



pennsylvania
DEPARTMENT OF HUMAN SERVICES
DIVISION OF PROCUREMENT

March 18, 2015

SUBJECT: Request for Proposal (RFP) 08-14 Preferred Drug List, Rebates, and Retrospective Drug Use Review

Dear Prospective Offeror:

You are invited to submit a proposal for the above subject RFP for the Commonwealth of Pennsylvania, Department of Human Services in accordance with the attached Request for Proposal (RFP) 08-14.

All proposals must be submitted as follows:

Hardcopy:

- Technical Submittal: one (1) original and seven (7) copies;
- Cost Submittal: two (2) copies (sealed separately from the Technical and SDB Submittals); and
- Small Diverse Business Submittal (SDB): two (2) copies (sealed separately from the Technical and Cost Submittals).

CD-ROM/Flash Drive:

- Two (2) separate CD-ROM/Flash Drives, each containing complete and exact copies of the proposed submittals; in Microsoft Office or Microsoft Office compatible format and a PDF copy of the Technical (excluding Financial Capability), Cost, and SDB Submittals; and
- One (1) redacted version of the Technical Submittal, excluding Financial Capability on CD-ROM or Flash Drive, in Microsoft Office or Microsoft Office-compatible format.

Proposals must be submitted to the Pennsylvania Department of Human Services, Division of Procurement, Room 402, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120. **Proposals must be received at the above address no later than two o'clock P.M. (2:00 P.M.) on June 5, 2015. Late proposals will not be considered regardless of the reason.**

All questions should be directed to the William Spiker, Project Officer, Department of Human Services, Office of Administration, Bureau of Financial Operations via e-mail RA-pwrfpquestions@pa.gov no later than **April 14, 2015**. Offerors will be provided with answers to questions asked by any one offeror.

In addition, a Pre-Proposal Conference will be held, the specifics of which, will be provided as an addendum to this RFP.



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Proposals **must** be signed by an official authorized to bind the vendor to its provisions. Also, please include your Federal Identification Number, SAP Vendor Number and the Point of Contact's email address on the cover sheet of your proposal. Evaluation of proposals and selection of vendors will be completed as quickly as possible after receipt of proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel R. Boyd".

Daniel R. Boyd
Director of Procurement

Attachments

REQUEST FOR PROPOSALS FOR

Preferred Drug List, Rebates, and Retrospective Drug Use Review

ISSUING OFFICE

**Department of Human Services
Office of Administration
Bureau of Financial Operations
Division of Procurement
Room 402 Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120**

On behalf of

Office of Medical Assistance Programs

RFP NUMBER

08-14

DATE OF ISSUANCE

March 18, 2015

**REQUEST FOR PROPOSALS FOR
Preferred Drug List, Rebates, and Retrospective Drug Use Review**

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CALENDAR OF EVENTS

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

Activity	Responsibility	Date
Deadline to submit Questions via email to RA-pwrfpquestions@pa.gov .	Potential Offerors	April 14, 2015 5:00 p.m.
Pre-proposal Conference—Location The Pennsylvania Child Welfare Training Center 403 East Winding Hill Road, Mechanicsburg, PA 17055	Issuing Office/Potential Offerors	April 14, 2015 9:00 a.m. to 11:00 a.m.
Answers to Potential Offeror questions posted to the DGS website (http://www.dgsweb.state.pa.us/RTA/Search.aspx) no later than this date.	Issuing Office	April 22, 2015
Please monitor website for all communications regarding the RFP.	Potential Offerors	On-going
Sealed proposal must be received by the Issuing Office at Department of Human Services Division of Procurement Room 402 Health and Welfare Building 625 Forster Street	Offerors	June 5, 2015 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 Human Services (Department or DHS), Office of Medical Assistance Programs (OMAP) consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for Preferred Drug List (PDL), Rebate, and Retrospective Drug Use Review (Retro DUR) services (“Project”).

I-2.Issuing Office. The Department, Office of Administration (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be William Spiker, RA-pwrfpquestions@pa.gov, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing 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 is issuing this RFP to contract for assistance in maintaining a clinically based PDL, and in administering the Commonwealth’s participation in the federal drug rebate program, and the state supplemental rebate program, including market share rebates. The resulting contract will also include support for the Department’s RetroDUR. Additional detail is provided in **Part IV** of this RFP.

I-5.Type of Contract. It is proposed that if DHS enters into a contract as a result of this RFP, it will be a deliverables based, fixed-price contract containing the Standard Contract Terms and Conditions as shown in **Appendix A** and the DHS Addendum to Standard Contract Terms and Condition as shown in **Appendix B**, including all riders and the Audit Clause D in **Appendix K**. 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 may, in its sole and complete discretion, 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 an award of the contract.

I-8.Pre-proposal Conference. DHS will hold a Pre-proposal conference as specified in the Calendar of Events. The purpose of this conference is to provide opportunity for clarification of the RFP. Offerors should forward all questions to the Issuing Office in accordance with **Part I, Section I-9** to ensure adequate time for analysis before DHS provides an answer. Offerors may

also ask questions at the conference. In view of the limited facilities available for the conference, Offerors should limit their representation to two (2) individuals per Offeror. The Pre-proposal conference is for information only. Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. All questions and written answers will be posted on the Department of General Services' (DGS) website as an addendum to, and shall become part of, this RFP. Attendance at the Pre-proposal Conference is optional, but is highly recommended.

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 08-14 Question"**) to the Issuing Officer named in **Part I, Section I-2** of the RFP. If the Offeror has questions, they must be submitted via email **no later than** the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions on the DGS website by the date stated on the Calendar of Events. An Offeror who submits a question *after* the deadline date for receipt of questions indicated on the Calendar of Events assumes the risk that its proposal will not be responsive or competitive because the Commonwealth is not able to respond before the proposal receipt date or in sufficient time for the Offeror to prepare a responsive or competitive proposal. When submitted after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Department decides to respond to a non-administrative question *after* the deadline date for receipt of questions indicated on the Calendar of Events, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the DGS website are considered as an addendum to, and part of, this RFP in accordance with RFP **Part I, Section I-10**. Each Offeror shall be responsible to monitor the DGS website for new or revised RFP information. 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 Department. The Department does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is described in **Section I-27 RFP Protest Procedure**.

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 Department 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 Department will reject, unopened, any 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 copies of the Cost Submittal, and two (2) paper copies of the Small Diverse Business (SDB) participation submittal.** In addition to the paper copies of the proposal, Offerors shall submit two **complete and exact** copies of the entire proposal (Technical, Cost and SDB submittals, along with all requested documents) on CD-ROM or Flash drive in Microsoft Office or Microsoft Office-compatible format. The electronic copy must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. Additionally, on the two (2) CD-ROM or Flash drives, include separate folders which contain a complete and exact copy of the entire Technical Submittal (excluding financial capability) and SDB submittals in PDF (portable document format). To the extent that an Offeror designates information as confidential or proprietary or trade secret protected in accordance with Part I Section I-18, the Offeror must also include one (1) redacted version of the Technical Submittal, excluding Financial Capability on CD-ROM or Flash Drive, in Microsoft Office or Microsoft Office-compatible format. The Offerors may not lock or protect any cells or tabs. 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. Offerors should ensure that there is no costing information in the Technical Submittal. Offerors should not reiterate technical information in the Cost Submittal. 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 D** to this RFP) and the Proposal Cover Sheet is attached to the Offeror's proposal, the requirement will be met. For this RFP, the proposal must remain valid for 120 days or until a contract is fully executed. If the Department selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

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

I-13. Small Diverse Business Information. The DHS encourages participation by small diverse businesses as prime contractors, and encourages all prime contractors to make a significant commitment to use small diverse businesses as subcontractors and suppliers.

A Small Diverse Business is a DGS-verified minority-owned business, woman-owned business, veteran-owned business or service-disabled veteran-owned business.

A small business is a business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than \$7 million in gross annual revenues for building design, \$20 million in gross annual revenues for sales and services and \$25 million in gross annual revenues for those businesses in the information technology sales or service business.

Questions regarding this Program can be directed to:

Department of General Services
Bureau of Small Business Opportunities
Room 611, North Office Building
Harrisburg, PA 17125
Phone: (717) 783-3119
Fax: (717) 787-7052
Email: gs-bsbo@pa.gov
Website: www.dgs.state.pa.us

The Department's directory of Bureau of Small Business Opportunities (BSBO)-verified minority, women, veteran and service disabled veteran-owned businesses can be accessed from: [Searching for Small Diverse Businesses](#).

I-14. Economy of Preparation. Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP.

I-15. Alternate Proposals. The DHS has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The DHS will not accept alternate proposals.

I-16. Discussions for Clarification. Offerors may be required to make an oral or written clarification of their proposals to the Department to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.

I-17. 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-18. Proposal Contents.

- A. Confidential Information. The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in subsection C. below and must additionally provide a redacted version of its proposal in accordance with **Part I, Section I-12**, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.
- B. Commonwealth Use. All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania and may be returned only at the Department's option. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained on proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.
- C. Public Disclosure. After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Refer to **Appendix I** of the RFP for a Trade Secret Form that may be used as the signed written statement, if applicable. If financial capability information is submitted in response to Part II of this RFP such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

I-19. Best and Final Offers.

- A. While not required, the Department may 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, in any combination and order:
1. Schedule oral presentations;
 2. Request revised proposals; and
 3. Enter into pre-selection negotiations.
- B. The following Offerors will **not** be invited by Department to submit a Best and Final Offer:

1. Those Offerors, which the Department has determined to be not responsible or whose proposals the Department has determined to be not responsive.
2. Those Offerors, which the Department has determined in accordance with **Part III, Section III-5**, from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.
3. Those Offerors whose score for their Technical Submittal of the proposal is less than 70% of the total amount of technical points allotted to the technical criterion.

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

- C. The Evaluation Criteria found in **Part III, Section III-4**, shall also be used to evaluate the Best and Final offers.
- D. Except as otherwise provided in the request for best and final offers, price reductions shall have no effect upon the Offeror's Technical Submittal. Dollar commitments to Small Diverse Businesses can be reduced only in the same percentage as the percent reduction in the total price offered through negotiations.

I-20. News Releases. Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

I-21. Restriction of Contact. From the issue date of this RFP until the Department selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the 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 Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel or competing Offeror personnel may be disqualified.

I-22. 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-22**. Specifically, DHS will be responsible for:

- A. Managing the PDL
- B. Prior authorizing drugs
- C. Approving materials prepared by the selected Offeror and distributing them to the Pharmacy & Therapeutics (P&T) Committee
- D. Approving P&T Committee recommendations
- E. Notifying providers and consumers about changes to the PDL

- F. Conducting the process for public input on guidelines to determine medical necessity of drugs subject to the PDL that require prior authorization
- G. Selecting Retro DUR criteria for review, reviewing patient profiles, and determining whether interventions should be made
- H. Facilitating the selected Offeror's communications with the Centers for Medicare & Medicaid Services (CMS)
- I. Facilitating the selected Offeror's communications with other Contractors and Commonwealth offices
- J. Monitoring and evaluating the selected Offeror's performance
- K. Assigning the contract manager/project manager

I-23. Term of Contract. The term of the contract will commence on the Effective Date and will end three (3) years from the Effective Date. Subject to the performance of the selected Offeror and other considerations, the Department may renew the contract on the same terms and conditions for two (2) additional one (1) year periods. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.

I-24. Offeror's Representations and Authorizations. By submitting its proposal, each Offeror understands, represents, and acknowledges that:

- A. The Offeror's information and representations in the proposal are material and important, and the Department may rely upon the contents of the proposal in awarding the contract. 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 or precluded from participation in any federally funded health care program 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-25. Notification of Selection.

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

I-26. Debriefing Conferences. Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Department will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror

proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute nor toll the time for filing a protest (See Part I, Section I-27 of this RFP).

I-27. RFP Protest Procedure. Offerors and prospective Offerors who are aggrieved in connection with the solicitation or award of a contract under this RFP may file a protest with the Department. Any such protest must be in writing and must comply with the requirements set forth in the Commonwealth Procurement Code at 62 Pa.C.S. §1711.1.

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

Department of Human Services
Office of Administration, Bureau of Financial Operations
Division of Procurement
Room 402 Health and Welfare Building
625 Forster Street
Harrisburg, Pennsylvania 17120
Attn: Daniel R. Boyd
Email address: dboyd@pa.gov
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-28. Use of Electronic Versions of this RFP. This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern

PART II

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 Small Diverse Business cost data should be kept separate from and not included in the Technical Submittal. Each Proposal shall consist of the following **three** separately sealed submittals:

The Department may request additional information which, in its 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 may 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.

A. Technical Submittal, which shall be a response to RFP **Part II, Sections II-1 through II-8**; Offerors must format their technical responses as follows:

- Tab 1: Table of Contents
- Tab 2: Statement of the Problem
- Tab 3: Management Summary
- Tab 4: Emergency Preparedness
- Tab 5: Work Plan/Work Statement Questionnaire
- Tab 6: Prior Experience
- Tab 7: Personnel
- Tab 8: Financial Capability
- Tab 9: Objections to Standard Terms and Conditions
- Tab 10: Corporate Reference Questionnaire (**Appendix E**)
- Tab 11: Key Personnel Professional Reference Questionnaire (**Appendix F**)
- Tab 12: Trade Secret/Confidential Proprietary Notice (**Appendix I**)
- Tab 13: Lobbying Certification (**Appendix J**)
- Tab 14: Domestic Workforce Utilization Certification (**Appendix C**)

B. Small Diverse Business participation submittal, in response to RFP **Part II, Section II-9**; and

C. Cost Submittal, in response to RFP **Part II, Section II-10**.

D. Proposals must be in the following format:

1. Pages must be 8.5 by 11 inches with right and left margins of one (1) inch; and be double-sided.
2. Must use Arial or Times New Roman font with a size of twelve (12).
3. Tab and Section headings, show in Part II-A, General Proposal Requirements, **MUST** be used.
4. Each page of the proposal must include a page number and identification of the Offeror in the page footer.
5. Materials provided in any Appendix must be specifically referenced by page number(s) in the body of the proposal.
6. Exceptions for paper and font size are permissible for project schedule (Microsoft Project) or for graphical exhibits and material in appendices which may be printed on white paper with dimension of 11 by 17 inches.

II-1. Statement of the Problem. (Limit: Two pages) State in succinct terms your understanding of the problem presented or the service required by this RFP.

II-2. Management Summary. (Limit: Three Pages) Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided. Explain how you will ensure compliance with the IT requirements set forth in Section IV-3.

II-3. Emergency Preparedness. (Limit: Two pages) Include a narrative description of the Offeror's plan to maintain operations during an emergency. State in succinct terms the following: (1) how the Offeror anticipates a crisis will impact operations; and (2) the Offeror's plan to respond to an emergency and ensure continuity of operations. Use the description in **Part IV-3.F.** of this RFP as your reference point.

II-4. Work Plan. Describe in narrative form your technical plan for accomplishing the work. Structure your response consistent with the Work Statement Questionnaire and be sure to 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. If more than one approach is apparent, comment on why you chose this approach. Responses to each of the questions in the Work Statement Questionnaire provided below must be incorporated into the technical plan.

Work Statement Questionnaire

A. Transition (Section IV-4. Tasks, Task 1)

- a. Describe the Offeror's plan for transition from the contractors that currently support maintenance of the Department's PDL, administer the Drug Rebate Program (Federal, supplemental and market share rebates), and support the operation of RetroDUR initiatives. (Limit: Five pages)
- b. Explain how the Offeror's transition plan will accomplish:

- i. The successful transition of all rebate data from the current rebate contractors including open invoices, unpaid rebates and open disputes
- ii. A seamless transition of all services (Limit: Three pages)

B. Policies and Procedures (Section IV-4. Tasks, Task 2)

- a. Describe how the Offeror's policies and procedures for each contracted function will support the: (Limit: Two pages)
 - Preferred Drug List
 - Drug Rebate Program
 - Retrospective Drug Utilization Review Program
- b. Describe the Offeror's approach to determining when new or updates to current policies and procedures are required. (Limit: One page)
- c. Submit examples of policies and procedures the Offeror has used for similar projects. (Limit: Three examples total; one for each area of responsibility listed in a. above)

C. Materials Development (Section IV-4. Tasks, Task 3)

- a. Describe the Offeror's approach to design, develop and update materials. Also, describe the process and timeline the Offeror will follow to submit preliminary and final draft materials to the Department for approval and to update materials to meet the Department's needs. (Limit: Two pages)
- b. Describe how the Offeror will stay current on new pharmacy-related information or literature and the process for determining when materials may need to be updated based on the new information. (Limit: Two pages)

Provide examples of printed materials the Offeror has used for other PDLs, drug rebate, and RetroDUR programs. (Limit: Six examples total; at least one for each area of responsibility listed in B.a. above.)

D. PDL Maintenance (Section IV-4. Tasks, Task 4)

- a. Provide a detailed description of how the Offeror will review the current PDL Program design and operational procedures and make recommendations for modifications to enhance the program and process. (Limit: Two pages)
- b. Describe the Offeror's proposed approach for each of the following: (Limit: Twenty pages total)
 - Providing ongoing recommendations for new therapeutic drug classes and changes to current drug classes and medical supplies included on the PDL.

- Collaborating with the Department regarding therapeutic drug classes to include on the PDL.
 - Analyzing the potential impacts of changes to the PDL on access, health outcomes, costs and utilization.
 - Developing an operational work plan and schedule for Pharmacy & Therapeutics (P&T) Committee review of each therapeutic drug class on the PDL and Supplemental Rebates.
 - Performing ongoing maintenance and evaluation of the PDL Program, including fiscal and strategic analyses as required.
 - Demonstrating to the Department how drugs recommended as preferred will enable the Department to realize the net best value; for example, preferred brand name drug, versus the authorized generic drug, versus the generic drug(s).
 - Developing guidelines to determine medical necessity of drugs designated as non-preferred and preferred drugs that should require a clinical prior authorization for health and safety reasons.
 - Calculating any remuneration from pharmaceutical manufacturers, all rebate offers being made by manufacturers and any other pertinent information, including vendor administrative costs and incentives related to vendor supplemental rebate negotiation and PDL development.
- c. Provide an example of a PDL program-related initiative the Offeror recommended to another state Medicaid agency. (Limit: Two pages)

E. P&T Committee Support (Section IV-4, Tasks, Task 5)

- a. Describe the Offeror's method to conduct a clinical and cost evaluation of all drugs in a therapeutic class AND explain how the method supports the clinical efficacy and cost effectiveness of the Offeror's recommendations to the Department for designation of preferred and non-preferred on the PDL. (Limit: Three pages)
- b. Provide templates of the cost sheets for a therapeutic class of drugs that the Offeror will submit to the Department for internal evaluation and an external cost sheet for distribution to the P&T Committee. (Limit: Two samples)
- c. Provide sample therapeutic class reviews the Offeror has developed for another state's PDL Program. (Limit: Two examples)
- d. Describe the Offeror's proposed approach to providing the operational supports for the P&T Committee meetings. (Limit: Two pages)

F. Communication (Section IV-4, Program Requirements and Tasks, Task 6)

- a. Describe the proposed Pennsylvania-specific PDL Program webpage layout. Include a description of the types of information the Offeror recommends including on the website. Provide at least one web address to a website the Offeror has developed. (Limit: Three pages)

- b. Provide a sample PDL template that the Offeror proposes to share on the PDL Program website. (Limit: One sample)
- c. Describe the process the Offeror will make available for individuals to submit comments and questions through the website, and the process the Offeror will use to respond to these questions and comments. (Limit: Two pages)

G. Supplemental and Market Share Rebate Negotiation (Section IV-4, Tasks, Task 7)

- a. Describe the Offeror's proposed approach for supplemental and market share rebate negotiations and renegotiations with manufacturers. Explain how the Offeror's proposed approach will result in the best net cost (cost net of federal and supplemental rebates) for drugs and best net cost (cost net of market share rebates) for select medical supplies on the PDL. (Limit: Three pages)
- b. Indicate if the Offeror's proposed approach for negotiation and renegotiation with manufacturers for supplemental and market share rebates for all Medicaid Managed Care Organization ("MCO") drug and select medical supply encounters would be the same as, or different from the approach proposed for the Fee-for-Service (FFS) program should the Department decide to implement a statewide PDL. If different from the approach for the FFS program; describe the proposed approach for MCO encounters. (Limit: Three pages)
- c. Demonstrate the Offeror's ability to generate equal or greater savings for supplemental and market share rebates for the Pennsylvania Medical Assistance (MA) Program. See RFP Part IV, Section IV-2.O. for information on current savings. (Limit: Two pages)
- d. Provide a template of the letter the Offeror will use to notify pharmaceutical manufacturers of the supplemental rebate component of the PDL Program. (Limit: One page)
- e. Provide a template of the letter the Offeror will use to notify manufacturers of medical supplies of the market share rebate component of the PDL Program. (Limit: One page)
- f. Provide a sample Supplemental Rebate Agreement template and, if different, a sample Supplemental Rebate Agreement template that includes supplemental drug rebates for drugs paid for by the Department's Medicaid MCOs, and a sample Market Share Rebate Agreement template. (Limit: Three samples)
- g. Describe the method the Offeror will use to operate the supplemental rebate program. (Limit: Five pages)
- h. Describe the strategies and targeted interventions the Offeror will use to achieve increased cost savings over time. (Limit: Two pages)
- i. Describe the Offeror's multi-state Medicaid state supplemental rebate pooling initiative and how the Department can benefit from participation. (Limit: Two pages)

- j. Provide examples of the outcomes and ongoing analyses for supplemental rebates that the Offeror recommends conducting. (Limit: Two pages)

H. Administer the Federal and Supplemental Drug Rebate Programs (Section IV-4, Task 8)

- a. Describe the Offeror's approach for administering the Federal Medicaid Drug Rebate Program for both FFS claims and all MCO drug encounters consistent with federal requirements and guidance issued by CMS. Include in the description an indication of whether the Offeror has the capability for electronic invoices, and an explanation how the Offeror will identify valid NDC/HCPCs combinations for MCO encounter data and convert the units billed to the NDC rebate units for accurate rebate invoicing. (Limit: Twenty pages)
- b. Describe the Offeror's approach for administering the state supplemental and market share rebates. Indicate if the Offeror's proposed approach for administering state supplemental and market share rebates for all MCO drug and select medical supply encounters would be the same as, or different from the approach proposed for the FFS program should the Department decide to implement a statewide PDL. If different from the approach for the FFS program; describe the proposed approach for MCO encounters. (Limit: Twenty pages)
- c. Provide a detailed process and flow chart including each step of the rebate process for federal, supplemental, and market share rebates.
- d. Provide a work plan outlining each major task, staffing plans and completion dates for the Drug Rebate Program as well as the following (Limit: Ten pages):
 - The transition of all rebate data from the current rebate contractor to the Offeror
 - The process for addressing open invoices, unpaid rebates, and open disputes
 - A timeline for the next federal, supplemental and market share rebate invoicing cycles
 - Department user training for comprehensive drug rebate management system
- e. Describe the Offeror's relationship with manufacturers and experience in successful resolution of rebate disputes

I. RetroDUR Program (Section IV-4, Program Requirements and Tasks, Task 9)

- a. Describe the Offeror's proposed approach for the RetroDUR Program including the following: (Limit: Twenty pages)
 - Obtaining a one year history of medical and pharmacy claims and encounters from the Department's Medicaid Management Information System (MMIS) contractor for all MA recipients (FFS and MCO) to build patient profiles
 - Obtaining the PA MA provider enrollment file from the MMIS contractor
 - Obtaining regular file feeds containing medical and pharmacy claims and encounters from the MMIS for all PA MA recipients (FFS and MCO) to build patient profiles
 - Providing software to conduct monthly RetroDUR reviews and identify drug-related problems

- Providing the Department clinicians access to the software via web-based portal
 - Providing recommendations for RetroDUR criteria and the corresponding language for intervention letters for Department approval and possible revision (only Department approved criteria will be included for monthly profile reviews)
 - Verifying provider name and address and when provider is not MA enrolled, utilize NPPES or other national provider database to identify name and address to match NPI on the claims.
 - Developing intervention letter, patient profile, and provider feedback templates for Department approval
 - Collaborating and developing new criteria based on Department need
 - Providing monthly intervention letters to prescribers, beneficiaries, and pharmacies
 - Collecting provider feedback and display document image or provider entry in the patient profiles
 - Preparing relevant sections of the CMS Annual DUR Report as directed by the Department
 - Performing environmental scanning for new RetroDUR criteria and interventions
- b. Provide a work plan outlining each major task, staffing plans and completion dates for the RetroDUR Program as well as the following (Limit: Ten pages):
- Implementation timeline for building patient profiles and gaining Department approval of criteria and letter templates and intervention language
 - Department user training for Offeror's web-based software

J. Environmental Scanning (Section IV-4, Tasks, Task 10)

Describe how the Offeror will perform and report on environmental scanning, and explain how the process will support the Department in managing the full spectrum of covered drugs, optimizing rebates, and ensuring clinical effectiveness, safety and outcomes. (Limit: Two Pages)

K. Coordinate with the Department and Other Contractors (Section IV-4, Tasks, Task 11)

- a. Describe how the Offeror will coordinate with the Department, the Department's Contractors and other departments or offices, as specified by the Department. (Limit: Two pages).
- b. Describe how the Offeror will assist the Department to respond to inquiries and complaints about the PDL, Rebate or RetroDUR Programs. (Limit: One page)
- c. Describe how the Offeror will coordinate with the Department's MMIS contractor and its subcontractor and their successors to receive, store, analyze and report on data to meet the requirements of this RFP. Include an explanation of the system interfaces the Offeror anticipates being required. (Limit: Two pages)

L. Monitoring, Performance Standards and Corrective Action Plans (Section IV-4, Tasks, Task 12)

- a. Submit the Offeror's plan for monitoring its performance. Include a description of the Offeror's approach for conducting and using results of web-based Department satisfaction surveys. Provide a sample of survey questions. (Limit: Two pages)
- b. Describe the Offeror's approach to assisting the Department with analysis of the Offeror's success in meeting performance standards and how the Offeror will address any identified deficiencies. (Limit: Two pages)
- c. Describe the Offeror's approach to meeting the performance standards established in the RFP (Limit: Two pages).

