwest, or Northeast (Using Route 11/15 or 22/322):**

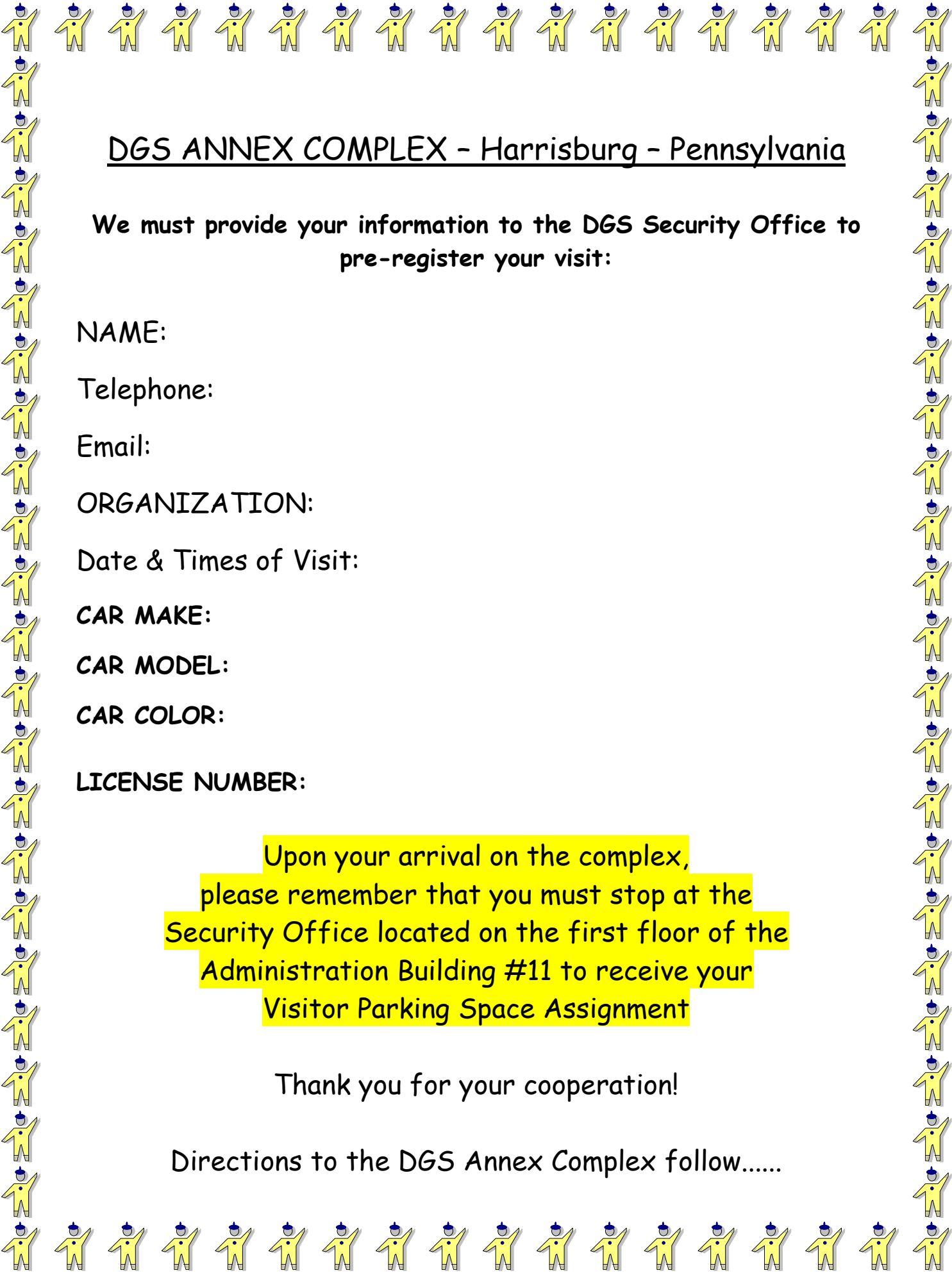
Traveling South on Route 11/15 or East on Route 22/322, two alternate routes are available:

- At the interchange of 11/15 and 22/322, travel East on Route 22/322, across the Susquehanna River (Clarks Ferry Bridge). Continue on East 22/322 into Harrisburg. At the I-81 Interchange, stay in the far left lane and travel South onto Cameron St. Continue with instructions below (From I-81 North or South)
- At the Intersection of 11/15 and 22/322, travel South on Route 11/15 to I-81 at Harrisburg. At the I-81 Interchange, take I-81 North, crossing the Susquehanna River (George Wade Bridge). Continue with instruction below (From I-81 North or South)

**From I-81 North or South:**

Exit from I-81 at the Cameron St. Exit Ramp, and travel South on Cameron St. At the top of the ramp, move to the left lane. Go through the first traffic light at the intersection of Cameron St. and Elmerton Ave. (Farm Show Bldg. is on the right). Stay in the left lane, travel to the next traffic light and take a left into the Harrisburg State Hospital Grounds. (Old Entrance of the Farm Show Bldg. on Right and Agriculture Bldg. on left.)

Stay to the right, and turn right at the next intersection at the top of the hill onto Azalea Drive. Follow Azalea Drive, toward the Administration Building #11. Report to the DGS ANNEX COMPLEX Security Office on the first floor where you will receive your visitor parking space assignment.



DGS ANNEX COMPLEX - Harrisburg - Pennsylvania

We must provide your information to the DGS Security Office to pre-register your visit:

NAME:

Telephone:

Email:

ORGANIZATION:

Date & Times of Visit:

CAR MAKE:

CAR MODEL:

CAR COLOR:

LICENSE NUMBER:

Upon your arrival on the complex, please remember that you must stop at the Security Office located on the first floor of the Administration Building #11 to receive your Visitor Parking Space Assignment

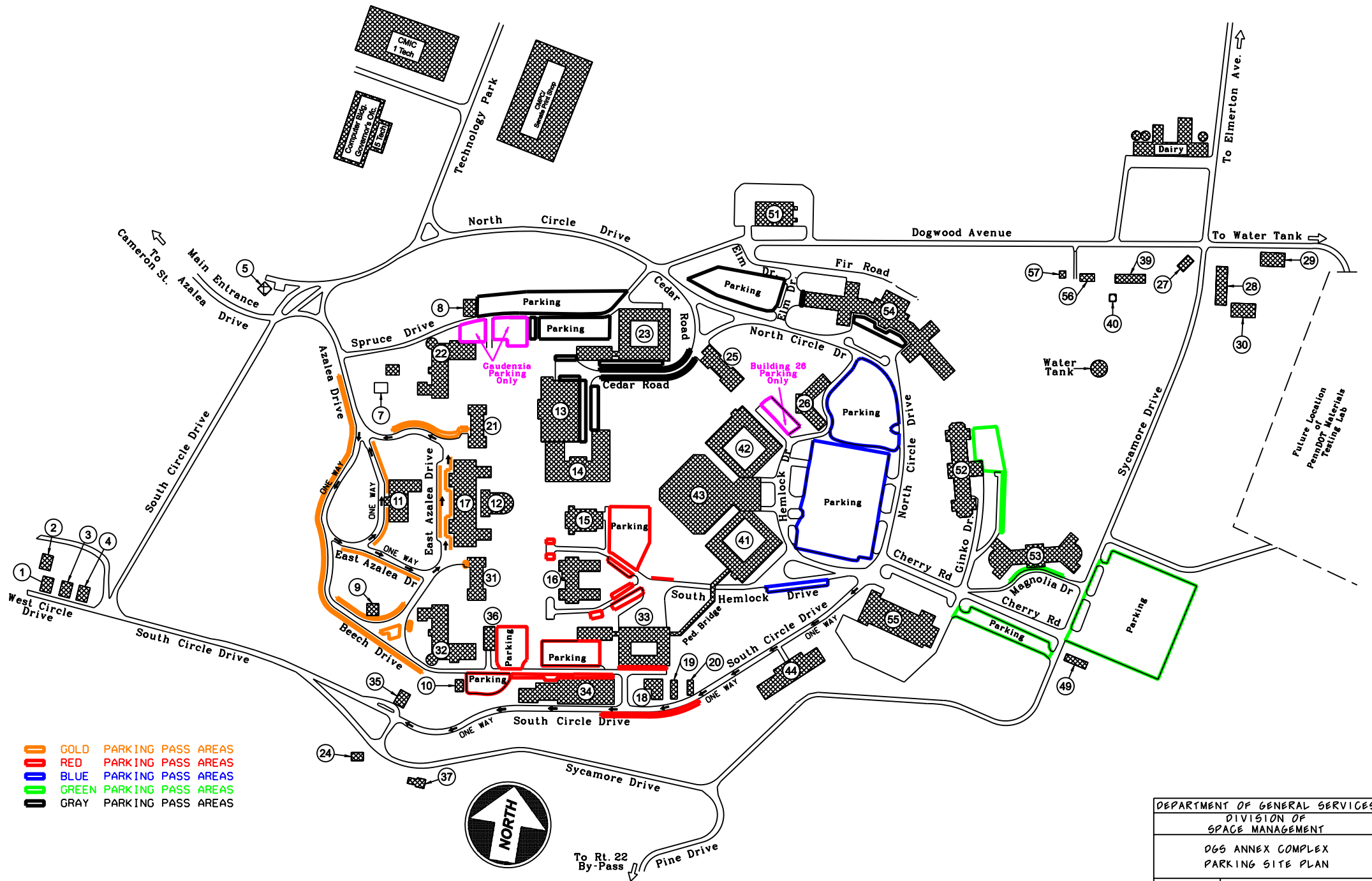
Thank you for your cooperation!

Directions to the DGS Annex Complex follow.....

# BUILDING LEGEND

Bldg. No. Building Name

1. Gate House
2. Gate House Garage
3. Anderson Residence
4. Eaton Cottage
5. Stafford Cottage
7. Dixmont Cottage
8. Paint/Sandblast Shop
9. Dix Museum
10. Maintenance Storage Garage
11. Administration Building
12. Logan, Vista Dome
13. Cent. Kitchen/Curwin Classroom
14. Pifer Bldg./Storeroom/Hillstore
15. Chapel
16. Slothower Center/STC
17. Pety Building/Admission
18. Paint Shop/Ground Shop
19. Storage
20. Storage
21. Anderson Hall
22. Green Building
23. Cedarcrest
24. Sewer House
25. Lanco Lodge
26. Hemlock Hall
27. Pump House
28. Shed - Implement
29. Shed -Salt/HAZ
30. Blacksmith Shop
31. Shamrock Hall
32. Beechmont Building
33. Cherrywood
34. Laundry
35. Morgue
36. Clothes Tree
37. Old Paint Storage
39. Picnic Pavilion
40. Picnic Restrooms
41. Willow Oak
42. Willow Oak
43. Willow Oak (Computer Center)
44. Power Plant
49. Lumber Shed
51. Main Garage
52. Hilltop
53. Hillcrest
54. Eaton Building
55. Maintenance / WAC
56. Patton House
57. Shed
58. PenDot Materials Testing Lab



- GOLD PARKING PASS AREAS
- RED PARKING PASS AREAS
- BLUE PARKING PASS AREAS
- GREEN PARKING PASS AREAS
- GRAY PARKING PASS AREAS

DEPARTMENT OF GENERAL SERVICES  
 DIVISION OF  
 SPACE MANAGEMENT  
 DGS ANNEX COMPLEX  
 PARKING SITE PLAN  
 DATE:10/07/06 DWG NO. PARKING-0610/07

**REQUEST FOR PROPOSALS FOR**

**Consultation and Technical Assistance for HealthChoices Behavioral Health Managed  
Care Program.**

**ISSUING OFFICE**

**Commonwealth of Pennsylvania  
Department of Public Welfare  
Bureau of Financial Operations  
Division of Procurement  
Room 525 Health and Welfare Building  
Commonwealth Avenue and Forster Streets  
Harrisburg, PA 17120**

**RFP NUMBER**

**07-10**

**DATE OF ISSUANCE**

November 18, 2010

**REQUEST FOR PROPOSALS FOR  
RFP 07-10**

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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 <a href="mailto:vavicari@state.pa.us">vavicari@state.pa.us</a> .	Potential Offerors	COB 12/15/10
Preproposal Conference—Location. Beechmont Building #32, Department of General Services (DGS) Annex Complex, Harrisburg PA	Issuing Office/Potential Offerors	12/15/10 1:00 pm
Answers to Potential Offeror questions posted to the DGS website <a href="http://www.dgsweb.state.pa.us/RTA/Search.aspx">http://www.dgsweb.state.pa.us/RTA/Search.aspx</a> no later than this date.	Issuing Office	12/22/10
Please monitor website for all communications regarding the RFP.	Potential Offerors	
Sealed proposal must be received by the Issuing Office at <b>BUREAU OF FINANCIAL OPERATIONS</b> <b>DIVISION OF PROCUREMENT</b> <b>ROOM 525 HEALTH AND WELFARE BUILDING</b> <b>COMMONWEALTH AVENUE &amp; FORSTER STREET</b> <b>HARRISBURG, PA 17120</b>	Offerors	01/20/11 2:00 pm



## PART I

### GENERAL INFORMATION

**I-1. Purpose.** This request for proposals (RFP) provides to those interested in submitting proposals for the subject procurement (“Offerors”) sufficient information to enable them to prepare and submit proposals for the [Department of Public Welfare/Office of Mental Health and Substance Abuse Services consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for consultation and technical assistance in regard to the HealthChoices Behavioral Health Program (“Project”).

