



pennsylvania
DEPARTMENT OF GENERAL SERVICES

March 10, 2009

**RE: Catering Services – Open Enrollment
IFB-Invitation for Bid # 6100009627**

Dear Supplier:

In accordance with Amendment No. 1 to Contract 4400001320, interested suppliers are invited to submit a bid via Open Enrollment for **Catering Services** in response to the subject Invitation for Bid. Please note that this is not an electronic bid. Bids may be submitted by completing the forms contained in this bid “package” following the instructions provided.

Bids must be sealed, and may be hand carried or mailed to the address below:

**PA Department of General Services
Bureau of Procurement, Bid Room
Bid Number: 6100009627
Forum Place, 6th Floor
555 Walnut Street
Harrisburg, PA 17101**

Bids may be received at the above address on any Commonwealth business day.

In addition, interested bidders must register as a supplier on the PA Supplier Portal at www.pasupplierportal.state.pa.us before an award can be made. Please be advised that if your company is already registered in the PA Supplier Portal, registration is not necessary.

Prior to registration, I strongly encourage you to review and print the **Supplier Registration Reference Guide** available through the Customer Support Center link on PA Supplier Portal webpage. Also available there is helpful overview information on SRM, including its features and the benefits for your organization, as well as other help options, designed to provide you with the answers you need and access to staff who can assist you. Should you have any questions or issues related to SRM and/or the registration process, please feel free to contact the SRM Customer Service Center (CSC) at 717-346-2676 (local) or 877-435-7363 (outside of Harrisburg).

Thank you for your interest in doing business with the Commonwealth of Pennsylvania.

Sincerely,

Georgina Baltimore
Commodity Specialist



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BID Effective Date:

Bid Invitation Number:

6100009627

Issuing Office:

Georgina Baltimore
Attn: Bureau of Procurement Bid Room
6th Floor 555 Walnut Street
Harrisburg PA 17101 US

Supplier Name/Address:

Your SAP Vendor Number with us: _____

☐ Disadvantaged business as defined by STD-203

Please Return Quotation to:

PA Department of General Services
Attn: Bureau of Procurement Bid Room
Bid Number: 6100009627
Forum Place, 6th Floor
555 Walnut Street
Harrisburg PA 17101 US

Type of Security furnished if required:

- ☐ Certified bank cashier's check
☐ Irrevocable letter of credit
☐ Certificate of deposit
☐ Other as specified by bid
☐ Bond - If annual bond:
What is the name of the principal on the bond?

Return Bid by:

Bid Ending Date:
Any Commonwealth
Business Day

Bid Ending Time:
3:30 PM

Please Deliver To:

Procurement Contact:

Buyer: Georgina Baltimore
Phone: 717-783-5368
Fax: 717-783-6241

**Expiration Date of
Contract (if
applicable)**
07/31/2010

Delivery Date:
See Items

This Invitation for Bids is comprised of: Signature Page with Mandatory Attributes; Exhibit A, Special Contract Terms & Conditions; STD-203 General Instructions to Bidders; GSPUR-12F Standard Contract Terms & Conditions for DGS Statewide Service Contract; STD-168 MBE/WBE; Domestic Workforce Utilization Certification Form; and COSTARS Questionnaire Form.

Supplier's Signature _____ Title _____
Printed Name _____ Date _____

The Bidder has completed and submitted this Bid in accordance with the instructions and requirements and terms and conditions of the Invitation For Bid. The Bidder has attached documents that are required to be submitted with this Bid and those attachments are incorporated by reference and made a part of this Bid. The Bidder, intending to be legally bound hereby, offers and agrees, if this Bid is accepted, to provide the awarded items at the price(s) set forth in this Bid at the time(s) and place(s) specified.

Item	Material/Service Desc	Qty	UOM	Unit Price	Total Line Item Price
1	Food Services	0.000		Attach Menu Price List	
2	Catering	0.000		Attach Menu Price List	
3	Event Planning & Custom Menus	0.000		Requested By Quote	

ALL PRICES ARE F.O.B. DESTINATIONS

List of Items Continued
on Following Page



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Supplier Name: _____

***** Attributes Page *****

*** No further information for this bid ***

Mandatory ATTRIB. #01 - 1. HAS THE SUBMITTER READ, AND DOES THE SUBMITTER UNDERSTAND, THE TERMS AND CONDITIONS OF THIS SOLICITATION?