M. Turnover (Section IV-4, Tasks, Task 13)

Describe the Offeror's plan for a successful transition of its contract activities to Department staff and a subsequent vendor, if any. (Limit: Two pages)

N. Required Reporting (Section IV-5, Reports and Project Control)

- a. Describe how the Offeror will meet the reporting requirements established in this RFP. Describe the current capability of the Offeror's Management Information System ("MIS") to provide required reports and any system modifications or updates to the Offeror's MIS that will be necessary. (Limit: Two pages)
- b. Describe reports the Offeror would recommend developing to monitor the success of the PDL, Drug Rebate and RetroDUR Programs that are not already outlined in this RFP. (Limit: One page)
- c. Describe how the Offeror will use reports to make recommendations to the Department for the contracted functions of this RFP. (Limit: Two pages)

II-5. Prior Experience. Experience shown should be work done by individuals who will be assigned to this project as well as that of your company.

- 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.

- b. **Corporate Experience.** The Offeror must describe experience providing services, including PDL programs, rebates and RetroDUR initiatives for other Medicaid state programs or other

similar experience, and provide the name of the customer, 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 or other similar experience in:

- Development and maintenance of PDL programs
 - Supplemental and market share rebate negotiations, including MCO encounters.
 - Development of therapeutic class reviews and cost analyses used by other P&T Committees for PDL review and recommendations
 - Support of other P&T Committees
 - Industry analysis and program evaluation
 - Multi-state purchasing
 - Federal, supplemental and market share rebate administration
 - Opportunities for optimizing net-net cost per prescription
 - Retro DUR initiatives
- 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 for each area of responsibility: PDL, rebates, and RetroDUR. 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 E, 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 Technical Submittal.

II-6. Personnel.

General

The Offeror must provide an organizational chart of its proposed Project team and an explanation of how the composition of the team provides a balance of clinical and program administration expertise. The Offeror must also identify the physical location of its facilities.

Key Personnel

The Offeror must provide the following information for each of its key personnel, and, if applicable, subcontractors serving as key personnel. (See **RFP Part IV, Section IV-3.C. Staffing, Key Personnel.**)

- The names of all key personnel
- A description of the responsibilities each key personnel will have in this project
- An overview of the services they will perform
- How long each key personnel has been with the Offeror's company, or an assurance of the key personnel's commitment to join the Offeror's organization by the Effective Date of the contract
- The physical location of each key personnel during the time they are engaged in the work.
- A resume, or similar document, that provides information about education and experience in the following:
 - Pharmacy-related work with state Medicaid programs
 - Development and maintenance of PDL programs
 - Supplemental and market share rebate negotiations
 - Development of therapeutic class reviews and cost analyses used by other P&T Committees for PDL review and recommendations
 - Support of P&T Committees
 - Industry analysis and program evaluation
 - Multi-state purchasing
 - Federal, supplemental and market share rebate administration
 - Supplemental and market share rebate opportunities
 - Opportunities for optimizing net-net cost per prescription
 - Retro DUR programs
 - Other related experience

Experience shown should be work done by individuals who will be assigned to the Project team, and must address the required experience of key personnel outlined in **Part IV, Section IV-3.C, Staffing, Key Personnel.**

The Offeror must provide the name, address and telephone number of at least three (3) professional references for the PDL Project Manager, the Rebate Project Manager, and the RDUR Project Manager designated by the Offeror.

The Offeror must submit **Appendix F, Key Personnel Professional Reference Questionnaire**, directly to the references listed and include the completed Key Personnel Professional Reference Questionnaire with its Technical Submittal. The Department may contact references other than those identified by the Offeror.

Essential Personnel

The Offeror must provide the following information about its essential personnel and, if applicable, subcontractors serving as essential personnel. (See **RFP Part IV, Section IV-3.C. Staffing, Essential Personnel.**)

- Description of the responsibilities the essential personnel will have in this project
- Position descriptions
- Required qualifications for each position
- The number of staff to be assigned to each position
- Physical location during the time the essential personnel are engaged in the work

II-7. Financial Capability. Describe your company's financial stability and economic capability to perform the contract requirements. Provide your company's financial statements (audited, if available) for the past three fiscal years. Financial statements must include the company's Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report, if available. If your company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The Commonwealth may request additional information it deems necessary to evaluate an Offeror's financial capability.

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 **Appendix A, Appendix B, Appendix K or Appendix H**) 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 Department 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 Department 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 **Appendix A, Appendix B, Appendix K or Appendix H**. All terms and conditions must appear in one integrated contract. The

Department 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 **Appendix A, Appendix B, Appendix K and Appendix H**. The Department will reject any proposal that is conditioned on the negotiation of the terms and conditions set out in **Appendix A, Appendix B, Appendix K or Appendix H or to other provisions of the RFP as specifically identified above.**

II-9. Small Diverse Business Participation Submittal.

A. To receive credit for being a Small Diverse Business or for subcontracting with a Small Diverse Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Small Diverse Business qualification in the Small Diverse Business participation submittal of the proposal, as indicated below:

A Small Diverse Business verified by BSBO as a Small Diverse Business must provide a photocopy of their verification letter.

B. In addition to the above verification letter, the Offeror must include in the Small Diverse Business participation submittal of the proposal the following information:

1. *All* Offerors 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. *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 Diverse Businesses (SDBs) as subcontractors. To support its total percentage SDB subcontractor commitment, Offeror must also include:
 - a) The percentage and dollar amount of each subcontract commitment to a SDB;
 - b) The name of each SDB. The Offeror will not receive credit for stating that after the contract is awarded it will find a SDB.
 - c) The services or supplies each SDB will provide, including the timeframe for providing the services or supplies.
 - d) The location where each SDB will perform services.
 - e) The timeframe for each SDB to provide or deliver the goods or services.
 - f) A subcontract or letter of intent signed by the Offeror and the SDB for each SDB identified in the SDB Submittal. The subcontract or letter of intent must identify the specific work, goods or services the SDB will perform, how the work, goods or services relates to the project, and the specific timeframe during the term of the contract and any option/renewal periods when the work, goods or services will be performed or provided. In addition, the subcontract or letter of intent must identify the fixed percentage commitment and associated estimated dollar value that each SDB will receive based on the total value of the initial term of the contract as

provided in the Offeror's Cost Submittal. **Appendix M** is a letter of intent template which may be used to satisfy these requirements.

g) The name, address and telephone number of the primary contact person for each Small Diverse Business.

3. The total percentages and each SDB subcontractor commitment will become contractual obligations once the contract is fully executed.

4. The name and telephone number of the Offeror's project (contact) person for the SDB.

C. The Offeror is required to submit **two** copies of its SBD participation submittal. The submittal shall be clearly identified as SBD information and sealed in its own envelope, separate from the remainder of the proposal.

D. A SBD can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

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

II-10. Cost Submittal. The information requested in this **Part II, Section II-10** and **Appendix G** Cost Submittal 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, DHS may reject the proposal. Offerors should direct in writing to the Issuing Office 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 DHS' written answer so that all proposals are submitted on the same basis.

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 Issuing Office 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.

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 two (2) Mandatory Responsiveness Requirements set forth in **Section III-1** above (A-B) are the only RFP requirements that the Commonwealth will consider to be *non-waivable*. DHS, in its sole discretion, may (1) waive any other technical or immaterial nonconformities in an Offeror's proposal, (2) allow the Offeror to cure the nonconformity, or (3) consider the nonconformity in the scoring of the Offeror's proposal.

III-3. Evaluation. DHS has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BSBO will evaluate the SDB participation submittal and provide DHS with a rating for this component of each proposal. DHS 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 DHS after taking into consideration all of the evaluation factors.

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

- A. **Technical:** DHS has established the weight for the Technical criterion for this RFP as 50 % of the total points. Evaluation will be based upon the following in order of importance:
 - a. Soundness of Approach
 - b. Offeror Qualifications
 - c. Personnel Qualifications
 - d. Understanding the Problem

The final Technical scores are determined by giving the maximum number of technical points available to the proposal with the highest raw technical score. The remaining proposals are rated by applying the Technical Scoring Formula set forth at the following webpage:

[http://www.dgs.pa.gov/businesses/materials and services procurement/procurement-resources/pages/default.aspx](http://www.dgs.pa.gov/businesses/materials_and_services_procurement/procurement-resources/pages/default.aspx)

- B. **Cost:** DHS has established the weight for the Cost criterion for this RFP as 30 % of the total points. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage:

[http://www.dgs.pa.gov/businesses/materials and services procurement/procurement-resources/pages/default.aspx](http://www.dgs.pa.gov/businesses/materials_and_services_procurement/procurement-resources/pages/default.aspx)

C. Small Diverse Business Participation:

BSBO has established the weight for the Small Diverse Business (SDB) participation criterion for this RFP as 20 % of the total points. Each SDB participation submittal will be rated for its approach to enhancing the utilization of SDBs in accordance with the below-listed priority ranking and subject to the following requirements:

1. A business submitting a proposal as a prime contractor must perform 60% of the total contract value to receive points for this criterion under any priority ranking.
2. To receive credit for an SDB subcontracting commitment, the SDB subcontractor must perform at least fifty percent (50%) of the work subcontracted to it.
3. A significant subcontracting commitment is a minimum of five percent (5%) of the total contract value.
4. A subcontracting commitment less than five percent (5%) of the total contract value is considered nominal and will receive reduced or no additional SDB points depending on the priority ranking.

Priority Rank 1: Proposals submitted by SDBs as prime offerors will receive 150 points. In addition, SDB prime offerors that have significant subcontracting commitments to additional SDBs may receive up to an additional 50 points (200 points total available).

Subcontracting commitments to additional SDBs are evaluated based on the proposal offering the highest total percentage SDB subcontracting commitment. All other Offerors will be scored in proportion to the highest total percentage SDB subcontracting commitment within this ranking. *See formula below.*

Priority Rank 2: Proposals submitted by SDBs as prime contractors, with no or nominal subcontracting commitments to additional SDBs, will receive 150 points.

Priority Rank 3: Proposals submitted by non-small diverse businesses as prime contractors, with significant subcontracting commitments to SDBs, will receive up to 100 points. Proposals submitted with nominal subcontracting commitments to SDBs will receive points equal to the percentage level of their total SDB subcontracting commitment.

SDB subcontracting commitments are evaluated based on the proposal offering the highest total percentage SDB subcontracting commitment. All other Offerors will be scored in proportion to the highest total percentage SDB subcontracting commitment within this ranking. *See formula below.*

Priority Rank 4: Proposals by non-small diverse businesses as prime contractors with no SDB subcontracting commitments shall receive no points under this criterion.

To the extent that there are multiple SDB Participation submittals in Priority Rank 1 and/or Priority Rank 3 that offer significant subcontracting commitments to SDBs, the proposal offering the highest total percentage SDB subcontracting commitment shall receive the highest score (or additional points) available in that Priority Rank category and the other proposal(s) in that category shall be scored in proportion to the highest total percentage SDB subcontracting commitment. Proportional scoring is determined by applying the following formula:

$$\frac{\text{SDB \% Being Scored}}{\text{Highest \% SDB Commitment}} \times \frac{\text{Points/Additional}}{\text{Points Available}^*} = \frac{\text{Awarded/Additional}}{\text{SDB Points}}$$

Priority Rank 1 = 50 Additional Points Available

Priority Rank 3 = 100 Total Points Available

Please refer to the following webpage for an illustrative chart which shows SDB scoring based on a hypothetical situation in which the Commonwealth receives proposals for each Priority Rank:

http://www.dgs.pa.gov/businesses/materials_and_services_procurement/procurement-resources/pages/default.aspx.

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

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

http://www.dgs.pa.gov/businesses/materials_and_services_procurement/procurement-resources/pages/default.aspx.

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.

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

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

- A. The total score for the technical submittal of the Offeror's proposal must be greater than or equal to **70%** of the **available technical points**; and
- B. The Offeror's financial information must demonstrate that the Offeror possesses the financial capability to assure good faith performance of the contract. DHS will review the Offeror's previous three financial statements, any additional information received from the Offeror, and any other publicly-available financial information concerning the Offeror, and assess each Offeror's financial capacity based on calculating and analyzing various financial ratios, and comparison with industry standards and trends.

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

Further, DHS 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.

III-6. Final Ranking and Award.

- A. After any best and final offer process conducted, the Issuing Office will combine the evaluation committee's final technical scores, BSBO's final small diverse business participation scores, the final cost scores, and (when applicable) the domestic workforce utilization scores, in accordance with the relative weights assigned to these areas as set forth in this Part.
- B. The Issuing Office will rank responsible offerors according to the total overall score assigned to each, in descending order.
- C. The Department must select for contract negotiations the Offeror with the highest overall score; PROVIDED, HOWEVER, THAT AN AWARD WILL NOT BE MADE TO AN OFFEROR WHOSE PROPOSAL RECEIVED THE LOWEST TECHNICAL SCORE AND HAD THE LOWEST COST SCORE OF THE RESPONSIVE PROPOSALS RECEIVED FROM RESPONSIBLE OFFERORS. IN THE EVENT SUCH A PROPOSAL ACHIEVES THE HIGHEST OVERALL SCORE, IT SHALL BE ELIMINATED FROM CONSIDERATION AND AWARD SHALL BE MADE TO THE OFFEROR WITH THE NEXT HIGHEST OVERALL SCORE.

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

PART IV

WORK STATEMENT

IV-1. Objectives.

- A. **General.** The Department is issuing this RFP to contract for assistance in maintaining a clinically based PDL, administering the Commonwealth's participation in the federal drug rebate program, and the state supplemental rebate program, including supplemental drug rebates and market share rebates. The contract will also include support for the Department's RetroDUR. The goal is to ensure that MA recipients in the Fee-for-Service (FFS) delivery system have access to clinically excellent, cost-effective pharmacy services, and to ensure that the Department maximizes applicable rebates in both the FFS and managed care delivery systems.
- B. **Specific.** The specific objectives that the Department intends to achieve through this RFP include the following:
1. Maintain a clinically-based PDL that ensures access to quality care for MA recipients in the FFS delivery system
 2. Negotiate supplemental and market share FFS rebates through a multi-state supplemental drug rebate pooling initiative with manufacturers and optimize cost efficiency and cost savings for pharmacy services through utilization of preferred drug products and collection of supplemental and market share rebates
 3. Provide support to the FFS Pharmacy and Therapeutics (P&T) Committee
 4. Provide timely and easy access to FFS PDL-related information for all interested stakeholders
 5. Provide support to and coordinate with the Department and other Contractors on PDL, RetroDUR and rebate-related issues
 6. Support the Department in providing an effective and efficient Retro DUR program for both the FFS and managed care delivery systems.
 7. Maximize supplemental and market share rebate collections for FFS, including reporting, invoicing, reconciliation, dispute resolution and federal reporting
 8. Maximize federal drug rebate collections for both FFS and MCO drug claims, including reporting, invoicing, reconciliation, dispute resolution and federal reporting
 9. Identify and provide consultation on federal and state statutes, regulations, and policies governing pharmacy services in the Medicaid Program and the pharmacy industry.

IV-2. Nature and Scope of the Project. This RFP applies to Pennsylvania MA program pharmacy services and requires compliance with applicable Federal and Commonwealth statutes and regulations and operational requirements governing those services.

In addition to the services required by this RFP, in the future, the Department may require additional assistance with pharmacy related initiatives. Therefore, if requested by the Department, the selected Offeror must assist the Department with the following:

1. Expansion of the PDL Program and supplemental drug rebates to include the following: HealthChoices, the MA mandatory managed care program; and other Department offices such as, but not limited to, the Office of Mental Health and Substance Abuse Services, the Office of Children, Youth and Families, and the Office of Developmental Programs; and other State offices.
2. Participation in a durable medical equipment (DME) multi-state rebate pooling initiative.

In the event that there are changes to the requirements of State and Federal laws, regulations, guidelines or policies (including IT standards) or to the contract services which occur after the Effective Date of the contract, the selected Offeror and DHS will meet to determine the impact of such changes on the contract work. The selected Offeror will investigate the impact of any changes on the contract and its requirements and price. If DHS and the selected Offeror agree on the results of the investigation and any necessary modifications to the contract, the contract will be modified to take into account the agreed upon changes and the change will be implemented. If the change is within the scope of the contract and does not require modification of its provisions, DHS will issue a change order in accordance with **Appendix A, Standard Contract Terms and Conditions**. If the change is within the scope of the contract but requires modification of other provisions, DHS and the selected Offeror will execute a written amendment.

A. MA Population and Eligibility for Pharmacy Services

Approximately 2.2 million residents of Pennsylvania have been determined eligible for the MA Program under Federal Medicaid categories of eligibility. The Department is transitioning to a full Medicaid expansion and the MA population is expected to grow by approximately 500,000 by the time expansion is completed in the fall of 2015. Pharmacy services are included in the health care benefits package for all eligibles. Persons eligible for both Medicare and Medicaid (dual eligibles) receive their prescription drug benefits through their Medicare Part D and Part B prescription drug plans; coverage of pharmacy services under the MA Program is limited to certain drugs not covered by their Medicare Part D prescription drug plan as well as secondary payment on Part B covered drugs

B. Delivery Systems and Enrollment

Over 500,000 MA Recipients currently receive services through the FFS delivery system. Approximately 100,000 of the MA Recipients in FFS are eligible for the full scope of pharmacy services. Approximately 400,000 are dual eligibles with limited coverage as described above. Roughly 1.7 million MA recipients receive their health care services through the risk-based managed care delivery system. They are enrolled in HealthChoices, the Department's mandatory managed care program. The new eligibles under Medicaid expansion will be enrolled in a HealthChoices MCO. Pennsylvania currently has nine managed care organizations that provide coverage of pharmacy services for their MA Program enrollees. The HealthChoices MCOs may use their own formularies or PDLs; however, drugs paid for by the HealthChoices MCOs must qualify for federal drug rebates.

C. Scope of Pharmacy Benefit

Pennsylvania's MA Program provides coverage for prescription drugs (including over-the-counters ["OTCs"]), of all pharmaceutical manufacturers that participate in the Federal Medicaid Drug Rebate Program. A search of covered drugs in the Medical Assistance Program is located at the following address:

<http://www.dhs.state.pa.us/provider/doingbusinesswithdhs/pharmacyservices/covereddrugs/index.htm>

D. Drug Claims Submission

In FFS, all pharmacy claims must be submitted electronically using the NCPDP format, the 837 Professional, or online. The National Drug Code (NDC) is required on all claims.

In the managed care delivery system, drug encounters are submitted in NCPDP, 837 Professional and 837 Institutional claim formats. The MCOs have been instructed to submit all outpatient drug claims using NDCs and NDC units. However, the MCOs continue to pay for outpatient drugs through their medical benefit and make payment to billing providers for HCPCs codes.

E. Preferred Drug List

In 2005 the Department implemented a clinically based PDL in the FFS program. Drugs are added to the PDL based upon the clinical recommendations of a P&T Committee. After listening to public testimony by drug manufacturers and other interested parties regarding the class of drugs under consideration, this panel of experts reviews drug monographs which include a review of the available published, peer-reviewed clinical literature to present an accurate, balanced picture of the relative clinical strengths and weakness of each drug within a therapeutic class. The Committee then determines which drugs are best in a particular class based upon clinical effectiveness, safety and outcomes. When all drugs within a class are therapeutically equivalent, cost, including rebates, is considered. Upon approval by the Secretary of Human Services, those drugs are determined to be the preferred drugs. The PDL is not a closed or restrictive formulary. All other drugs covered by the MA Program remain available when a recipient needs them. These drugs are designated as non-preferred and require prior authorization. All drugs new to the marketplace that are included in a therapeutic class of drugs subject to the PDL are designated as non-preferred pending review of the class of drugs by the P&T Committee.

The current FFS PDL can be found at the following address:

<http://www.providersynergies.com/services/medicaid/default.asp?content=Pennsylvania>

F. P&T Committee

The Department's P&T Committee is comprised of physicians, pharmacists, Department clinical staff, MA Program consumers and advocates, with medical specialists as needed to address specific therapies or drug classes. The P&T Committee is appointed by the Secretary of Human Services and is designed to ensure an unbiased clinical perspective and acts in an advisory capacity to the Department. The P&T Committee currently meets semi-annually. P&T Committee meetings are subject to the provisions of the Sunshine Law and are open to the

public. Requirements and procedures for P&T Committee meetings are detailed in the P&T Committee By-Laws located at:

<http://www.dhs.state.pa.us/communitypartners/informationforadvocatesandstakeholders/advisorycommittees/pharmacyandtherapeuticscommittee/index.htm>

Responsibility for recruitment and selection of P&T Committee members will remain with the Department during the term of this contract.

G. Drug Utilization Review Program

The Department's Drug Utilization Review (DUR) Program promotes patient safety through utilization management tools and systems interface with PROMIS^eTM, the Department's Medicaid Management Information System (MMIS). The program consists of a Prospective DUR (Pro DUR) component, a Retro DUR component, and a DUR Board. In Pro DUR, PROMIS^eTM screens prescription drug claims to identify problems such as therapeutic duplication, drug-disease contraindications, incorrect dosage or duration of treatment, drug allergy and clinical misuse or abuse. Retro DUR involves ongoing and periodic examination of claims data to identify patterns of fraud, abuse, gross overuse, or medically unnecessary care and implements corrective action when needed, including educational interventions.

RetroDUR represents a key program component to achieve patient health and safety by identifying patterns of inappropriate or unnecessary care. The Department currently operates an in-house RetroDUR program with support from the Department's MMIS Contractor, Hewlett-Packard (HP), and its subcontractor Health Information Design (HID). The Department clinicians determine the quality indicators for review each month, identify recipients with drug therapy concerns, and review their medical and pharmacy profiles via a web-based tool provided by the current contractor. If the clinician determines that a potential problem exists, intervention letters are mailed to the prescribers. When more than one provider is attributed to pertinent claims on a recipient profile, letters are mailed to all relevant providers informing them of a recipient's complete drug and diagnosis history, including medications prescribed by other providers. Providers have the opportunity to review the entire recipient drug and diagnosis history, including medications prescribed or dispensed by other providers, and make changes to therapies based upon this information. Staff reviews every case before an intervention letter is sent to a provider, and can stop intervention letters that are obvious false positives, or add personalized messages to minimize negative reactions from a prescriber in response to a potential false positive. The web-based portal for case review is provided by HID, along with suggested quality indicators. HID prints and mails approximately 2500 intervention letters per month, as designated by the Department's clinical staff.

The Department is required to submit a Medicaid Drug Utilization Review Annual Report Survey report to CMS on prescribing habits, cost savings generated from the DUR programs and the program's operations, including adoption of new innovative DUR practices. This survey has an expanded Fraud, Waste and Abuse section, new questions in the Prescription Drug Monitoring Program section and questions regarding state Managed Care Organizations.