**I-2. Issuing Office.** The Bureau of Financial Operations, Division of Procurement (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be Valerie J. Vicari, Department of Public Welfare, Office of Mental Health and Substance Abuse Services, DGS Annex Complex, Beechmont Building, #32, Room 112, 21 Beech Drive, Harrisburg, PA 17110 – 3591 – [vavicari@state.pa.us](mailto:vavicari@state.pa.us) the Project Officer for this RFP. Please refer all inquiries to the Project Officer.

**I-3. Scope.** 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-4. Problem Statement.** The Department of Public Welfare/Office of Mental Health and Substance Abuse Services is seeking consultation and technical assistance for the ongoing operations of the HealthChoices behavioral Health contract that is operational statewide. The program operates under two 1915(b) waivers of the Social Security Act serving Medicaid recipients under the Centers for Medicare and Medicaid Services. The contract is a three-year contract with two one-year renewals. Fiscal year goals and objectives will be required to meet the overall HealthChoices goals of improving access, increase quality, and control of Medicaid costs within the evolving national health care reform. Additional detail is provided in **Part IV** of this RFP.

**I-5. Type of Contract.** It is proposed that if the Department enters into a contract as a result of this RFP, will be a fixed price, performance-based contract, including all appendices and attachments, and the selected offeror’s proposal.

The Department, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Department, show them to be qualified, responsible and capable of performing the Project.

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

**I-7. Incurring Costs.** The Department 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. Preproposal Conference** The Department will hold a preproposal 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 the Project Officer provides an answer. Offerors may also ask questions at the conference. In view of the limited facilities available for the conference, Offerors should limit their representation to three (3) individuals per Offeror. The preproposal conference is for information only. Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. All questions and written answers will be posted on the Department of General Services' (DGS) website as an addendum to, and shall become part of, this RFP. Attendance at the Preproposal Conference is optional. All Offerors are strongly encouraged to attend the Preproposal Conference.

**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 07-10 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 format for questions shall be submitted to the Project Officer as outlined in **Appendix F**. The Offeror shall not attempt to contact the Project Officer by any other means. The Issuing Office shall post the answers to the questions on the DGS website by the date stated on the Calendar of Events.

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. The Department shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is described on the DGS website

**I-10. Addenda to the RFP.** If the Department deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the DGS website at <http://www.dgsweb.state.pa.us/RTA/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. The Issuing Office will **not** accept proposals via email or facsimile transmission. Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject, unopened, late proposals.

**I-12. Proposals.** To be considered, Offerors should submit a complete response to this RFP to the Issuing Office using the format provided in **Part II**, providing eight (8) **paper copies of the Technical Submittal and two (2) paper copy of the Cost Submittal, two (2) paper copies of the Disadvantaged Business Submittal, two (2) paper copies of the Mentor Protégé Program Submittal, and two (2) paper copies of the Contractor Partnership Program Submittal.** In addition to the paper copies of the proposal, Offerors shall submit two **complete and exact** copies of the entire proposal (Technical, Cost, Disadvantaged Business, and Contractor Partnership Program Submittal 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. The Offerors may not lock or protect any cells or tabs. Offerors should ensure that there is no costing information in the technical submittal. Offerors should not reiterate technical information in the cost submittal. 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 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 J 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 until a contract is fully executed. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations. The information in the proposal will become a public record upon contract execution, except as limited by Section 106 (b)(1) of the *Commonwealth Procurement Code*, 62 Pa. C.S. § 106 (b)(1).

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

**I-13. Disadvantaged Business Information.** The Department encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small Disadvantaged Businesses are small businesses that are owned or 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. The term includes:

- a. Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and
- b. United States Small Business Administration-certified small disadvantaged businesses or 8(a) small disadvantaged business concerns.
- c. Businesses that BMWBO determines meet the Small Business Administration criteria for designation as a small disadvantaged business.

Small businesses are businesses in the United States which are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees, and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. In order for a business to qualify as “socially disadvantaged,” the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the businessperson’s color, ethnic origin or gender.

Questions regarding this Program can be directed to:

Department of General Services  
Bureau of Minority and Women Business Opportunities  
Room 611, North Office Building  
Harrisburg, PA 17125  
Phone: (717) 787-6708  
Fax: (717) 772-0021  
Email: [gs-bmwbo@state.pa.us](mailto:gs-bmwbo@state.pa.us)  
Website: [www.dgs.state.pa.us](http://www.dgs.state.pa.us)

A database of BMWBO-certified minority- and women-owned businesses can be accessed at <http://www.dgsweb.state.pa.us/mbewbe/VendorSearch.aspx>. The federal vendor database can be accessed at <http://www.ccr.gov> by clicking on *Dynamic Small Business Search* (certified companies are so indicated).

**I-14. Information Concerning Small Businesses in Enterprise Zones.** The Department encourages participation by small businesses, whose primary or headquarters facility is physically located in areas the Commonwealth has identified as *Designated Enterprise Zones*, as prime contractors, joint ventures and subcontractors/suppliers.

The definition of headquarters includes, but is not limited to, an office or location that is the administrative center of a business or enterprise where most of the important functions of the business are conducted or concentrated and location where employees are conducting the business of

the company on a regular and routine basis so as to contribute to the economic development of the geographical area in which the office or business is geographically located.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 full-time or full-time equivalent employees and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small businesses located in Designated Enterprise Zones. Information on the location of *Designated Enterprise Zones* can be obtained by contacting:

Aldona M. Kartorie  
Center for Community Building  
PA Department of Community and Economic Development  
4<sup>th</sup> Floor, Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120-0225  
Phone: (717) 720-7409  
Fax: (717) 787-4088  
Email: [akartorie@state.pa.us](mailto:akartorie@state.pa.us)

## **I-15. Contractor Partnership Program (CPP)**

### **a. Overview**

The Contractor Partnership Program (CPP) was created by Pennsylvania's Department of Public Welfare (DPW) to create additional employment opportunities within the Commonwealth. The CPP is designed to leverage the economic resources of DPW to create jobs for individuals currently receiving TANF cash assistance by maximizing the recruitment, hiring and retention of those individuals by Commonwealth contractors, subcontractors and grantees. The CPP utilizes its partnerships with the local Workforce Investment Agencies (WIAs), County Assistance Offices (CAOs), service delivery providers and other community action agencies to advance this goal.

The CPP requires all individuals contracting with DPW to make a commitment to fill their vacancies and new positions with individuals currently receiving TANF cash assistance. The CPP will work cooperatively with contractors to assist in these efforts by coordinating the resources of local service providers to assist in the identification of qualified individuals for employment opportunities. While the CPP will provide assistance, the Contractor is ultimately responsible for ensuring the goal is met.

Through CPP, DPW expects not only to increase the employment rate for individuals receiving TANF cash assistance, but also to continue to contribute to the economic growth of the Commonwealth.

### **b. Eligibility Requirements**

In order for Contractors to receive credit toward meeting the CPP contract requirements they must hire individuals currently receiving TANF cash assistance from DPW. This includes but it is not limited to individuals currently participating in any of DPW's employment and training programs such as EARN (Work Support and Career Development), Supported Work, Supported Engagement, Industry Specific Initiatives, KEYS., as well as, those individuals in self initiated activities at the CAO. Individuals receiving medical assistance and/or foods stamps only **are not** eligible.

For more information about the Contractor Partnership Program, please contact: Contractor Partnership Program  
PA Department of Public Welfare  
Health & Welfare Building  
2nd Floor West  
7<sup>th</sup> & Forster Streets  
Harrisburg PA 17105  
Phone: 1-866-840-7214/Fax: (717) 787-4106  
Email: [RA-BETPCPP@state.pa.us](mailto:RA-BETPCPP@state.pa.us)

#### **I-16. Mentor Protégé Program (MPP)**

##### **a. Protégé Program Overview:**

The MPP is a key element of the Department of Public Welfare's (DPW) contracting goal to mentor and develop skills related to the services identified in this RFP and to assure that DGS BMWBO certified MBE's and WBE's and Disadvantaged Businesses are provided access to opportunities generated under this contract. The MPP has been launched to achieve that objective.

The MPP requires all individuals contracting with DPW to make a commitment to establish a formal Mentor Protégé Program that will further develop the skills related to the services in this RFP with regard to the capacity and capability of DGS BMWBO MBE/WBE's and Disadvantaged Businesses. DPW is committed to assisting prime contractors who undertake this important small business growth and development initiative. Each contractor electing to participate in this program will identify DGS BMWBO MBE/WBE's and Disadvantaged Businesses to receive mentorship assistance.

Refer to Section I-13 of this RFP for information concerning the identification of Disadvantaged Businesses.

Offerors are encouraged to seek input and guidance from DPW's Bureau of Equal Opportunity – Mentor Protégé Plan (DPW BEO - MPP) concerning this program:

Merry-Grace Majors. Director  
Bureau of Equal Opportunity (DPW BEO – MPP)  
Mentor Protégé Program

Department of Public Welfare  
Commonwealth of Pennsylvania  
Phone: (717) 787-3336  
E-mail: [mmajors@state.pa.us](mailto:mmajors@state.pa.us)

While DPW BEO - MPP will provide assistance, the Offeror is ultimately responsible for ensuring the goal is met.

**I-17. 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. Proposals may be double-sided.

**I-18. Alternate Proposals.** The Department has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Department will not accept alternate proposals.

**I-19. Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Project Officer will initiate requests for clarification.

**I-20. Prime Contractor Responsibilities.** The contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. The Department will consider the selected Offeror to be the sole point of contact with regard to contractual matters.

**I-21. 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, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

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



c. **Public Disclosure.** After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Financial capability information submitted in response to Part II, Section II-7 of this RFP is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

**I-22. Best and Final Offers.** The Department reserves the right to conduct discussions with Offerors for the purpose of obtaining “best and final offers.” To obtain best and final offers from Offerors, the Department may do one or more of the following:

- i) Enter into pre-selection negotiations,
- ii) Schedule oral presentations; and
- iii) Request revised proposals.

The Department will limit any discussions to responsible Offerors (those that have submitted responsive proposals and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance) whose proposals the Department has determined to be reasonably susceptible of being selected for award. The Criteria for Selection found in **Part III, Section III-3**, shall also be used to evaluate the best and final offers. Price reductions shall have no effect upon the Offeror’s Technical Submittal. Dollar commitments to Disadvantaged Businesses and Enterprise Zone Small Businesses can be reduced only in the same percentage as the percent reduction in the total price offered through negotiations. However, Offerors are encouraged to maintain or increase their commitment to Disadvantage Business during the best and final offer process and negotiations.

**I-23. News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Department, and then only in coordination with the Department.

**I-24. Restriction of Contact.** From the issue date of this RFP until the Department 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 the Department to reject the offending Offeror’s proposal. If the Department later discovers that the Offeror has engaged in any violations of this condition, the Department 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 Department. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.

**I-25. Debriefing Conferences.** Offerors whose proposals are not selected will be notified of the name of the selected Offeror and given the opportunity to be debriefed. The Issuing Office will schedule the time and location of the debriefing. 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 the filing of a protest.

**I-26. Department Participation.** Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in this Part I, Section I-26. OMHSAS has provided the Project Officer. Project compliance, monitoring, and oversight will be by designated OMHSAS staff and other offices as directed by the Department. The Offerors will be responsible for office space, reproduction facilities and other logistical support as deemed necessary to carry out the terms of this contract.

**I-27. Term of Contract.** The term of the contract will commence on the Effective Date and will be for a period of three (3) years. Subject to the performance of the Offeror and other considerations, the Department may renew the contract on the same terms and conditions for up to two (2) additional one-year periods. The Department 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-28. Offeror's Representations and Authorizations.** By submitting its proposal, each Offeror understands, represents, and acknowledges that:

- a. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.
- b. The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential Offeror.
- c. The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- d. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.

- e. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- f. To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.
- g. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.
- h. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
- i. The Offeror has not made, under separate contract with the Department, any recommendations to the Department 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 Department, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.

**I-29. Notification of Selection.** The Issuing Office will notify the selected Offeror in writing of its selection for negotiation after the Department has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Department.

**I-30. RFP Protest Procedure.** Offerors and prospective offerors who are aggrieved in connection with the solicitation or award under this RFP may file a protest with DPW. 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. In no event may an Offeror file a protest later than seven days after the date the notice of award is posted on the DGS website. The date of filing is the date of receipt of the protest.