Response:

Mandatory ATTRIB. #02 - 2. IS THE OFFER IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THIS SOLICITATION?

Response:

Mandatory ATTRIB. #03 - 3. DO ALL ITEMS OFFERED BY SUBMITTER CONFORM TO THE SPECIFICATIONS OF THIS SOLICITATION?

Response:

Mandatory ATTRIB. #04 - 4. WERE THE PRICE(S) AND AMOUNT ARRIVED AT INDEPENDENTLY AND WITHOUT CONSULTATION, COMMUNICATION OR AGREEMENT WITH ANY OTHER CONTRACTOR, SUBMITTER OR POTENTIAL SUBMITTER?

Response:

Mandatory ATTRIB. #05 - 5. WERE THE PRICE(S), AMOUNT, APPROXIMATE PRICE(S) OR THE APPROXIMATE AMOUNT DISCLOSED TO ANY FIRM OR PERSON WHO IS A SUBMITTER OR POTENTIAL SUBMITTER?

Response:

Mandatory ATTRIB. #06 - 6. WAS AN ATTEMPT MADE TO INDUCE ANY FIRM OR PERSON TO REFRAIN FROM RESPONDING TO THE SOLICITATION?

Response:

Mandatory ATTRIB. #07 - 7. WAS AN ATTEMPT MADE TO INDUCE ANY FIRM OR PERSON TO SUBMIT AN OFFER HIGHER THAN THE SUBMITTER#S OFFER?

Response:

Mandatory ATTRIB. #08 - 8. WAS AN ATTEMPT MADE TO INDUCE ANY FIRM OR PERSON TO SUBMIT ANY OTHER FORM OF COMPLEMENTARY OFFER?

Response:

Mandatory ATTRIB. #09 - 9. Did the Submitter make the offer in good faith?

Response:



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Mandatory ATTRIB. #10 - 10. Is a governmental agency investigating the Submitter, its affiliates, subsidiaries, officers, directors or employees? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #11 - 11. In the last 4 years, was the Submitter or its employees found liable for conspiracy or collusion related to any public contract? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #12 - 12. In the last 4 years, was the Submitter#s affiliates or subsidiaries found liable for conspiracy related to any public contract? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #13 - 13. In the last 4 years, was the Submitter#s affiliates or subsidiaries found liable for collusion related to any public contract? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #14 - 14. In the last 4 years, was the Submitter#s officers or directors found liable for conspiracy related to any public contract? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #15 - 15. In the last 4 years, was the Submitter#s officers or directors found liable for collusion related to any public contract? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #16A - 16. Is the Submitter currently under suspension by the federal government or any state or local government? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #17A - 17. Is the Submitter currently debarred by the federal government or any state or local government? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #18A - 18. Do offered items meet EPA-established minimum percentage levels for total recycled content and post-consumer recycled content? If no, provide explanation in comment field or as an attachment.

Response:



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Mandatory ATTRIB. #19 - 19. Does the Submitter have any delinquent obligations to the Commonwealth not being contested on appeal? If yes, provide explanation in comment field or as an attachment.

Response:

Mandatory ATTRIB. #20 - 20. Does the Submitter understand that all information submitted and representations made are material and will be relied upon by the Commonwealth in award?

Response:

Mandatory ATTRIB. #21 - 21. Does the Submitter understand that any false statement that Submitter does not believe to be true or any writing, sample, specimen, map or other object that Submitter knows to be false shall be punishable under Section 4904 of Title 18 Pa. C. S?

Response:

Mandatory ATTRIB. #22 - 22. Does the Submitter authorize a Commonwealth agency to release Submitter's, tax information to any contracting Commonwealth agency?

Response:

Mandatory ATTRIB. #26 - 26. Does the Submitter agree that if a change or error in an offer occurs in a transmission, the Submitter shall immediately notify the Commonwealth of the change or error?

Response:

Mandatory ATTRIB. #27 - 27. Does the Submitter acknowledge responsibility for current & complete supplier registration information and that the Commonwealth is not responsible for any delays in payment or communication resulting from inaccuracies provided by the Submitter?

Response:

Mandatory ATTRIB. #28 - 28. I have indicated my name and title in the comment space provided and represent that I have full authority to submit this response on behalf of Submitter and to bind Submitter to its contents.

Response:

COSTARS ATTR. #01 - If awarded a Contract, does Submitter agree to sell/provide the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Purchasers?