H. Utilization Controls – Prior Authorization

In the FFS delivery system, the Department requires Prior Authorization for the following:

1. Brand name drugs when A-rated generics are available (brand medically necessary) and the net cost of the generic, after all rebates are considered, is less than the multi-source brand drug
2. Specified drugs for clinical health and safety reasons
3. Non-Preferred drugs
4. Therapeutic duplications
5. Drugs with age limits
6. Prescriptions that exceed the established quantity limit
7. Early refills

The Department's guidelines to determine medical necessity of a drug that requires prior authorization may be recommended by either the P&T Committee or the DUR Board. Recommended guidelines are subject to public review and comment through the Medical Assistance Advisory Committee (MAAC) meetings prior to approval and implementation by the Department. The guidelines are included in the Prior Authorization of Pharmaceutical Services Handbook. Handbook updates are mailed via MA Bulletins to all pharmacies and prescribing providers enrolled in the MA Program, and posted as MA Bulletins on the Department's website. A complete list drugs and classes of drugs that require prior authorization, with links to the guidelines to determine medical necessity, is located on the Department's website at:

<http://www.dhs.state.pa.us/provider/doingbusinesswithdhs/pharmacyservices/drugsrequiringclinicalpriorauthorization/index.htm>

Guidelines to determine medical necessity of non-preferred drugs are also linked to the classes of drugs subject to the PDL on the current PDL Contractor's website at:

http://www.providersynergies.com/services/documents/PAM_PDL.pdf

I. Federal Medicaid Drug Rebate Program

The Department's MMIS Contractor, Hewlett-Packard (HP), and its subcontractor, Unisys, currently administers the Federal Medicaid Drug Rebate Program for both FFS and managed care, with administrative oversight from the Department. Duties include producing and mailing quarterly invoices to manufacturers, reconciling rebate payments from pharmaceutical manufacturers, resolving disputes, incorporating quarterly CMS Drug Product Data File information, processing prior period adjustments and computing interest charges.

J. Supplemental Drug Rebate Program

The Department currently participates in a Medicaid multi-state supplemental drug rebate pooling initiative, The Optimal PDL Solution, TOP\$. The Department's current PDL Contractor, Magellan Medicaid Administrators (MMA), administers TOP\$ on behalf of the Department. MMA administers the multi-state supplemental drug rebate pool, negotiates supplemental rebates, produces and mails quarterly invoices to manufacturers, reconciles rebate payments from pharmaceutical manufacturers, resolves disputes, processes prior period adjustments and computes interest charges.

K. Market Share Rebates

The Department currently includes two (2) classes of medical supplies, diabetic blood glucose meters and diabetic test strips, in its FFS PDL. Although these items are not recognized as outpatient drugs in the Medicaid Program and do not qualify for Federal drug rebates, the MA Program encourages pharmacies to submit claims on-line using the NDCs for the medical supplies, similar to the submission of pharmacy claims for outpatient drugs. The Department collects market-share rebates on these medical supplies in the FFS program.

L. Specialty Pharmacy Drug Program

The Department has agreements with two specialty pharmacies to serve as the Department's preferred providers of specialty pharmacy drugs.

Additional information about the Specialty Pharmacy Drug Program is located at the following address:

<http://www.dhs.state.pa.us/provider/doingbusinesswithdhs/pharmacyservices/thespecialtypharmacydrugprogram/index.htm>

M. Generic Utilization

The Department's generic dispensing rate in the Fee-for-Service delivery system is 87%. This includes OTCs, prescription and multisource utilization where the multi-source brand is designated as preferred over the generic equivalent because the cost of the brand, net of all rebates, is less than the cost of the generic equivalent, net of the federal rebate.

N. MA Program Payment

In the FFS delivery system, payment is made on a per-service basis for health care services provided to eligible MA recipients.

The Department bases its payment for compensable drugs on the lower of the estimated acquisition cost (EAC) or the State Maximum Allowable Cost (state MAC). For specialty drugs provided by the preferred providers, the Department will pay the lesser of the preferred providers' agreement rate for the drug or the MA FFS rate.

For brand name drugs, the EAC is established by the Department as one of the following:

1. The lowest WAC listed for the drug in available nationally recognized pricing services, plus 3.2%.
2. If WAC data are not available from a nationally recognized pricing service, the lowest AWP listed for the drug in available nationally recognized pricing services, minus 14%.

3. If both WAC and AWP cost data are available for the drug from a nationally recognized pricing service, the lower of the two amounts.

For generic drugs, the EAC is established by the Department as one of the following:

1. The lowest WAC listed for the drug in available nationally recognized pricing services
2. If WAC data are not available from a nationally recognized pricing service, the lowest AWP listed for the drug in available nationally recognized pricing services, minus 25%.
3. If both WAC and AWP cost data are available for the drug from a nationally recognized pricing service, the lower of the two amounts.

The Department sets the State MAC for multisource drugs at the lower of the following:

1. The upper payment limit established by CMS.
2. Provided that the generic product is available at the price established by the Department from at least two wholesalers:
 - a. If the generic product is available from more than one manufacturer, the base price of 150% of the lowest acquisition cost for the generic product, unless 150% of the lowest acquisition cost is not at least 120% of the second lowest acquisition cost, in which case the base price will be set at 120% of the second lowest acquisition cost.
 - b. If the generic product is available from only one manufacturer, the base price is 120% of the acquisition cost for the generic product.

The Department pays a \$2.00 dispensing fee for both brand name and generic drugs, and a \$3 dispensing fee for a compounded prescription, to pharmacies. Dispensing physicians and certified registered nurse practitioners do not receive a dispensing fee. Also, the Specialty Pharmacy Drug Program preferred providers do not receive a dispensing fee for specialty drugs dispensed under the Specialty Pharmacy Drug Program.

O. MA Program Pharmaceutical Expenditures Overview

Table 1: FFS Eligibility (Excluding Dual Eligibles) and Prescription Drug Use by Non-Dual Eligibles by State Fiscal Year (SFY)

SFY	Number of FFS Eligible Recipients (Excluding	Drug Expenditures (not net of rebates)	Total Number of Prescriptions	Per Member Per Month Drug Cost (not net of rebates)
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	Dual Eligibles)			
2013 – 2014	235,853	\$63,853,347	1,215,566	\$22.56
2012 – 2013	387,451	\$270,215,019	3,142,875	\$58.12
2011 – 2012	504,204	\$490,228,198	6,916,569	\$81.02

Table 2: FFS and MCO Federal Drug Rebate Returns by State Fiscal Year (SFY) Beginning SFY 2011 – 2012

SFY	FFS Federal Rebates Collected	% of FFS Drug Expenditures	MCO Federal Rebates Collected	% of MCO Drug Expenditures
2013 – 2014	\$45,222,918	56.27%	\$800,574,506	39.47%
2012 – 2013	\$142,676,230	49.23%	\$584,826,489	35.86%
2011 – 2012	\$240,852,096	46.90%	\$552,438,389	37.44%

Table 3: FFS Supplemental and Market Share Rebate Returns by State Fiscal Year (SFY) Beginning SFY 2011 – 2012

SFY	FFS Federal Rebates Collected	% of FFS Drug Expenditures
2013 – 2014	\$2,501,504	3.10%
2012 – 2013	\$13,072,130	4.51%
2011 – 2012	\$20,739,411	4.04%

IV-3. Requirements.

A. Preferred Drug List (PDL) – General

1. The selection of classes of drugs and designation of preferred versus non-preferred for the PDL must be clinically driven. All Preferred Drugs will be best in a particular class with clinical effectiveness, safety and outcomes as the primary qualifiers. Each drug on the PDL should have significant, clinically meaningful therapeutic advantage over other drugs in the same therapeutic drug class as determined by the P&T Committee. When all drugs within a class are therapeutically equivalent, cost will be the final qualifier.
2. The PDL and the state supplemental rebate agreement must be in compliance with all applicable Federal and State statutes and regulations and the State Plan Amendment approved by CMS. The Department will maintain responsibility for securing approval of all State Plan Amendments and the state supplemental rebate agreement.
3. New drugs within a therapeutic drug class included in the PDL will be designated as Non-Preferred and made available through Prior Authorization until the P&T Committee reviews and evaluates the drug for formal inclusion on the PDL.

4. The Department prefers to maintain the current structure of the PDL, including designated titles of therapeutic classes of drugs and the list of drugs included in each class, but will consider modifications, as recommended by the selected Offeror, that support clarity, cost savings, or recipient health and safety.
5. The P&T Committee must review all therapeutic classes of drugs subject to the PDL annually.

B. Staffing – General

The selected Offeror must ensure that their personnel perform all work required to meet the Department's goal, objectives and requirements.

1. The selected Offeror must ensure that all personnel are performing satisfactorily at the appropriate skill levels specified in the Contract.
2. The selected Offeror will relieve any selected Offeror staff or staff of the selected Offeror's subcontractors from any further work under the Contract if:
 - a. The individual staff member or subcontractor's staff member does not perform at the applicable skill level specified in this RFP, the selected Offeror's proposal, the approved work plan, and the Contract.
 - b. The individual staff member or subcontractor's staff member does not deliver work that conforms to the performance standards stated in the Contract.
3. The services of each individual named in the selected Offeror's proposal shall be required unless that individual becomes unavailable to the selected Offeror only for reasons such as the individual's death, disability or termination of the underlying employment relationship.
4. If an individual named in the proposal becomes unavailable, the selected Offeror must replace the individual with a person of comparable or greater skills to perform the services of the individual being replaced, and shall provide the Project Officer with the resume of a proposed replacement within ten (10) business days of said individual's notice, and offer the Department an opportunity to interview that person.
5. The selected Offeror shall immediately notify the Department's Project Officer of the resignation or termination of any of the selected Offeror's staff or subcontractors assigned to this Contract, and such staff shall be forthwith relieved of any further work under the Contract.

C. Staffing

For Key Personnel

The selected Offeror's key personnel may assume responsibility for more than one position. At a minimum, the selected Offeror's key personnel must meet the minimum qualifications and experience for each position assigned to that person:

1. PDL Manager - The PDL Manager will serve as the primary contact person for the Department for the PDL. The PDL Manager must have a Pharm.D. degree or equivalent clinical experience, and recent experience or comparable experience in managing PDL processes for a state Medicaid agency with pharmacy program design and utilization controls comparable to Pennsylvania. Experience should include, but is not limited to, the following:
 - a. Development of clinical drug reviews and therapeutic class reviews, analysis of clinical and financial data, and recommendations that ensure access and savings
 - b. Presentation of the clinical and financial rationale of recommendations for the PDL to the P&T Committee, and the ability to respond to P&T Committee questions and explain the clinical and cost benefit or disadvantage of proposed alternatives to recommendations
 - c. Development and analysis of forecasting trends, impact analysis of proposed federal and state legislation on the program, analysis of changes and trends in the pharmaceutical industry, etc.

The PDL Manager must be available to the Department via telephone or email during the Department's regular business hours and in an emergency during non-business hours. The PDL Manager is expected to attend, present and participate in all P&T Committee meetings in Harrisburg and participate in periodic status meetings with the Department's Project Officer and Department staff. The Department intends to conduct regularly scheduled status meetings by teleconference. If the PDL Manager becomes unavailable and is unable to attend a P&T Committee meeting, the selected Offeror must provide a substitute for the PDL Manager who has comparable or greater skills subject to Department evaluation and approval. PDL Manager responsibilities include:

- a. Ensuring compliance with administrative policies and procedures, MA Program requirements and the Contract
 - b. Monitoring PDL program operations and performance
 - c. Overseeing development of all deliverables, including ad hoc reports, submitted to the Department
2. Secondary PDL Manager – The Secondary PDL Manager will serve as a back-up to the PDL Manager and must possess the same requisite degrees, experience, knowledge, and skills as the PDL Manager. The Secondary PDL Manager must be available to the Department via telephone or email during the Department's regular business hours and in an emergency during non-business hours whenever the PDL Manager is not available.
3. Rebate Manager – The Rebate Manager will serve as the primary contact person for the Department for rebates. Staff responsible for rebate administration must have knowledge,

skills and recent experience in management of federal and supplemental drug rebates, and market share rebates.

4. RetroDUR Manager - The RetroDUR Manager will serve as the primary contact person for the Department for RetroDUR. The RetroDUR Manager must have a Pharm.D. degree or equivalent clinical experience, and recent experience or comparable experience managing RetroDUR processes.
5. The selected Offeror's PDL, Rebate and RetroDUR Managers must be employed by the selected Offeror when the proposal is submitted, or be committed to join the selected Offeror's organization by the Effective Date of the contract.

For Essential Personnel

1. Contract/Invoice Manager – The contract/invoice manager will serve as the primary contact for fiscal contract management
2. Staff Responsible for Developing Therapeutic Class Reviews – Staff responsible for developing therapeutic class reviews must be clinicians with recent experience or comparable experience in performing the following: extensive literature searches for all relevant clinical data; clinical and fiscal comparative analysis of all agents within a class of drugs; and development of clinically sound recommendations for consideration by the Department and the P&T Committee
3. Data Analyst/Financial Analyst – Staff responsible for data/financial analysis must have recent experience or comparable experience in preparing cost analyses and financial recommendations for P&T Committee consideration. Staff must also have the knowledge and skills required to perform ad hoc data analysis and prepare compliance and outcomes reports.

D. Subcontracting

The selected Offeror may subcontract for tasks included in the scope of this RFP.

1. The Offeror must identify all subcontractors and the tasks each subcontractor will be performing.
2. Subcontracts must be submitted to and approved by the Department prior to subcontracting.

E. Security, Confidentiality, Audit Trails and Controls

The selected Offeror must comply with all privacy and security requirements defined in the Health Insurance Portability and Accountability Act (HIPAA) and take specific steps to ensure that Protected Health Information (PHI) is protected. Sensitive, confidential and PHI electronic data that is transmitted or emailed must be appropriately encrypted and secured.

Contractor Responsibilities

In addition to its responsibilities under the Business Associate Addendum (Appendix N), the **selected Offeror's** responsibilities include:

- Support Security audits that may be required by the Department
- Provide Security Incident Reports if a security incident happens within the **selected Offeror's** purview

DHS Business and Technical Standards

The selected Offeror's services must comply with applicable DHS Business and Technical Standards, as periodically updated and located at:

<http://www.dhs.state.pa.us/provider/doingbusinesswithdhs/busandtechstandards/index.htm>

F. Emergency Preparedness

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

1. Describe how you anticipate such a crisis will impact your operations.
2. Describe your emergency response continuity of operations plan. Please attach a copy of your plan, or at a minimum, summarize how your plan addresses the following aspects of preparedness:
 - a) Employee training (describe your organization's training plan, and how frequently your plan will be shared with employees)
 - b) Identified essential business functions and key employees (within your organization) necessary to carry them out
 - c) Contingency plans for:
 - i.) How your organization will handle staffing issues when a portion of key employees are incapacitated due to illness.
 - ii.) How employees in your organization will carry out the essential functions if prevented from coming to the primary workplace.
 - d) How your organization will communicate with staff and suppliers when primary communications systems are overloaded or otherwise fail, including key contacts, chain of communications (including suppliers), etc.

- e) How and when your emergency plan will be tested, and if the plan will be tested by a third-party.

IV-4. Tasks.

Task 1: Transition

Transition consists of activities that must take place between the Effective Date of the contract and the date the selected Offeror is fully responsible for all contract activities. The Department has designated a maximum of three (3) months for the completion of all transition activities.

The primary objectives of the Transition Phase are the following:

- The successful orientation, knowledge acquisition, and operational independence from incumbent contractors;
- The smooth transition of responsibilities;
- A complete knowledge transfer and operational understanding;
- The establishment of accurate assessments and strong accountability controls; and
- A mitigation of risk to the Commonwealth, DHS, clients and taxpayers.

Transition Offeror Responsibilities:

The selected Offeror will prepare and submit a comprehensive Transition Plan within two (2) weeks of the Effective Date of the contract. The Transition Plan will incorporate the activities necessary to turn over the business operations in an orderly manner. The plan must address the resources required for the transition, including those from the Department, incumbent contractor, and new selected Contractor. Additionally, the plan will identify the transition objectives and work plan activities and document activity time frames and responsibilities. The Transition Plan will be submitted to DHS for final review and approval.

- a. The selected Offeror must provide a plan for a transition of the on-going business operational and strategic business and policy activities currently being executed by the incumbent contractors associated with the operations and functions included in the scope of this RFP. The proposed work plan must include the transition of all rebate data from the current rebate contractors including open invoices, unpaid rebates and open disputes.
- b. The selected Offeror must ensure that knowledge transfer occurs in such a manner to enable its staff to confidently assume ownership, and to independently manage the in-scope operational activities without disrupting business operations or timely delivery of services.
- c. The selected Offeror must receive the turnover of the operation and management of all in-scope operational business functions no later than the end of the transition period. This transition must be planned and managed in an orderly fashion so that no disruption of service takes place.
- d. Upon approval of the Transition Plan, the selected Offeror will begin transitioning the business operating functions and provide the transition progress assessments and status updates. The selected Offeror will coordinate with DHS regarding transition tasks,

prioritization issues and conflicting activities interfering with maintaining and operating daily business.

- e. At the end of the transition phase, the selected Offeror will prepare the Transition Results Report. This will document the completion of transition activities, and will provide the status of each high-level task and activity that took place during the transition period. The report will highlight how each of the objectives stated in the Transition Plan have been achieved and the resolution of issues identified and prioritized during the process.

Commonwealth's Responsibilities: Transition

DHS will:

- a. Review, approve, disapprove or request modification and resubmission of each deliverable.
- b. Identify Commonwealth key contacts.
- c. Provide the selected Offeror with the necessary access to Commonwealth facilities, personnel, documentation and other items under its control.
- d. Provide coordination with and access to third parties, as required.
- e. Participate in Project Initiation and Setup related discussions.
- f. Provide agreed-upon levels of active participation (of the business staff, technical staff, and management, as applicable) in the Transition work sessions.
- g. Coordinate with the current DHS contractors to ensure that the Transition needs are understood and can be met.
- h. Facilitate Department Engagement in the Transition process.
- i. Ensure that Transition takes place in a partnership spirit and cooperative manner.

Task 2: Policies and Procedures

The selected Offeror must submit for Department approval policies and procedures for each contracted function. The selected Offeror must develop new policies and procedures, or modify or update current policies and procedures, as appropriate, and as requested by the Department. The selected Offeror must review policies and procedures annually. The Department must approve in writing every new policy or procedure and any modification or addition to any existing policy or procedure related to the PDL, rebates and RetroDUR before the selected Offeror may implement the policy or procedure. The selected Offeror must retain and make available historical policies and procedures for the duration of the contract.

Task 3: Materials Development

The selected Offeror must develop materials set forth in this RFP and as requested by the Department. The selected Offeror must:

1. Design, develop and update materials annually and as necessary when revisions are requested by the Department or as new information or literature becomes available.
2. Assume responsibility for all costs related to the design, development and update of required materials. Printing of materials and distribution to interested stakeholders will remain the responsibility of the Department.

3. Prepare and submit to the Department for approval preliminary and final draft materials. The selected Offeror must respond to the Department's comments to make changes within five (5) calendar days.
4. Receive written approval by the Department for all materials prior to publication.
5. Relinquish any copyrights to concepts and materials produced for the PDL; any exceptions to relinquishing copyrights must be approved by the Department.

Task 4: PDL Maintenance

The selected Offeror must review the PDL design and operational procedures and make recommendations for modifications to enhance the program and process on an ongoing basis. The selected Offeror shall assume responsibility for the following PDL ongoing maintenance tasks.

- 1. Provide Ongoing Recommendations for Additional Therapeutic Drug Classes, Changes to Current Drug Classes, and Medical Supplies on the PDL.**

The selected Offeror must recommend to the Department new therapeutic drug classes and changes to current drug classes included on the PDL. The selected Offeror will identify trends of cost drivers in the FFS delivery system and analyze the potential for addition of therapeutic drug classes or individual drugs in existing classes on the PDL. Examples of changes include the addition of new drugs approved by the Food and Drug Administration ("FDA") and introduced to the market place since the last review of the drug class by the P&T Committee, reconsideration of the designation of preferred when there is a warning for the drug such as an FDA-issued black box warning, etc. The selected Offeror will analyze Department suggestions for additions of new therapeutic drug classes or individual drugs in existing classes. The selected Offeror must, either accommodate the Department's recommendation or provide the reason(s) why it would not be in the Department's best interest to add the suggested therapeutic drug class or individual drug to the PDL.

The selected Offeror must use clinical studies, pharmacoeconomic modeling and other data to develop recommendations for therapeutic drug classes that will result in the highest overall clinical and cost-effectiveness as Preferred Drugs. The selected Offeror's analysis must provide data about the impact the PDL will have on access, health outcomes, and costs for each therapeutic drug class as well as the potential for shifts in utilization and how those shifts factor into the recommendations. The selected Offeror must demonstrate that inclusion of selected therapeutic drug classes on the PDL will not negatively impact MA Recipients' health outcomes. In addition, the selected Offeror must provide evidence that the drugs recommended to be designated as non-preferred have no significant clinically meaningful therapeutic advantage in terms of safety, therapeutic efficacy, or clinical outcomes compared to the drugs recommended to be designated as preferred and used to treat the same condition.

The Department currently includes diabetic blood glucose meters and diabetic test strips, in its PDL. The Department collects market-share rebates on these medical supplies and will consider recommendations to expand this practice to include other market share rebates.

2. Develop an Implementation Work Plan and Schedule for P&T Committee Review of Each Therapeutic Drug Class

The selected Offeror must propose a work plan with the proposal and submit and update, as required by the Department, a final, detailed work plan within ten (10) business days of the Effective Date of the contract. The work plan must outline each major task, staffing plans and completion dates for ongoing maintenance of the PDL and administration of supplemental rebates.

The Department's P&T Committee currently meets semi-annually in May and November and reviews all classes of drugs subject to the PDL annually. The proposed operational schedule will include, at a minimum, the following:

- a. A frequency and timeframe for P&T meetings
- b. Any proposed modifications to the current schedule
- c. The schedule of classes of drugs for review at the meetings and rationale for the proposed schedule
- d. The timeframe for production of deliverables for P&T Committee meetings, including deliverables for new classes of drugs recommended for inclusion on the PDL
- e. A list of all actions or steps and timeframes for supplemental rebates, including the timeframe by which the Department must approve the recommendations of the P&T Committee in order to ensure maximum cost savings on supplemental rebates.

The selected Offeror must submit all updates to the Department for approval and must revise them, as requested by the Department.

3. Ongoing Maintenance and Evaluation of the PDL Program

The selected Offeror must perform PDL and Supplemental Rebate Cost Analysis Reports and PDL Compliance Reports as set forth in Section IV-5, Reports and Project Control.

4. Guidelines to Determine Medical Necessity

Upon Department request, the selected Offeror must recommend evidence-based clinical prior authorization requirements. The Department independently develops prior authorization requirements and guidelines to determine medical necessity. Proposed requirements for prior authorization and recommended guidelines to determine medical necessity will be subject to review and comment by the P&T Committee and/or DUR Board. The guidelines to determine medical necessity will also be subject to public input and feedback, through the MAAC, prior to final approval by the Department.

The Department's clinical staff uses the approved prior authorization guidelines when reviewing requests for Prior Authorization. The Department will also use the guidelines to update the automated prior authorization system.

5. Disclosure of Remuneration

The selected Offeror must disclose all types of remuneration and the methodology for calculating any such remuneration from manufacturers, all rebate offers being made by manufacturers and any other pertinent information, including vendor administrative costs and incentives related to vendor supplemental rebate negotiation and PDL development. The information must include descriptions of any and all payment from manufacturers or entities involved in the manufacture, distribution, sale or payment of pharmaceuticals.

Task 5: P&T Committee Support

The Department currently requires semi-annual P&T Committee meetings in May and November. The selected Offeror must provide ongoing support to assist the Department in conducting these meetings and the P&T Committee in making informed recommendations to the Department from both a clinical and cost-efficiency perspective.

1. Review Therapeutic Drug Classes

The selected Offeror must conduct a clinical and cost review of all drugs available in a therapeutic drug class scheduled for review by the P&T Committee. The selected Offeror must develop recommendations for drugs to be designated as preferred or non-preferred on the PDL based on a thorough evaluation of clinical criteria such as clinical efficacy, safety, side-effects, drug-drug interactions and health outcomes. After evaluating clinical factors, the selected Offeror must analyze the cost of each drug within the class, net of all Federal and proposed supplemental rebates. Net cost must incorporate the state MAC, the Federal Upper Limit (“FUL”), and negotiated specialty pricing when applicable, net of any Federal rebates.