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

Department of Public Welfare  
Division of Procurement  
Room 525 Health and Welfare Building  
625 Forster Street  
Harrisburg, Pennsylvania 17120  
Attn: Daniel R. Boyd  
Email address: [dboyd@state.pa.us](mailto:dboyd@state.pa.us)  
Fax: 717-787-3560

Offerors and prospective offerors may file a protest electronically or by facsimile but also must simultaneously send a hard copy of the protest to the address listed above.

**I.31. Use of Electronic Versions of this RFP.** This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

**I.32. Regulatory Requirements.** The statewide HealthChoices Program operates under two 1915 (B) waivers from the Social Security Act as approved by the Centers for Medicare and Medicaid Services (CMS). The selected Offeror will be bound by all Federal and State laws, rules, and regulations governing behavioral health services.

**I.33. Liquidated Damages.** The selected contractor agrees that its failure to meet certain contract requirements as defined in this section will result in damage to the Department; however, it is impractical and extremely difficult to establish the actual amount of damage to the Department. In the event, the selected contractor fails to meet a contract requirement as defined in this section; in addition to any other remedies the Department may have, the Department may assess the amounts described in the contract as liquidated and agreed upon damages.

A. **Assessment of Liquidated Damages** – The Department, in its sole discretion, may assess liquidated damages. Liquidated damages shall be paid by the selected contractor and collected by the Department by deducting them from the invoices submitted under the contract, or any other contract the selected contractor has with the Commonwealth, by collecting them through performance security, if any, or by billing the selected contractor as a separate item.

B. **Delays** – The Department may not assess liquidated damages if the selected contractor's failure to satisfy the contract requirement is caused by the Department or if the delay arises out of causes beyond the control and without fault or negligence of the selected contractor, its subcontractors, consultants or agents.

C. **Disadvantaged Business Commitment** – The selected contractor must fulfill its agreed upon commitment to Disadvantaged Business as defined in its final work plan approved by the Department. The Department may impose liquidated damages up to the maximum amount set forth in this section for the selected contractor's failure to meet this agreed upon commitment,

including the agreed upon time frames. In the event the selected contractor fails to meet its agreed upon commitment, the Department may assess up to the amount of 10% of the amount of the selected contractor's unmet Disadvantaged Business commitment.

**D. Contractor Partnership Program** – The selected contractor must fulfill its agreed upon commitment to the Contractor Partnership Program as defined in its final work plan approved by the Department. The Department may impose liquidated damages up to the maximum amount set forth in this section for the selected contractor's failure to meet this agreed upon commitment, including the agreed upon time frames. In the event the selected contractor fails to meet its agreed upon commitment to the Contractor Partnership Program, the amount assessed will be a percentage of the total value of the contract and determined prior to contract execution.

## PART II

### PROPOSAL REQUIREMENTS

Offerors must submit their proposals in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. 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 Disadvantaged Business cost data should be kept separate from and not included in the Technical Submittal. Each Proposal shall consist of the following separately sealed submittals:

- a. Technical Submittal, which shall be a response to RFP **Part II, Sections II-1 through II-8** and Domestic Workforce Utilization Certification Submittal **II-11**;
- b. Disadvantaged Business Submittal, in response to RFP **Part II, Section II-9**;
- c. Cost Submittal in response to RFP **Part II, Section II-10**;
- d. Contractor Partnership Program Submittal, in response to RFP **Part II, Section II-12**; and
- e. Mentor Protégé Program Submittal, in response to the RFP **Part II, Section II-13**.

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

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

**II-1. Statement of the Problem.** State in succinct terms your understanding of the problem presented or the service required by this RFP.

**II-2. Management Summary.** Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided.

**II-3. Work Plan.** Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in **Part IV** of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. 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.

**II-4. Prior Experience.** Include prior experience working with Medicaid behavioral health – managed care programs. The overall 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.

For each identified project or study, the Offerors will provide summary information sheet(s) with the following information:

- Name of Project or Study:
- Start Date / End Date:
- Customer's Name:
- Address:
- Telephone Number:
- Brief description of scope of work as it relates to the requirements within this RFP:

- 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 as part of this section.

Offerors must identify any current contracting or subcontracting relationship(s) that may result in a conflict of interest with the requirements of this RFP. Offerors must also abide by the Department's conflict of interest standards identified in Appendix A, Standard Terms and Conditions for Services and Appendix B, Department of Public Welfare Addendum to Standard Terms and Conditions.

- b. **Corporate Experience.** The Offeror must describe experience providing similar services, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted. This section of the proposal must include a description of the Offeror's experience in Medicaid – behavioral health including any contracts, roles, oversight, and direct work in regard to the Patient Protection and Affordable Care Act, the Autism Insurance Act (Act 62), American Recovery and Reinvestment Act, or the Mental Health Parity and Addiction Equity Act.

**c. References.** The Offeror must provide a list of at least three (3) relevant contracts within the past three (3) years to serve as corporate references. This list shall include the following for each reference:

- i. Name of contractor
- ii. Type of contract
- iii. Contract description, including type of service provided
- iv. Total contract value
- v. Contracting officer's name and telephone number
- vi. Role of subcontractor(s) (if any)
- vii. Time period in which service was provided

The Offeror must submit **Appendix J, Corporate Reference Questionnaire directly to the contacts listed**; the references should return completed questionnaires in sealed envelopes to the Offeror. The Offeror must include these sealed references with its proposal.

Offers should describe their experience in relation to Disadvantaged Business commitments, including the amounts committed and amounts actually paid to each Disadvantaged Business. This experience is not limited to the Disadvantaged Business program in the Commonwealth but may include similar programs.

**II-5. Personnel.** Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel including the Project Manager, Lead Clinical Manager, Data Management Staff and other persons that may be assigned as leas staff to meet the requirements of this RFP include the employee's name and, through a resume or similar document, the Project personnel's education and experience in Medicaid behavioral health managed care in the areas identified within the Work Statement (**Section IV**). Indicate the responsibilities each individual will have in this Project and how long each has been with your company. Identify by name any subcontractors you intend to use and the services they will perform.

**II-6. Training.** If appropriate, indicate recommended training of agency personnel. Include the agency personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

**II-7. Financial Capability.** Offerors must submit information about the financial conditions of the company in this section. For ease in assembling the proposal, the Offeror should append its

financial documentation rather than including it in the main body of the proposal. The Offeror must provide the following information:

- a. The identity of each entity that owns at least five percent (5%) of the Offeror.
- b. For the Offeror and for each entity that owns at least five percent (5%) of the Offeror:
  - i) Audited financial statements for the two (2) most recent fiscal years for which statements are available. The statements must include a balance sheet, statement of revenue and expense and a statement of cash flow. Statements must include the auditor's opinion and the notes to the financial statements submitted by the auditor to the Offeror. If audited financial statements are not available, explain why and submit unaudited financial statements.
  - ii) Unaudited financial statements for the period between the last month covered by the audited statements and the month before the proposal are submitted.
  - iii) Documentation about available lines of credit, including maximum credit amount and amount available thirty (30) business days prior to the submission of the proposal.

If any information requested is not applicable or not available, provide an explanation. Offerors may submit appropriate documentation to support information provided.

- c. The full name and address of any proposed subcontractor in which the Offeror has five percent (5%) or more ownership interest. The Offeror must provide a copy of the proposed subcontractor's Financial and Accounting Policies and Procedures.
- d. The full name and address of any organizations with which the Offeror proposes to subcontract for any tasks to be performed for this Contract and for administrative or related services.
- e. A list of any financial interests the subcontractor may have in the Offeror's organization or any financial interest the Offeror's organization has in proposed subcontractors.
- f. Information about any pending litigation.

**II-8. Objections and Additions to Standard Contract Terms and Conditions.** The Offeror will identify which, if any, of the terms and conditions (contained in **Appendices A and B**) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the



other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Appendices A and B**. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

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

## **II-9. Disadvantaged Business Submittal.**

### **a. Disadvantaged Business Information.**

- i) To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business or for entering into a joint venture agreement with a Small Disadvantaged Business or for subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Disadvantaged Business qualification in the Disadvantaged Business Submittal of the proposal, as indicated below:
  - 1) A Small Disadvantaged Businesses certified by BMWBO as an MBE/WBE must provide a photocopy of their BMWBO certificate.
  - 2) Small Disadvantaged Businesses certified by the U.S. Small Business Administration pursuant to Section 8(a) of the *Small Business Act* (15 U.S.C. § 636(a)) as an 8(a) or small disadvantaged business must submit proof of U.S. Small Business Administration certification. The owners of such businesses must also submit proof of United States citizenship.
  - 3) Businesses, which assert that they meet the U.S. Small Business Administration criteria for designation as a small disadvantaged business, must submit: a) self-certification that the business meets the Small Business Administration criteria and b) documentary proof to support the self-certification. The owners of such businesses must also submit proof of United States citizenship, and provide any relevant small disadvantaged business certifications by other certifying entities.
  - 4) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification, or U.S. Small Business Administration certification as an 8(a) or self-certification as a U.S. Small Business Administration small disadvantaged business, must

attest to the fact that the business has no more than 100 full-time or full-time equivalent employees.

- 5) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or U.S. Small Business Administration certification as an 8(a) or self-certification as a U.S. Small Business Administration small disadvantaged business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.
- ii) All businesses claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business Submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the businessperson's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:
    - 1) Be rooted in treatment that the businessperson has experienced in American society, not in other countries.
    - 2) Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.
    - 3) Indicate that the businessperson's experience with the racial or ethnic prejudice or cultural bias has negatively impacted his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the Offeror has established that a business is socially disadvantaged by clear and convincing evidence.

- iii) In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
  - 1) Those Small Disadvantaged Businesses submitting a proposal as the Offeror, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Offeror and not by subcontractors and suppliers.
  - 2) Those Small Disadvantaged Businesses submitting a proposal as a part of a joint venture partnership, must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Small Disadvantaged Business joint venture partner and not by

subcontractors and suppliers or by joint venture partners who are not Small Disadvantaged Businesses. Offeror must also provide:

- a) The amount of capital, if any, each Small Disadvantaged Business joint venture partner will be expected to provide.
  - b) A copy of the joint venture agreement signed by all parties.
  - c) The business name, address, name and telephone number of the primary contact person for the Small Disadvantaged Business joint venture partner.
- 3) *All* Offerors must include a numerical percentage, which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Disadvantaged Businesses as subcontractors. To support its total percentage DB subcontractor commitment, Offeror must also include:
- a) The dollar amount of each subcontract commitment to a Small Disadvantaged Business;
  - b) The name of each Small Disadvantaged Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Disadvantaged Business.
  - c) The services or supplies each Small Disadvantaged Business will provide, including the timeframe for providing the services or supplies.
  - d) The location where each Small Disadvantaged Business will perform services.
  - e) The timeframe for each Small Disadvantaged Business to provide or deliver the goods or services.
  - f) A signed subcontract or letter of intent for each Small Disadvantaged Business. The subcontract or letter of intent must identify the specific work, goods or services the Small Disadvantaged Business will perform and how the work, goods or services relates to the project.
  - g) The name, address and telephone number of the primary contact person for each Small Disadvantaged Business.
- 4) The total percentages and each subcontractor commitment will become contractual obligations once the contract is fully executed.
- 5) The name and telephone number of the Offeror's project (contact) person for the Small Disadvantaged Business information.
- iv) The Offeror is required to submit **two** copies of its Disadvantaged Business Submittal. The submittal shall be clearly identified as Disadvantaged

Business information and sealed in its own envelope, separate from the remainder of the proposal.

- v) A Small Disadvantaged Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.
- vi) An Offeror that qualifies as a Small Disadvantaged Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

**b. Enterprise Zone Small Business Participation.**

- i) To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, an Offeror must include the following information in the Disadvantaged Business Submittal of the proposal:
  - 1) Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration), including a description of those activities that occur at the site to support the other businesses in the enterprise zone.
  - 2) Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).
  - 3) Proof of United States citizenship of the owners of the business.
  - 4) Certification that the business employs no more than 100 full-time or full-time equivalent employees.
  - 5) Proof that the business' gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.
  - 6) Documentation of business organization, if applicable, such as articles of incorporation, partnership agreement or other documents of organization.
- ii) In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
  - 1) The name and telephone number of the Offeror's project (contact) person for the Enterprise Zone Small Business.