Response:



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MBWB 01IFB MBE - DOES SUPPLIER COMMIT TO USE DGS CERTIFIED MBES AS SUBCONTRACTORS OR SUPPLIERS? SUPPLIER MUST SELECT THIS BOX AND ENTER THE SPECIFIC % COMMITMENT. THE COMMITMENT IS BASED ON THE TOTAL CONTRACT VALUE. IF LESS THAN 5%, REFER TO IFB FOR FURTHER INSTRUCTION

Response:

MBWB 02IFB WBE - DOES SUPPLIER COMMIT TO USE DGS CERTIFIED WBES AS SUBCONTRACTORS OR SUPPLIERS? SUPPLIER MUST SELECT THIS BOX AND ENTER THE SPECIFIC % COMMITMENT. THE COMMITMENT IS BASED ON THE TOTAL CONTRACT VALUE. IF LESS THAN 3%, REFER TO IFB FOR FURTHER INSTRUCTION

Response:

**GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS
FOR
RFQ – INVITATION FOR BIDS**

1. SUBMISSIONS OF BIDS:

- a. Bids are requested for the item(s) described in the RFQ-Invitation For Bids and all the documents referenced in the form (collectively called the IFB). Bidders must complete and properly sign, in ink, the RFQ-Invitation For Bids form. Bid prices must be typewritten or in ink. Bids that are priced or signed in pencil will be rejected.
- b. The completed and signed RFQ-Invitation For Bids form, as well as the other documents required by the IFB (collectively referred to as the "Bid"), shall be enclosed and sealed in an envelope which is clearly marked "Bid" and includes the assigned Collective Number (Shown on the RFQ-Invitation For Bids form) and the Bidder's vendor number as well as the bid opening date and time. It is the responsibility of each bidder to ensure that its Bid is received at the return address shown on the RFQ-Invitation For Bids form ("Bid Opening Room") prior to the date and time set for the opening of bids ("Bid Opening Time"), regardless of method of delivery used. No Bid shall be considered if it arrives at the Bid Opening Room after the Bid Opening Time, regardless of reason for the late arrival. In the event that, due to inclement weather, natural disaster, or other cause, the Commonwealth offices are officially closed on the date scheduled for Bid opening, the Bid Opening date shall be automatically postponed until the next Commonwealth business day, unless the Bidders are otherwise notified by the Issuing Office. The Bid Opening time shall remain the same.

All envelopes containing Bids should be clearly marked "Bid" and should include the address of the Bid Opening Room (not the agency central processing location), the assigned Collective Number and the Bid Opening Time. Bids that are timely received in the Bid Opening Room prior to the Bid Opening Time shall be opened publicly in the presence of one or more witnesses at the time and place designated in this IFB for the Bid opening.

- c. Bids must be firm. If a Bid is submitted with conditions or exceptions or not in conformance with the terms and conditions referenced in the IFB Form, it shall be rejected. The Bid shall also be rejected if the items offered by the Bidder are not in conformance with the specifications as determined by the Commonwealth.

2. QUESTIONS: Any questions concerning conditions and specifications must be directed to the Issuing Office.

3. BIDDER'S REPRESENTATION AND AUTHORIZATION:

- a. Each Bidder, by making its Bid, understands, represents, and acknowledges that:
 - 1) The Bidder has read and understands the terms and conditions of the IFB and the Bid is made in accordance with those terms and conditions.
 - 2) The item(s) offered in the Bid will be in conformance with the specifications referenced on the IFB without exceptions.
 - 3) The price(s) and amount of the Bid have been arrived at independently and without consultation, communication, or agreement with any other contractor, Bidder, or potential Bidder.
 - 4) Neither the price(s) nor the amount of the Bid, and neither the approximate price(s) nor the approximate amount of the Bid, have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before Bid opening.