The selected Offeror must develop and submit to the Department, internal cost sheets for use by the Department staff. The internal cost sheets must include:

- a. Brand Name Description
- b. GNN Description
- c. Current number of prescriptions
- d. Current market share
- e. Projected number of prescriptions
- f. Projected market share
- g. Current PDL status
- h. Recommended PDL status
- i. PDL cost per Rx
- j. Supplemental rebate per Rx
- k. Federal rebate per Rx
- l. Rebate offset amount per Rx
- m. Pharmacy reimbursement per Rx
- n. Average units per Rx
- o. PDL cost per unit
- p. Manufacturer name

The selected Offeror must develop and submit to the Department an external cost sheet for distribution to the P&T Committee. The external cost sheets must include:

- a. Brand Name Description
- b. GNN Description
- c. Current number of prescriptions
- d. Current market share
- e. Projected number of prescriptions
- f. Projected market share
- g. Relative Cost Index to the other agents in the class
- h. Current PDL status
- i. Recommended PDL status

The selected Offeror must also prepare a savings summary for each P&T meeting that provides the total savings for the classes scheduled for review at the meeting. The summary sheet must include the projected total annualized savings as well as savings by PDL class. At a minimum the following fields must be included on the savings summary:

- a. PDL class description
- b. Projected savings attributed to market share shifts
- c. Projected savings attributed to supplemental rebates
- d. Projected spend based on PDL recommendations
- e. Projected total savings based on PDL recommendations
- f. Projected total savings based on PDL recommendations compared to current PDL

The selected Offeror must provide the Department with the external cost sheets for distribution to the P&T Committee no later than 30 business days prior to the P&T Committee meeting for review and approval, and must present its findings during each P&T Committee meeting.

2. Develop Therapeutic Class Reviews

The selected Offeror must develop and provide to the Department, for distribution to the P&T Committee, therapeutic class reviews for each class of drugs scheduled for review by the P&T Committee no later than 30 calendar days prior to the scheduled meeting. Information in the monographs must be accurate, medically sound, reflect recent clinical outcomes information, and be based on national, peer-reviewed, evidence-based literature. Therapeutic class reviews should include information such as FDA-approved indications and recommended dosing, adverse effects, drug interactions, etc. The therapeutic class reviews must include references.

The selected Offeror must update the therapeutic class reviews as least annually and prior to the scheduled review of the drug class at the P&T Committee meeting. All modifications (changes, additions, updates, etc.) to the therapeutic class reviews since the last review by the P&T Committee must be highlighted and underlined. The Department must approve every

new therapeutic class review and any modification and/or addition to any existing documents prior to distribution to the P&T Committee by the Department.

The selected Offeror must provide electronic access to the therapeutic class reviews through a web-based portal for the Department and the P&T Committee members.

3. Provide Operational Supports

The selected Offeror must provide operational support services to facilitate P&T Committee meetings. Examples of support services include the following:

- a. Prepare power point presentations listing classes of drugs under review and recommended status (preferred or non-preferred) for each drug within the class for public view during the open P&T Committee meetings. The selected Offeror must provide the presentation to the Department no later than 15 business days prior to the P&T Committee meeting.
- b. Present information at each P&T Committee meeting to provide updated product information for each therapeutic class scheduled for review, and respond to P&T Committee members questions related to clinical and cost impact of proposed alternatives to recommendations.
- c. Recommend clinical subject matter experts for the review of various classes of drugs or individual drugs, if such expertise is requested by the Department or the P&T Committee; all subject matter experts are required to complete the standard disclosure of potential conflicts of interest.
- d. Prepare ad hoc reports, upon request, to supplement P&T Committee discussions. See Section IV-5, Reports and Project Control.
- e. Post P&T meeting information on the selected Offeror's website, including upcoming meeting date, time and location.
- f. Manage online registration for P&T meeting public testimony in accordance with the requirements outlined in the P&T Committee By-Laws located at: <http://www.dhs.state.pa.us/communitypartners/informationforadvocatesandstakeholders/advisorycommittees/pharmacyandtherapeuticscommittee/index.htm>
- g. Provide the Department with a complete list of registrants for public testimony at least five (5) business days prior to the scheduled meeting.
- h. Pay honorariums and travel expenses to external P&T Committee members, external Drug Utilization Review (DUR) Board members and ad hoc clinical subject matter experts. Honorariums for external P&T Committee and external DUR Board members are \$1,000.00 per meeting; honorariums for clinical subject matter experts will be determined in consultation with the Department and may not exceed \$1,000.00. **NOTE:** Honorariums and travel will be reimbursed separately from the monthly fixed charges on a pass through basis when costs are incurred. Current P&T Committee and DUR Board members can be found at the following links: <http://www.dhs.state.pa.us/communitypartners/informationforadvocatesandstakeholders/advisorycommittees/pharmacyandtherapeuticscommittee/index.htm> and

<http://www.dhs.state.pa.us/communitypartners/informationforadvocatesandstakeholders/advisorycommittees/drugutilizationreviewboard/index.htm>

- i. In the extremely rare event that there is a need for an ad hoc P&T Committee meeting, arranging for a public meeting by teleconference that complies with all Sunshine Act requirements.

Task 6. Communication

The selected Offeror must develop materials as set forth in Sections IV-3 Requirements and IV-4 Tasks, to assist and support the Department.

1. Develop and Maintain a Pennsylvania-Specific PDL Program Webpage

The selected Offeror must develop and maintain a Pennsylvania-specific PDL Program webpage. The webpage must comply with all Department requirements for information systems and webpage development and IRM standards. The webpage must include the following information:

- a. Educational information about the PDL Program.
- b. The most current PDL that, at a minimum, identifies:
 - Therapeutic classes of drugs
 - All brand name drugs in a class
 - All generic drugs in a class
 - OTCs in a class
 - PDL status of each drug (Preferred or Non-Preferred)
 - If quantity limits apply to a drug
 - If age limits apply to a drug
 - Requirement for clinical prior authorization of a Preferred Drug, when applicable
 - Link to the Department's Prior Authorization of Pharmaceutical Services handbook pages for the therapeutic class
 - Link to the Department's Quantity Limits list
 - Link to the Department's Prior Authorization fax request forms
- c. Link to instructions to request Prior Authorization on the Department's website
- d. P&T Committee meeting dates, time, location and materials (e.g., agendas, list of upcoming drug classes scheduled for review by the P&T Committee at the next meeting, final decisions of the Secretary of Human Services regarding P&T Committee recommendations, etc.)
- e. Links to the form, procedures and guidelines to register for public testimony at the P&T Committee meeting
- f. Links to the Department's Pharmacy Services website to identify covered drugs
- g. Information for manufacturers to participate in the Supplemental Rebate Program
- h. Other information, as requested by the Department.

The selected Offeror must submit to the Department for prior approval all materials that it proposes to post to the webpage, as set forth in Task 2, Materials Development.

The webpage must provide the capability for individuals to submit questions and comments to the selected Offeror or link to the appropriate section on the Department's website to submit questions and comments. With the exception of questions and comments related to MA Program regulations and policies, the selected Offeror must respond to questions and comments related to the PDL Program. The selected Offeror must refer questions related to policies, regulations, Prior Authorization requirements and procedures and utilization review guidelines to determine medical necessity to the Department for response. The selected Offeror must, upon request by the Department, recommend to the Department draft responses to questions related to the PDL.

Task 7. Supplemental and Market Share Rebate Negotiation

The selected Offeror must manage the supplemental and market-share agreement negotiation and renegotiation process with manufacturers. One hundred (100%) of the agreed upon rebates will be returned to the Department.

The Department is interested in continuing to participate in a multi-state rebate pooling initiative in order to maximize cost savings potential. However, the Department requires an autonomous P&T Committee and an independent PDL.

The Department is open to additional opportunities for rebate contracting for drugs and medical supplies. For example, Pennsylvania-only supplemental rebates for classes of drugs and other items that are not part of the multi-state rebate pooling initiative, but may generate additional supplemental or market share rebates for Pennsylvania.

1. Negotiate with Pharmaceutical Manufacturers and Manufacturers of Medical Supplies

The selected Offeror must negotiate supplemental and market share rebates with manufacturers that will result in the best net cost (cost net of federal and supplemental rebates) for drugs and best net cost (cost net of market share rebates) for select medical supplies on the PDL. The selected Offeror must work with the Department to determine the cost basis for products prior to negotiating the terms for supplemental and market share rebate agreements and present all agreements to the Department for final approval.

The selected Offeror must complete negotiations for each therapeutic drug class before the P&T Committee makes recommendations to the Department. Clinical effectiveness, safety and outcomes will drive the P&T Committee's selection decisions. The selected Offeror must provide relative cost information to the P&T Committee to consider when all drugs in a class are therapeutically equivalent and none have significant clinically meaningful therapeutic advantage in terms of clinical effectiveness, safety and outcomes. The final drugs and medical supplies on the PDL should represent the best clinical and cost value net of rebates.

The selected Offeror must develop a process to allow opportunities for manufacturers to renegotiate supplemental rebates at least annually. In addition, the selected Offeror must also negotiate with manufacturers when warranted by market conditions, new significant warnings or approval of a new drug by the FDA.

The selected Offeror must provide the Department with searchable electronic copies of all executed supplemental rebate agreements.

2. Provide Notices to Manufacturers

The selected Offeror must provide notifications to manufacturers of the supplemental and market share rebate component of the PDL Program. The selected Offeror's notice must indicate that all manufacturers have the opportunity to offer supplemental rebates and competitive prices.

3. Provide Supplemental Rebate and Market Share Rebate Agreement Templates

The selected Offeror must develop and submit to the Department for approval the Supplemental Rebate Agreement Template, and if different, the Supplemental Rebate Agreement Template that includes supplemental drug rebates for drugs paid for by the Department's Medicaid MCOs, and the Market Share Rebate Agreement Template, and any subsequent amendments to those agreements. The Rebate Agreement Template(s) must include all terms, including the agreed upon payment amount, the payment schedule, the duration of the Agreement and the terms for renegotiation. Upon approval by the Department, the Department will submit the Supplemental Rebate Agreement Template, and any subsequent amendments, to CMS for approval. The selected Offeror must amend the Rebate Agreement Templates as requested by the Department or CMS. The selected Offeror must assist the Department in responding to CMS questions regarding the Supplemental Rebate Agreement Template.

Task 8. Administer the Federal and Supplemental Drug Rebate Programs

1. Federal Medicaid Drug Rebates

The selected Offeror will be responsible for administering the Federal Medicaid Drug Rebate Program for both the FFS claims and all drug encounters that is consistent with federal requirements and guidance issued by CMS. The selected Offeror must submit a detailed description of the proposed process to administer Federal Medicaid Drug Rebate Program, an explanation of how the proposed process complies with CMS requirements and guidance, and how the selected Offeror will ensure compliance with all future modifications required by CMS. The description must include an explanation of how the Offeror will:

- a. Maintain a comprehensive drug rebate management system which houses all of the necessary data elements for all drug rebate related activities
- b. Provide Department access to the Offeror's comprehensive drug rebate management system
- c. Receive rebate history from the current contractor's Federal Rebate PRIMS database
- d. Receive all paid outpatient drug claims and encounters from the MMIS contractor
- e. Address open invoices, unpaid rebates, and open disputes
- f. Identify drug claims eligible for rebates and those not eligible for rebates such as 340B provider claims, terminated products, zero paid claims and DME products

- g. Generate separate FFS and MCO invoices to participating drug manufacturers within 60 days from the end of the rebate quarter, for eligible paid claims and encounters.
- h. Track and retain non-eligible claims with the corresponding exclusion reason for reporting purposes
- i. Identify valid NDC/HCPCs combinations for MCO encounter data and convert the units billed to the NDC rebate units for accurate rebate invoicing
- j. Identify opportunities for each MCO to maximize Federal rebate
- k. Reconcile rebates collected by the Department (including Reconciliation of State Invoice [ROSI] and Prior Quarter Adjustment Statement [PQAS] documentation) to the invoices
- l. Report collected and outstanding rebates
- m. Apply, claim, and track interest on invoiced payments that are late
- n. Submit utilization data to other entities at the Department's request
- o. Supply information required to accurately report rebates on the CMS 64 report
- p. Resolve disputes with manufacturers including historical disputes back to Quarter 1 of 1991 with input and direction from the Department
- q. Prevent claiming duplicate discounts, such as but not limited to, claims paid to 340B covered entities or 340B contract pharmacies
- r. Coordinate with the Department's current Federal Medicaid Drug Rebate administrator to ensure a seamless transition
- s. Submit reports as set forth in Section IV-5. Reports and Project Control.

2. State Supplemental and Market Share Rebates

The selected Offeror will be responsible for administering the state supplemental and market share rebates for the FFS claims. If the Department implements a statewide PDL, the below requirements will also apply to MCO drug encounters. Duties will include the following:

- a. Maintain a comprehensive drug rebate management system which houses all of the necessary data elements for all drug rebate related activities
- b. Provide Department access to the comprehensive drug rebate management system
- c. Address open invoices, unpaid rebates, and open disputes
- d. Identify drug claims eligible for rebates
- e. Generate invoices to participating drug manufacturers
- f. Reconcile rebates collected by the Department (including supporting documentation) to the invoices
- g. Report collected and outstanding rebates
- h. Apply, claim, and track interest on invoiced payments that are late
- i. Supply information required to accurately report rebates on the CMS 64 report
- j. Resolve disputes with manufacturers with input and direction from the Department
- k. Coordinate with the Department's current supplemental and market share rebate administrator to ensure a seamless transition
- l. Submit reports as set forth in Section IV-5. Reports and Project Control.
- m. Submit a detailed process and flow chart including each step of the rebate process.

3. Develop an Implementation Work Plan and Schedule for the Rebate Program

The selected Offeror must propose a work plan with its Technical Submittal and submit and update, as required by the Department, a final, detailed work plan within ten (10) business days of the Effective Date of the contract. The work plan must outline each major task, staffing plans and completion dates for the Rebate Program.

The proposed work plan should include, at a minimum, the following:

- a. Working cooperatively with the Department in notifying CMS of the change in selected Offeror and securing approval of the new Supplemental Rebate Agreement template(s)
- b. Informing manufacturers of the change in selected Offeror
- c. Timeline for next federal, supplemental and market share rebate invoicing cycles
- d. Department user training for comprehensive drug rebate management system
- e. Process for addressing open invoices, unpaid rebates, and open disputes

The selected Offeror must submit all work plan updates to the Department for approval and must revise them, as requested by the Department.

Task 9. RetroDUR Program

1. RetroDUR Operations

The selected Offeror will be responsible for providing support for the RetroDUR Program which applies to the beneficiaries in all delivery systems. The Offeror will provide a design that is clinically sound. The selected Offeror will address at a minimum the following:

- a. Receipt of a one year history of medical and pharmacy claims and encounters from the MMIS contractor for all PA MA recipients (FFS and MCO) to build patient profiles
- b. Receipt of the PA MA provider enrollment file from the MMIS contractor
- c. Receipt of regular file feeds containing medical and pharmacy claims and encounters from the MMIS for all PA MA recipients (FFS and MCO) to build patient profiles
- d. Provision of software to conduct monthly RetroDUR reviews and identify drug-related problems
- e. Enabling Department clinicians to access the software via web-based portal to:
 - i. Select criteria for monthly interventions and assign to specific clinicians for review
 - ii. Review identified patient profiles to determine if an intervention is needed
 - iii. View all criteria and associated intervention letter language
 - iv. Flag patient profiles for intervention letter mailing
 - v. Compose a free-text message to the provider for inclusion in the intervention letter when appropriate (free-text message is in addition to the standard criteria message)
 - vi. Suppress criteria and intervention letter for a timeframe determined by the clinician

- vii. Document rationale to suppress the intervention letter via use of standardized reasons
- viii. Store intervention history, provider feedback, and documentation/rationale for letter suppression in the patient's clinical profile for future reference
- f. Providing recommendations for RetroDUR criteria and the corresponding language for intervention letters for Department approval and possible revision (only Department approved criteria will be included for monthly profile reviews)
- g. Verification of provider name and address and when provider is not MA enrolled, utilize NPDES or other national provider database to identify name and address to match NPI on the claims.
- h. Development of intervention letters, patient profiles, and provider feedback templates for Department approval
- i. Collaboration and development of new criteria based on Department need
- j. Provision of monthly intervention letters to prescribers, beneficiaries, and/or pharmacies
- k. Collecting provider feedback and displaying document images or provider entries in the patient profiles
- l. Preparation of relevant sections of the CMS Annual DUR Report as directed by the Department
- m. Performing environmental scanning for new RetroDUR criteria and interventions

The selected Offeror must submit reports as set forth in Section IV-5. Reports and Project Control

2. Develop an Implementation Work Plan and Schedule for RetroDUR Program

The selected Offeror must propose a work plan with the Technical Submittal and submit and update, as required by the Department, a final, detailed work plan within ten (10) business days of the Effective Date of the contract. The work plan must outline each major task, staffing plans and completion dates for the RetroDUR Program.

The proposed work plan should include, at a minimum, the following:

- a. Implementation timeline for building patient profiles and gaining Department approval of criteria and letter templates and intervention language
- b. Department user training for Offeror's web-based software

The selected Offeror must submit all updates to the Department for approval and must revise them, as requested by the Department.

Task 10. Environmental Scanning

The Department recognizes that in order to maximize clinical and financial efficiency and effectiveness, the Department must manage all drugs covered by the MA Program, not just those subject to the PDL. The selected Offeror will perform and report on environmental scanning of the

following in order to support the Department in managing the full spectrum of covered drugs, optimizing rebates, and ensuring clinical effectiveness, safety and outcomes.

1. Market trends and analyses
2. Practices and initiatives of other states and private payers related to pharmacy benefit management
3. Changing trends in pharmacy benefit management
4. Pipeline monitoring
5. New drugs to market
6. New indications and updates to current treatment guidelines
7. Patent expirations
8. Cost trend drivers
9. Proposed and final changes to Federal Medicaid statutes and regulations that will impact the programs covered under the contract
10. Pharmacy cost savings opportunities beyond the PDL
11. Health and safety warnings such as FDA alerts

The selected Offeror must submit summaries of its environmental scanning as set forth in Section IV-5. Reports and Project Control.

Task 11. Coordinate with the Department and Other Contractors

The selected Offeror must coordinate with the Department, the Department's Contractors and other departments or offices, as specified by the Department.

The selected Offeror must attend meetings with the Department and other Contractors, as requested by the Department. The selected Offeror must prepare and submit to the Department for approval agendas, file notes, presentations and other deliverables identified by the Department to streamline coordination efforts and required meetings.

1. Coordination with the Department

During the initial phase of the contract and transition, the selected Offeror must participate in weekly status meetings for each component of this Project (PDL, Rebate and RetroDUR) with the Department, unless otherwise directed by the Department. After that phase, the selected Offeror must hold, at a minimum, bi-weekly PDL status meetings and monthly Rebate and RetroDUR status meetings with the Department, unless otherwise directed by the Department. All status meetings will be held via teleconference scheduled by the selected Offeror. The selected Offeror must develop the agenda and provide the agenda and status report to the Department prior to each meeting. The selected Offeror must record and prepare a list of outcomes and actions for follow up to the Department within five (5) business days after each meeting. The agenda and list of outcomes and actions for follow up are subject to the Department's review and approval.

The selected Offeror must assist the Department with responses to general inquiries and complaints about the PDL, Rebates and the RetroDUR Program. In instances where the

inquiry or complaint is about the selected Offeror, the respective PDL, Rebate or RetroDUR Manager must be available to discuss the inquiry or complaint, as requested by the Department.

The selected Offeror must also establish a system to develop, implement and maintain an inquiry/complaint process for pharmaceutical manufacturers that want to submit an inquiry regarding the Rebate Program.

The selected Offeror must develop a system to track and report to the Department all inquiries and complaints received, as well as the outcome of each the inquiry and complaint.

During both the Transition and Turnover processes, the selected Offeror must cooperate with the Department and supply the Department and its Providers and Contractors with all information required by the Department.

2. Coordination with the Department's MMIS Contractor and Subcontractors

The selected Offeror must coordinate all system interface requirements with the Department and MMIS Contractor. The selected Offeror must:

- a. Have sufficient telecommunication capabilities to meet the requirements of this RFP
- b. Have the capability to electronically exchange data files with the Department and MMIS contractor
- c. Integrate with other systems including those of the Department and its Contractors to ensure the delivery of accurate and timely data and information; for example, the selected Offeror must coordinate to integrate data for therapeutic drug classes selected for the PDL into the current claims processing and on-line point-of-sale claims adjudication system.
- d. Have the capability to receive, store, analyze and report on data sufficient to meet the requirements of this RFP
- e. Have effective security measures to prevent the unauthorized use of, or access to, data. The selected Offeror and its subcontractors must maintain confidentiality and only use information from the Department to fulfill its contractual obligations.
- f. Designate appropriate staff to participate in Department directed development and implementation activities
- g. Require that subcontractors meet the same MIS requirements as the selected Offeror

Examples of files the Department provides to the current PDL Contractor are monthly provider files and monthly pharmacy claims files. Examples of files the Department receives from the current PDL Contractor are the weekly PDL updates and the weekly market basket which includes all of the PDL drug class names and corresponding codes needed to support the MA Program covered drug look up on the Department's website.

<http://www.dhs.state.pa.us/provider/doingbusinesswithdhs/pharmacyservices/covereddrugs/index.htm>

Task 12. Monitoring, Performance Standards and Corrective Action Plans

1. Department Monitoring Methods

The selected Offeror must cooperate with the Department when the Department monitors the selected Offeror's performance.

2. Contractor Monitoring

The selected Offeror must monitor its performance on an ongoing basis and report results to the Department on a quarterly basis. See Section IV-5, Reports and Project Control, for reporting information.

The selected Offeror's monitoring of its performance must include web-based Department satisfaction surveys.

3. Performance Standards

As part of the Department's monitoring and evaluation, the Department will assess the selected Offeror's performance according to the performance standards specified in **Appendix H, Performance Standards**.

4. Corrective Action Plans

When the selected Offeror's performance is not in compliance with the contract requirements and performance standards, the Department will inform the selected Offeror. The selected Offeror must prepare and submit for Department approval a corrective action plan for each identified problem within a timeframe determined by the Department. The corrective action plans must include, but are not limited to:

- a. Brief description of the findings.
- b. Specific steps the selected Offeror will take to correct the situation or reasons why the selected Offeror believes corrective action is not necessary.
- c. Name(s) and title(s) of responsible staff person(s).
- d. Timetable for performance of the corrective action steps.
- e. Monitoring the selected Offeror will perform to ensure that it takes corrective action steps.
- f. Signature of a senior executive.

The selected Offeror must implement the corrective action plan within the timeframe set forth and agreed to by the Department. Failure to implement corrective action plans, as required by the Department, may result in further action by the Department.

Task 13. Turnover

The selected Offeror will engage in turnover activities which result in a successful transitioning of its contract activities to Commonwealth staff and a subsequent vendor, if any. Turnover is defined

as those activities required for the selected Offeror to transition contract service delivery to a subsequent vendor or to Commonwealth resources.

1. Turnover Scope

During turnover, the selected Offeror must ensure that the transfer of services does not impact the Department's administration of the program, including implementation of any new initiatives or projects. Four months prior to the end of the contract term, the selected Offeror must develop and submit a comprehensive Turnover Plan that details the proposed schedule, activities, and resource requirements associated with the turnover tasks identified. Three months prior to the end of the contract term, the selected Offeror must implement a DHS approved Turnover Plan. Turnover activities include, but are not limited to:

- a. Transfer of information, including relevant data, documentation or other information
- b. The implementation of a quality assurance process to monitor turnover activities;
- c. A plan for training the Department and other staff in the delivery of services;
- d. Post-Turnover services including a Turnover Results Report and access to the selected Offeror's staff with technical and operational expertise.
- e. Appointment of, with Department approval, a manager to manage and coordinate all turnover activities outlined in the Turnover Plan approved by the Department.