- 2) The business name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The Offeror must specify each Enterprise Zone Small Business to which it is making commitments. The Offeror will not receive credit for stating that it will find an Enterprise Zone Small Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
  - 3) The specific work, goods or services each Enterprise Zone Small Business will perform or provide.
  - 4) The total cost amount submitted in the Offeror's cost proposal and the estimated dollar value of the contract to each Enterprise Zone Small Business.
  - 5) Of the estimated dollar value of the contract to each Enterprise Zone Small Business, the percent of the total value of services or products purchased or subcontracted that each Enterprise Zone Small Business will provide.
  - 6) The location where each Enterprise Zone Small Business will perform these services.
  - 7) The timeframe for each Enterprise Zone Small Business to provide or deliver the goods or services.
  - 8) The amount of capital, if any, each Enterprise Zone Small Business will be expected to provide.
  - 9) The form and amount of compensation each Enterprise Zone Small Business will receive.
  - 10) For a joint venture agreement, a copy of the agreement, signed by all parties.
  - 11) For a subcontract, a signed subcontract or letter of intent.
- iii) **The dollar value of the commitment to each Enterprise Zone Small Business must be included in the same sealed envelope with the Disadvantaged Business Submittal of the proposal. The following will become a contractual obligation once the contract is fully executed:**
- 1) The amount of the selected Offeror's Enterprise Zone Small Business commitment;
  - 2) The name of each Enterprise Zone Small Business; and

- 3) The services each Enterprise Zone Small Business will provide, including the timeframe for performing the services.

**II-10. Cost Submittal.** The information requested in this **Part II, Section II-10, and Appendix H** 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.** Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Department 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 Department's written answer so that all proposals are submitted on the same basis. Additionally, the offeror, in conjunction with the cost submittal, shall prepare a Cost Verification template which is attached with the Cost Submittal Template. **The Cost Verification template is for internal DPW use only, and will not be part of the final contract as awarded to the winning offeror. The cost verification template will be used only to determine the reasonableness of an offeror's cost.** The offeror shall provide a breakout of the total proposed cost broken down into the following components:

- a. **Direct Labor Costs.** Itemize to show the following for each category of personnel with a different hourly rate:
  - i) Category (e.g., partner, project manager, analyst, senior auditor, research associate).
  - ii) Estimated hours.
  - iii) Rate per hour.
  - iv) Total cost for each category and for all direct labor costs.
- b. **Labor Overhead.** Specify what is included and rate used.
- c. **Travel and Subsistence.** Itemize transportation, lodging and meals per diem costs separately. Travel and subsistence costs must conform with the requirements of the most current version of Commonwealth Management Directive 230.10, *Travel and Subsistence Allowances*. The Department may accept higher rates normally paid by an Offeror, if those rates were approved by the Offeror's officials and published prior to submitting this proposal to the Department.
- d. **Consultant Costs.** Itemize as in (a) above.
- e. **Subcontract Costs.** Itemize as in (a) above.
- f. **Cost of Supplies and Materials.** Itemize.

- g. Other Direct Costs.** Itemize.
- h. General Overhead Costs.** Overhead includes **two** major categories of cost, operations overhead and general and administrative overhead. Operations overhead includes costs that are not **100%** attributable to the service being completed, but are generally associated with the recurring management or support of the service. General and administrative overhead includes salaries, equipment and other costs related to headquarters management external to the service, but in support of the activity being completed. Specify what specific items are included and the rates used.
- i. Fee or Profit.**
- j. Total Cost.**

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

**II-11. Domestic Workforce Utilization Certification.** Complete and sign the Domestic Workforce Utilization Certification contained in **Appendix C** of this RFP. Offerors who seek consideration for this criterion must submit in hardcopy the signed Domestic Workforce Utilization Certification Form in the same sealed envelope with the Technical Submittal.

**II-12. Contractor Partnership Program Submittal.** The following general information must be included in the Contractor Partnership Program Submittal of the proposal:

- a. Offeror's name, telephone number and mailing address.
- b. County where the Offeror's headquarters is located if in Pennsylvania.
- c. The name, title, telephone number, mailing and email address of the contact person for the Contractor Partnership Program.
- d. Mailing address for all satellite offices located in Pennsylvania including the county.
- e. Type of business entity. (I.e. not for profit, government entity, public corporation, university etc.)
- f. If a subcontractor will provide the primary service of the contract, list the company name and mailing address for offices located in Pennsylvania including the county.
- g. Type of services being provided.
- h. Type of positions needed for this project. Please specify management vs. non-management positions.

In addition to the above requested information; in order to receive credit for a response to the Contractor Partnership Program, Offerors must provide a written narrative that address the following statements and include the information in the Contractor Partnership Submittal of the proposal. All of the statements listed below pertain to the hiring of individuals that are currently receiving TANF cash assistance.

1. Identify the anticipated number of employees that will be assigned to this project including vacancies.
2. Identify the number of management and non-management employees.
3. State the number of TANF cash assistance recipients that will be hired. Please **do not** include percentages.
4. Describe the strategy that will be employed to identify and recruit individuals that meet the eligibility requirements for the Contractor Partnership Program.
5. Describe the methods that will be used to retain TANF recipients once they are employed.
6. Provide a brief explanation of the efforts that will be made to ensure TANF hiring commitments are met and remain in effect throughout the existence of the contract.

**II-13. Mentor Protégé Program (MPP) Submittal.** To receive credit for a response to the MPP, the following information must be included in the MPP Submittal of the Proposal:

- a. Offeror's name, telephone number and mailing address
- b. County where the Offeror's headquarters is located
- c. The name, title, telephone number, mailing and e-mail address of the contact person for the MPP.
- c. Mailing address for all satellite offices located in Pennsylvania including county.
- d. Type of business entity: (i.e. not for profit, government entity, public corporation, university, etc.)

In addition to the above requested information; in order to receive credit for a response to the MPP, Offerors **must provide a written Mentor Protégé Plan that must include:**

(1) The Protégé company's name and address

(2) Protégé company's contact person, title, telephone number, mailing and e-mail address

(3) A Mentor Protégé Plan addressing the following areas to include meeting dates, time frames, goal setting, performance expectations and outcomes:

(a) **Technical Assistance.** Assistance in technical areas.

(b) **Budget Infrastructure.** Assistance pertaining to general business management or corporate infrastructure, provided by the Mentor, may include the following:

- (1) Organizational planning management: strategic planning, business planning, legal/risk management, proposal development



- (2) Business development/marketing/sales: market research, product forecasting, web-based marketing, e-commerce.
- (3) Human Resource management
- (4) Financial management
- (5) Contract management
- (6) Facilities and plant management: security, health and safety
- (7) Any other assistance designed to develop the capabilities of the Protégé

## PART III

### CRITERIA FOR SELECTION

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

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

**III-2. Technical Nonconforming Proposals.** The Department may, in its sole discretion, to waive technical or immaterial nonconformities in an Offeror's proposal.

**III-3. Evaluation.** The Department has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BMWBO and the CPP will evaluate the Disadvantaged Business, Mentor Protégé Program, and CPP Submittals respectively, 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. 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*.

**Criteria for Selection.** The following criteria will be used in evaluating each proposal. In order for a proposal to be considered for selection for best and final offers or selection for contract negotiations, the total score for the technical submittal of the proposal must be greater than or equal to 70% of the highest scoring technical submittal.

- **Technical – 50%**
- **Cost – 30%**
- **Disadvantaged Business Participation – 20%**
- **Domestic Workforce Utilization – Up to 3% in Bonus Points**
- **Enterprise Zone Small Business Participation – Up to 3% in Bonus Points**
- **Contractor Partnership Program – Up to 5% in Bonus Points**
- **Mentor Protégé Program – Up to 3% in Bonus Points**

- a. **Technical: Evaluation** 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:

- Understanding the Problem. This refers to the Offeror’s understanding of the needs that generated the RFP, of DPW’s objectives in asking for the services or undertaking the study, and of the nature and scope of the work involved.
  - Soundness of Approach. This refers the Offeror’s **approach to manage** specified tasks, sequence and relationship of major steps, **techniques** for collecting and analyzing data, understanding state of the art and industry practice in the areas covered by the RFP.
  - Offeror Qualifications and Capability. This refers to the ability of the Offeror to meet the terms of the RFP, especially the time constraint and the quality, relevancy, and recent studies and projects completed by Offeror.
  - Personnel Qualifications. This refers to the competence of professional personnel who are assigned to the project. Qualifications of professional personnel will be measured by experience and education, with particular reference to experience on studies/services similar to that describe in the RFP. Particular emphasis is place on the qualifications of the Project Manager and lead clinical staff.
- b. **Cost:** The Department has established the weight for the Cost criterion for this RFP as **30 %** of the total points.
- c. **Disadvantaged Business Participation:** BMWBO has established the weight for the Disadvantaged Business Participation criterion for this RFP as **20%** of the total points. Evaluation will be based upon the following in order of priority:

<b>Priority Rank 1</b>	Proposals submitted by Small Disadvantaged Businesses.
<b>Priority Rank 2</b>	Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.
<b>Priority Rank 3</b>	Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.
<b>Priority Rank 4</b>	Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated, with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the above-listed priority ranking

To the extent that an Offeror qualifies as a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements for more than **40%** of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than **40%** of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

- d. **Enterprise Zone Small Business Participation:** In accordance with the priority ranks listed below, bonus points in addition to the total points for this RFP will be given for the Enterprise Zone Small Business Participation criterion. The maximum bonus points for this criterion are 3% of the total points for this RFP. The following options will be considered as part of the final criteria for selection:

<b>Priority Rank 1</b>	Proposals submitted by an Enterprise Zone Small Business will receive three percent bonus for this criterion.
<b>Priority Rank 2</b>	Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive two percent bonus for this criterion.
<b>Priority Rank 3</b>	Proposals submitted with a subcontracting commitment to an Enterprise Zone Small Business will receive one percent bonus for this criterion.
<b>Priority Rank 4</b>	Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that an Offeror is an Enterprise Zone Small Business, the Offeror cannot enter into contract or subcontract arrangements for more than **40%** of the total estimated dollar amount of the contract in order to qualify as an Enterprise Zone Small Business for purposes of this RFP.

- e. **Contractor Partnership Program (CPP)** During the evaluation process, CPP will evaluate each Submittal for its approach in enhancing employment opportunities for eligible CPP participants. Any points received for the CPP criterion are bonus points in addition to the total points for this RFP. The maximum bonus points for this criterion are 5% of the total points for this RFP.
- f. **Mentor Protégé Program (MPP)** During the evaluation process, DPW BEO – MPP will evaluate each Submittal for its approach to mentoring and developing skills related to the services identified in this RFP. Any points received for the MPP

criterion are bonus points in addition to the total points for this RFP. The maximum bonus points for this criterion are 3% of the total technical points for this RFP.

- g. **Domestic Workforce Utilization** Any points received for the Domestic Workforce Utilization criterion are bonus points in addition to the total points for this RFP. The maximum bonus points for this criterion are 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. Offerors who seek consideration for this criterion must submit in hardcopy the signed Domestic Workforce Utilization Certification Form in the same sealed envelope with the Technical Submittal. The certification will be included as a contractual obligation when the contract is executed.

## **PART IV**

### **WORK STATEMENT**

#### **BACKGROUND INFORMATION**

The Department of Public Welfare's (DPW) Office of Mental Health and Substance Abuse Services (OMHSAS) is responsible for administering the statewide Medicaid managed care program for behavioral health services called the HealthChoices Behavioral Health (HC-BH) program. The HC-BH program operates under two 1915 (b) waivers of the Social Security Act approved by the Centers for Medicare and Medicaid Services (CMS). HC-BH began in 1997 and was fully implemented statewide in 2007. In 2010, about 2.1M members will be eligible for services with an approximate annual behavioral health cost of \$2.6 billion. Over the 13 years of operations, the original three program goals set continue to be met; improve access, increase quality, and control the growth of Medicaid costs.

OMHSAS manages 33 separate HC-BH contracts, 31 of which are contracts with county government where counties accepted the "right of first opportunity" to provide the required services and two of which are contracts with a managed care organization. All contractors, whether counties or managed care organizations must meet the same program standards and requirements and each is monitored for contract compliance, quality, and financial stability on a regular basis. OMHSAS must meet CMS waiver requirements, submit annual reports, and participate in an independent annual external quality review. Various processes and management tools are required for this complex waiver program to ensure compliance with state and federal requirements. Statewide implementation has been successfully achieved across the Commonwealth, and strong oversight functions are in place at the county and state level, both programmatically and fiscally, leading to a successful unified systems approach.

The environmental context for behavioral health services has shifted significantly with changes in both state and federal legislation. The Autism Insurance Act (Act 62) enacted in January 2009 requires many private health insurance companies to cover the cost of diagnostic assessment and treatment of autism spectrum disorder and services for children under the age of 21, up to \$36,000 per year. Beginning January 1, 2010, the Mental Health Parity and Addiction Equity Act of 2008 will align mental health/substance abuse (MHSA) benefits and medical/surgical benefits for group health plans with more than 50 employees. The historic legislation of the Mental Health Parity Act makes the equal treatment of mental health and physical health an achievable reality. Advancements in using information systems technology will be spurred on by the American Recovery and Reinvestment Act of 2009 (ARRA), where hospitals will receive payments from Medicare and Medicaid starting in October 2010 for the successful implementation and effective use of electronic health records (EHRs). Hospitals that do not meet federal guidelines by 2015 face reductions in Medicare reimbursement.