- 5) No attempt has been made or will be made to induce any firm or person to refrain from bidding on the contract, or to submit a bid higher than the Bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
 - 6) The Bid is made 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 bid.
 - 7) To the best of the knowledge of the person signing the Bid for the Bidder, the Bidder, 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 on any public contract, except as disclosed by the Bidder in its Bid.
 - 8) Neither the Bidder, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth, or any governmental entity, instrumentality, or authority, and if the bidder cannot so certify, then it shall submit, along with the Bid, a written explanation of why such certification cannot be made.
 - 9) To the best of the knowledge of the person signing the Bid for the Bidder, and except as otherwise disclosed by the Bidder in its Bid, the Bidder 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 Bidder that is owed to the Commonwealth.
 - 10) The Bidder has not, under separate contract with the Commonwealth, made any recommendations to the Commonwealth concerning: the IFB, the need for the item(s) described in the IFB, or the specifications for the item(s) described in the IFB.
 - 11) All information provided by, and representations made by, the Bidder in the Bid are material and important and will be relied upon by the Commonwealth in awarding the contract. Any misstatement shall be treated as fraudulent concealment from the Commonwealth of the true facts relating to the submission of the Bid. A misrepresentation shall be punishable under Section 4904 of Title 18 P.C.S.A.
- b. Each Bidder, by making its Bid, authorizes all Commonwealth agencies to release to the Commonwealth information related to liabilities to the Commonwealth including, but not limited to taxes, unemployment compensation, and workers' compensation liabilities.
- c. If an award is made to the Bidder, the Bidder agrees that it intends to be legally bound to the contract that is formed between the Commonwealth and the Bidder.
4. **PRICES:** The successful Bidder will be required to provide the awarded item(s) at the prices quoted in its Bid.
5. **APPROVED EQUAL:** Whenever an item is defined in this IFB by trade name and catalogue number of a manufacturer or vendor, the term "or approved equal," if not inserted therewith shall be implied. Any reference to a particular manufacturer's product either by trade name or by limited description is solely for the purpose of more clearly indicating the minimum standard of quality desired, except where a "no substitute" is requested. When a "no substitute" is requested, the Issuing Office will consider Bids for the referenced product only. The term "or approved equal" is defined as meaning any other make which, in the sole opinion of the Issuing Office, is of such character, quality, and performance equivalence as to meet the standard of quality of products specified for which it is to be used equally as well as that specified. A Bidder quoting on a product other than the referenced product shall: a) furnish complete identification in its Bid of the product it is offering by trade name, brand and/or model number; b) furnish descriptive literature and data with respect to the substitute product it proposes to furnish; and c) indicate any known specification deviations from the referenced product.

6. **ALTERNATES:** A Bidder who wants to offer an alternate must notify the Issuing Office in writing, at least five (5) days prior to the scheduled Bid opening, that the Bidder intends to offer an alternate in its Bid. An "alternate" is a product that deviates from the requirements of the specifications in its composition, qualities, performance, size dimension, etc. The written notification from the Bidder must include a complete description of the alternate and must identify the product's deviations from the specifications. Upon receipt of the notification, the Issuing Office will determine whether the alternate is acceptable. If the Issuing Office, in its discretion, determines that the alternate is acceptable, the Issuing Office will issue a change notice to the invitation for bids that revises the specifications. If no change notice is issued revising the specification, a Bid offering the alternate will not be considered for award.
7. **NEW EQUIPMENT:** Unless otherwise specified in this invitation for bids, all products offered by Bidders must be new or remanufactured. A "new" product is one that will be used first by the Commonwealth after it is manufactured or produced. A "remanufactured" product is one which:
1) has been rebuilt, using new or used parts, to a condition which meets the original manufacturer's most recent specifications for the item; 2) does not, in the opinion of the Issuing Office, differ in appearance from a new item; and 3) has the same warranty as a new item. Unless otherwise specified in this invitation for bids, used or reconditioned products are not acceptable. This clause shall not be construed to prohibit Bidders from offering products with recycled content, provided the product is new or remanufactured.
8. **MODIFICATION OR WITHDRAWAL OF BID:**
 - a. Bid Modification Prior to Bid Opening. Bids may be modified only by written notice or in person prior to the exact hour and date specified for Bid opening.
 - 1) If a Bidder intends to modify its Bid by written notice, the notice must specifically identify the Bid to be modified and must be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the modification to modify the Bid on behalf of the Bidder. The Bid modification must be received in a sealed envelope. The sealed envelope must identify the assigned Collective Number and the Bid Opening Time, and should state that enclosed in the envelope is a Bid modification
 - 2) If a Bidder intends to modify its Bid in person, the individual who will modify the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to modify the Bid on behalf of the Bidder. If a Bidder intends to modify its Bid in person, the Bidder may do so only in the presence of an agency employee. (The agency employee will observe the actions taken by the individual to modify the Bid, but will not read the Bid or the modification).
 - b. Bid Withdrawal Prior to Bid Opening. Bids may be withdrawn only by written notice or in person prior to the exact hour and date specified for Bid opening.
 - 1) If a Bidder intends to withdraw its Bid by written notice, the notice shall specifically identify the Bid to be withdrawn and shall be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the bid withdrawal to withdraw the bid on behalf of the Bidder. Except as provided in Paragraph 8.c. Bid withdrawals received after the exact hour and date specified for the receipt of Bids shall not be accepted.
 - 2) If a Bidder intends to withdraw its Bid in person, the individual who will withdraw the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to withdraw the Bid on behalf of the Bidder.
 - c. Bid Withdrawal After Bid Opening. Bidders are permitted to withdraw erroneous Bids after Bid opening only if the following conditions are met:

- 1) The Bidder submits a written request for withdrawal.
 - 2) The Bidder presents credible evidence with the request that the reason for the lower Bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the Bid.
 - 3) The request for relief and supporting evidence must be received by the Issuing Office within three (3) business days after Bid opening, but before award of the contract.
 - 4) The Issuing Office shall not permit a Bid withdrawal if the Bid withdrawal would result in the award of the contract on another Bid of the same Bidder, its partner, or a corporation or business venture owned by or in which the bidder has a substantial interest.
 - 5) If a Bidder is permitted to withdraw its Bid, the Bidder cannot supply any material or labor or perform any subcontract or other work agreement for the awarded contractor, without the written approval of the Issuing Office.
- d. Firm Bid. Except as provided above, a Bid may not be modified, withdrawn, or cancelled by any Bidder for a period of sixty (60) days following the time and date designated for Bid opening, unless otherwise specified by the Bidder in its Bid. If the lowest responsible Bidder, as determined by the Issuing Office, withdraws its Bid prior to the expiration of the award period or fails to comply with the requirements set forth in the IFB including but not limited to any requirement to submit performance or payment bonds or insurance certificates within the required time period, the Bidder shall be liable to the Commonwealth for all costs and damages associated with the re-award or re-bid including the difference between the Bidder's price and the actual cost that the Commonwealth pays for the awarded items.
- e. Clarification and Additional Information. After the receipt of Bids, the Issuing Office shall have the right to contact Bidders for the purpose of seeking:
- 1) Clarification of the Bid which confirms the Issuing Office's understanding of statements or information in the Bid or;
 - 2) Additional information on the items offered; provided the IFB does not require the rejection of the Bid for failure to include such information.
9. **REJECTION OF BIDS:** The Issuing Office reserves the right to reject any and all Bids, to waive technical defects or any informality in Bids, and to accept or reject any part of any Bid if the best interests of the Commonwealth are thereby served.
10. **AWARDS:** Unless all Bids are rejected, and except as otherwise provided by law, award will be made, through the issuance of a Purchase Order, to the lowest responsible and responsive Bidder. Unless otherwise specified by the Issuing Office in the IFB form the Commonwealth reserves the right to award by item or on a total Bid basis, whichever is deemed more advantageous to the Commonwealth. In cases of discrepancies in prices, the unit price will be binding unless the unit price is obviously in error and the extended price is obviously correct, in which case the erroneous unit price will be corrected. As a condition for receipt of award of a contract/purchase order, the lowest responsible and responsive Bidder must be registered in the Commonwealth of Pennsylvania's Vendor Master file. In order to register, bidders must visit the vendor registration website, <http://www.vendorregistration.state.pa.us/>, or call the Central Vendor Management Unit toll free at 866-775-2868 or 717-214-2868.
11. **TIE BIDS:** All tie Bids will be broken by the Issuing Office.

12. **PROMPT PAYMENT DISCOUNTS:** Prompt payment discounts will not be considered in making an award. If prompt payment discounts are offered by any Bidder, however, the Issuing Office will take advantage of such offer.