The selected Offeror must:

- a. Execute the approved Turnover Plan in cooperation with the Department and any incoming vendor's Transition Plan.
- b. Maintain service delivery staffing levels (no reduction in staffing) during the turnover period; all changes require prior approval by the DHS Contract Administrator;
- c. Not restrict or prevent the selected Offeror's staff from accepting employment or contract positions with DHS or with any successor vendor. DHS will work with the incumbent selected Offeror and successor vendors on the timing of any transition of incumbent selected Offeror staff.
- d. Notify the DHS Contract Administrator of reassignment or termination of employment or contract with any of its Project staff during Turnover prior to reassignment or termination of the staff.
- e. Provide to DHS or its agent, within 15 business days of the request, all updated documentation and records required by the DHS or its agents.
- f. Turn over the operation and management of all service delivery functions to DHS or its designee. This turnover must be planned and managed in an orderly fashion so that no disruption of service to users takes place.
- g. Work closely with DHS to ensure that this turnover of responsibilities and the necessary knowledge transfer are completed by the end of the contract period.
- h. Submit turnover deliverables as outlined in IV-5. Reports and Project Control.
- i. Respond to all DHS requests regarding turnover information, in the timeframe defined by the Department at the time of the request.

IV-5. Reports and Project Control.

The selected Offeror must establish and maintain a Department-approved system of records and reports for the PDL, Rebates, and RetroDUR Programs. Reports must provide accurate data and clear and concise narrative explanations. The Department will work with the selected Offeror to determine the need for Department-held data beyond that already specified in Tasks delineated in RFP Part IV, Section IV-4 that the selected Offeror must use to effectively meet reporting obligations. The selected Offeror must furnish electronic copies of the reports, preferably via web-based portal access. All reports must be presented in a format that allows Department staff to easily retrieve and edit or manipulate data for purposes of Department reporting. The selected Offeror may not publish or publicly present statistical or analytical material based on the Project reports or data without advance written approval from the Department.

This section outlines the minimum reports the selected Offeror must submit to the Department. In addition, the selected Offeror must work with the Department to determine additional reports that would be of use to the Department and generate other relevant reports identified by the Department throughout the duration of the contract.

1. PDL Reports

a. PDL and Supplemental Rebate Cost Analysis Reports

The selected Offeror must provide the Department with the following:

- i. Reports as defined in RFP Part IV, Section IV-4. Task 5, prior to and following each P&T Committee meeting
- ii. Quarterly Report of Top 25 Drugs in the MA program by utilization and by cost

b. PDL Compliance Reports

The selected Offeror must develop and submit to the Department quarterly PDL Compliance Reports. The PDL Compliance Report must, at a minimum, include the following:

- i. An analysis of changes in prescribing trends
- ii. Prescriber compliance for all drugs included on the PDL, grouped by therapeutic drug class and delineated for drugs where MA is the primary vs secondary to a third party resource with primary liability for payment
- iii. Product switch rate data from Non-Preferred Drugs to Preferred Drugs by drug and therapeutic class of drugs
- iv. An analysis of where, within the same therapeutic class, the switch occurred

2. Rebate Reports

Minimum data requirements will be defined by the Department. The selected Offeror must develop and provide to the Department via a web-based portal Rebate Program reports which

must comply with all CMS and Department reporting requirements and, at a minimum, include the following:

- a. Accounts Receivable Expenditures
- b. CMS 64 FFS
- c. CMS 64 MCO
- d. CMS Base Calculation including FFS and MCO Drug Rebate Offsets for National and State Sidebar Agreements and Increased ACA Offset
- e. Rebate Tracking Dashboard updates monthly for FFS and each (example provided in **Appendix L, Rebate Dashboard**)
- f. Rebate dispute resolutions
- g. Listing of non-eligible claims with the corresponding reason(s) for exclusion for FFS and each MCO
- h. Tracking report on interest on manufacturers' late payments for FFS and each MCO

3. RetroDUR Reports

The selected Offeror must develop and provide to the Department via a web-based portal RetroDUR Program reports which must, at a minimum, include the following for FFS and each MCO

- a. Monthly criteria and number of recipients identified for review by Department clinicians
- b. Annual pharmacy and medical cost savings for interventions made compared to a control group
- c. Intervention letter history by criteria

4. Problem Identification Reports

The selected Offeror must submit problem identification reports when problems are identified. The reports 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 the selected Offeror's recommendations with supporting rationale.

5. Ad Hoc Reports

The selected Offeror must develop and submit to the Department ad hoc reports, as requested. The Department will provide reasonable notice to the selected Offeror. The selected Offeror must revise these reports, as requested by the Department. Examples of Ad Hoc reports include, but are not limited to, the following:

- a. Reports to supplement P&T Committee discussions
- b. Reports on alternative program benefit proposals and analysis of the fiscal and strategic impact to the Department of any such proposal

- c. Analysis and insights on proposed and final Federal statutes, regulations and program guidance, proposed and final State legislation, and the clinical and fiscal impact on pharmacy services in the MA Program
- d. Reports on ongoing rebate analysis and suggestions for enhancing rebates and/or lowering net pharmacy costs to ensure the best value

6. Environmental Scanning

The selected Offeror must submit to the Department periodic reports of the results of environmental scanning as described in IV-4 Task 10, Environmental Scanning. The Department and the selected Offeror will develop a mutually agreed upon schedule for submission of these reports.

7. Contractor Monitoring Reports

The selected Offeror must monitor its performance on an ongoing basis and report results to the Department on a quarterly basis. The report must include web-based Department satisfaction surveys. Additional requirements for reporting results of performance will be determined as part of final contract negotiations

8. Turnover Reports

The following reports are required with Turnover:

a. Turnover Plan

Turnover Plan	
Activity	Turnover
Expected Delivery	Submitted for approval no later than 4 months prior to the end of the contract term or within 1 month of request by DHS
Frequency	Once
Description	The selected Offeror must develop and implement a DHS-approved Turnover Plan covering the possible turnover of the operational business activities to DHS or its designee. The Turnover Plan must be provided in a format and media specified by DHS and must address turnover activities as defined in RFP Part IV, Section IV-4, Task 13, No. 1.

IV-6. Contract Requirements—Small Diverse Business Participation.

All contracts containing SDB participation must also include a provision requiring the selected Offeror to meet and maintain those commitments made to SDBs at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BSBO. All contracts containing SDB participation must include a provision requiring SDB subcontractors to perform at least **50%** of the subcontracted work.

The selected Offeror's commitments to SDBs made at the time of proposal submittal or contract negotiation shall, to the extent so provided in the commitment, be maintained throughout the term of the contract and through any renewal or extension of the contract. Any proposed change must be submitted to BSBO, which will make a recommendation to the Contracting Officer regarding a course of action.

If a contract is assigned to another Contractor, the new Offeror must maintain the SDB participation of the original contract.

The selected Offeror 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 Department and BSBO within **10** business days of the end of each quarter the contract is in force. This information will be used to determine the actual dollar amount paid to SDB subcontractors and suppliers. Also, this information will serve as a record of fulfillment of the commitment the selected Offeror made and for which it received SDB participation points. If there was no activity during the quarter then the form must be completed by stating "No activity in this quarter."

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF SMALL DIVERSE BUSINESS STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR SMALL DIVERSE BUSINESS UTILIZATION.

APPENDIX A

PART V - CONTRACT TERMS and CONDITIONS

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

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

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

The initial term of the Contract shall be 03 year(s) and 00 month(s).

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract.

The Effective Date shall be: a) the Effective Date printed on the Contract after the Contract has been fully executed by the Contractor and the Commonwealth (signed and approved as required by Commonwealth contracting procedures) or b) the "Valid from" date printed on the Contract, whichever is later.

V.3 CONTRACT-002.2a Renewal of Contract Term (Nov 30 2006)

The Contract may be renewed for a maximum of 2 additional 1 year term(s), so long as Commonwealth provides written notice to Contractor of its intention to extend the Contract by letter prior to the expiration of the term of the agreement, or any extension thereof. The Commonwealth may exercise the renewal as individual year or multiple year term(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

V.4 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)

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

V.5 CONTRACT-003.1b Signatures – Contract (March 2007)

The Contract shall not be a legally binding contract until the fully-executed Contract has been sent to the Contractor. No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date. The Contractor hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.

The Contract will be signed in counterparts. The Contractor shall sign the Contract "in ink" and return it to the Commonwealth. After the Contract is signed by the Contractor and returned to the Commonwealth, it will be processed for Commonwealth signatures and approvals. When the Contract has been signed and approved by the Commonwealth as required by Commonwealth contracting procedures, the Commonwealth shall create a second Contract output form which shall: 1) clearly indicate "Fully executed" at the top of the form; 2) include a printed Effective Date and 3) include the printed name of the Purchasing Agent indicating that the document has been

electronically signed and approved by the Commonwealth. Until the Contractor receives the Contract output form with this information on the Contract output form, there is no legally binding contract between the parties.

The fully-executed Contract may be sent to the Contractor electronically or through facsimile equipment. The electronic transmission of the Contract shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Contract legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine Contract or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine Contract or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine Contract or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Contract or acknowledgement were not in writing or signed by the parties. A Contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

V.6 CONTRACT-004.1a Definitions (Oct 2013)

As used in this Contract, these words shall have the following meanings:

- a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".
- b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- c. Days: Unless specifically indicated otherwise, days mean calendar days.
- d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- f. Services: All Contractor activity necessary to satisfy the Contract.

V.7 CONTRACT-005.1b Agency Purchase Orders (Oct 2013)

The Agency may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the

Contract are acceptable and must be performed in accordance with the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

Purchase Orders will not include an "ink" signature by the Agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize the Contractor to proceed.

Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of a purchase order shall require acknowledgement of receipt of the transmission by the Contractor. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by the Contractor after 4:00 p.m. will be considered received the following business day.

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.
- b. The parties agree that no writing shall be required in order to make the Purchase Order legally binding. The parties hereby agree not to contest the validity or enforceability of a Purchase Order or acknowledgement issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any Purchase Order or acknowledgement issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of Purchase Orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the Purchase Order or acknowledgement were not in writing or signed by the parties. A Purchase Order or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.
- c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

Purchase Orders under ten thousand dollars (\$10,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

V.8 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth. The Contractor will be responsible for all services in this Contract whether or not Contractor provides them directly. Further, the Contractor is the sole point of contact with regard to all contractual matters, including payment of any and all charges resulting from the Contract.

V.9 CONTRACT-007.01b Delivery of Services (Nov 30 2006)

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

V.10 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the materials and services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase materials and services covered under the Contract through a separate competitive procurement procedure, whenever Commonwealth deems it to be in its best interest.

V.11 CONTRACT-008.1a Warranty (Oct 2006)

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

V.12 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2013)

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report, document or other material provided to the Commonwealth under the contract.

The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract.

This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same.

As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action.

If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization.

The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract.

If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing.

If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

V.13 CONTRACT-009.1d Ownership Rights (Oct 2006)

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

V.14 CONTRACT-010.1a Acceptance (Oct 2006)

No item(s) received by the Commonwealth shall be deemed accepted until the Commonwealth has had a reasonable opportunity to inspect the item(s). Any item(s) which is discovered to be defective or fails to conform to the specifications may be rejected upon initial inspection or at any later time if the defects contained in the item(s) or the noncompliance with the specifications were not reasonably ascertainable upon the initial inspection. It shall thereupon become the duty of the Contractor to remove rejected item(s) from the premises without expense to the Commonwealth within fifteen (15) days after notification. Rejected item(s) left longer than fifteen (15) days will be regarded as abandoned, and the Commonwealth shall have the right to dispose of them as its own property and shall retain that portion of the proceeds of any sale which represents the Commonwealth's costs and expenses in regard to the storage and sale of the item(s). Upon notice of rejection, the Contractor shall immediately replace all such rejected item(s) with others conforming to the specifications and which are not defective. If the Contractor fails, neglects or refuses to do so, the Commonwealth shall then have the right to procure a corresponding quantity of such item(s), and deduct from any monies due or that may thereafter become due to the Contractor, the difference between the price stated in the Contract and the cost thereof to the Commonwealth.

V.15 CONTRACT-011.1a Compliance With Law (Oct 2006)

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

V.16 CONTRACT-013.1 Environmental Provisions (Oct 2006)

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations, including, but not limited to: the Clean Streams Law Act of June 22, 1937 (P.L. 1987, No. 394), as amended 35 P.S. Section 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. Section 6018.101 et seq. ; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended , 32 P.S. Section 693.1.

V.17 CONTRACT-014.1 Post-Consumer Recycled Content (Dec 5 2006)

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified on the Department of General Services website at www.dgs.state.pa.us on the date of submission of the bid, proposal or contract offer.

V.18 CONTRACT-014.3 Recycled Content Enforcement (Feb 2009)

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

V.19 CONTRACT-015.1A Compensation/Expenses (May 2008)

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

V.20 CONTRACT-015.2 Billing Requirements (February 2012)

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing , the Contractor shall include in all of its invoices the following minimum information:

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

If an invoice does not contain the minimum information set forth in this paragraph, the Commonwealth may return the invoice as improper. If the Commonwealth returns an invoice as improper, the time for processing a payment will be suspended until the Commonwealth receives a correct invoice. The Contractor may not receive payment until the Commonwealth has received a correct invoice.

Contractors are required to establish separate billing accounts with each using agency and invoice them directly. Each invoice shall be itemized with adequate detail and match the line item on the Purchase Order. In no instance shall any payment be made for services to the Contractor that are not in accordance with the prices on the Purchase Order, the Contract, updated price lists or any discounts negotiated by the purchasing agency.

V.21 CONTRACT-016.1 Payment (Oct 2006)

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

V.22 CONTRACT-016.2 ACH Payments (Aug 2007)

- a. The Commonwealth will make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).
- b. The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.
- c. It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

V.23 CONTRACT-017.1 Taxes (Dec 5 2006)

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23-23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

V.24 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

V.25 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)

- a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, *et seq.*), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.
- b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

V.26 CONTRACT-020.1 Audit Provisions (Oct 2006)

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

V.27 CONTRACT-020.2 Single Audit Clause (Dec 27, 2007)

In compliance with the *Single Audit Act of 1984*, the Contractor agrees to the following:

- a. This Contract is subject to audit by federal and state agencies or their authorized representative in accordance with the auditing standards promulgated by the Comptroller General of the United States and specified in *Government Auditing Standards, 1994 Revisions (Yellow Book)*.
- b. The audit requirement of this Contract will be satisfied if a single audit is performed under the provisions of the *Single Audit Act of 1984, 31 U.S.C. Section 7501, et seq.* and all rules and regulations promulgated pursuant to the Act.
- c. The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial/compliance, economy/efficiency, or program results nature, if deemed necessary.

The Contractor further agrees to comply with requirements that may be issued by the state agency upon receipt of additional guidance received from the federal government regarding the *Single Audit Act of 1984*.

V.28 CONTRACT-021.1 Default (Oct 2013)

a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:

- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
- 2) Failure to perform the work with sufficient labor, equipment, or material to ensure the completion of the specified work in accordance with the Contract or Purchase Order terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
- 5) Improper delivery;
- 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
- 7) Delivery of a defective item;
- 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 9) Discontinuance of work without approval;
- 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
- 11) Insolvency or bankruptcy;
- 12) Assignment made for the benefit of creditors;
- 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause

why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

- 14) Failure to protect, to repair, or to make good any damage or injury to property;
- 15) Breach of any provision of the Contract;
- 16) Failure to comply with representations made in the Contractor's bid/proposal; or
- 17) Failure to comply with applicable industry standards, customs, and practice.

b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.

c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.

d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

V.29 CONTRACT-022.1 Force Majeure (Oct 2006)

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

V.30 CONTRACT-023.1a Termination Provisions (Oct 2013)

The Commonwealth has the right to terminate this Contract or any Purchase Order for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose.

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

V.31 CONTRACT-024.1 Contract Controversies (Oct 2011)

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.

b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the

determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

V.32 CONTRACT-025.1 Assignability and Subcontracting (Oct 2013)

- a. Subject to the terms and conditions of this paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.
- e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

V.33 CONTRACT-026.1 Other Contractors (Oct 2006)

The Commonwealth may undertake or award other contracts for additional or related work, and the Contractor shall fully cooperate with other contractors and Commonwealth employees, and coordinate its work with such additional work as may be required. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Commonwealth employees. This paragraph shall be included in the Contracts of all contractors with which this Contractor will be required to cooperate. The Commonwealth shall equitably enforce this paragraph as to all contractors to prevent the imposition of unreasonable burdens on any contractor.

V.34 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (March 2015)

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.

3. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

4. The Contractor and each subcontractor shall not discriminate in violation of PHRA and applicable federal laws against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

5. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.

6. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

7. The Contractor's and each subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

8. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

V.35 CONTRACT-028.1 Contractor Integrity Provisions (Jan 2015)

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

1. DEFINITIONS. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

a. "Affiliate" means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.

c. "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

d. "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

e. "Financial Interest" means either:

- (1) Ownership of more than a five percent interest in any business; or
- (2) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.

f. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b)*, shall apply.

g. "Non-bid Basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

2. In furtherance of this policy, Contractor agrees to the following:

a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.

c. Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.

d. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than the Contractor's submission of the contract signed by Contractor.

e. Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:

- (1) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
- (2) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
- (3) had any business license or professional license suspended or revoked;
- (4) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- (5) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract it becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

f. Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.

g. When contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

h. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions or occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

i. Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.

j. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

V.36 CONTRACT-029.1 Contractor Responsibility Provisions (Nov 2010)

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

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
6. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

V.37 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.
- b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph a. above.

V.38 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

V.39 CONTRACT-033.1 Applicable Law (Oct 2006)

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

V.40 CONTRACT-034.1a Integration – RFP (Dec 12 2006)

This Contract, including the Request for Proposals, Contractor's Proposal, Contractor's Best and Final Offer, if any, all referenced documents, and any Purchase Order constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties.

V.41 CONTRACT-034.2a Order of Precedence - RFP (Dec 12 2006)

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the RFP, the Best and Final Offer, if any; the Contractor's Proposal in Response to the RFP.

V.42 CONTRACT-034.3 Controlling Terms and Conditions (Aug 2011)

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received from the Contractor are for obtaining firm pricing only. Other terms and conditions or additional terms and conditions included or referenced in the Contractor's quotations, invoices, business forms, or other documentation shall not become part of the parties' agreement and shall be disregarded by the parties, unenforceable by the Contractor and not binding on the Commonwealth.

V.43 CONTRACT-035.1a Changes (Oct 2006)

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or

modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through Contract Controversies Provision.

V.44 CONTRACT-036.1 Background Checks (Oct 2013)

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

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

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

d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in Enclosure 3 of Commonwealth Management Directive 625.10 Amended (January 30, 2008) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings. The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

V.45 CONTRACT-037.1a Confidentiality (Oct 2013)

a) The Contractor agrees to protect the confidentiality of the Commonwealth's confidential information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party (notice may be communicated by describing the information, and the specifications around its use or disclosure, in the SOW). Neither party may assert that information owned by the other party is such party's confidential information. The parties agree that such confidential information shall not be copied, in whole or in part, or used or disclosed except when essential for authorized activities under this Contract and, in the case of disclosure, where the recipient of the confidential information has agreed to be bound by confidentiality requirements no less restrictive than those set forth herein. Each copy of such confidential information shall be marked by the party making the copy with any notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only, and which will remain subject to this Contract's security, privacy, data retention/destruction and confidentiality provisions (all of which shall survive the expiration of this Contract). Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default pursuant to the DEFAULT provision of this Contract, in addition to other remedies available to the non-breaching party.

(b) Insofar as information is not otherwise protected by law or regulation, the obligations stated in this Section do not apply to information:

- (1) already known to the recipient at the time of disclosure other than through the contractual relationship;
- (2) independently generated by the recipient and not derived by the information supplied by the disclosing party.
- (3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
- (4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
- (5) required to be disclosed by law, regulation, court order, or other legal process.

There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

(c) The Contractor shall use the following process when submitting information to the Commonwealth it believes to be confidential and/or proprietary information or trade secrets:

- (1) Prepare an un-redacted version of the appropriate document, and
- (2) Prepare a redacted version of the document that redacts the information that is asserted to be confidential or proprietary information or a trade secret, and
- (3) Prepare a signed written statement that states:
 - (i) the attached document contains confidential or proprietary information or trade secrets;
 - (ii) the Contractor is submitting the document in both redacted and un-redacted format in accordance with 65 P.S. § 67.707(b); and
 - (iii) the Contractor is requesting that the document be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests.
- (4) Submit the two documents along with the signed written statement to the Commonwealth.

V.46 CONTRACT-037.2b Health Insurance Portability and Accountability Act (HIPAA) Compliance (Sept 2009)

The Health Insurance Portability and Accountability Act (HIPAA) Compliance requirements are set forth in the attachments to this solicitation.

V.47 CONTRACT-041.1 Small Diverse Business Participation (July 2012)

The selected contractor's commitments to Small Diverse Businesses made at the time of proposal submittal or contract negotiation shall, to the extent so provided in the commitment, be maintained throughout the term of the contract and through any renewal or extension of the contract. Any proposed change must be submitted to BSBO, which will make a recommendation to the Contracting Officer regarding a course of action.

Small Diverse Business subcontractors must perform at least **50%** of the subcontracted work.

If a contract is assigned to another contractor, the new contractor must maintain the Small Diverse 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 BSBO

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 Diverse Business subcontractors and suppliers. Also, this information will serve as a record of fulfillment of the commitment the selected contractor made and for which it received Small Diverse Business participation points. If there was no activity during the quarter then the form must be completed by stating “No activity in this quarter.”

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF SMALL DIVERSE BUSINESS STATUS OR ENTITLE AN OFFEROR TO RECEIVE CREDIT FOR SMALL DIVERSE BUSINESS UTILIZATION.

V.48 CONTRACT-051.1 Notice (Dec 2006)

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, teletype, electronic or digital transmission (provided such delivery is confirmed), or by a recognized overnight courier service (e.g., DHL, Federal Express, etc.) with confirmed receipt, or by certified or registered United States mail, postage prepaid, return receipt requested, and sent to following:

- a. If to the Contractor: the Contractor's address as recorded in the Commonwealth's Supplier Registration system.
- b. If to the Commonwealth: the address of the Issuing Office as set forth on the Contract.

V.49 CONTRACT-052.1 Right to Know Law (Feb 2010)

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:

- 1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
- 2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth’s determination.

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or

harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

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

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 Management Directive 230.10, Commonwealth Travel Policy, as may be amended, unless the Contractor has higher rates which have been established by its offices/officials, and published prior to entering into this contract. Higher rates must be supported by a copy of the minutes or other official documents, and submitted to the Department. Documentation in support of travel and per diem expenses will be the same as required of state employees.

J. INSURANCE

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

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

K. PROPERTY AND SUPPLIES

1. Contractor agrees to obtain all supplies and equipment for use in the performance of this contract at the lowest practicable cost and to purchase by means of competitive bidding whenever required by law.
2. Title to all property furnished in-kind by the Department shall remain with the Department.
3. Contractor has title to all personal property acquired by the contractor, including purchase by lease/purchase agreement, for which the contractor is to be reimbursed under this contract. Upon cancellation or termination of this contract, disposition of such purchased personal property which has a remaining useful life shall be made in accordance with the following provisions.
 - a. The contractor and the Department may agree to transfer any item of such purchased property to another contractor designated by the Department. Cost of transportation shall be 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 acquired any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The contractor further assures that in the performance of this contract, it will not knowingly employ any person having such interest. Contractor hereby certifies that no member of the Board of the contractor or any of its officers or directors has such an adverse interest.

P. INTEREST OF THE COMMONWEALTH AND OTHERS

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

Q. CONTRACTOR RESPONSIBILITY TO EMPLOY WELFARE CLIENTS

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

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

R. TUBERCULOSIS CONTROL

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

S. ACT 13 APPLICATION TO CONTRACTOR

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

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

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

T. 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.

AUDIT CLAUSE A – SUBRECIPIENT
Local Governments and Nonprofit Organizations

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 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. The DPW provides the following audit requirements in accordance with the Commonwealth of Pennsylvania, Governor's Office, Management Directive 325.9, as amended August 20, 2009.

Subrecipient means an entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency. For purposes of this audit clause, a subrecipient **is not** a vendor that receives a procurement contract to provide goods or services that are required to provide the administrative support to carry out a federal program.

A. Federal Audit Requirements – Local Governments and Nonprofit Organizations

A local government and nonprofit organization must comply with all federal audit requirements, including: the Single Audit Act, as amended; the revised Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Government, and Non-Profit Organizations*; and any other applicable law or regulation, as well as any other applicable law or regulation that may be enacted or promulgated by the federal government.

A local government or nonprofit organization that expends federal awards of \$500,000 or more during its fiscal year, received either directly from the federal government, indirectly from a pass-through entity, or a combination of both, to carry out a federal program, **is required** to have an audit made in accordance with the provisions of OMB Circular A-133, as revised.