The most sweeping change in healthcare reform is federal legislation passed in March 2010, HR 359, Patient Protection and Affordable Care Act, designed to ensure that all Americans have access to affordable healthcare for physical health and behavioral health treatment. It is predicted that

many of the people who will be newly covered with health insurance will have untreated mental health and substance use disorders. Health care reform legislation will affect all aspects of the state Medicaid program and will present significant challenges and opportunities to ensure people are able to access needed services and that behavioral health services are well coordinated with physical health services. The implementation of health care reform, changing Medicaid regulations, rule interpretations, and pressures for cost savings in a difficult economic environment will all affect the operation of the HC-BH program. OMHSAS will need to consider the impact of the changes at the federal level and healthcare reform within the scope of behavioral health services now included in Pennsylvania's state Medicaid plan.

In the current economic environment, state government has reduced the staff compliment across all agencies leading to the need for more efficient and effective methods of program development and oversight. Development of staff competencies will be required to understand the new legislation, plan for system change, and effectively implement healthcare reform. OMHSAS requires effective technology to ensure program management tools, policies, and procedures are readily accessible and updated on a continuous basis.

The HC-BH program has high accountability standards and is interested in continuing to control administrative costs as well as improve the effectiveness of oversight mechanisms. There are opportunities to improve the BH response to fraud, waste, abuse prevention, detection, and recoupment in the HC-BH program. Refinement of administrative oversight tools to focus time and energy on the most valued added activities is a priority for this complex program. OMHSAS is interested in learning from the best practices nationally for procurement and administration of managed care programs that result in increased effectiveness and efficiency.

In this rapidly changing environment, it will be more important than ever to pay attention to the quality of services and cost effectiveness to achieve improved health outcomes. An OMHSAS priority is increasing the number of evidence-based practices (EBP) available and ensuring provider adherence to fidelity standards. Such program changes affect managed care operations, cross-system relationships, provider development, and workforce development. The EBP have been identified nationally for programs serving children, transition age youth, adults, and older adults.

At the heart of our business, we are a people business that needs to continuously improve the health outcomes for people served and help children, families, adults, and older adults, be an active part of their family and community. The program should continue to seek the most innovative programs and services to support recovery in adults and resiliency in children. Technical expertise across all ages and special populations is required for this contract. Partnership with other human service agencies and systems at the state and local level is required to achieve improved health outcomes for people with the most critical needs served in multiple systems. OMHSAS and the Office of Children Youth and Family have a shared priority to reduce the number of children in out of home placements. Implementation of nationally recognized forensic programs such as the sequential intercept model for adults is strengthening state and local relationship to meet the needs of people involved in the criminal justice system. OMHSAS and the Pennsylvania Department of Health (DOH) have been working on integrated treatment regulations and training to ensure co-occurring competencies for providers serving people with dual mental health and substance use disorders. The Pennsylvania

Department of Aging (PDE) has been a partner improving access to mental health services for older adults.

The HC-BH program provides behavioral health services for people with intellectual disabilities, for children diagnosed with autism spectrum disorder, and people who are deaf and hard of hearing, among other populations. OMHSAS and county partners have aligned with the housing development community to create safe affordable housing for people diagnosed with a serious mental illness. The Office of Vocational Services is supporting employment training opportunities for individuals with mental health issues who wish to become a certified peer specialist. Exploring and implementing new models for coordination of behavioral and physical health, as part of healthcare reform will be a high priority over the next several years. National expertise in these specialized service and support areas is essential for the program to provide statewide leadership to continue to move Pennsylvania toward a service system that supports recovery and resiliency and reduces reliance on large institutional settings.

Enhancing the OMHSAS quality management program to focus on member outcomes and generate data that helps us managed the program is essential. OMHSAS produces annual performance reports and has begun to implement pay for performance measures. The office is interested in performance reports and processes that will accelerate improvement. OMHSAS conducts annual clinical reviews of the managed care operations to oversee and formulate recommendations for administration and care management practices that help individuals get to the right services at the right time to prevent the need for more intensive and often more costly services. OMHSAS is interested in using information system technology to track and measure the effectiveness of evidence-based practices and to identify opportunities for improved responses from the system at the provider, county and/or regional service level.

The OMHSAS Quality Management Committee has representatives from the behavioral health stakeholder community as well as the chairpersons of the statewide OMHSAS Advisory Committee. All HC-BH contractors submit annual quality management plans. Individuals who receive services and family members are paid in the HC-BH program to conduct satisfaction surveys as well as other national survey tools. OMHSAS is interested in continuously evolving our quality management approach to take advantage of new technology and ways to gather and display data the can confirm and promote improved health outcomes.

In this rapidly changing healthcare environment, with demands for high quality service at the best cost, the successful Offeror will need to have a wide and deep range of technical expertise in behavioral health, Medicaid managed care, financial management, federal regulations, and emerging national practices. The successful Offeror must be able to respond to changing priorities and manage multiple projects across several bureaus at the same time. Timely technical guidance on emerging state and federal policy issues is required. The successful Offeror will be experienced in recommending solutions to these complex healthcare issues.

Offerors may obtain more detailed background information on Pennsylvania's HC-BH program from the DPW website at [www.dpw.state.pa.us](http://www.dpw.state.pa.us) then select "Information for DPW Businesses Partners". The website contains information about the physical and behavioral health managed care



programs. Additional information about OMHSAS priority initiatives can be found at [www.parecovery.org](http://www.parecovery.org).

#### **IV-1. Objectives.**

- a. **General.** The Department is issuing this RFP to procure a consultant contract for technical assistance in regard to the statewide HealthChoices Behavioral Health Program (HC-BH) that will assist with the continued cost effective quality services in the ever-evolving health care field.
- b. **Specific.** To enhance, develop, and implement cost effective strategies for the management of the behavioral health - HealthChoices Program;
  - To advance the behavioral health information system technology;
  - To develop strategies partnering with Federal, State, and local partners for cross-system coordination;
  - To improve health outcomes through quality of care initiatives;
  - Project management for the scope this contract.

**IV-2. Nature and Scope of the Project.** The Project will require coordination with OMHSAS staff located across the Commonwealth. The DPW-OMHSAS central office is located in Harrisburg, PA. Four regional field offices have direct responsibility to the oversight of the HC-BH Program. The regional offices are located in Pittsburgh, Philadelphia, Scranton, and Harrisburg. In order to meet the scope of the contract and in addition to coordination with the field office staff, coordination will also be necessary with the various Bureaus within the OMHSAS.

Since the HealthChoices Program is statewide and serves many individuals, the selected contractor will not only work with DPW-OMHSAS staff but also have a coordination role with the county behavioral health programs, managed care companies, stakeholders and others, within the scope of this work statement. To further enhance cross-system coordination there will also be an expected working knowledge and coordinating role with physical health entities, children serving agencies, and other programs directly or indirectly impacting the HealthChoices Program.

The selected contractor will work directly with the OMHSAS Project Director who will approve and review the Contractor's work plan that is prepared within the scope of the contract work statement, the specific tasks included within, all budgets related to the tasks as well as the timeframe to complete. All tasks will have an individualized time limited plan.

**IV-3. Requirements.** The contractor shall provide services as outlined below in **Section IV-6**. The outlined tasks under each objective may change from year to year depending on the needs of the program. No specific tasks will begin work without the approval of the Project Officer and the establishment of the written scope of work that will also include a budget estimate. The selected contractor shall have access to the staff expertise required to complete the range of tasks outlined. Specifics in regard to the scope of work within the tasks, timeframes, and budget estimates will be negotiated with the successful offeror.

**IV-4. Tasks.** The following objectives with specified tasks provides the scope of work that the successful bidder would be expected to perform. An estimated number of hours is provided for each major objective. These estimates should be used in preparing cost estimates as outlined in **Section II-10** Cost submittal.

**Objective A:** To enhance, develop, implement cost effective strategies for the management of the behavioral health HealthChoices Program

Estimated Hours Required: 1500

**Task 1: Program-Management Services:** The HealthChoice behavioral health program oversight occurs locally across the Commonwealth. There are regional teams assigned to each contract. For the areas of fiscal, quality management, and information technology, oversight functions occur centrally in Harrisburg and in coordination with the regional staff. The selected contractor will assist with the ongoing development of a proficient and efficient statewide oversight model for the behavioral health program. The selected contractor will participate in ongoing HealthChoices contractor monitoring activities with OMHSAS staff to provide direction in the management of the statewide behavioral health program for consistency in unified statewide monitoring practices. There will be required coordination with county personnel as well as the BH-MCO staff. The selector contractor will provide training to expand the depth of knowledge of OMHSAS staff in analytic review of data and interpretation, outcome measures, and action planning to continue the efficient oversight of the evolving statewide program.

**Task 2: Monitoring Efficiencies:** The selector contractor will provide recommended tools and methods for oversight of the statewide program that will ensure adherence to state and federal waiver requirements. The selected contractor will have or make available resources to ensure adherence to the Federal Healthcare Reform changes that will directly or indirectly impact the HealthChoices Program.

**Task 3: HealthChoices Requirements:** Currently, the HealthChoices contracts are three-year contracts with two one-year renewals for a total of five years. During the time of this contract, there will be ongoing scheduled re-procurement activities. The selected contractor will provide consultation and guidance with any re-procurement activities during the time of this contract. This includes but is not limited to assistance with preparation of readiness review tools, onsite clinical reviews, and other related activities to ensure the integrity of the HealthChoices contractual obligations.

**Task 4: Regulatory Requirements:** The selected contractor will provide consultation on federal and state regulatory requirements that guide the behavioral health system. This will include providing consultation and guidance during the implementation of the Patient Protection and Affordable Care Act. The selected contractor will provide consultation for review and possible changes to the current Medical Assistance State Plan that will lead to a recovery-oriented system of care model while ensuring both state and federal regulatory compliance. The selected contractor will provide consultation and participate as requested during communications with the Centers for Medicare and Medicaid Services (CMS). The selected contractor will provide consultation and guidance on statewide provider licensure processes to efficiently and effectively meet regulatory requirements while developing recovery-oriented services in a managed care environment. A review

and comparison with other states followed by suggested action steps will be necessary to be successful with this task.

**Objective B:** To advance the behavioral health information technology  
Estimated Hours Required: 990

**Task 1: Information Technology Expertise:** The selected contractor will provide consultation on managing statewide data related to behavioral health services. The selected contractor will have the expertise to review and understand federal and state data collection requirements, to review the current systems both at the Commonwealth and at the BH-MCO and provide written recommendations to ensure accurate and consistent programmatic and fiscal reporting from all entities.

**Task 2: Regulatory Review and Requirements:** OMHSAS is at the beginning stages of review and implementation of the Patient Protection and Affordable Care Act (PPACA) and the Education Reconciliation Act and the American Recovery and Reinvestment Act (ARRA). The selected contract will provide consultation and recommendations to meet the requirements of the federal legislation for healthcare care reform that includes advancements for information technology systems. The ARRA will require electronic health records for hospitals and will impact the interface with all behavioral health programs.

**Objective C:** To develop strategies collaborating with Federal, State, and local partners for cross-system coordination  
Estimated Hours Required: 1320

**Task 1: Physical Health/Behavioral Health Coordination:** The selected contractor will provide consultation and recommendations for coordination between physical health and behavioral health partners within the state system and the managed care arena. The national healthcare reform movement provides the opportunity to coordinate and the selected contractor will need to work from this perspective for technical assistance on best practices for coordination from a clinical perspective as well as financial strategies for cost sharing between behavioral health and physical health.

**Task 2: Unified system models of care:** The selected contractor will provide consultation on unifying systems of care that serve children and adults in multiple systems ( drug and alcohol, early intervention, intellectual disabilities, children and youth, older adults, criminal justice, etc.) while in a managed care environment. The selected contractor will provide recommendations based on national research and promising practices that will lead to better coordination of care, less disruption services and financial strategies for cross-system funding.

**Task 3: Community Programming:** The OMHSAS believes that all individuals should live in a community of their choice with the appropriate supports. The selected contractor will have expertise and provide recommendations to increase recovery oriented community services while decreasing reliance on the use of the state hospital system. The selected contractor will review the Pennsylvania statewide behavioral health service delivery system and provide information on nationally recognized promising practices to enhance the recovery oriented service system. This

will include financial strategies in a managed care system to support individuals to live within their communities.

**Objective D:** To improve health outcomes through quality of care initiatives  
Estimated Time Required: 1980

**Task 1: Quality Management Tools:** The selected contractor will provide recommendations for implementation and ongoing use of outcome measurement tools for the statewide HC-BH Program ensuring quality of care and meeting federal and state requirements. The selected contractor will train OMHSAS staff on the use of the tools including analysis of the information, comparison statewide and reporting formats. As requested by OMHSAS, the selected contractor will provide feedback to the BH-MCOs and provide technical assistance as requested and approved by OMHSAS.