13. **BID PROTEST PROCEDURES:**

- a. **Who May File the Protest.** Any Bidder or prospective bidder who is aggrieved in connection with the IFB or award of the contract solicitation or award of a contract may file a protest. Protests relating to cancellation of invitations for bids and protests relating to the rejection of all bids are not permitted. A Bidder is a person that submits a bid in response to the IFB. A prospective bidder is a person that has not submitted a bid in response to the IFB.
- b. **Time for Filing.**
 - 1) If a protest is submitted by a prospective bidder, the protest must be filed before bid opening time or proposal receipt date.
 - 2) If a protest is filed by a Bidder, the protest must be filed within seven days after the protesting Bidder knew or should have known of the facts giving rise to the protest EXCEPT THAT IN NO EVENT MAY A PROTEST BE FILED LATER THAN SEVEN (7) DAYS AFTER THE DATE THE CONTRACT OR PURCHASE ORDER WAS AWARDED. Date of filing is the date of receipt of protest.
 - 3) Untimely filed protests shall be disregarded.
- c. **Form of Protest.**
 - 1) A protest must be in writing and filed with the agency head (or designee) of the purchasing agency.
 - 2) A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal.
 - 3) The protesting party may submit with the protest any documents or information deemed relevant.
- d. **Notice of Protest.** If award has been made, the agency head (or designee) shall notify the successful Bidder or contractor of the protest. If the protest is received before award and substantial issues are raised by the protest, all Bidders who appear to have a substantial and reasonable prospect of winning the award shall be notified and may file their agreement/disagreement with the purchasing agency within three (3) days after receipt of notice of the protest.
- e. **Stay of Procurement.** The head of the purchasing agency (or designee) shall immediately decide, upon receipt of the protest, whether or not the solicitation or award shall be stayed, or if the protest is timely received after the award, whether the performance of the contract should be suspended. The Issuing Office shall not proceed further with the IFB or with the award of the contract, and shall suspend performance under the contract if awarded, unless the agency head of the purchasing agency makes a written determination that the protest is clearly without merit or that award of the contract/purchase order without delay is necessary to protect the substantial interests of the Commonwealth.
- f. **Procedures.**
 - 1) **Contracting Officer Response.** Within fifteen (15) days of the receipt of a protest, the contracting officer may submit a written response to the head of the purchasing agency (or designee). The response may include any documents or information that the contracting officer deems relevant to the protest.

- 2) **Protesting Party Reply.** Within ten (10) days of the date of the contracting officer response, the protesting party may file a written reply.
- 3) **Review.** The head of the purchasing agency (or designee) shall:
 - a) Review the protest and any response or reply.
 - b) Request and review any additional documents or information he deems necessary to render a decision.
 - c) Give the protesting party and the contracting officer reasonable opportunity to review and address any additional documents or information requested by the agency head.
 - d) In his sole discretion, conduct a hearing.
 - e) Within sixty (60) days of the receipt of the protest, issue a written determination stating the reasons for the decision.
 - f) If additional time is required to investigate the protest, inform the protesting party of the additional time needed to render a determination and obtain the protesting party's consent.
- 4) **"Clearly Without Merit" Determinations.** If the head of the purchasing agency (or designee) determines, upon receipt, that the protest is clearly without merit and does not stay the procurement, the head of the purchasing agency (or designee) shall immediately issue the decision as required by Subparagraph h below.
- g. **Settlement.** The Issuing Office has the authority to settle and resolve bid protests.
- h. **Decision.** The head of the purchasing agency (or designee) shall promptly, but in no event later than sixty (60) days from the filing of the protest, issue a written decision. The decision shall:
 - 1) State the reasons for the decision.
 - 2) If the protest is denied, inform the protesting party of its right to file an appeal in Commonwealth Court within fifteen (15) days of the mailing date of the decision.
 - 3) If it is determined that the solicitation or award was contrary to law, enter an appropriate order.

The agency head (or designee) shall send a copy of the decision to the protesting party and any other person determined by the agency head (or designee) to be affected by the decision.

**STANDARD CONTRACT
TERMS AND CONDITIONS
FOR DEPARTMENT OF GENERAL SERVICES
STATEWIDE SERVICES CONTRACTS - SAP**

1. TERM OF CONTRACT

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

The Effective Date shall be: a) the date the Contract has been fully executed by the Contractor and by the Commonwealth, and all approvals required by Commonwealth contracting procedures have been obtained, and the Contract has been sent to the Contractor or b) the date referenced in the Special Conditions and Instructions, whichever is later. The Contract shall not be a legally binding contract until after the fully-executed Contract has been sent to the Contractor.

The fully executed Contract shall not contain "ink" signatures by the Commonwealth. The Contractor understands and agrees that the receipt of an electronically-printed Contract with the printed name of the Commonwealth purchasing agent constitutes a binding, valid contract with the Commonwealth. The printed name of the purchasing agent on the Contract represents the signature of that individual who is authorized to bind the Commonwealth to the obligations contained in the Contract. The printed name also represents that all approvals required by Commonwealth contracting procedures have been obtained.

