

**STATEMENT OF WORK
ENERGY SUPPLY AND MANAGEMENT SERVICES
INVITATION TO QUALIFY (ITQ) CONTRACT**

OVERVIEW: The purpose of the Energy Supply and Management Services ITQ is to qualify responsible and responsive Contractors to provide energy supply and energy management services to the Commonwealth of Pennsylvania. In addition, Local Public Procurement Units, as defined by the Commonwealth Procurement Code, may use this contract in accordance with the COSTARS Provision contained in this document.

ISSUING OFFICE: This ITQ is managed and administered by the Commonwealth of Pennsylvania, Department of General Services (DGS), Bureau of Procurement. All inquiries should be referred to:

Keith Worley, Commodity Specialist
Department of General Services
Bureau of Procurement, 6th Floor
555 Walnut Street
Harrisburg, PA 17101-1914
Telephone: (717) 346-2679
Email: kworley@pa.gov

TERM OF CONTRACT: The term of the Contract shall commence January 1, 2019 and shall end when terminated by the Commonwealth pursuant to Section V.29 of the Terms and Conditions, Termination Provisions.

QUALIFICATIONS: Contractors interested in becoming an ITQ Contractor must meet the following requirements. Failure to meet the below requirements will result in the application being rejected. Each Contractor that meets the minimum qualifications will be awarded a contract. Award of a contract to a Contractor is not a guarantee of business.

- A. Contractors must provide documentation showing two (2) years of experience in the appropriate commodity code selected under Service Categories.
- B. **For 15100000-ITQ-252, Electricity Supply and 83100000-ITQ-255, Electricity Management Services:**
 - 1. Contractors must provide documentation they have a Pennsylvania Public Utility Commission (PA PUC) License as a retail electricity supplier. Contractors may be licensed to supply electricity within any or all PA Electric Distribution Company (EDC) territories; and
 - 2. Contractors must provide documentation they are a member in good standing of PJM Interconnection as a load-serving entity (LSE).
- C. **For 15100000-ITQ-253, Natural Gas Supply:** Contractors must provide documentation they have a Pennsylvania Public Utility Commission (PA PUC) License as a retail natural gas supplier. Contractors may be licensed to supply natural gas within any or all PA Local Distribution Company (LDC) territories.
- D. Contractors are required to download and upload a completed Domestic Workforce Utilization Form.

E. Contractors are required to download and upload a completed Iran Free Procurement Certification Form.

MATERIAL AND SERVICE CATEGORIES: Contractors will need to choose the appropriate commodity code(s) to qualify for the contract. Contractors will select the appropriate code(s) under the Business Details section of the qualification process. The Commonwealth may add additional commodity codes as the need arises. The table below lists the appropriate commodity code and description of each category.

COMMODITY CODE	DESCRIPTION OF CATEGORY
15100000-ITQ-252 Electricity Supply	Qualified Contractors will be invited to respond to Requests for Quotes (RFQ) for electricity supply to electric utility accounts belonging to Commonwealth agencies and/or COSTARS member organizations.
15100000-ITQ-253 Natural Gas Supply	Qualified Contractors will be invited to respond to RFQs for natural gas supply to natural gas utility accounts belonging to Commonwealth agencies and/or COSTARS member organizations.
15100000-ITQ-254 Renewable Energy Certificate (REC) Supply	<p>Qualified Contractors will be invited to respond to RFQs for renewable energy certificates (RECs) issued by the Commonwealth and/or COSTARS member organizations.</p> <p>Contractors must be capable of providing requested RECs, retiring the RECs on the Commonwealth’s behalf as specified in an RFQ, and performing any applicable tasks related to the retirement and tracking of RECs required by applicable regional transmission organizations (RTO).</p>
83100000-ITQ-255 Electricity Management Services	<p>Qualified Contractors will be invited to respond to RFQs involving the management of electricity generation and/or supply in both the retail and wholesale electricity markets.</p> <p>The services may involve performing market transactions needed to manage the output of a Commonwealth-owned electric generation asset or to facilitate supply purchases required of the Commonwealth by the terms of a power purchase agreement (PPA).</p>

REQUEST FOR QUOTES (RFQ) PROCEDURES: DGS Procurement will issue RFQs for materials and services covered by this ITQ on behalf of Commonwealth agencies on an as needed basis. Quotes may be solicited in writing via email or an internet-based platform. Each RFQ shall be issued to all Contractors qualified in the applicable material or service category.