**Task 2: Performance Based Contracting:** The selected contractor will provide consultation on performance based contracting (PBC), including development of the performance measures, analysis of results, reporting outcomes, and review of performance improvement plans. The selected contractor will provide technical assistance to the counties and BH-MCOs as needed. The selected contractor will prepare reports as directed by OMHSAS including but not limited to an annual or biennial report. The selected contractor will coordinate with the OMHSAS actuaries for PBC financial management of incentives or sanctions.

**Task 3: Clinical Expertise:** The selected contractor will have clinical expertise and provide consultation to OMHSAS staff and the BH-MCOs on the management of clinical services. This task will include on-site reviews at the BH-MCOs at the direction of OMHSAS to review clinical practices and provide written feedback including recommendations for improvement. The selected contractor will also consult on clinical pathways in a recovery-oriented system, provide feedback on industry standards as well as assist in developing clinical strategies that will move the HealthChoices statewide program from the implementation stages to a well-established statewide program. The selected contractor will need to have or obtain national resources to review practices in other states that have a Medicaid behavioral health program and provide recommendations.

**Task 4: Evidenced Based Practice implementation:** The selected contractor will provide consultation on proven Evidence Based Practices for both children and adults that are recommended for the enhancement of the behavioral health system in Pennsylvania. The selected contractor will need to have or obtain resources for review of other states on the development (including regulatory constraints), fidelity, and outcomes of the proven EBP models as well as financial strategies to support a statewide implementation.

**Task 5: Quality Management Products:** The selected contractor will provide consultation to the OMHSAS – Quality Management staff to assist with meeting all required regulatory oversight requirements including coordination with the federally required external quality review organization. The selected contractor will assist the OMHSAS – Quality Management staff with the HealthChoices contract requirement for annual work plans and annual reports that include but are not limited the analysis of the data and qualitative feedback to the BH-MCOs.

**Task 6: Targeted Policy Reviews:** The selected contractor will provide consultation for specified policy reviews that will enhance the managed care behavioral health system. A final report will be required for each review, outlining the findings. Included in the report will be the policy statement, the research that was completed, the recommendations, and a barrier analysis based on the Pennsylvania behavioral health system.

**Objective E:** Project Management for the Scope of the contract:  
Estimated Time Required: 810

**Task 1: Contract Manager and Responsibilities:** The selected contractor will provide a Contract Manager that will be responsible for the oversight of the contract requirements including coordination of all resources necessary to meet the scope of this contract. The OMHSAS Project Manager will be the primary contact for the Contract Manager.

The Contract Manager will be responsible to communicate with the Project Manager on all approved tasks and the status of completion. A monthly meeting will be scheduled for monitoring of the contract.

The Contract Manager will participate in OMHSAS meetings related to behavioral health managed care and provide consultation, as requested. The means to participate can be in person, teleconference, web-ex, or video conference.

**Task 2: Annual and ongoing Planning Process:** The selected contractor will direct and manage the annual planning process in coordination with OMHSAS leadership. This process will review priorities and set initial projects for the fiscal year within the scope of the contract. The selected contractor will set monthly meetings to review progress of the projects and to add additional projects within the scope of the contract.

**IV-5. Contract Transition.** Upon expiration or termination of the Contract, the selected offeror shall provide for a smooth and timely transition of its services to the Department and its contractors, as applicable. In addition, the selected offeror must:

- a. Provide a final detailed description of the transition plan for approval by the Department and initiated four (4) months prior to the last day of the contract.
- b. Cooperate with the Department and supply the Department and/or its contractor with all information required by the Department and/or its contractor during the transition process.
- c. Pay all costs related to the transfer of materials and responsibilities as a normal part of doing business with the Department.

**IV-6. Service Level Agreements SLA's**

**IV-7. Reports and Project Control.**

- a. **Task Plan.** The selected Offeror shall provide a work plan for each task that identifies the work elements of each task, the resources assigned to the task, and the time allotted to each

Title	Cat	Objectives	Measurement	Target Metric	Support measure	Conditions	Liquidated Damages
Minority Business Enterprise (MBE)/ Women Business Enterprise (WBE)	SLA	The selected contractor will meet their commitment to fulfill MBE/WBE requirements.	Copy of the Quarterly DGS MBE/WBE report must be provided to DPW to illustrate the commitment to MBE/WBE requirements. In addition, DPW will have the right to make periodic site visits for monitoring purposes.	TBD by Bid	Contract monitoring tool to be developed	DPW will consider extenuating circumstances when evaluating to adherence to this regulation.	10% of the Final MBE/WBE commitment for noncompliance; assessed on an annual basis.
Contractor Partnership Program (CPP)	SLA	The selected contractor will meet their commitment to fulfill CPP requirements.	Copy of the Quarterly CPP report must be provided to the Contracting Officer and the CPP Office to illustrate the commitment to CPP requirements.	TBD by Bid	Contract monitoring tool to be developed	DPW will consider extenuating circumstances when evaluating to adherence to this regulation.	Corrective Action Plan (CAP) and failure to adhere to requirement may be grounds for contract loss and grounds for non-renewal.
Submit all required Reports accurately and in a timely manner		The Offeror will deliver the Reports as required in the Work Statement, and as assigned by the Department.	DPW/OMHSAS will review and approve all reports in draft format. DPW/OMHSAS recommended changes will be considered and added to final report.	TBD by Bid	Contract monitoring tool to be developed	DPW will consider extenuating circumstances if the complaint is unfounded	Non-compliance with performance requirements may require credits of up to \$500 per week

element and the deliverable items to be produced. Where appropriate, a PERT or GANTT chart display should be used to show project, task, and time relationship.

- b. **Status Report.** The selected Offeror shall provide a monthly progress report covering activities, problems and recommendations. This report should be keyed to the work plan the Offeror developed in its proposal, as amended or approved by the Issuing Office.
- c. **Problem Identification Report.** The selected Offeror shall provide 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.
- d. **Final Report.**
  - i) OMHSAS will review and approve all reports in draft format. The selected Offeror will incorporate changes recommended by OMHSAS into all final report.
  - ii) 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. All tasks will have a written and approved work plan that includes the scope of the work, the associated costs as well as timeframes for completion. Each year end report will be a summary of all tasks and objectives worked on during the contract year.
  - iii) Describe data collection and analytical and other techniques used during the study. All tasks in the final report should include a summary of data (as applicable).
  - iv) Summarize findings, conclusions and recommendations developed in each task, including timeframes to implement or complete recommendations OK
  - v) Include all supporting documentation; e.g., flow-charts, forms, questionnaires, etc. no – not needed in final form
  - vi) Recommend a time-phased work plan for implementing the recommendations.

**IV-8. Contract Requirements—Disadvantaged Business Participation and Enterprise Zone Small Business Participation.** All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must also include a provision requiring the selected contractor to meet and maintain those commitments made to Disadvantaged Businesses and/or Enterprise Zone Small Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must include a provision requiring Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors and Small Disadvantaged Businesses or Enterprise Zone Small Businesses

in a joint venture to perform at least **50%** of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business participation portion of the joint venture.

The selected contractor's commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Contracting Officer regarding a course of action.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business participation and/or Enterprise Zone Small Business participation of the original contract.

The selected contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the Issuing Office and BMWBO within **10** workdays at the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Business and/or Enterprise Zone Small Business participants involved in joint ventures. Also, this information will serve as a record of fulfillment of the commitment the selected contractor made and for which it received Disadvantaged Business and Enterprise Zone Small Business points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

If the selected contractor fails to meet its Disadvantaged Business commitment as provided in its agreed upon work plan, DPW may assess liquidated damages as provided in the contract.

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 DISADVANTAGED BUSINESSES STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESSES UTILIZATION.

**IV-9. CPP Reporting Requirements.** The approved hiring commitment will become a contractual obligation included in the contract. Hiring commitments shall be maintained throughout the term of the contract, including any renewal or extensions. In the event of a renewal or extension of the original contract term and upon request of CPP, the selected Contractor will submit an updated plan. Any proposed change must be submitted to the Contractor Partnership Program, which will make a recommendation to the Contracting Officer regarding course of action. Upon approval of the Department, this updated plan will become part of the contract. If a contract is assigned to another contractor, the new contractor must maintain the CPP recruiting and hiring plan of the original contract. Upon request of CPP, the Contractor will submit a revised plan. Upon approval, this plan will become a part of the contract.

Upon award of the contract, the selected Offeror is required to complete and submit the PA 1540 Quarterly Employment Report Form on a quarterly basis to document the number of TANF cash assistance recipients hired for that quarter. The form must be completed in its' entirety and forwarded to the Contractor Partnership Program, with a copy sent to the DPW Contract Monitor, by



the fifteenth day of the following month after the quarter ends. If the 15<sup>th</sup> falls on a weekend or state holiday the report is due the next business day. The quarters are based on the Department of Public Welfare’s fiscal year and are as follows:

<b>Quarters</b>	<b>Begin Date</b>	<b>End Date</b>	<b>Reports Due</b>
1 – First	July 1	September 30	October 15
2 – Second	October 1	December 31	January 15
3 – Third	January 1	March 31	April 15
4 – Fourth	April 1	June 30	July 15

The selected Offeror, regardless of its contract Effective Date, must submit the PA 1540 based on the schedule above. If a contract begins in the middle of a quarter, the information reported will be based on activity that occurred from the contract Effective Date through the end of the quarter. If no activity occurred the form must be completed by stating “No Activity in this Quarter with the Contractor’s comments. This report must be signed by the entity that holds the contract with the DPW; it **may not** be signed by a subcontractor.

The information submitted on this report will be audited for its accuracy and the findings will be utilized to determine if the selected Offeror is meeting its hiring requirements.

**Verification**

The Contractor Partnership Program will review the PA 1540 Form for accuracy and completeness. In addition, the individuals reported on the 1540 Form as TANF cash assistance recipients will be verified through DPW’s Client Information System (CIS). DPW will take a statistical sample of all public assistance hires reported to determine if the selected Offeror will receive credit. The results of the sample will determine if additional verification measures are needed. If the selected Offeror is found to report inaccurate information on a consistent basis, it will be reported to the Contracting Officer for appropriate action.

**\*Please note that the PA 1540 Form will be mailed to the Contractor after their contract is executed.**

**IV-10. Mentor Protégé Program (MPP) Reporting Requirements.** The approved Plan commitment will become a contractual obligation included in the contract. Mentor Protégé Plan commitment shall be maintained throughout the term of the contract, including any renewals or extension of the original contract term and upon request of DPW BEO – MPP, the selected Contractor will submit an updated plan. Any proposal change must be submitted to the Department of Public Welfare, Bureau of Equal Opportunity, Mentor Protégé Program, which will make a recommendation to the Contracting Officer regarding course of action. Upon approval of the Department, this updated plan will become part of the contract. If a contract is assigned to another contractor, the new contractor must maintain the Mentor Protégé Plan commitment. Upon request of DPW, BEO – MPP the Contractor will submit a revised plan. Upon approval, this plan will become part of the contract.

Upon award of the contract, the selected Offeror is required to provide a copy of the signed agreement between the Mentor and the Protégé. The Offeror is required to provide a written narrative to DPW BEO – MPP on a quarterly basis with an update of the Mentor Protégé Program Plan with a copy sent to the DPW Contract Monitor, by the fifteenth day of the following month after the quarter ends. If the 15<sup>th</sup> falls on a weekend or state holiday, the report is due the next business day. The quarters are based on the Department of Public Welfare’s fiscal year and are as follows:

Quarters	Begin Date	End Date	Reports Due
1 – First	July 1	September 30	October 15
2 – Second	October 1	December 31	January 15
3 – Third	January 1	March 31	April 15
4 – Fourth	April 1	June 30	July 15

The selected Offeror, regardless of its contract Effective Date, must submit the written narrative based on the schedule above. If a contract begins in the middle of a quarter, the information reported will be based on activity that occurred from the contract Effective Date through the end of the quarter. If no activity occurred, the written narrative must provide an explanation. This written narrative must be signed by the entity that holds the contract with DPW; it **MAY NOT** be signed by the Protégé.

The information submitted on this report will be audited for its accuracy and the findings will be utilized to determine if the selected Offeror is meeting its Mentor Protégé Program Plan.

**Verification**

The Department of Public Welfare, Bureau of Equal Opportunity – Mentor Protégé Plan will review the written narrative to ensure it is consistent with the Mentor Protégé Program Plan. In addition, DPW BEO – MPP may contact the Protégé to ensure compliance with Mentor Protégé Program Plan. The results will determine if additional verification measures are needed. If the selected Offeror is found to report inaccurate information on a consistent basis, it will be reported to the Contracting Officer for appropriate action.

## STANDARD CONTRACT TERMS AND CONDITIONS FOR SERVICES

### 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. 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. This will be utilized to prevent a lapse in Contract coverage and only for the time necessary, up to three (3) months, to enter into a new contract.