The Contractor shall not start the performance of any work until all of the following have occurred: a. the Effective Date has arrived; b. the Contractor has received a copy of the fully-executed Contract; and c. the Contractor has received a purchase order from a Commonwealth agency. The Commonwealth shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the Effective Date or before the Contractor receives a copy of the fully-executed Contract or before the Contractor has received a purchase order. Except as otherwise provided in Paragraph 3, no Commonwealth employee has the authority to verbally direct the commencement of any work under this Contract prior to the Effective Date.

The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Contract, or any part of the Contract, for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in Contract coverage and only for the time necessary, up to three (3) months, to enter into a new Contract.

2. ESTIMATED QUANTITIES

It shall be understood and agreed that any quantities listed in the Contract are estimated only and may be increased or decreased in accordance with the actual requirements of the Commonwealth and that the Commonwealth in accepting any bid or portion thereof, contracts only and agrees to purchase only the services in such quantities as represent the actual requirements of the Commonwealth. The Commonwealth reserves the right to purchase services covered under the Contract through a separate competitive procurement procedure, whenever the Department of General Services deems it to be in the best interest of the Commonwealth. The right will generally be exercised only when a specific need for a large quantity of the services exists.

3. PURCHASE ORDERS

Commonwealth agencies 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. Contractors are not permitted to accept purchase orders which require performance extended beyond those performance time periods specified in the Contract but in no event longer than ninety (90) days after the expiration date of the Contract period. 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 Commonwealth. 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 purchase order to be legally enforceable.
- b. Upon receipt of an order, the Contractor shall promptly and properly transmit an acknowledgement in return. Any order which is issued electronically shall not give rise to any obligation to deliver on the part of the Contractor, or any obligation to receive and pay for delivered products on the part of the Commonwealth agency, unless and until the Commonwealth agency transmitting the order has properly received an acknowledgement.
- c. The parties agree that no writing shall be required in order to make the order legally binding, notwithstanding contrary requirements in any law. The parties hereby agree not to contest the validity or enforceability of a genuine contract 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 genuine 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 genuine purchase orders or acknowledgements under either the business records exception to the hearsay rule or the best evidence rule on the basis that the 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.
- d. 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 five thousand dollars (\$5,000) in total amount may also be made in person or by telephone using a Commonwealth Procurement VISA 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 Procurement VISA card.

4. INDEPENDENT CONTRACTOR

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

5. COMPLIANCE WITH LAW

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

6. ENVIRONMENTAL PROVISIONS

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

7. POST-CONSUMER RECYCLED CONTENT

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified in Exhibits A-1 through A-8 to these Standard Contract Terms and Conditions.

8. COMPENSATION/EXPENSES

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

9. INVOICES

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

10. PAYMENT

- a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Provide Service and Bill To" address on the contract purchase order, 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) forty-five (45) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.
- b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or purchase order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or purchase order.
- c. The Commonwealth will make contract payments through Automated Clearing House (ACH).
 - 1) Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).
 - 2) The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.
 - 3) It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

11. TAXES

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 2374001-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.

12. WARRANTY

The Contractor warrants that all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. The Contractor shall pass through to the Commonwealth the manufacturer's warranty for all parts or supplies provided under the Contract. The Contractor shall correct any problem with the service and/or replace any defective part with a part of equivalent or superior quality without any additional cost to the Commonwealth.

13. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the purchase order 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 purchase order. 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 purchase order. 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.

14. OWNERSHIP RIGHTS

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

15. ASSIGNMENT OF ANTITRUST CLAIMS

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

16. HOLD HARMLESS PROVISION

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

17. AUDIT PROVISIONS

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract.

The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

18. DEFAULT

a. The Commonwealth may, subject to the provisions of Paragraph 19, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph 20, Termination Provisions) the whole or any part of this Contract including a purchase order, for any of the following reasons:

- 1) Failure to begin work within the time specified in the Contract or contract purchase order or as otherwise specified;
- 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or contract purchase order terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 5) Discontinuance of work without approval;
- 6) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
- 7) Insolvency or bankruptcy;
- 8) Assignment made for the benefit of creditors;
- 9) Failure or refusal within 10 days after written notice by the Buyer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
- 10) Failure to protect, to repair, or to make good any damage or injury to property; or
- 11) Breach of any provision of this Contract.