If a local government or nonprofit organization expends **total federal awards of less than \$500,000** during its fiscal year, it is exempt from these **federal** audit requirements, but is required to maintain auditable records of federal or state funds that supplement such awards. Records must be available for review by appropriate officials. **Although an audit may not be necessary under the federal requirements, DPW audit requirements may be applicable.**

B. Department of Public Welfare Audit Requirements

A local government or nonprofit provider must meet the DPW audit requirements.

Where a Single Audit or program-specific audit is conducted in accordance with the federal audit requirements detailed above, such an audit will be accepted by the DPW provided that:

1. A full copy of the audit report is submitted as detailed below; **and**
2. The subrecipient shall ensure that the audit requirements are met for the terms of this contract; i.e., the prescribed Attestation Report and applicable schedule

requirement(s). The incremental cost for preparation of the Attestation Report and the schedule cannot be charged to the federal funding stream.

AUDIT CLAUSE A – SUBRECIPIENT

Local Governments and Nonprofit Organizations

The local government or nonprofit organization must comply with all federal and state audit requirements including: the Single Audit Act Amendments of 1996; Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as amended; and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the federal government. **In the absence of a federally required audit**, the entity is responsible for the following annual audit requirements, which are based upon the program year specified in this agreement.

Institutions that **expends \$500,000 or more in combined state and federal funds** during the program year is required to have an audit of those funds made in accordance with generally accepted *Government Auditing Standards* (The Yellow Book), revised, as published by the Comptroller General of the United States. Where such an audit is not required to meet the federal requirements, the costs related to DPW audit requirements may not be charged to federal funding streams.

If in connection with the agreement, a local government or nonprofit organization **expends \$300,000 or more in combined state and federal funds** during the program year, the subrecipient 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, as well as applicable program regulations. These examinations shall be conducted in accordance with the American Institute of Certified Public Accountants' *Statements on Standards for Attestation Engagements* (SSAE), Section 601, *Compliance Attestation*, and shall be of a scope acceptable to the DPW. The initial Section 601 compliance examination shall be completed for the program year specified in the contract and conducted annually thereafter. The independent auditor shall issue a report on its compliance examination as defined in SSAE, Section 601. The incremental cost for preparation of the SSAE cannot be charged to federal funding streams.

The subrecipient shall submit the SSAE, Section 601, audit report (if applicable) to the DPW within 90 days after the program year has been completed. When SSAE, Section 601, audit reports are other than unqualified, the subrecipient shall submit to the DPW, in addition to the audit reports, a plan describing what actions the subrecipient will implement to correct the situation that caused the auditor to issue a qualified report, a timetable for implementing the planned corrective actions, a process for monitoring compliance with the timetable, and a contact person who is responsible for the resolution of the situation.

If the subrecipient enters into an agreement with a subcontractor(s) for the performance of any primary contractual duties, the audit requirements are applicable to the subcontractor(s) with whom the subrecipient has entered into an agreement. Consequently, the audit requirements should be incorporated into the sub-contractual document as entered by the subrecipient.

A local government or nonprofit entity that **expends less than \$300,000 combined state and federal funds** during the program year is exempt from DPW audit requirements, but is required to maintain auditable records for each contract year. Records must be available for review by appropriate officials of the DPW or a pass-through entity.

AUDIT CLAUSE A – SUBRECIPIENT
Local Governments and Nonprofit Organizations

GENERAL AUDIT PROVISIONS

A local government or nonprofit organization is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of federal awards.

The Commonwealth reserves the right for federal and state agencies, or their authorized representatives, to perform additional audits of a financial and/or performance nature, if deemed necessary by Commonwealth or federal agencies. Any such additional audit work will rely on the work already performed by the subrecipient's auditor, and the costs for any additional work performed by the federal or state agency will be borne by those agencies at no additional expense to the subrecipient.

The Commonwealth reserves the right for state and federal agencies, or their authorized representatives, to perform financial and/or performance audits if deemed necessary. If it is decided that an audit of this contract will be performed, the subrecipient will be given advance notice. The subrecipient shall maintain books, records, and documents that support the services provided, that the fees earned are in accordance with the contract, and that the subrecipient has complied with the contract terms and conditions. The subrecipient agrees to make available, upon reasonable notice, at the office of the subrecipient, 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 subrecipient 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.

Audit documentation and audit reports must be retained by the subrecipient's auditor for a minimum of five years from the date of issuance of the audit report, unless the subrecipient's auditor is notified in writing by the Commonwealth or the cognizant or oversight federal agency to extend the retention period. Audit documentation will be made available upon request to authorized representatives of the Commonwealth, the cognizant or oversight agency, the federal funding agency, or the Government Accountability Office.

Records that relate to litigation of 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 subrecipient or provided to the Commonwealth at the DPW's option until such litigation, claim, or exceptions have reached final disposition.

Except for documentary evidence delivered pursuant to litigation or the settlement of claims arising out of the performance of the contract, the subrecipient 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.

AUDIT CLAUSE A – SUBRECIPIENT
Local Governments and Nonprofit Organizations

SUBMISSION OF AUDIT REPORTS TO THE COMMONWEALTH

A. Federally Required Audit Reports

Submit an electronic copy of federally required audit reports to the Commonwealth, which shall include:

1. Auditor's reports
 - a. Independent auditor's report on the financial statements, which expresses an opinion on whether the financial statements are presented fairly in all material respects in conformity with the stated accounting policies.
 - b. Independent auditor's report on the supplementary Schedule of Expenditures of Federal Awards (SEFA), which should determine and provide an opinion on whether the SEFA is presented fairly in all material respects in relation to the subrecipient's financial statements taken as a whole. This report can be issued separately or combined with the independent auditor's report on the financial statements.
 - c. Report on internal control over financial reporting, compliance and other matters based on an audit of financial statements performed in accordance with Government Auditing Standards.
 - d. Report on compliance with requirements applicable to each major program and report on internal control in accordance with the circular.
 - e. Schedule of findings and questioned costs.
2. Financial statements and notes to the financial statements
3. SEFA and notes to the SEFA
4. Summary schedule of prior audit findings
5. Corrective action plan (if applicable)
6. Data collection form
7. Management letter (if applicable)

In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide and OMB Circular A-133.

Effective July 1, 2009, the Office of the Budget, Office of Comptroller Operations, Bureau of Audits will begin accepting electronic submission of single audit/program-specific audit reporting packages. Electronic submission is required for the fiscal year ending December 31, 2008 and subsequent years. Instructions and information regarding submission of the single audit/program-specific audit reporting package are available to the public on Single Audit Submissions page of the Office of the Budget website (<http://www.budget.state.pa.us>). The

AUDIT CLAUSE A – SUBRECIPIENT

Local Governments and Nonprofit Organizations

reporting package must be submitted electronically in single Portable Document Format (PDF) file to RA-BOASingleAudit@state.pa.us.

Steps for submission:

1. Complete the Single Audit/Program Specific Audit Reporting Package Checklist available on the Single Audit Submissions page of the Office of the Budget website (<http://www.budget.state.pa.us>). The Single Audit/Program Specific Audit Reporting Package Checklist ensures the subrecipient's reporting package contains all required elements.
2. Upload the completed Single Audit/Program-Specific Audit Reporting Package along with the Single Audit/Program Specific Audit Reporting Package Checklist in a single PDF file to an e-mail addressed to RA-BOASingleAudit@state.pa.us. In the subject line of the e-mail the subrecipient must identify the exact name on the Single Audit/Program-Specific Audit Reporting Package and the period end date to which the reporting package applies.

The subrecipient will receive an e-mail to confirm the receipt of the Single Audit/Program-Specific Audit Reporting Package, including the completed Single Audit/Program Specific Audit Reporting Package Checklist.

B. DPW Required Audit Reports and Additional Submission by Subrecipients

Submit **three 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. In addition, if OMB Circular A-133, §__.320 (e), *Submission by Subrecipients*, applies, please submit the audit requirements directly to:

U.S. Postal Service: Department of Public Welfare
Bureau of Financial Operations
Division of Financial Policy and Operations
Audit Resolution Section
3rd Floor, Bertolino Building
P. O. Box 2675
Harrisburg, Pennsylvania 17102-2675

Special Deliveries: 3rd Floor, Bertolino Building
1401 North Seventh Street
Harrisburg, Pennsylvania 17102
Phone: (717) 787-8890 Fax: (717) 772-2522

AUDIT CLAUSE A – SUBRECIPIENT
Local Governments and Nonprofit Organizations

PERIOD SUBJECT TO AUDIT

A federally required audit, made in accordance with OMB Circular A-133, encompasses the fiscal period of the provider. **Therefore, the period of the federally required audit may differ from the official reporting period as specified in this agreement.** Where these periods differ, the required supplement schedule(s) and Independent Auditor's Report on the Attestation must be completed for the official annual reporting period of this agreement that ended during the period under audit and shall accompany the federally required audit.

CORRECTIVE ACTION PLAN

The provider shall prepare a corrective action plan (CAP) to address all findings of noncompliance, internal control weaknesses, and/or reportable conditions disclosed in the audit report. For each finding noted, the CAP should include: (1) a brief description identifying the findings; (2) whether the provider agrees with the finding; (3) the specific steps to be taken to correct the deficiency or specific reasons why corrective action is not necessary; (4) a timetable for completion of the corrective action steps; and (5) a description of monitoring to be performed to ensure that the steps are taken (6) the responsible party for the CAP.

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 provider that may include the following:

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

TECHNICAL ASSISTANCE

Technical assistance on the DPW's audit requirements, and the integration of those requirements with the federal Single Audit requirements, will be provided by:

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

AUDIT CLAUSE A – SUBRECIPIENT
Local Governments and Nonprofit Organizations
ENCLOSURE I

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]

AUDIT CLAUSE B – SUBRECIPIENT For-Profit Organizations

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 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. The DPW provides the following audit requirements in accordance with the Commonwealth of Pennsylvania, Governor's Office, Management Directive 325.9, as amended August 20, 2009.

Subrecipient means an entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency. For purposes of this audit clause, a subrecipient **is not** a vendor that receives a procurement contract to provide goods or services that are required to provide the administrative support to carry out a federal program.

A. Federal Audit Requirements – For-Profit Organizations

The for-profit organization must comply with all federal and state audit requirements including: the Single Audit Act Amendments of 1996; Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, as amended; and any other applicable law or regulation and any amendment to such other applicable law or regulation which may be enacted or promulgated by the federal government.

A for-profit organization **is required** to have an audit if it expends a total of \$500,000 or more in federal funds under one or more Department of Health and Human Services (DHHS) federal awards. Title 45, CFR 74.26, incorporates the thresholds and deadlines of the Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Government, and Non-Profit Organizations*, but provides for-profit organizations with two options regarding the type of audit that will satisfy the audit requirements:

1. An audit made in accordance with generally accepted *Government Auditing Standards* (The Yellow Book), revised; or
2. An audit that meets the requirements contained in OMB Circular A-133.

A for-profit organization **is required** to have an audit, in accordance with the above audit requirements, if it expends a total of \$500,000 or more of federal awards directly or indirectly during its fiscal year.

If a for-profit organization expends **total federal awards of less than \$500,000** during its fiscal year, it is exempt from these **federal** audit requirements, but is required to maintain auditable records of federal or state funds that supplement such awards. Records must be available for review by appropriate officials. **Although an audit may not be necessary under the federal requirements, DPW audit requirements may be applicable.**

AUDIT CLAUSE B – SUBRECIPIENT For-Profit Organizations

B. Department of Public Welfare Audit Requirements

A for-profit provider must meet the DPW audit requirements.

Where a Single Audit or program-specific audit is conducted in accordance with the federal audit requirements detailed above, such an audit will be accepted by the DPW provided that:

1. A full copy of the audit report is submitted as detailed below; **and**
2. The subrecipient shall ensure that the audit requirements are met for the terms of this contract; i.e., the prescribed Attestation Report and applicable schedule requirement(s). The incremental cost for preparation of the Attestation Report and the schedule cannot be charged to the federal funding stream.

In the absence of a federally required audit, the entity is responsible for the following annual audit requirements, which are based upon the program year specified in this agreement.

If in connection with the agreement, a for-profit organization **expends \$300,000 or more in combined state and federal funds** during the program year, the subrecipient 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), Section 601, *Compliance Attestation*, and shall be of a scope acceptable to the DPW. The initial Section 601 compliance examination shall be completed for the program year specified in the contract and conducted annually thereafter. The independent auditor shall issue a report on its compliance examination as defined in SSAE, Section 601. The incremental cost for preparation of the SSAE cannot be charged to federal funding streams.

The subrecipient shall submit the SSAE, Section 601, audit reports (if applicable) to the DPW within 90 days after the program year has been completed. When the SSAE, Section 601, audit reports are other than unqualified, the subrecipient shall submit to the DPW, in addition to the audit reports, a plan describing what actions the subrecipient 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 and a contact person who is responsible for the resolution of the situation.

If the subrecipient enters into an agreement with a subcontractor(s) for performance of any primary contractual duties, the audit requirements are applicable to the subcontractor(s) with whom the subrecipient has entered into an agreement. Consequently, the audit requirements should be incorporated into the sub-contractual document as entered by the subrecipient.

A for-profit entity that **expends less than \$300,000 combined state and federal funds** during the program year is exempt from DPW audit requirements, but is required to maintain auditable records for each contract year. Records must be available for review by appropriate officials of the DPW or a pass-through entity.

AUDIT CLAUSE B – SUBRECIPIENT For-Profit Organizations

GENERAL AUDIT PROVISIONS

A for-profit organization is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of federal awards.

The Commonwealth reserves the right for state and federal agencies, or their authorized representatives, to perform financial and/or performance audits if deemed necessary by the Commonwealth or federal agencies. Any such additional audit work will rely on the work already performed by the subrecipient's auditor, and the costs for any additional work performed by the federal or state agency will be borne by those agencies at no additional expense to the subrecipient.

The Commonwealth reserves the right for state and federal agencies, or their authorized representatives, to perform financial and/or performance audits if deemed necessary. If it is decided that an audit of this contract will be performed, the subrecipient will be given advance notice. The subrecipient shall maintain books, records, and documents that support the services provided, that the fees earned are in accordance with the contract, and that the subrecipient has complied with the contract terms and conditions. The subrecipient agrees to make available, upon reasonable notice, at the office of the subrecipient, 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 subrecipient shall maintain books, records, and documents related to this contract for a period 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. Any records that support the services provided, that the fees earned are in accordance with the contract, and that the subrecipient has complied with contract terms and conditions must be maintained. The subrecipient agrees to make available, upon reasonable notice, at the office of the subrecipient, 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.

Audit documentation and audit reports must be retained by the subrecipient's auditor for a minimum of five years from the date of issuance of the audit report, unless the subrecipient's auditor is notified in writing by the Commonwealth or the cognizant or oversight federal agency to extend the retention period. Audit documentation will be made available upon request to authorized representatives of the Commonwealth, the cognizant or oversight agency, the federal funding agency, or the Government Accountability Office.

Records that relate to litigation of 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 subrecipient or provided to the Commonwealth at the DPW's option until such litigation, claim, or exceptions have reached final disposition.

AUDIT CLAUSE B – SUBRECIPIENT
For-Profit Organizations

Except for documentary evidence delivered pursuant to litigation or the settlement of claims arising out of the performance of the contract, the subrecipient 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.

SUBMISSION OF AUDIT REPORT TO THE COMMONWEALTH

A. Federally Required Audit Reports

Submit an electronic copy of federally required audit reports to the Commonwealth, which shall include:

1. Auditor's reports
 - a. Independent auditor's report on the financial statements, which expresses an opinion on whether the financial statements are presented fairly in all material respects in conformity with the stated accounting policies.
 - b. Independent auditor's report on the supplementary Schedule of Expenditures of Federal Awards (SEFA), which should determine and provide an opinion on whether the SEFA is presented fairly in all material respects in relation to the subrecipient's financial statements taken as a whole. This report can be issued separately or combined with the independent auditor's report on the financial statements.
 - c. Report on internal control over financial reporting, compliance and other matters based on an audit of financial statements performed in accordance with Government Auditing Standards.
 - d. Report on compliance with requirements applicable to each major program and report on internal control in accordance with the circular.
 - e. Schedule of findings and questioned costs.
2. Financial statements and notes to the financial statements
3. SEFA and notes to the SEFA
4. Summary schedule of prior audit findings
5. Corrective action plan (if applicable)
6. Data collection form
7. Management letter (if applicable)

SUBRECIPIENT AUDIT CLAUSE B

For-Profit Organization

In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide and OMB Circular A-133.

Effective July 1, 2009, the Office of the Budget, Office of Comptroller Operations, Bureau of Audits will begin accepting electronic submission of single audit/program-specific audit reporting packages. Electronic submission is required for the fiscal year ending December 31, 2008 and subsequent years. Instructions and information regarding submission of the single audit/program-specific audit reporting package are available to the public on Single Audit Submissions page of the Office of the Budget website (<http://www.budget.state.pa.us>). The reporting package must be submitted electronically in single Portable Document Format (PDF) file to RA-BOASingleAudit@state.pa.us.

Steps for submission:

1. Complete the Single Audit/Program Specific Audit Reporting Package Checklist available on the Single Audit Submissions page of the Office of the Budget website (<http://www.budget.state.pa.us>). The Single Audit/Program Specific Audit Reporting Package Checklist ensures the subrecipient's reporting package contains all required elements.
2. Upload the completed Single Audit/Program-Specific Audit Reporting Package along with the Single Audit/Program Specific Audit Reporting Package Checklist in a single PDF file to an e-mail addressed to RA-BOASingleAudit@state.pa.us. In the subject line of the e-mail the subrecipient must identify the exact name on the Single Audit/Program-Specific Audit Reporting Package and the period end date to which the reporting package applies.

The subrecipient will receive an e-mail to confirm the receipt of the Single Audit/Program-Specific Audit Reporting Package, including the completed Single Audit/Program Specific Audit Reporting Package Checklist.

B. DPW Required Audit Reports and Additional Submission by Subrecipients

Submit **three 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. In addition, if OMB Circular A-133, §__.320 (e), *Submission by Subrecipients*, applies, please submit the audit requirements directly to:

U.S. Postal Service: Department of Public Welfare
Bureau of Financial Operations
Division of Financial Policy and Operations
Audit Resolution Section
3rd Floor, Bertolino Building

SUBRECIPIENT AUDIT CLAUSE B
For-Profit Organization

Special Deliveries 3rd Floor, Bertolino Building
1401 North Seventh Street
Harrisburg, Pennsylvania 17102
Phone: (717) 787-8890 Fax: (717) 772-2522

PERIOD SUBJECT TO AUDIT

A federally required audit, made in accordance with OMB Circular A-133, encompasses the fiscal period of the auditee. **Therefore, the period of the federally required audit may differ from the official reporting period as specified in this agreement.** Where these periods differ, the required supplement schedule and an Independent Auditor's Report on the Attestation must be completed for the official annual reporting period of this agreement that ended during the period under audit and shall accompany the federally required audit.

CORRECTIVE ACTION PLAN

The provider shall prepare a corrective action plan (CAP) to address all findings of noncompliance, internal control weaknesses, and/or reportable conditions disclosed in the audit report. For each finding noted, the CAP should include: (1) a brief description identifying the findings; (2) whether the auditee agrees with the finding; (3) the specific steps to be taken to correct the deficiency or specific reasons why corrective action is not necessary; (4) a timetable for completion of the corrective action steps; and (5) a description of monitoring to be performed to ensure that the steps are taken. (6) the responsible party for the CAP.

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 Provider that may include the following:

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

TECHNICAL ASSISTANCE

Technical assistance on the DPW's audit requirements, and the integration of those requirements with the federal Single Audit requirements, will be provided by:

Department of Public Welfare
Bureau of Financial Operations
Division of Financial Policy and Operations
Audit Resolution Section
3rd Floor, Bertolino Building
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675

Phone: (717) 787-8890 FAX: (717) 772-2522

AUDIT CLAUSE B
For-Profit Organization
ENCLOSURE I

Independent Accountant's Report

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]

AUDIT CLAUSE C – VENDOR
Service Organizations

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 Requirements

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), Section 601, *Compliance Attestation*, and shall be of a scope acceptable to the DPW. The contractor shall also ensure that an independent auditor performs an audit of its policies and procedures applicable to the processing of transactions. These audits shall be performed in accordance with the Statement on Auditing Standards 70 (SAS 70), *Reports on the Processing of Transactions by Service Organizations*. The initial SAS 70 audit shall be completed for the official annual reporting period of this agreement and conducted annually thereafter. The independent auditor shall issue reports on its compliance examination, as defined in the SSAE, Section 601, and on the policies and procedures placed in operation and the tests of operating effectiveness, as defined in SAS 70.

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.

AUDIT CLAUSE C – VENDOR
Service Organizations

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

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

DPW Required Audit Report Submission

The contractor shall submit the SSAE, Section 601, and SAS 70 audit reports to the DPW within 90 days after the required period of audit has ended. When either the SSAE, Section 601, or SAS 70 audit reports are 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 and the contact person who is responsible for resolution.

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.

AUDIT CLAUSE C – VENDOR
Service Organizations

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
3rd Floor, Bertolino Building
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675
Phone: (717) 787-8890 FAX: (717) 772-2522

AUDIT CLAUSE C – VENDOR
Service Organizations
ENCLOSURE I

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]

AUDIT CLAUSE D – VENDOR

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.

AUDIT CLAUSE D – VENDOR

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
3rd Floor, Bertolino Building
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675
Phone: (717) 787-8890 FAX: (717) 772-2522

**AUDIT CLAUSE D – VENDOR
ENCLOSURE I**

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]

SUBRECIPIENT / VENDOR AUDITS

AUDIT CLAUSE E – VENDOR Exceptions

NOTE: This Audit Clause should not be used in most instances – only for instances when no specific audit requirement is warranted.

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 four 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 Department of Public Welfare's option until such litigation, claim, or exceptions have reached final disposition.

Except for documentary evidence delivered pursuant to litigation or the settlement of claims arising out of the performance of this contract, the contractor may, in fulfillment of his obligation to retain records as required by this Audit Clause, substitute photographs, microphotographs, or other acceptable 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.

APPENDIX H

APPENDIX H
PDL, REBATES, RETRO DUR
Performance Standards

Preferred Drug List (PDL)
<ol style="list-style-type: none"> 1. The PDL recommendations that the selected Offeror provides to the Department are clinically and financially sound. 2. All manufacturers' supplemental and market share rebate offers are verified and confirmed prior to every P&T Committee meeting where the therapeutic classes of drugs are scheduled for review by the Committee. 3. The PDL posted on the selected Offeror's DPW-specific webpage is 100% accurate and provides a link to the most current handbook pages, quantity limits and fax request forms for the therapeutic class of drugs. 4. The selected Offeror takes the steps necessary to ensure that the Department is receiving all valid discounts and rebates and that those discounts and rebates are in compliance with Federal and State statutes, regulations and program guidance. 5. Timely delivery of P&T Committee related materials including: <ol style="list-style-type: none"> a. Internal Cost Sheets for Department Review (6 weeks prior to meeting) b. Therapeutic Class Reviews (30 days prior to meeting) c. Final Internal & External Cost Sheets (2 weeks prior to meeting) d. P&T Slides (3 weeks prior to meeting) e. Clinical Highlights Review Document (3 weeks prior to meeting) f. Post P&T Meeting Savings Summary Cost Sheets (within 2 weeks following meeting) g. PDL coding update to implement P&T changes (2 weeks prior to Department determined implementation date) h. Updated PDL Document Posting on website (by Department determined day of PDL implementation) 6. Timely and accurate PDL reporting
Drug Rebate Program
<ol style="list-style-type: none"> 1. The selected Offeror shall comply with Federal Medicaid Drug Rebate Program requirements. 2. Timely and accurate drug rebate reporting 3. Update the Rebate Tracking Report within 5 business days (completed when Department sends the template for updates; typically quarterly) 4. Measure the State's Return on Investment (Semi-Annually) for supplemental/market share rebates – shown as a percent of the supplemental/market share rebate collected divided by contract value 5. Reduce disputes and maximize federal drug rebate collections for MCO encounters
RetroDUR
<ol style="list-style-type: none"> 1. The selected Offeror will enable clinically sound, effective and efficient RetroDUR Program process 2. Timely development and implementation of new criteria (within 30-90 days of the Department's request) 3. Timely and accurate RetroDUR reporting, including CMS Annual DUR Report sections

APPENDIX K

SUBRECIPIENT / VENDOR AUDITS

AUDIT CLAUSE D – VENDOR

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 No 10, Compliance Attestation (SSAE 10), and shall be of a scope acceptable to the DPW. The initial compliance examination shall be completed for the official annual reporting period of this agreement and conducted annually thereafter.