### 2. INDEPENDENT CONTRACTOR

In performing the services required by the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth.

### 3. 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.

### 4. ENVIRONMENTAL PROVISIONS

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

### 5. POST-CONSUMER RECYCLED CONTENT

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 in Exhibits A-1 through A-8 to these Standard Contract Terms and Conditions.

### 6. COMPENSATION/EXPENSES

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.

### 7. INVOICES

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall send an **invoice itemized by line item** to the address referenced on the purchase order promptly after services are satisfactorily completed. The invoice should include only amounts due under the Contract/purchase order. The purchase order number must be included on all invoices. In addition, the Commonwealth shall have the right to require the Contractor to prepare and submit a "Work In Progress" sheet that contains, at a minimum, the tasks performed, number of hours, hourly rate, and the purchase order or task order to which it refers.

### 8. 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 "Provide Service and 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.

## **9. 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.

## **10. WARRANTY**

The Contractor warrants that 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 services and parts are warranted for a period of one year following completion of performance by the Contractor and acceptance by the Commonwealth. The Contractor shall correct any problem with the service and/or replace any defective part with a part of equivalent or superior quality without any additional cost to the Commonwealth.

## **11. 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.

#### **12. 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.

#### **13. 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.

#### **14. HOLD HARMLESS PROVISION**

The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract and shall, at the request of the Commonwealth, defend any and all actions brought against the Commonwealth based upon any such claims or demands.

#### **15. 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.

#### **16. DEFAULT**

- a. The Commonwealth may, subject to the provisions of Paragraph 17, Force Majeure, 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 Paragraph 18, Termination Provisions) the whole or any part of this Contract for any of the following reasons:
  - 1) Failure to begin work within the time specified in the Contract 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 terms;
  - 3) Unsatisfactory performance of the work;
  - 4) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
  - 5) Discontinuance of work without approval;
  - 6) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
  - 7) Insolvency or bankruptcy;
  - 8) Assignment made for the benefit of creditors;
  - 9) 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;
  - 10) Failure to protect, to repair, or to make good any damage or injury to property; or
  - 11) Breach of any provision of this Contract.
- b. In the event that the Commonwealth terminates this Contract 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, services 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 services included within the terminated part of the Contract.

- c. If the Contract 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 Issuing Office, such partially completed work, 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 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 work 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 Paragraph 19, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

#### 17. **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 either to cancel the Contract 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.

#### 18. **TERMINATION PROVISIONS**

The Commonwealth has the right to terminate this Contract 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 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. 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 this 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 for any appropriations available for that purpose

- c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract for Contractor default under Paragraph 16, Default, upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in this Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract for cause, then, at the Commonwealth's discretion, the Contract shall be deemed to have been terminated for convenience under the Subparagraph 18.a.

#### 19. **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.
- b. 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.

#### 20. **ASSIGNABILITY AND SUBCONTRACTING**

- a. Subject to the terms and conditions of this Paragraph 20, 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.

## 21. **NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE**

During the term of the Contract, the Contractor agrees as follows:

- 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, by reason of gender, race, creed, or color, discriminate 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 against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
- c. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor shall, within the time periods requested by the commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD-28, the "Monthly Contract Compliance Report for Construction Contractors", each month no later than the 15th of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD-21 within the past 12 months may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.
- 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 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.

## 22. **CONTRACTOR INTEGRITY PROVISIONS**

It is essential that those who seek to contract with the 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 procurement process. 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 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 Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.
  - c. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.
  - d. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.
  - e. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.
  - f. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.
  - g. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.
  - h. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, 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.
  - i. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:
    - 1) Approved in writing by the Commonwealth prior to its disclosure; or
    - 2) Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
    - 3) Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
    - 4) Necessary for purposes of Contractor's internal assessment and review; or
    - 5) Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
    - 6) Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or
    - 7) Otherwise required by law.
  - j. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

- 1) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.
- 2) Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:
  - a) obtaining;
  - b) attempting to obtain; or
  - c) performing a public contract or subcontract.

Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

- 3) Violation of federal or state antitrust statutes.
- 4) Violation of any federal or state law regulating campaign contributions.
- 5) Violation of any federal or state environmental law
- 6) Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
- 7) Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act, 77 P.S. 1 et seq.*
- 8) Violation of any federal or state law prohibiting discrimination in employment.
- 9) Debarment by any agency or department of the federal government or by any other state.
- 10) Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

- k. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641 of the Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:
- 1) Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or
  - 2) Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

- l. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and

must be reported.

- m. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these 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 Commonwealth Inspector General in writing.
- n. 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.
- o. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of 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 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 refers to or concern this contract.
- p. 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.
- q. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph.
  - 1) "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.
  - 2) "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 pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.
  - 3) "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.
  - 4) "Financial interest" means:
    - (a) Ownership of more than a five percent interest in any business; or
    - (b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
  - 5) "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.
  - 6) "Immediate family" means a spouse and any unemancipated child.
  - 7) "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.
  - 8) "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action

committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

**23. CONTRACTOR RESPONSIBILITY PROVISIONS**

a. The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers 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, a written explanation of why such certification cannot be made.

b. The Contractor also certifies, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.

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 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, which 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

**24. 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.

## 25. 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, A hazard warning, if appropriate, and
    - b) 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.

#### **26. 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.

#### **27. 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.

#### **28. INTEGRATION**

The 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. All such amendments will be made using the appropriate Commonwealth form.

#### **29. CHANGE ORDERS**

The Commonwealth reserves the right to issue change orders 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 order shall be in writing signed by the Contracting Officer. The change order shall be effective as of the date appearing on

the change order, unless the change order 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 under any change order shall be handled through Paragraph 19, "Contract Controversies".

For purposes of this Contract, "change order" is defined as a written order signed by the Contracting Officer directing the Contractor to make changes authorized under this clause.

**30. RIGHT TO KNOW LAW 8-K-1532**

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:
  1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
  2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the

RTKL.

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



**APPENDIX B**  
**DEPARTMENT OF PUBLIC WELFARE 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 Rider R, Commonwealth Travel Rates, attached hereto and incorporated herein, 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" 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 born 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 not 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 successful contractor, within 10 days of receiving the notice to proceed, shall contact the Employment Unit Coordinator in the County Assistance Office in the county where the contractor delivers the service to present, for review and approval, contractor's plan for recruiting and hiring of public assistance recipients for employment under this contract. Contractors which provide services through the contract to more than one county shall present their plan for review and approval to the Central Office of Employment and Training. Such plan shall be submitted on Form PA 778. A copy of the contractor's approved plan shall be returned with 30 days of notice to proceed to the initiating office/facility.
  2. Pursuant to the approved plan, the contractor shall make a good faith effort to fill at least 25% of the new or vacant jobs created under this contract with qualified recipients referred by the County Assistance Office Employment Unit Coordinator.
  3. Hiring under the approved plan shall be verified by Quarterly Contract Reports on Form PA 1540 to the Employment Unit Coordinator or to the Central Office of Employment and Training for plans covering more than one county. Such reports shall be made in the format approved by the Department.
  4. The Department may cancel this contract upon thirty (30) days written notice in the event of contractor's failure to implement or abide by an 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. **Lobbying Certification and Disclosure** (Applicable to contracts \$100,000 or more): Commonwealth agencies will not contract with outside firms or individuals to perform lobbying services, regardless of the source of funds. With respect to an award of a federal contract, grant, or cooperative agreement exceeding \$100,000 or an award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000 all recipients must certify that they will not use federal funds for lobbying and must disclose the use of non-federal funds for lobbying by filing required documentation. The contractor will be required to complete and return a "Lobbying Certification Form" and a "Disclosure of Lobbying Activities form" with their signed contract, which forms will be made attachments to the contract.
- U. **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.

**APPENDIX C**  
**DOMESTIC WORKFORCE UTILIZATION CERTIFICATION**

To the extent permitted by the laws and treaties of the United States, each proposal will be scored for its commitment to use the 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. In order to be eligible for any consideration for this criterion, offerors must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the offeror for this criterion.

I, \_\_\_\_\_ [title] of \_\_\_\_\_ [name of Contractor] a \_\_\_\_\_ [place of incorporation] corporation or other legal entity, ("Contractor") located at \_\_\_\_\_ [address], having a Social Security or Federal Identification Number of \_\_\_\_\_, do hereby certify and represent to the Commonwealth of Pennsylvania ("Commonwealth") (Check **one** of the boxes below):

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom

OR

\_\_\_\_\_ percent (\_\_\_\_%) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States or within the geographical boundaries of one of the countries listed above that is a party to the World Trade Organization Government Procurement Agreement. Please identify the direct labor performed under the contract that will be performed outside the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement and identify the country where the direct labor will be performed:

\_\_\_\_\_  
[Use additional sheets if necessary]

The Department of General Services [**or other purchasing agency**] shall treat any misstatement as fraudulent concealment of the true facts punishable under Section 4904 of the *Pennsylvania Crimes Code*, Title 18, of Pa. Consolidated Statutes.

Attest or Witness:

\_\_\_\_\_  
Corporate or Legal Entity's Name

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Signature/Date

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_  
Printed Name/Title

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## SUBRECIPIENT / VENDOR AUDITS

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### AUDIT CLAUSE D – VENDOR

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The Commonwealth of Pennsylvania, Department of Public Welfare (DPW), 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 DPW are subject to DPW 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.

**Vendor** 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 vendor's responsibility is to meet the requirements of the procurement contract.

#### **Department of Public Welfare Audit Requirement**

If in connection with the agreement, an entity **expends \$300,000 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 (SSAE), examinations, Section 601, *Compliance Attestation*, and shall be of a scope acceptable to the DPW. The initial SSAE, Section 601, compliance examination shall be completed for the official annual reporting period of this agreement and conducted annually thereafter. The independent auditor shall issue a report on its compliance examination, as defined in the SSAE, Section 601.

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.

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 DPW's option until such litigation, claim, or exceptions have reached final disposition.

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## SUBRECIPIENT / VENDOR AUDITS

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### AUDIT CLAUSE D – VENDOR

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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

#### **DPW Required Audit Report Submission**

The contractor shall submit the SSAE, Section 601 audit report to the DPW within 90 days after the required period of audit has ended. When the SSAE, Section 601, audit report is other than unqualified, the contractor shall submit to the DPW, 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 report, a timetable for implementing the planned corrective actions, and a process for monitoring compliance with the timetable.

Submit **two copies** of the DPW 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 DPW's 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.

#### **TECHNICAL ASSISTANCE**

Technical assistance on the DPW's audit requirements, will be provided by:

Department of Public Welfare  
Bureau of Financial Operations  
Division of Financial Policy and Operations  
Audit Resolution Section  
3<sup>rd</sup> Floor, Bertolino Building  
P.O. Box 2675  
Harrisburg, Pennsylvania 17105-2675  
Phone: (717) 787-8890    FAX: (717) 772-2522



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## SUBRECIPIENT / VENDOR AUDITS

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### AUDIT CLAUSE D – VENDOR ENCLOSURE I

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The Department of Public Welfare (DPW) 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 guidelines.

#### 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]

**LOBBYING CERTIFICATION FORM**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure of Lobbying Activities, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under *Section 1352, Title 31, U. S. Code*. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U S C section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

- 1 Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action
- 2 Identify the status of the covered Federal action.
- 3 Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
- 4 Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
- 5 If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
- 6 Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
- 7 Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
- 8 Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
- 9 For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
- 10 (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: <sup>4c</sup>	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known:	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

**APPENDIX F  
FORMAT FOR QUESTIONS**

Date:

Subject: Preproposal Conference Questions

To: Chairman  
Evaluation Committee

From: Name:  
Firm:  
Date:

1.

2.

3.

4.

5.

6.

## **COMMONWEALTH OF PENNSYLVANIA BUSINESS ASSOCIATE APPENDIX**

**WHEREAS**, the Pennsylvania Department of Welfare Office of Mental Health and Substance Abuse and \_\_\_\_\_ (Business Associate) intend to protect the privacy and security of certain Protected Health Information (PHI) to which Business Associate may have access in order to provide goods or services to or on behalf of Covered Entity, in accordance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA), Pub. L. No. 111-5 (Feb. 17, 2009) and related regulations, the HIPAA Privacy Rule (Privacy Rule), 45 C.F.R. Parts 160 and 164, as amended, the HIPAA Security Rule (Security Rule), 45 C.F.R. Parts 160, 162 and 164), as amended, 42 U.S.C. § 602(a)(1)(A)(iv), 42 U.S.C. § 1396a(a)(7), 35 P.S. § 7607, 50 Pa.C.S. § 7111, 71 P.S. § 1690.108(c), 62 P.S. § 404, 55 Pa. Code Chapter 105, 55 Pa. Code Chapter 5100, 42 C.F.R. §§ 431.301-431.302, 45 C.F.R. § 205.50, the Pennsylvania Breach of Personal Information Notification Act, 73 P.S. § 2301 *et seq.*, and other relevant laws, including subsequently adopted provisions applicable to use and disclosure of confidential information, and applicable agency guidance.