The RFQ will include specific details regarding requested term lengths and pricing structures, included utility accounts, and if applicable, historical consumption information. The RFQ will also contain specific terms and conditions governing the purchase of the specified materials or services as well as the criteria for Contractor evaluation and award.

GENERAL INFORMATION/REQUIREMENTS:

- A. Type of Contract.** Upon determination that the Contractor meets the ITQ requirements, the Commonwealth will issue a contract to the Contractor. Upon receipt of a written Notice to Proceed resulting from an RFQ issued under this Contract, the Contractor agrees to furnish the requested materials or services to the applicable Commonwealth agency.
- B. Order of Precedence.** If any conflicts or discrepancies should arise in the terms and conditions of this Contract, or the interpretation thereof, the order of precedence shall be:
- i. This Contract;
 - ii. The data resident on the ITQ web site and incorporated herein by reference at the date of execution of the Contract or issuance of an RFQ off of this Contract, whichever is later, including but not limited to the promises and certifications the Contractor made in qualifying for the Contract;

If any conflicts or discrepancies should arise in the interpretation of a Notice to Proceed, the order of precedence shall be:

- i. The material or service category definitions, descriptions, qualification requirements, and contract terms and conditions set forth in the RFQ;
- ii. This Contract;
- iii. The Notice to Proceed and any attachment thereto, including: (1) the Contractor's Proposal, as accepted by the Commonwealth; (2) the RFQ.

C. Bid Protest Procedure (April 2016) The Bid Protest Procedure is on the DGS website. [Click here](#)

D. COSTARS Purchasers. Section 1902 of the Commonwealth Procurement Code, 62 Pa.C.S. § 1902 ("Section 1902"), authorizes local public procurement units and state-affiliated entities (together, "COSTARS Members") to participate in Commonwealth procurement contracts that the Department of General Services ("DGS") may choose to make available to COSTARS Members. DGS has identified this ITQ as one which will be made available for COSTARS Members' participation.

- a. Only those entities registered with DGS are authorized to participate as COSTARS Members in this Contract. A COSTARS Member may be either a local public procurement unit or a state-affiliated entity.
 1. A "local public procurement unit" is:
 - Any political subdivision (local government unit), such as a municipality, school district, or commission;
 - Any public authority (including authorities formed under the Municipality Authorities Act of 1955 or other authorizing legislation, such as the Public Transportation Law or the Aviation Code);
 - Any tax-exempt, nonprofit educational institution or organization;
 - Any tax-exempt, nonprofit public health institution or organization;
 - Any nonprofit fire, rescue, or ambulance company; and
 - Any other entity that spends public funds for the procurement of supplies, services, and construction (such as a council of governments, an area government, or an organization that receives public grant funds).

The Department reserves the right to review and determine eligible applicants as Local Public Procurement Units on a case-by-case basis.

2. A state-affiliated entity is a Commonwealth authority or other Commonwealth entity that is not a Commonwealth agency. The term includes:
 - The Pennsylvania Turnpike Commission;
 - The Pennsylvania Housing Finance Agency;
 - The Pennsylvania Municipal Retirement System;
 - The Pennsylvania Infrastructure Investment Authority;
 - The State Public School Building Authority;
 - The Pennsylvania Higher Education Facilities Authority, and
 - The State System of Higher Education.

The COSTARS Program is not available for use by Executive Agencies and Independent Agencies as defined by the Commonwealth Procurement Code, or any agency or entity using funds appropriated to the Department of General Services through Capital Budget Project Itemization legislation for the procurement of furniture, fixtures, and equipment.

3. A complete list of local public procurement units and state-affiliated entities that have registered with DGS and that are authorized to procure items from the Contract can be found at <http://www.costars.state.pa.us/SearchCOMember.aspx>.
- b. COSTARS Members have the option to purchase from this Contract, from any DGS contract established exclusively for COSTARS Members in accordance with the requirements of Section 1902, from any other cooperative procurement contracts, or from their own procurement contracts established in accordance with the applicable laws governing such procurements. The Contractor understands and acknowledges that there is no guarantee that a COSTARS Member will place an order under this Contract, and that the decision to procure from this Contract is within the sole discretion of each COSTARS Member.
 - c. DGS is acting as a facilitator for COSTARS Members who may wish to purchase under this Contract. COSTARS Members that participate in this Contract and issue purchase orders (“POs”) to Contractors are third party beneficiaries who have the right to sue and be sued for breach of this Contract without joining the Commonwealth or DGS as a party. The Commonwealth will not intervene in any action between a Contractor and a COSTARS Member unless substantial interests of the Commonwealth are involved.
 - d. COSTARS Members electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.
 - e. Those Contractors electing to permit COSTARS Members to procure from this Contract shall pay the Required Administrative Fee applicable to the Contractor’s classification:

Contractor Classification	Required Administrative Fee
DGS-verified Small Diverse Business Contractor	\$166
DGS Self-Certified Small Business Contractor	\$500
All Other Contractor	\$1,500

1. Each Contractor electing to permit COSTARS Members to participate in the Contract must submit the COSTARS Program Election to Participate form with its bid submittal

and pay the applicable Administrative Fee upon Contract award in order to sell the awarded items/services to COSTARS Members. If the Contractor is a Department of General Services Self-Certified Small Business or Department of General Services-verified Small Diverse Business, a copy of its active Small Business Contracting Program certificate must be included with the bid submittal.

2. At the beginning of each Contract year and upon any Contract renewal, the Contractor shall submit a check for the required amount, payable to “Commonwealth of PA”. The Contractor must pay the Administrative Fee at each contract renewal date to continue to sell the awarded items/services to COSTARS Members.
- f. DGS has registered the COSTARS name and logo (together, the “COSTARS Brand”) as a trademark with the Pennsylvania Department of State. Therefore, the Contractor may use the COSTARS Brand only as permitted under in this Subsection.
1. The Contractor shall pay the Administrative Fee covering its participation in the program, including without limitation any use of the COSTARS Brand, for each year of the Contract period. The fee is payable upon Contract award and prior to the renewal date for each succeeding Contract period.
 2. DGS grants the Contractor a nonexclusive license to use the COSTARS Brand, subject to the following conditions:
 - The Contractor agrees not to transfer to any third party, including without limitation any of its subcontractors or Contractors, any privileges it may have to use the COSTARS Brand under this Contract.
 - The Contractor agrees not to use the COSTARS Brand to represent or imply any Commonwealth endorsement or approval of its products or services.
 - The Contractor is permitted to use the COSTARS Brand in broadcast, or Internet media solely in connection with this Contract and any other Contract with the Commonwealth under which it has agreed to make sales to COSTARS Purchasers. The Contractor may use the COSTARS Brand on business cards, brochures, and other print publications so long as the purpose is to identify the Contractor as a COSTARS vendor, and only so long as the required Contract fee is kept current.
 - Should this Contract terminate for any reason, the Contractor agrees promptly to remove the COSTARS Brand from any and all print and electronic media and to refrain from using the COSTARS Brand for any purpose whatsoever from the date of Contract termination forward.
 - The Contractor agrees to defend, indemnify, and hold harmless the Commonwealth of Pennsylvania and DGS from and against all claims, demands, liabilities, obligations, costs, and expenses of any nature whatsoever arising out of or based upon the Contractor’s use of the COSTARS Brand.
 - The Contractor agrees it has no property rights in the use of the COSTARS Brand by virtue of this nonexclusive license. The Contractor expressly waives any claims, including without limitation due process claims that may otherwise be available under the law in the event of any dispute involving these terms of use.
- g. The Contractor shall furnish to the DGS COSTARS Program Office a quarterly electronic Contract sales report detailing the previous quarter’s Contract purchasing activity, using the

form and in the format prescribed by DGS. The Contractor shall submit its completed quarterly report no later than the fifteenth calendar day of the succeeding Contract quarter.

1. The Contractor shall submit the reports through the web-based COSTARS Contractors' Gateway of the PA Contractor Portal at <https://paContractorportal.state.pa.us/irj/portal/anonymous> , Enterprise Applications. If a Contractor does not have access to the Internet, the Contractor shall send the reports, using the form and in the format prescribed by DGS, on compact disc via US Postal Service to the DGS COSTARS Program Office, Bureau of Procurement, 6th Floor Forum Place, 555 Walnut Street, Harrisburg, PA 17101-1914.
 2. For each written Notice to Proceed received, the Contractor shall include on the report the name and address of each COSTARS-Registered Purchaser that has used the Contract along with the sales date, and dollar volume of sales to the specific Purchaser for the reporting period.
 3. DGS may suspend the Contractor's participation in the COSTARS Program for failure to provide the Quarterly Sales Report within the specified time.
- h. Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at www.costars.state.pa.us.
1. If the Contractor is aware of any qualified entity not currently registered and wishing to participate in the COSTARS Program, please refer the potential purchaser to the DGS COSTARS Website at www.costars.state.pa.us, where it may register by completing the online registration form and receiving DGS confirmation of its registration. To view a list of currently-registered COSTARS member entities, please visit the COSTARS website.
 2. Direct all questions concerning the COSTARS Program to:

Department of General Services
COSTARS Program
555 Walnut Street, 6th Floor
Harrisburg, PA 17101
Telephone: 1-866-768-7827
E-mail GS-PACostars@pa.gov

- i. **COSTARS Program Election to Participate.** If the Contractor is willing to sell the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to COSTARS members, the Contractor should complete and return the COSTARS Program Election to Participate form which is an attachment to this ITQ. If the Contractor is asserting that it is a Department of General Services Certified Small Business, the Contractor must submit its active certification.

E. COSTARS Reporting Requirements. If you checked "Yes" in Step 6 when developing your qualification bid for the ITQ contract, you agreed to participate in the Commonwealth's COSTARS program, and you are bound by the COSTARS Purchasers Provision contained within this Statement of Work. The requirement to report COSTARS sales to DGS' COSTARS Program Office is contained in Section E of the COSTARS Purchasers Provision. By agreeing to participate in the

COSTARS program, you are required to report COSTARS sales to DGS on a quarterly basis. Even if you had no COSTARS sales, you must file a report.

COSTARS sales for the ITQ contract can now be reported through the automated COSTARS sales reporting system located on the COSTARS website. Information required will be your vendor number, contract number, date of sale, customer name and the amount of the sale. It is also recommended that you record the COSTARS Member ID number. Detailed instructions appear below.

The deadline for submitting sales information is the 15th day of the month following the end of the quarter. Failure to report COSTARS sales is in breach of contract, and may result in DGS suspending your participation in the COSTARS program.

Note: This system is to be used to record sales to COSTARS members ONLY! ZERO sales for a particular quarter must also be reported.

INSTRUCTIONS FOR COSTARS SALES REPORTING FOR STATEWIDE CONTRACT CONTRACTORS

- Go to www.dgs.state.pa.us/costars. ‘Click’ on the Contractors button.
- ‘Click’ on the COSTARS Contractors’ Gateway link on the right. Click on the State Contract link.
- Enter your Vendor Number to gain access to the system. When your Vendor Number is found, you will be taken to the Sales Reporting Authorization screen.
- Enter your first and last name. ‘Click’ Continue.
- You will be taken to the Sales Reporting Screen. Select from the Contract Number dropdown the Contract Number you want to report sales for and then ‘click’ the Continue button located next to it.
- To enter a new Sale or to report “No Sales this Quarter”, ‘click’ on the Insert button at the top left.
- Enter the Customer Name or part of the Customer Name into the Customer Search field. If you are reporting “NO SALES THIS QUARTER”, type NO SALES into the search field. ‘Click’ the Search button.
- Select the Customer Name from the dropdown list, or select NO SALES THIS QUARTER. To proceed, you will need to ‘click’ on the Continue button to the right of the list. The system will locate the Customer Name in the Members database and will pre-fill the Address and County fields for you.
- You will then enter a Sales Date and Sales Amount.
- ‘Click’ on the Save button. The data is saved and immediately accessible by COSTARS Program staff. For your convenience, there is also a Sales Reporting Manual – for Statewide Contracts in the Resource Center on this site. For additional assistance or questions, please call 1-866-768-7827.

F. Post-Submission Descriptive Literature. The Commonwealth may, during its evaluation of the bids, require any Contractor to submit pertinent information which the Issuing Office may require in order to evaluate the product(s) offered. The required information must be submitted within two (2) business days after notification from the Issuing Office. Failure to submit the required information prior to the expiration of the second business day after notification shall result in the rejection of the bid as non-responsive.

G. Tie Bids/Quotes. All tie bids/quotes will be broken by the Issuing Office.

H. Prompt Payment Discounts. Prompt payment discounts will not be considered in making an award. If prompt payment discounts are offered by any Contractor, however, the Issuing Office will take advantage of such offer.

ADDITIONAL INFORMATION:

A. NOTICE TO PROCEED: All references to “purchase order” or “purchase orders” in the Contract Terms and Conditions shall be replaced with a reference to the defined term “Contract.” A written Notice to Proceed signed by DGS Procurement will constitute the Contractor’s authority to supply materials or perform services.