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

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

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.

SUBRECIPIENT / VENDOR AUDITS

AUDIT CLAUSE D – VENDOR

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

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 Audit and Review
Audit Resolution Section
2nd Floor, Hilltop Building
DGS Annex; 3 Ginko Drive
P.O. Box 2675
Harrisburg, Pennsylvania 17105-2675
Email: RA-pwauditresolution@pa.gov

SUBRECIPIENT / VENDOR AUDITS

AUDIT CLAUSE D – VENDOR ENCLOSURE I

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 Professional Standards.

Independent Accountant's Report

[Introductory Paragraph]

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

[Scope Paragraph]

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

[Opinion Paragraph]

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

[DATE]

[SIGNATURE]

Cal Quarter	Total Paid Amount for All Drugs	Total Paid Claim Count	Avg Paid Amt/ Paid Claim (B3/C3)	Total Amount Paid for Rebate Eligible Drugs	Total Paid Rebate Eligible Rx Count	Avg Paid Amt/ Rebate Eligible RX (E3/F3)	Invoiced Federal Rebate Amount (Original)
2Q14	\$20,000,000	2,000,000	\$10.00	\$16,000,000	1,500,000	\$10.67	\$19,000,000
1Q14							
4Q13							
3Q13							
2Q13							
1Q13							
4Q12							
3Q12							
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4Q04							
3Q04							
2Q04							
1Q04							

Cal Quarter	Total Paid Amount for All Drugs	Total Paid Claim Count	Avg Paid Amt/ Paid Claim (B3/C3)	Total PDL Drug Spend	Total Paid PDL Drug Rx Count	Avg Paid Amt/ PDL Drug RX (E3/F3)	Invoiced Supp Rebate Amount (Original)
2Q14	\$20,000,000	2,000,000	\$10.00	\$12,000,000	1,000,000	\$12.00	\$5,000,000
1Q14							
4Q13							
3Q13							
2Q13							
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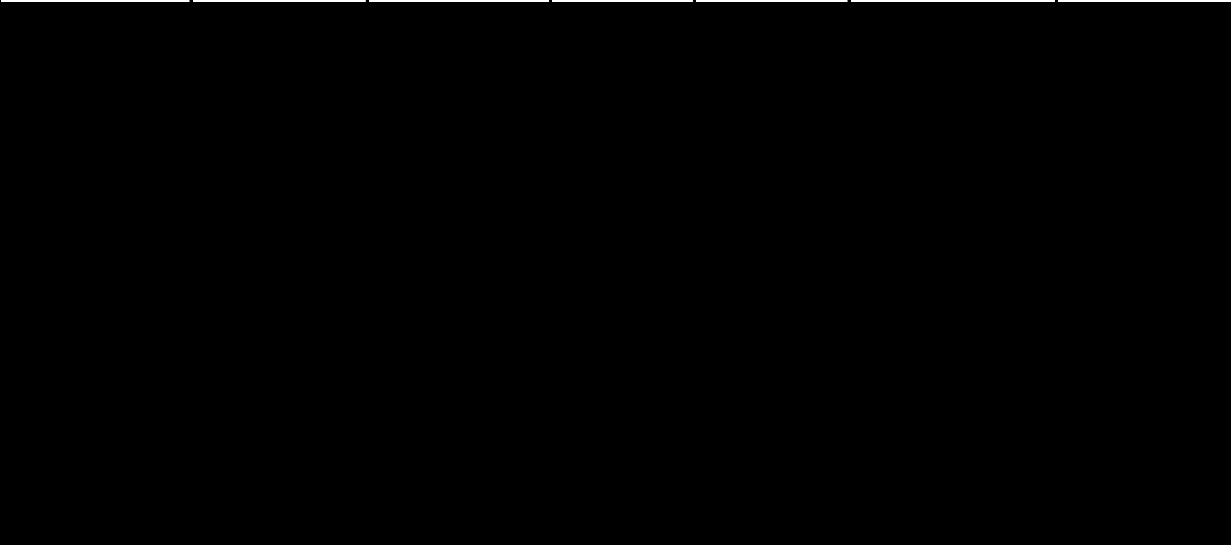
2Q04	[Redacted]
1Q04	





3Q04	[Redacted]
2Q04	
1Q04	

Invoiced Market Share Rebate Adjustments (I3-H3)	Market Share Rebate Collected	Total Spend net of Market Share Rebates (B3-M3)	Market Share Rebate \$ Collected/ Diabetic Supply RX Count (K3/F3)	Market Share Rebate % Collected/ Total Paid Amount (K3/B3)	Market Share Rebate % Collected/ Total Diabetic Supply Paid Amt (K3/E3)	Uncollected Market Share Rebate Amt
-\$50,000	\$940,000	\$19,060,000	\$4.70	4.70%	72.31%	\$27,000







4Q04								
3Q04								
2Q04								
1Q04								

Cal Quarter	Total MCO Paid Amount for All Drugs	Total Paid Encounter Count	Avg MCO Paid Amt/ Paid Encounter (B3/C3)	Total MCO Paid Amount for Rebate Eligible Drugs	Total Paid Rebate Eligible Encounter Count	Avg MCO Paid Amt/ Rebate Eligible Encounter (E3/F3)	Invoiced Federal Rebate Amount (Original)
2Q14	\$450,000,000	6,000,000	\$75.00	\$430,000,000	5,000,000	\$86.00	\$350,000,000
1Q14							
4Q13							
3Q13							
2Q13							
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1Q11							
4Q10							
3Q10							
2Q10							

APPENDIX N

COMMONWEALTH OF PENNSYLVANIA BUSINESS ASSOCIATE ADDENDUM

WHEREAS, the Pennsylvania Department of Human Services (Covered Entity) and Contractor (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 services to or on behalf of Covered Entity, in accordance with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 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 C.F.R. §§ 431.301-431.302, 42 C.F.R. Part 2, 45 C.F.R. § 205.50, 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, 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 may be used or disclosed only in accordance with this Addendum and the standards established by applicable laws and 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 handled in accordance with this Addendum 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, Pub. L. No. 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), Pub. L. No. 111-5 (Feb. 17, 2009).
- 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” shall mean 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 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 Covered Entity's contractors/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 Business Associate shall be permitted to use and/or disclose PHI provided by or obtained on behalf of Covered Entity for the purposes of providing services under its contract with Covered Entity, except as otherwise stated in this Addendum.

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 PHI provided by, or created or obtained on behalf of Covered Entity other than as permitted or required by this Addendum 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 Addendum. 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 DHS Chief Information Security Officer at (717) 772-6469, within two (2) days of discovery any use or disclosure of PHI not provided for or allowed by this Agreement.

- d) Reports Of Security Incidents.** In addition to the breach notification requirements in section 13402 of the HITECH Act and related regulations, agency guidance and other applicable federal and state laws, Business Associate shall report to DHS Chief Information Security Officer at (717) 772-6469, 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 federal and state breach notification requirements, including those applicable to Business Associate and those applicable to Covered Entity. 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 Business Associate 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 Addendum.
- (f) Right Of Access To PHI.** Business Associate shall 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 in the format requested, if it is readily producible in such form and format; or if not, in a readable hard copy form or such other form and format as agreed to by Business Associate and the individual. If the request is for information maintained in one or more designated record sets electronically and if the individual requests an electronic copy of such information, Business Associate must provide the individual with access to the PHI in the electronic form and format requested by the individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by the Business Associate and the individual. If any individual requests from Business Associate or its agents or subcontractors access to PHI, Business Associate shall notify Covered Entity within five (5) business days. Business associate shall further conform with 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 an 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 shall 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 Rules, as amended, and other applicable statutory and regulatory requirements and agency guidance.
- (j) Access To Books And Records.** Business Associate shall 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 the contract, Business Associate shall return or destroy all PHI provided by or obtained on behalf of Covered Entity. Business Associate may not retain any copies of the PHI after termination or expiration of its contract. If return or destruction of the PHI is not feasible, Business Associate shall extend the protections of this Addendum 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 the its contract and this Addendum and shall continue to maintain the information required under the various documentation requirements of its contract and this Addendum (such as those in §3(h)) for a period of six (6) years after termination or expiration of its contract, unless Covered Entity and Business Associate agree otherwise.
- (m) Mitigation Procedures.** Business Associate shall 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 Addendum or the Privacy Rules, as amended. Business Associate

shall mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of this Addendum 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 Addendum, applicable laws or agency guidance.
- (o) **Grounds For Breach.** Non-compliance by Business Associate with this Addendum or the Privacy or Security Rules, as amended, is a breach of the contract, for which the Commonwealth may elect to terminate Business Associate's contract.
- (p) **Termination by Commonwealth.** Business Associate authorizes termination of this Agreement by the Commonwealth if the Commonwealth determines, in its sole discretion that Business Associate has violated a material term of this Addendum.
- (q) **Failure to Perform Obligations.** In the event Business Associate fails to perform its obligations under this Addendum, 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 Addendum and applicable laws and agency guidance.
- (r) **Privacy Practices.** Covered Entity 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 Covered Entity. Covered Entity may change 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. Business Associate shall otherwise comply with all applicable laws and agency guidance pertaining to notices of privacy practices, including the requirements set forth in 45 C.F.R. § 164.520.

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. Covered Entity will post on its website any material changes to its notice of privacy practices by the effective date of the material change

- 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.



Commonwealth of Pennsylvania

Date: **April 8, 2015**
Subject: **Preferred Drug List, Rebates, and Retrospective Drug Use Review**
Solicitation Number: **RFP 08-14**
Opening Date/Time: **June 5, 2015 2:00 PM**
Addendum Number: **2**

To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation "Addendum" as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

List any and all changes:

Please find attached the Revised Small Diverse Business (SDB) language Part II-9, paragraphs a and b for the subject solicitation.

For electronic solicitation responses via the SRM portal:

- Attach this Addendum to your solicitation response. Failure to do so may result in disqualification.
- To attach the Addendum, download the Addendum and save to your computer. Move to "My Notes", use the "Browse" button to find the document you just saved and press "Add" to upload the document.
- Review the Attributes section of your solicitation response to ensure you have responded, as required, to any questions relevant to solicitation addenda issued subsequent to the initial advertisement of the solicitation opportunity.

For solicitations where a "hard copy" (vs. electronic) response is requested:

- Attach this Addendum to your solicitation response. Failure to do so may result in disqualification.
- If you have already submitted a response to the original solicitation, you may either submit a new response, or return this Addendum with a statement that your original response remains firm, by the due date to the following address:

Pennsylvania Department of Human Services
Division of Procurement
Room 402 Health and Welfare Building
625 Forster Street, Harrisburg, PA 17120

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.

Very truly yours,

Name: Daniel R. Boyd
Title: Director of Procurement
Phone: 717-783-3767
Email: RA-pwrfpquestions@pa.gov



Commonwealth of Pennsylvania

II-9. Small Diverse Business Participation Submittal.

- A. To receive credit for being a Small Diverse Business or for subcontracting with a Small Diverse Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Small Diverse Business qualification in the Small Diverse Business participation submittal of the proposal, as indicated below:

A Small Diverse Business verified by BSBO as a Small Diverse Business must provide a photocopy of its DGS issued certificate entitled "Notice of Small Business Self-Certification and Small Diverse Business Verification" indicating its diverse status.

- B. In addition to the above certificate, the Offeror must include in the Small Diverse Business participation submittal of the proposal the following information:

1. **All** Offerors 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. **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 Diverse Businesses (SDBs) as subcontractors. To support its total percentage SDB subcontractor commitment, Offeror must also include:
 - a) The percentage and dollar amount of each subcontract commitment to a Small Diverse Business;
 - b) The name of each Small Diverse Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Diverse Business.
 - c) The services or supplies each Small Diverse Business will provide, including the timeframe for providing the services or supplies.
 - d) The location where each Small Diverse Business will perform services.
 - e) The timeframe for each Small Diverse Business to provide or deliver the goods or services.
 - f) A subcontract or letter of intent signed by the Offeror and the Small Diverse Business (SDB) for each SDB identified in the SDB Submittal. The subcontract or letter of intent must identify the specific work, goods or services the SDB will perform, how the work, goods or services relates to the project, and the specific timeframe during the term of the contract and any option/renewal periods when the work, goods or services will be performed or provided. In addition, the subcontract or letter of intent must identify the fixed percentage commitment and associated estimated dollar value that each SDB will receive based on the total value of the initial term of the contract as provided in the Offeror's Cost Submittal. Attached is a letter of intent template (Appendix M) which may be used to satisfy these requirements.
 - g) The name, address and telephone number of the primary contact person for each Small Diverse Business.



Commonwealth of Pennsylvania

Date: **April 22, 2015**
Subject: **Preferred Drug List, Rebates, and Retrospective Drug Use Review**
Solicitation Number: **RFP 08-14**
Opening Date/Time: **June 5, 2015 2:00 PM**
Addendum Number: **3**

To All Suppliers:

The Commonwealth of Pennsylvania defines a solicitation "Addendum" as an addition to or amendment of the original terms, conditions, specifications, or instructions of a procurement solicitation (e.g., Invitation for Bids or Request for Proposals).

List any and all changes:

Please find attached to the solicitation the final question-and-response document pertaining to the formal inquiries posed through April 14, 2015. In addition, please find attached the preproposal conference sign in sheet and power point presentation. Finally, please find attached new language to be inserted under section I-24 of the referenced RFP, adding a new letter (L).

(L) "The selected Offeror is free from any conflict of interest in relation to the services to be provided for this Project. In order to be considered free from a conflict, a selected Offeror may not be or have any direct or indirect financial interest in a MA Physical Health MCO or a drug manufacturer or supplier and may not be owned or controlled by a MA Physical Health MCO, or a drug manufacturer or supplier."

For electronic solicitation responses via the SRM portal:

- Attach this Addendum to your solicitation response. Failure to do so may result in disqualification.
- To attach the Addendum, download the Addendum and save to your computer. Move to "My Notes", use the "Browse" button to find the document you just saved and press "Add" to upload the document.
- Review the Attributes section of your solicitation response to ensure you have responded, as required, to any questions relevant to solicitation addenda issued subsequent to the initial advertisement of the solicitation opportunity.

For solicitations where a "hard copy" (vs. electronic) response is requested:

- Attach this Addendum to your solicitation response. Failure to do so may result in disqualification.
- If you have already submitted a response to the original solicitation, you may either submit a new response, or return this Addendum with a statement that your original response remains firm, by the due date to the following address:

Pennsylvania Department of Human Services
Division of Procurement
Room 402 Health and Welfare Building
625 Forster Street, Harrisburg, PA 17120

Except as clarified and amended by this Addendum, the terms, conditions, specifications, and instructions of the solicitation and any previous solicitation addenda, remain as originally written.



Commonwealth of Pennsylvania

Very truly yours,

Name: Daniel R. Boyd
Title: Director of Procurement
Phone: 717-783-3767
Email: RA-pwrfpquestions@pa.gov

	RFP Section	Question	Answer
1	N/A	What are the anticipated Award Date and Go-Live Date?	The Department is targeting the fourth quarter of 2015 for the Award Date, and the second quarter of 2016 for the Go-Live Date. In responding to this question, the Department has used "Go-Live Date" as the effective date of the contract, which is the date the Transition period begins. The selected Offeror is expected to assume full responsibility for Project activities by the end of the transition period.
	RFP Section	Question	Answer
2	IV-5	For purposes of reporting will the State of PA expect expansion groups to be reported separately or within the corresponding FFS or MCO group?	Expansion groups will not be reported separately. Reports for the PDL, Rebates, and RetroDUR Programs will be based upon eligible recipients enrolled in either the Fee-for-Service (FFS) or MA managed care delivery systems.
	RFP Section	Question	Answer
3	IV-5	For purposes of reporting and invoicing is the supplemental program inclusive of the MCO's or will there be a Program(s) for the MCO as well?	Currently, drugs paid for by Pennsylvania Medicaid MCOs qualify for Federal rebates only and do not qualify for state supplemental rebates. Reporting and invoicing for supplemental rebates and market share rebates apply to drugs paid for under the FFS program only.
	RFP Section	Question	Answer
4	Appendix E and Appendix F	Would the Department please provide a Microsoft Word version of Appendices E and F to facilitate completion of these forms by vendor customers?	DGS guidelines do not permit the posting of modifiable documents, with the exception of Cost Submittals, to eMarketplace.
	RFP Section	Question	Answer

5	General	Please explain the anticipated impact (if any) of DHS' intention to transition to a traditional Medicaid expansion on the Commonwealth's PDL program.	The Department does not anticipate that Medicaid expansion will have an impact on the FFS PDL.
	RFP Section	Question	Answer
6	General	Please explain the anticipated impact (if any) of DHS' intention to transition to a traditional Medicaid expansion on the Commonwealth's Rebate program.	The Department anticipates that the size of the Medicaid population will increase by approximately 500,000 newly eligible individuals by the time the expansion is complete in the fall of 2015. Most newly eligibles will be enrolled in one of the Department's Medicaid MCOs. Drugs paid for by the Medicaid MCOs qualify for Federal rebates only and do not qualify for either state supplemental rebates or market share rebates. Accordingly, the anticipated increase in the size of the Medicaid population due to Medicaid expansion will increase the volume of MCO Federal rebates and should have little impact on state supplemental rebates.
	RFP Section	Question	Answer
7	General	Please explain the anticipated impact (if any) of DHS' intention to transition to a traditional Medicaid expansion on the Commonwealth's RDUR program.	The increase in the size of the Medicaid population due to Medicaid expansion will increase the size of the sample for RetroDUR profiles and interventions.
	RFP Section	Question	Answer
8	Section IV-4 Task 8	How many separate programs are being invoiced currently?	Four. The current vendor generates two separate invoices to drug manufacturers for Federal drug rebates; one for FFS and one for all of the Medicaid MCOs combined. State supplemental rebates are invoiced separately for FFS only; and market share rebates are invoiced separately for FFS only.

	RFP Section	Question	Answer
9	Section IV-4 Task 8	Will you include expansion programs in with current FFS, supplemental and Market share rebate programs or separate them out?	Expansion groups will not be separated out from current eligibles. Expansion groups will be included with current eligibles in either the FFS or managed care delivery systems.
	RFP Section	Question	Answer
10	Section IV-4 Task 8	We understand that the Department collects market-share rebates on diabetic blood glucose meters and diabetic test strips in the FFS program. Is separate reporting required for market share rebates or are they invoiced separately?	Market share rebates are currently invoiced separately and reported separately.
	RFP Section	Question	Answer
11	Page 1	Can the State please verify that a PDF version of the redacted response is acceptable?	Yes. Please see Section I-12 for additional submission requirements.
	RFP Section	Question	Answer
12	Calendar of Events	Can the State please clarify an estimated Intent to Award Date and Contract Start Date?	The Department is targeting the fourth quarter of 2015 for the Award Date, and the second quarter of 2016 for the Contract Start Date. The Department has used the "Contract State Date" as the effective date of the contract, which is the date the Transition period begins. The selected Offeror is expected to assume full responsibility for Project activities by the end of the transition period.
	RFP Section	Question	Answer
	II-5.c.	Please verify how many total references the offeror should submit with the response. Is the	The Department is expecting no less than 3 relevant contacts within the past 3 years for each area of responsibility: PDL,

13		State requesting 3 total or 3 for each of the areas of responsibility: 3 for PDL, 3 for Rebate, 3 for RDUR?	Rebates, and RetroDUR. It is acceptable to submit a relevant contact that serves as a corporate reference for more than one area of responsibility. If the contact serves as a corporate reference for more than one area of responsibility, the reference should specify the areas when describing the nature of the work completed.
	RFP Section	Question	Answer
14	Page 1	<p>Please clarify that vendors are permitted to submit responses to the RFP electronically via the SRM portal. Does the State have a preference in which format the response is submitted electronically: Microsoft Office, PDF, etc? Please further clarify the expectations if a vendor is submitting the response electronically.</p> <p>If submitting an electronic response, how should the offeror provide the Corporate and Personnel Questionnaires?</p>	No. For this RFP, Offerors will not be submitting proposals via the SRM portal but must submit hard and electronic copies to the Issuing Office as specified in the cover letter and Section I-12 of the RFP.
	RFP Section	Question	Answer

15	Appendix B. Section J. Insurance Item 1	<p>“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.</p> <p>Can the State please clarify “independent contractor” for the purpose of this section? Would the offeror be considered the “independent contractor” for the purpose of this contract? Services required of this contract don’t require that the offeror provide healthcare personnel who provide treatment, malpractice insurance wouldn’t necessarily apply.</p>	To the extent that the requirement is applicable to the Project, the selected Offeror and any of its subcontractors are independent contractors.
	RFP Section	Question	Answer

16		Can the State assure all potential bidders that the cost sheets will remain sealed and not available for FOIA requests? It highly unusual to request actual rates, overhead and potential margin. It would put competitors at significant disadvantage to have internal margins and overhead rates disclosed publicly. If the cost sheets will be made publicly available, please confirm that only the total fields are required to be filled out on the cost sheets as this is a fixed price opportunity,	The Department provides access to DHS documents under Pennsylvania's Right to Know Law and not FOIA. DHS uses the Cost Verification responses to assist in its determination of the financial capacity of an Offeror and as such is exempt from Right to Know Law requests under 65 P.S. §67.708(b)(26). Although the final Cost Submittal is made part of the contract, the Cost Verification is not. .
	RFP Section	Question	Answer
17	Part IV-3.C Staffing	Can the State please elaborate about the responsibilities of Contract/Invoice Manager?	The Contract/Invoice Manager is the Department's primary contact for all fiscal aspects of the contract including invoicing for services rendered.
	RFP Section	Question	Answer
18	Part IV-3.C. Staffing	Can the RetroDUR Manager hold an RPh or must it be a Pharm.D. degree? Can the State please further clarify what it considers equivalent clinical experience in place of an RPh or PharmD?	The Department will evaluate all proposals to determine the degree to which an Offeror's proposal responds to each of the requirements specified in the RFP and the Offeror's capability to fully perform the requirements of the Project. The Offeror may propose a RetroDUR Manager with an RPh degree. The Offeror should demonstrate that the proposed Manager's clinical experience is equivalent to that of a person with a Pharm.D. degree. In either case, the Offeror must also demonstrate that the proposed RetroDUR Manager has recent or comparable experience in managing RetroDUR processes.
	RFP Section	Question	Answer

19	II-4.	Some requirements don't specify page limits. For example, Item H-e on page 18 has no page limit specified. Can the vendor assume that if no page limit is specified immediately following the listed requirement, then one doesn't exist for that particular requirement.	In Part II-4, the only item for which a page limit was not specified was Item H-e. on page 18. The page limit is 3 pages. Offerors should be mindful of Section I-14 Economy of Preparation which requires that proposals be prepared simply and economically and provide a straightforward concise response to the RFP requirements.
	RFP Section	Question	Answer
20	II-6 Personnel	Please verify the offeror must only submit Personnel References and Questionnaire for the PDL Manager, Rebate Manager and RDUR Manager, and not for the Secondary PDL Manager or any other proposed staff.	The Offeror must provide three Key Personnel Professional Reference Questionnaires each for the PDL Project Manager, the Rebate Project Manager, and the RDUR Project Manager designated by the Offeror. Personnel Professional References are not required for the Secondary PDL manager or any other personnel designated by the Department as essential personnel.
	RFP Section	Question	Answer
21	IV-5. Reports and Project Control	Is the State requesting access to the reporting tools used by the offeror? How many State users will require access to ad-hoc reporting tools? Does the State have a preferred solution for end-user connectivity to ad-hoc reporting tools?	<p>The intent of this requirement is to allow Department staff to easily retrieve and edit or manipulate the data presented in the successful Offeror's reports for purposes of Department reporting. Access, or partial access, to reporting tools may be an option if the Offeror is able to do so, but is not required. The Offeror may consider other options, such as Excel, to avoid submitting reports in fixed formats like PDF.</p> <p>If an Offeror proposes access to the reporting tools used by the offeror, the Department expects a minimum number of Department users; fewer than 4 users. The Department is not specifying a preferred solution for end-user connectivity and will</p>

			consider the Offeror's recommendations.
	RFP Section	Question	Answer
22	II-4 Work Plan	How many State users will require access to the end user applications for Rebate, and PDL and RDUR, administration respectively? Does the State have a preferred solution for end-user connectivity to these environments/applications?	<p>The number of State users will vary by program and the Offeror's proposed functionality of each tool:</p> <ul style="list-style-type: none"> • Access to end-user applications for Rebate will require a minimum of 4 State users. • Access to end-user applications for the PDL could be as small as 4 State users or as large as 30 if, for example, deliverables such as Therapeutic Class Reviews (TCRs) are included. • Access to end-user applications for RetroDUR will also depend upon functionality. Currently, approximately 30 staff perform case reviews and therefore have access to end-user applications for RetroDUR.
	RFP Section	Question	Answer
23	II-4 Work Plan	Rebate data will be available for prior years. Can the State please clarify how many years of data the offeror will be responsible for transferring? Will this data be electronic or paper or both? Please explain and include volumes.	Claims level data dating back to 1991 will be transferred to the successful Offeror. Data will be electronic. The Department cannot guarantee the integrity of the data for the period January 1991 through December 2000. Data beginning in January 2001 to the present is reliable. Volumes are not available at this point in time. The Department will provide more information regarding volume during final contract negotiations.
	RFP Section	Question	Answer
24	II-4.G	Does the State have an approved State Plan Amendment from CMS for the MCO Supplemental Rebates?	No. Pennsylvania Medicaid MCOs qualify for Federal rebates only and do not qualify for state supplemental rebates.