**WHEREAS**, Business Associate may receive PHI from Covered Entity, or may create or obtain PHI from other parties for use on behalf of Covered Entity, which PHI must be used, handled and disclosed in accordance with this Appendix and the standards established by HIPAA, the HITECH Act and related regulations, and other applicable laws and agency guidance.

**NOW, THEREFORE**, Covered Entity and Business Associate agree as follows:

**1. Definitions.**

- a. “Business Associate” shall have the meaning given to such term under HIPAA, the HITECH Act, applicable regulations and agency guidance.
- b. “Covered Entity” shall have the meaning given to such term under HIPAA, the HITECH Act and applicable regulations and agency guidance.
- c. “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.
- d. “HITECH Act” shall mean the Health Information Technology for Economic and Clinical Health (HITECH) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA).
- e. “Privacy Rule” shall mean the standards for privacy of individually identifiable health information in 45 C.F.R. Parts 160 and 164, as amended, and related agency guidance.
- f. “Protected Health Information” or “PHI” means any information, transmitted or recorded in any form or medium; (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA, the

HITECH Act and related regulations and agency guidance. PHI also includes any and all information that can be used to identify a current or former applicant or recipient of benefits or services of Covered Entity or its contractors/ or business associates.

- g. "Security Rule" shall mean the security standards in 45 C.F.R. Parts 160, 162 and 164, as amended, and related agency guidance.
- h. "Unsecured PHI" shall mean PHI that is not secured through the use of a technology or methodology as specified in HITECH regulations and agency guidance or as otherwise defined in the HITECH Act.

2. **Stated Purposes For Which Business Associate May Use Or Disclose PHI.** The Parties hereby agree that Business Associate shall be permitted to use and/or disclose PHI provided by or obtained on behalf of Covered Entity for providing medical review team services under its contract with Covered Entity, except as otherwise stated in this Appendix.

**NO OTHER DISCLOSURES OF PHI OR OTHER INFORMATION ARE PERMITTED.**

3. **BUSINESS ASSOCIATE OBLIGATIONS:**

- a) **Limits On Use And Further Disclosure.** Business Associate shall not further use or disclose the PHI provided by, or created or obtained on behalf of Covered Entity other than as permitted or required by this Appendix or as required by law and agency guidance.
- b) **Appropriate Safeguards.** Business Associate shall establish and maintain appropriate safeguards to prevent any use or disclosure of PHI other than as provided for by this Appendix. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that is created, received, maintained, or transmitted on behalf of the Covered Entity and limiting use and disclosure to applicable minimum necessary requirements as set forth in applicable federal and state statutory and regulatory requirements and agency guidance.
- c) **Reports Of Improper Use Or Disclosure.** Business Associate hereby agrees that it shall report to Thomas Zarb, Chief, Security Architecture Section, Bureau of Information Systems at 717-772-7449, within two (2) days of discovery any use or disclosure of PHI not provided for or allowed by this Appendix.
- d) **Security Incidents.** In addition to following the breach notification requirements in section 13402 of HITECH Act and related regulations, agency guidance and other applicable federal and state laws, Business Associate shall report to Thomas Zarb at 717-772-7449, within two (2) days of discovery any security incident of which it becomes aware. At the sole expense of Business Associate,

Business Associate shall comply with all applicable federal and state breach notification requirements. Business Associate shall indemnify the Covered Entity for costs associated with any incident involving the acquisition, access, use or disclosure of Unsecured PHI in a manner not permitted under federal or state law and agency guidance.

- (e) **Subcontractors And Agents.** At any time PHI is provided or made available to any subcontractors or agents, Business Associate shall provide only the minimum necessary PHI for the purpose of the covered transaction and shall first enter into a subcontract or contract with the subcontractor or agent that contains the same terms, conditions and restrictions on the use and disclosure of PHI as contained in this Appendix.
- (f) **Right Of Access To PHI.** Business Associate will allow an individual who is the subject of PHI maintained in a designated record set, to have access to and copy that individual's PHI within five (5) business days of receiving a written request from the Covered Entity. Business Associate shall provide PHI to the extent and in the manner required by 45 C.F.R. § 164.524 and other applicable federal and state law and agency guidance. If Business Associate maintains an electronic health record, Business Associate must provide the PHI in electronic format if requested. If any individual requests from Business Associate or its agents or subcontractors access to PHI, Business Associate shall notify Covered Entity of same within five (5) business days. Business Associate shall further conform with and meet all of the requirements of 45 C.F.R. §164.524 and other applicable laws, including the HITECH Act and related regulations, and agency guidance.
- (g) **Amendment And Incorporation Of Amendments.** Within five (5) business days of receiving a request from Covered Entity for an amendment of PHI maintained in a designated record set, Business Associate shall make the PHI available and incorporate the amendment to enable Covered Entity to comply with 45 C.F.R. §164.526, applicable federal and state law, including the HITECH Act and related regulations, and agency guidance. If any individual requests an amendment from Business Associate or its agents or subcontractors, Business Associate shall notify Covered Entity within five (5) business days.
- (h) **Provide Accounting Of Disclosures.** Business Associate will maintain a record of all disclosures of PHI in accordance with 45 C.F.R. §164.528 and other applicable laws and agency guidance, including the HITECH Act and related regulations. Such records shall include, for each disclosure, the date of the disclosure, the name and address of the recipient of the PHI, a description of the PHI disclosed, the name of the individual who is the subject of the PHI disclosed, and the purpose of the disclosure. Business Associate shall make such record available to the individual or the Covered Entity within five (5) business days of a request for an accounting of disclosures.



- (i) Requests for Restriction.** Business Associate shall comply with requests for restrictions on disclosures of PHI about an individual if the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for treatment purposes), and the PHI pertains solely to a health care item or service for which the service involved was paid in full out-of-pocket. For other requests for restriction, Business Associate shall otherwise comply with the Privacy Rule, as amended, and other applicable statutory and regulatory requirements and agency guidance.
- (j) Access To Books And Records.** Business Associate will make its internal practices, books, and records relating to the use or disclosure of PHI received from, or created or received by Business Associate on behalf of the Covered Entity, available to the Secretary of Health and Human Services or designee for purposes of determining compliance with applicable laws and agency guidance.
- (k) Return Or Destruction Of PHI.** At termination or expiration of its contract with Covered Entity, Business Associate will return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate will not retain any copies of the PHI after termination of this contract. If return or destruction of the PHI is not feasible, Business Associate extends the protections of this Appendix to limit any further use or disclosure until such time as the PHI may be returned or destroyed. If Business Associate elects to destroy the PHI, it shall certify to Covered Entity that the PHI has been destroyed.
- (l) Maintenance of PHI.** Notwithstanding Section 3(k) of this Agreement, Business Associate and its subcontractors or agents shall retain all PHI throughout the term of its contract and shall continue to maintain the information required under the various documentation requirements of this Appendix (such as those in §3(h)) for a period of six (6) years after termination of the contract, unless Covered Entity and Business Associate agree otherwise.
- (m) Mitigation Procedures.** Business Associate will establish and provide to Covered Entity upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Appendix or the Privacy Rule, as amended. Business Associate will mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Appendix or applicable laws and agency guidance.
- (n) Sanction Procedures.** Business Associate shall develop and implement a system of sanctions for any employee, subcontractor or agent who violates this Appendix, applicable laws or agency guidance.
- (o) Grounds For Breach.** Non-compliance by Business Associate with this Appendix or the Privacy or Security Rules, as amended, is a breach of the contract, if Business Associate knew or reasonably should have known of such

non-compliance and failed to immediately take reasonable steps to cure the non-compliance.

- (p) **Termination by Commonwealth.** Business Associate authorizes termination of its contract for Medical Review Team services if the Covered Entity determines, in its sole discretion, that the Business Associate has violated a material term of this Agreement.
- (q) **Failure to Perform Obligations.** In the event Business Associate fails to perform its obligations under this Appendix, Covered Entity may immediately discontinue providing PHI to Business Associate. Covered Entity may also, at its option, require Business Associate to submit to a plan of compliance, including monitoring by Covered Entity and reporting by Business Associate, as Covered Entity in its sole discretion determines to be necessary to maintain compliance with this Appendix and applicable laws and agency guidance.
- (r) **Privacy Practices.** The Department will provide and Business Associate shall immediately begin using any applicable form, including but not limited to, any form used for Notice of Privacy Practices, Accounting for Disclosures, or Authorization, upon the effective date designated by the Program or Department. The Department retains the right to change the applicable privacy practices, documents and forms. The Business Associate shall implement changes as soon as practicable, but not later than 45 days from the date of notice of the change.

#### 4. OBLIGATIONS OF COVERED ENTITY:

- a) **Provision of Notice of Privacy Practices.** Covered Entity shall provide Business Associate with the notice of privacy practices that the Covered Entity produces in accordance with applicable law and agency guidance, as well as changes to such notice.
- b) **Permissions.** Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individual to use or disclose PHI of which Covered Entity is aware, if such changes affect Business Associate's permitted or required uses and disclosures.
- c) **Restrictions.** Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that the Covered Entity has agreed to in accordance with 45 C.F.R. §164.522 and other applicable laws and applicable agency guidance, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

**APPENDIX I - PROPOSAL COVER SHEET**  
**COMMONWEALTH OF PENNSYLVANIA**  
**[Department of Public Welfare]**  
RFP# \_\_\_\_\_07-10\_\_\_\_\_

Enclosed in three separately sealed submittals is the proposal of the Offeror identified below for the above-referenced RFP:

<b>Offeror Information:</b>	
Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone Number	
Contact Person's Facsimile Number	
Contact Person's E-Mail Address	
Offeror Federal ID Number	

<b>Submittals Enclosed and Separately Sealed:</b>	
<input type="checkbox"/>	Technical Submittal
<input type="checkbox"/>	Disadvantaged Business Submittal
<input type="checkbox"/>	Contractor Partnership Program Submittal
<input type="checkbox"/>	Cost Submittal

<b>Signature</b>	
Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:	
Printed Name	
Title	

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM WITH THE OFFEROR'S PROPOSAL MAY RESULT IN THE REJECTION OF THE OFFEROR'S PROPOSAL**

**APPENDIX J**  
**CORPORATE REFERENCE QUESTIONNAIRE**

Proposer Information

Reference Information

**Proposer** \_\_\_\_\_

**Corporation/Company** \_\_\_\_\_

**Address** \_\_\_\_\_

**Contact Person** \_\_\_\_\_

**Telephone Number** \_\_\_\_\_

**Telephone Number** \_\_\_\_\_

<p><b>Q1.</b> What function does/did the contractor perform for you?</p>		
<p><b>Q2.</b> What is/was the dollar amount of your contract?</p>		
<p><b>Q3.</b> What is/was the time period in which services were provided?</p>		
<p><b>Ratings: Summarize contractor's performance and circle in the column on the right the number that corresponds to the performance rating for each rating category. Please use the following rating scale.</b></p> <p><b>0–Unsatisfactory 1–Poor 2–Fair 3–Good 4–Excellent 5–Demonstrated Exceptional Performance</b></p>		
<p><b>Q4.</b> Rate the contractor's overall performance.</p>	<p>Comments:</p>	<p>Rating: 0 1 2 3 4 5</p>
<p><b>Q5.</b> How would you assess the contractor's key personnel?  (How long did key personnel work on the contract – did they effectively manage the contract – were they responsive to technical direction?)</p>	<p>Comments:</p>	<p>Rating: 0 1 2 3 4 5</p>
<p><b>Q6.</b> Please rate and comment on the contractor's ability to work with your in-house staff.</p>	<p>Comments:</p>	<p>Rating: 0</p>

		1 2 3 4 5
<b>Q7.</b> Please rate and comment on the contractor's technical skills and knowledge in providing managed care or healthcare services.	Comments:	Rating: 0 1 2 3 4 5
<b>Q8.</b> Please rate and comment on the contractor's reasonableness in resolving conflicts or problems.	Comments:	Rating: 0 1 2 3 4 5
<b>Q9.</b> Please rate and comment on the contractor's commitment to customer satisfaction.	Comments:	Rating: 0 1 2 3 4 5
<b>Q10.</b> How cooperative was the contractor during contract negotiations? Please explain your rating.	a. Highly cooperative b. Moderately cooperative c. Slightly cooperative d. Slightly uncooperative e. Moderately uncooperative f. Highly uncooperative g. No opinion  <b>Explanation:</b>	
<b>Q11.</b> Would you hire the contractor again for another project? Please explain your rating.	a. Yes b. No  <b>Explanation:</b>	

<b>Q12.</b> What do you view as the contractor's greatest strength?	Comments:
<b>Q13.</b> What do you view as the contractor's greatest weakness?	Comments:
<b>Q14.</b> Is there anything you would like to add concerning the contractor?	Comments:

**PRINT NAME:** \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_