	RFP Section	Question	Answer												
25	Part II	Do the page limits pertain to the offeror's response only or should the RFP text count toward the page limits?	The limit on the number of pages applies to the response to the question.												
	RFP Section	Question	Answer												
26	IV-2. Nature and Scope of Project	Please clarify Table 3:FFS Supplemental and Market Share Rebate Returns by State Fiscal Year (SFY) Beginning SFY 2011-2012 . The data provided in the table doesn't seem to match the heading. It looks like the column labeled FFS Federal Rebates Collected is actually FFS Supplemental Rebates collected, but there is nothing in the table regarding Market Share Rebates or expenditures for those products.	<p>Corrected Table 3: FFS Supplemental and Market Share Rebate Returns by State Fiscal Year (SFY) Beginning SFY 2011 – 2012</p> <table border="1"> <thead> <tr> <th>SFY</th> <th>FFS Supplemental and Market Share Rebates Collected</th> <th>% of FFS Drug Expenditures</th> </tr> </thead> <tbody> <tr> <td>2013 – 2014</td> <td>\$2,501,504</td> <td>3.10%</td> </tr> <tr> <td>2012 – 2013</td> <td>\$13,072,130</td> <td>4.51%</td> </tr> <tr> <td>2011 – 2012</td> <td>\$20,739,411</td> <td>4.04%</td> </tr> </tbody> </table>	SFY	FFS Supplemental and Market Share Rebates Collected	% of FFS Drug Expenditures	2013 – 2014	\$2,501,504	3.10%	2012 – 2013	\$13,072,130	4.51%	2011 – 2012	\$20,739,411	4.04%
SFY	FFS Supplemental and Market Share Rebates Collected	% of FFS Drug Expenditures													
2013 – 2014	\$2,501,504	3.10%													
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2011 – 2012	\$20,739,411	4.04%													
	RFP Section	Question	Answer												

27	IV-4. Program Requirements and Tasks, Task 9	What is the expectation as to how many RetroDUR profile reviews and/or drug related problems are conducted/identified each month?	Department clinical staff currently reviews approximately 2,000 case profiles each month. Approximately 2,000 - 3,000 letters are currently mailed to prescribing providers each month. These are not hard numbers and the Department is interested in recommendations from Offerors.
	RFP Section	Question	Answer
28	IV-4. Program Requirements and Tasks, Task 9	How many profile reviews are expected to be conducted each month?	Department clinical staff reviews approximately 2,000 case profiles each month and will continue to assume responsibility for case profile reviews under this contract.
	RFP Section	Question	Answer
29	IV-4. Program Requirements and Tasks, Task 9	Is there an expectation regarding how many RetroDUR interventions are performed each month? Each year? Each meeting?	The Department is not setting any limits on the monthly or yearly number of interventions. The reference to meetings does not apply as the Department's DUR Board does not review individual patient profiles.
	RFP Section	Question	Answer
30		Does the DUR board review patient profiles or only the Department clinicians?	All reviews of patient profiles are handled by Department clinical staff. The DUR Board does not review individual patient profiles.

	RFP Section	Question	Answer
31		How do the Department clinicians determine the quality indicators for review each month?	There are a variety of factors that influence the selection of RetroDUR quality indicators including, but not limited to, recent medical literature, FDA alerts, DUR Board recommendations, and clinician reviews.

	RFP Section	Question	Answer
32		Will a separate website need to be maintained by the Offeror?	The selected Offeror will develop and maintain a Pennsylvania-specific PDL Program webpage. The site may be separate or may be a general website with links to the Pennsylvania-specific information as delineated in Task 6. 1.
	RFP Section	Question	Answer
33		Please clarify that the offeror incurs the cost of mailing the intervention letters?	Yes. The selected Offeror incurs the cost of mailing the intervention letters.
	RFP Section	Question	Answer
34	IV-4 Task 9	<p>“Providing recommendations for RetroDUR criteria and the corresponding language for intervention letters for Department approval and possible revision (only Department approved criteria will be included for monthly profile reviews).”</p> <p>Please clarify the expectation of when this needs to be provided to the State prior to review of monthly profiles. Does the Department approved criteria vary monthly?</p>	The Department is open to developing new cycles and timelines with the Offeror.
	RFP Section	Question	Answer

35	IV-4 Task 9	<p>“Providing the Department clinicians access to the software via web-based portal”.</p> <p>How many Department users will need access to the RDUR tool and what type of access is required? Read-only access, administrative privileges, reporting functions, etc.</p>	<p>Currently, approximately 30 staff perform case reviews and therefore will need to have access. The Department will require some flexibility in the number of staff that have access to the RetroDUR tool if the number of staff performing case reviews increases.</p> <p>The Offeror will be responsible for identifying the patient profiles based on the Department-approved criteria. The type of access must provide Department staff with the ability to review all medical and pharmacy profiles identified by the successful Offeror in order to generate intervention letters.</p>
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	RFP Section	Question	Answer
36	IV-4, Task 8	When requirements are repeated does the State prefer to have the answer repeated or a reference back to the section with the answer? Several of the requirements for the Federal Medicaid Drug Rebates and State Supplemental and Market Share Rebates are identical and the solution may be the same since the selected product handles both programs.	The decision to repeat responses or reference back to a previous response is at the option of the Offeror.
	RFP Section	Question	Answer
37	Part II, Section H	Does the State or the incumbent vendor have all claims to support the JCODE rebate invoices back to inception of the program? If not, how far back are claims available?	The Department has the claims to support rebates for drugs paid for under J Codes for MCO encounters beginning with the date of service March 23, 2010 and forward. The FFS program does not recognize J Codes.
	RFP Section	Question	Answer

38	Part II, Section H	Does the State or the incumbent vendor have all claims to support the Federal OBRA rebate invoices back to 1991 Q1? If not, how far back are claims available?	Drugs claims to support Federal drug rebates will be available to the successful Offeror retroactive to 1Q1991. The Department cannot guarantee the integrity of the data during the period January 1991 through December 2000. Data beginning January 2001 to the present is reliable.
	RFP Section	Question	Answer
39	Part II, Section H	Does the State or the incumbent vendor have all claims to support the Supplemental rebate invoices back to inception of the program? If not, how far back are claims available?	Drug claims to support state supplemental rebates will be available to the successful Offeror retroactive to the implementation of the program, October 1, 2005.
	RFP Section	Question	Answer
40	Part II, Section H	How many vendors have run the Rebate program since 1991? Who are the prior vendor and what were the date ranges of their contracted years?	The Department administered the Federal Drug Rebate program from 1991 through 2003. Beginning in 2004, Unisys, subcontractor to the Department's MMIS contractor HP, assumed responsibility for the Federal Drug Rebate program.

	RFP Section	Question	Answer
41	Part II, Section H	Does the current Rebate vendor have a complete data set for all invoices, payments, adjustments, claims and disputes from 1991 Q1 forward? If not, please provide the date range for each program type that the data sets are complete.	Drugs claims to support Federal drug rebates will be available to the successful Offeror retroactive to 1Q1991. The Department cannot guarantee the integrity of the data during the period January 1991 through December 2000. Data beginning January 2001 to the present is reliable.
	RFP Section	Question	Answer

42	Part II, Section H	Is there a written transition plan for the current vendor to transition to the new contracted vendor?	Current contracts include a provision for an orderly turnover, turnover work plans detailing tasks and timeframes to ensure a smooth transition, and coordination with the Department or its agent. The final plan will be a collaborative effort among the Department, the current contractors, and the successful Offeror.
	RFP Section	Question	Answer
43	Part II, Section H	How many department users will need training on the offeror's drug rebate management system? Is this training expected to be on the entire system or only the functions that apply to the department users' tasks and responsibilities?	A minimum of 4 Department users will require training on the Offeror's drug rebate management system. Training should include, at a minimum, a general overview of the system and details on the Department users' roles and responsibilities.
	RFP Section	Question	Answer
44	Part II, Section H	Will the current and historical supplemental contracts and pricing be made available to support the historical SR rebate invoicing, pricing and collections?	The Offeror's proposal should identify the information needed to support the Offeror's capability to fully perform the requirements of the Contract.
	RFP Section	Question	Answer
45		Does the Department have an anticipated start date for the contract?	The Department is targeting the fourth quarter of 2015 for the Award Date, and the second quarter of 2016 for the Contract Start Date. The Department has used "Contract State Date" as the effective date of the contract, which is the date the Transition period begins. The selected Offeror is expected to assume full responsibility for Project activities by the end of the transition period.

	RFP Section	Question	Answer
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46		The Department's Medicaid Management System (MMIS) received CMS certification in 2005 and included a Drug Rebate System. Will the Drug Rebate system bid as part of this RFP require CMS certification or recertification ?	A change in contractors responsible for administering the Federal drug rebate program will not require a new CMS certification or a recertification of the Department's Medicaid Management Information System (MMIS).
	RFP Section	Question	Answer
47	SDB	Small Diverse Businesses have to be certified under the program in PA, this process can take several months. Will a SDB currently going through the certification process (but not yet certified) be acceptable to the state?	<p>For Offerors to receive credit for Small Diverse Business (SDB) participation, SDBs must have completed the verification process at time the proposal is due. Companies that are going through the third party certification will not be able to request verification as a small diverse business until they have completed the third party certification. Department of General Services will accept approved third-party certifications from, Unified Certification Program (UCP), United States Small Business Administration (SBA) 8(a) Program, National Minority Supplier Development Council (NMSDC), Woman's Business Enterprise National Council (WBENC), VetBiz Vendor Information Pages (VIP) at vetbiz.gov.</p> <p>If a company has a valid third party certification and is in the process of verifying as a SDB, it may contact Gayle Nuppau at 717-346-3819 or by email at gnuppau@pa.gov for assistance in the verification process.</p>
	RFP Section	Question	Answer

48	Part I, I-22	DHS will be responsible for (A) Managing the PDL. Please describe the management tasks DHS is responsible for under the current PDL contract.	The Department retains overall administrative responsibility for the PDL. Responsibilities related to management tasks are located throughout the RFP.
	RFP Section	Question	Answer
49	IV-4, Task 1.b	Explain how the Offeror's transition plan will accomplish: The successful transition of all rebate data from the current rebate contractors including open invoices, unpaid rebates and open disputes. How is the current rebate data stored? Is all rebate data available in electronic media back to 1991?	Current contracts include a provision for an orderly turnover, turnover work plans detailing tasks and timeframes to ensure a smooth transition, and coordination with the Department or its agent. The final plan will be a collaborative effort among the Department, the current contractors, and the successful Offeror. Rebate history is stored electronically.
	RFP Section	Question	Answer
50	Part II Proposal Requirements Work Statement Questionnaire	Indicate if the Offeror's proposed approach for negotiation and renegotiation with manufacturers for supplemental and market share rebates for all Medicaid Managed Care Organization ("MCO") drug and select medical supply encounters would be the same as, or different from the approach proposed for the Fee-for-Service (FFS) program should the Department decide to implement a statewide PDL. If different from the approach for the FFS program, describe the proposed approach for MCO encounters. (Limit: Three pages) Due to HealthChoices Expansion, does the Department anticipate all Private Coverage Option (PCO) encounter data to be submitted	PCO encounter data will be addressed by the current contractors during the summer of 2015, prior to the Effective Date of this contract.

		prior to start of this RFP contract period?	
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	RFP Section	Question	Answer
51	Section IV-4, Program Requirements and Tasks, Task 9	<p>a. Describe the Offeror's proposed approach for the RetroDUR Program including the following :</p> <ul style="list-style-type: none"> • Providing the Department clinicians access to the software via web-based portal <p>Please provide the number of clinicians expected to use the portal.</p>	See response to Question 35.

	RFP Section	Question	Answer
52	IV-2. Nature and Scope of the Project.	<p>1. <i>Expansion of the PDL Program and supplemental drug rebates to include the following: HealthChoices , the MA mandatory managed care program; and other Department offices such as, but not limited to, the Office of Mental Health and Substance Abuse Services, the Office of Children, Youth and Families, and the Office of Developmental Programs; and other State Offices.</i></p> <p>Please clarify if MCO encounters are currently eligible for supplemental rebates in the current contract?</p>	MCO encounters currently do not qualify for state supplemental rebates or market share rebates.
	RFP Section	Question	Answer

53	Part IV-1: Transition	<p>Transition consists of activities that must take place between the Effective Date of the contract and the date the selected Offeror is fully responsible for all contract activities. The Department has designated a maximum of three (3) months for the completion of all transition activities.</p> <p>A three month timeframe to transition all contract requirements to a new vendor does not provide adequate time to complete a full conversion of drug rebates back to 1991. Will the Department consider extending the transition period to six months or stagger services beyond the transition period?</p>	The Department will consider extending the timeframe for transition to the new vendor and turnover from the current vendor. Section II-4. Work Plan. Permits modifications of the task descriptions; reasons for changes should be fully explained.
	RFP Section	Question	Answer
54	Task 8. Administer the Federal and Supplemental Drug Rebate Programs 1. Federal Medicaid Drug Rebates	<p>The description must include an explanation of how the Offeror will:</p> <ul style="list-style-type: none"> Resolve disputes with manufacturers including historical disputes back to 1Q91? How many disputes are in progress? How many historical disputes go back more than five (5) years? 	<p>There are currently 3 open disputes for the period 1991 – 2000. The number of open disputes for the 2001 to present timeframe will be addressed as part of the transition and implementation planning with the successful Offeror.</p> <p>The focus of this requirement is the process for addressing open invoices, unpaid rebates, and open disputes.</p>

	RFP Section	Question	Answer
55	Task 8. Administer the Federal and Supplemental Drug Rebate Programs 2. State Supplemental and Market Share Rebates.	There is a requirement under Federal Medicaid Drug Rebates to “Receive rebate history from the current contractor’s Federal Rebate PRIMIS database”, however there is not a requirement in this section to	The requirement for an explanation of how the Offeror will receive rebate history from the current contractor applies to the Federal Medicaid Drug Rebates, State Supplemental and Market Share Rebates.

		receive rebate history from the Department's current supplemental and market share rebate administrator. Please confirm if rebate history is available from the current supplemental and market share rebate administrator. If so, please provide the time period of the rebate history and the format of the data.	The Department's current contractor began invoicing for supplemental rebates for the fourth quarter of 2005 and market share rebates for the second quarter of 2008. The complete rebate history and format of the data will be available to the successful Offeror.
	RFP Section	Question	Answer
56	Appendix K – SUBRECIPIENT/VENDOR AUDITS	Please clarify if all service areas covered under this RFP are subject to the audits outlined in Appendix K – is the vendor financially responsible for the audits outlined in Appendix K?	All service areas covered under this RFP are subject to the audits outlined in Appendix K, and are the financial responsibility of the selected offeror.
	RFP Section	Question	Answer
57		Since the RFP is due 6-5-15, is anything additional needed if a SDB certification expires 6-6-15?	Nothing additional is needed as long as the date is good on the RFP due date.
	RFP Section	Question	Answer

58		<p>“Two (2) separate CD-ROM/Flash Drives, each containing complete and exact copies of the proposed submittals; in Microsoft Office or Microsoft Office compatible format and a PDF copy of the Technical (excluding Financial Capability), Cost, and SDB Submittals;”</p> <p>Please confirm that the Commonwealth wants the electronic Technical, Cost, and SDB all on the same flash drive/CD-ROM? If so, should vendors submit the flash drives/CD-ROMs in a sealed envelope separate from the cost and technical proposals?</p>	<p>Yes, place all submittals on the same Flash Drive, in a separate sealed envelope.</p>
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**Office of Medical Assistance Programs
RFP 08-14
Preferred Drug List, Rebates, and
Retrospective Drug Use Review**

Pre-Proposal Conference

APRIL 14, 2015

9:00AM – 11:00AM

**CHILD WELFARE TRAINING CENTER
MECHANICSBURG, PENNSYLVANIA**



pennsylvania
DEPARTMENT OF HUMAN SERVICES

Agenda

- Introductions
- Ground Rules
- Project Officer
- Critical Points
- Project Overview
- Small Diverse Business Overview
- Timeline
- Questions

Introductions

- Terri Cathers – OMAP Pharmacy Director
- Mac Spiker – Bureau of Financial Operations & RFP Project Officer
- Gayle Nuppnau – Small Diverse Businesses

- Other Commonwealth Staff
- Attendees

Ground Rules

- Sign in sheets
- Questions may be submitted in writing on the forms provided by the end of this conference.
- The Commonwealth team will determine which questions may be preliminarily answered.
- Any answers provided are not final until formally issued in writing.
- Any changes to the RFP will be issued as a formal written amendment.

Project Officer

Mac Spiker
Department of Human Services
Bureau of Financial Operations
Health & Welfare Bldg., Rm 402
Harrisburg, PA 17120
<mailto:ra-pwrfpquestions@pa.gov>

Any contact with the Department concerning this RFP must be through the RFP Project Officer.

Critical Points

- To minimize delays in proposal evaluation and to avoid rejection of your proposal, read the RFP carefully and submit a complete proposal, including signature. Evaluations will be based as stated in the RFP. Follow the proposal format as detailed in Part II of the RFP. Include the appropriate heading descriptions, respond to all requirements and provide any other relevant information as an appendix.
- An oral presentation with each vendor may be requested by the Department.
- Each proposal must have three separately sealed submittals; Technical, Cost, and Small Diverse Business. (Please pay close attention to the number of hardcopy and electronic submittals required).
- Do not include any cost data (including cost for your Small Diverse Business submittal) in the technical portion of your proposal.
- Proposals are due June 5, 2015 at or before 2:00 PM.
- If a contract is awarded, it will be for a term of three years with two additional 1-year renewal options.

Critical Points

➤ The RFPs from responsible Offerors will be evaluated based on the following criteria:

- Technical – 50%
- Cost – 30%
- Small Diverse Business Participation – 20%

An Offeror will be considered responsible if the raw score for its Technical Submittal is equal to or greater than 70% of the available technical points.

➤ The technical evaluation will be based upon the following criteria:

- Soundness of Approach
- Offeror Qualifications
- Personnel Qualifications
- Understanding the Problem

Project Overview

- Currently, the Department uses three separate contractors to maintain the Fee-For-Service (FFS) Preferred Drug List or PDL, administer the federal drug rebate program and support the retrospective drug use review (RetroDUR) program
- The Department is seeking a single contractor for assistance to:
 - Maintain a clinically based PDL, leverage a multi-state rebate pooling initiative to optimize supplemental and market share rebates, and support the FFS Pharmacy & Therapeutics Committee
 - Administer the Commonwealth's federal, state supplemental and market share rebate program
 - Support the Department's retrospective drug use review (RetroDUR) program.

Bureau of Small Business Opportunities

Bureau of Small Business Opportunities (BSBO)

Gayle Nuppnau

DGS, Procurement Liaison

Bureau of Small Business Opportunities

Program designed to encourage participation of Small Diverse Businesses (SDB) in state contracting

- A Small Diverse Business is a DGS-verified minority-owned business, woman-owned business, veteran-owned business or service-disabled veteran-owned business.
- A small business is a business in the United States which is independently owned, not dominant in its field of operation, employs no more than 100 full-time or full-time equivalent employees, and earns less than 7\$ million in gross annual revenues for building design, \$20 million in gross annual revenues for sales and services and \$25 million in gross annual revenues for those businesses in the information technology sales or service business.

Bureau of Small Business Opportunities

To receive credit for being a Small Diverse Business or for subcontracting with a Small Diverse Business (including purchasing supplies and/or services through a purchase agreement), a Offeror must include proof of Small Diverse Business qualification in the Small Diverse Business participation submittal of the proposal, as indicated in section II of the RFP.

- Photocopy of its DGS issued certificate entitled “Notice of Small Business Self-Certification and Small Diverse Business Verification” indicating its diverse status
- Small Diverse Business(es) must be named including address and phone
- Letter of intent that specifies the type of goods or services the small diverse business will provide along with percentage of commitment
- All Offerors 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
- All Offerors 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 Diverse business as subcontractors

**NOTICE OF SMALL BUSINESS SELF-CERTIFICATION
AND SMALL DIVERSE BUSINESS VERIFICATION**



pennsylvania
DEPARTMENT OF GENERAL SERVICES

The Department is pleased to announce that
AGENCY GUEST ACCOUNT

has successfully completed the Pennsylvania Department of General Services' process for self-certification as a small business under the Commonwealth's Small Business Procurement Initiative as established by Executive Order No. 2011-09, and is verified as a Small Diverse Business with the following designation(s):

BUSINESS TYPE(s): Construction Contractor, Construction Supplier, Design, Procurement Services, Procurement Goods, Information Technology

CERTIFICATION NUMBER: 336949-2012-07-SB-MWBE

ISSUE DATE: 07/15/2012

EXPIRATION DATE: 07/16/2015

RECERTIFIED DATE: 7/16/2014



Curtis M. Topper, Acting Secretary
Department of General Services
Commonwealth of Pennsylvania

Bureau of Small Business Opportunities

Contact Information

Bureau of Small Business Opportunities (BSBO)

Ms. Gayle Nuppnau

Procurement Liaison

Telephone: (717) 346-3819

E-Mail: gnuppnau@pa.gov

Timeline

- The Project Timeline includes:
 - 3/18/2015 – RFP 08-14 Issued
 - 4/14/2015 – Potential Offeror Questions Deadline
 - 4/14/2015 – Pre-proposal Conference
 - 4/22/2015 – Answers to Potential Offerors' questions will be posted to the Department of General Services (DGS) website
 - 6/5/2015 – Proposals Due

Questions

- All questions must be submitted in writing
- Questions submitted today will be read and a preliminary response may be provided
- Answers are official only when answered in writing
- Answers will be posted to the DGS website as an addendum to the RFP

RFP #08-14

This concludes the pre-proposal conference

Answers to all questions submitted in writing as well as additional addendums will be posted to the DGS website at

<http://www.emarketplace.state.pa.us/Search.aspx>

by close of business April 22, 2015.

Address for Proposal Submission

RFP 08-14
Department of Human Services
Division of Procurement
Room 402 Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120



pennsylvania
DEPARTMENT OF HUMAN SERVICES

RFP 08-14

**Preferred Drug List, Rebates, and Retrospective Drug Use Review
April 14, 2015 Pre-Proposal Conference
Sign In Sheet**

NAME	COMPANY	E-MAIL ADDRESS	TELEPHONE NUMBER
Gayle Nupprau	DGS/BSBO	gnupprau@pa.gov	346-3819
Kristin Hoover	DHS/OMAP	C-Khoover@pa.gov	
Comyn Russell	DHS/OMAP	C-Crossell@pa.gov	
Peter M. Helstert	Health Information Systems	Peter.m.Helstert@HIDesigns.com	802-355-3214
Gayle Fajardo-Lane	HP	gayle.fajardo@hp.com	717-260-5702
Alan Fowler	HP	alan.fowler@hp.com	804-572-8465
Jim Wright	(SDB) LW Consulting	Jwright@lw-consult.com	717-213-3128
Steve Liles	GHS	Sliles@ghsinc.com	513-519-9212
Doree Mullan	Magellan	Dmullan@duplanet.com	508-562-0655
Jennifer Dudeck	Unisys	jennifer.dudeck@unisys.com	717-409-5837
Terry Findling	Unisys	terry.findling@unisys.com	717-409-5835