- b. In the event that the Commonwealth terminates this Contract in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical services included within the terminated part of the Contract.
- c. If the Contract is terminated in whole or in part 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 Department of General Services, such partially completed work, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Buyer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Buyer determines to be necessary to protect the Commonwealth against loss.
- d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
- f. Following exhaustion of the Contractor's administrative remedies as set forth in Paragraph 21, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

19. FORCE MAJEURE

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

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

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

20. TERMINATION PROVISIONS

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

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract 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 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 or purchase order. 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 for Contractor default under Paragraph 18, Default, 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 this Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a contract purchase order for cause, then, at the Commonwealth's discretion, the Contract shall be deemed to have been terminated for convenience under the Subparagraph 20.a.

21. **CONTRACT CONTROVERSIES**

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum.
- b. The contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- c. Within fifteen (15) days of the mailing date of the final 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.

22. **ASSIGNABILITY AND SUBCONTRACTING**

- a. Subject to the terms and conditions of this Paragraph 22, the 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 the Contract without the prior written consent of the Buyer, which consent may be withheld at the sole and absolute discretion of the Buyer.
- c. The Contractor may not assign, in whole or in part, the Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Buyer, which consent may be withheld at the sole and absolute discretion of the Buyer.
- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Buyer, assign its rights to payment to be received under the Contract or a contract purchase order, provided that the Contractor provides written notice of such assignment to the Buyer and the ordering Commonwealth agency together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of the Contract.

- e. For the purposes of the 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 Buyer 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 Buyer written notice of any such change of name.

23. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

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

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract on account of gender, race, creed, or color.
- c. The Contractor and subcontractors shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer or the Bureau of Contract Administration and Business Development.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.
- g. The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

24. CONTRACTOR INTEGRITY PROVISIONS

- a. For purposes of this clause only, the words "confidential information," "consent," "contractor," "financial interest," and "gratuity" shall have the following definitions.
 - 1) **Confidential information** means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.
 - 2) **Consent** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing,

by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.

- 3) **Contractor** means the individual or entity that has entered into the Contract with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a five percent interest.
 - 4) **Financial interest** means:
 - a) Ownership of more than a five percent interest in any business; or
 - b) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
 - 5) **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
- b. The Contractor shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
 - c. The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.
 - d. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
 - e. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
 - f. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.
 - g. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
 - h. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
 - i. The Contractor, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.
 - j. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract unless otherwise provided by law.
 - k. For violation of any of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Contractor to complete performance hereunder, and debar and suspend the

Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse 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.

25. CONTRACTOR RESPONSIBILITY PROVISIONS

- a. The Contractor certifies that it is not currently under suspension or debarment by the Commonwealth, or any other state, or the federal government, and if the Contractor cannot certify, then it agrees to submit a written explanation of why such certification cannot be made.
- b. If the Contractor enters into subcontracts or employs under the Contract any subcontractors/individuals who are currently suspended or debarred by the Commonwealth or the federal government or who become suspended or debarred by the Commonwealth or federal government during the term of the Contract or any extensions or renewals thereof, the Commonwealth shall have the right to require the Contractor to terminate such subcontracts or employment.
- c. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of Inspector General for investigations of the Contractor's compliance with terms of the Contract or any other agreement between the Contractor and the Commonwealth which result in the suspension or debarment of the Contractor. Such costs shall include, but 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 which do not result in the Contractor's suspension or debarment.
- d. The Contractor may obtain the current list of suspended and debarred contractors by contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone Number: (717) 783-6472
FAX Number: (717) 787-9138

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

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

26. AMERICANS WITH DISABILITIES ACT

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

27. HAZARDOUS SUBSTANCES

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

- a. Labeling. The Contractor shall insure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the following substances (as defined by the Act and the regulations) supplied by the Contractor is clearly labeled, tagged or marked with the information listed in Paragraph (1) through (4):
 - 1) Hazardous substances:
 - a) The chemical name or common name,
 - b) A hazard warning, and
 - c) The name, address, and telephone number of the manufacturer.
 - 2) Hazardous mixtures:
 - a) The common name, but if none exists, then the trade name,
 - b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,
 - c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,
 - d) A hazard warning, and
 - e) The name, address, and telephone number of the manufacturer.
 - 3) Single chemicals:
 - a) The chemical name or the common name,
 - b) A hazard warning, if appropriate, and
 - c) The name, address, and telephone number of the manufacturer.
 - 4) Chemical Mixtures:
 - a) The common name, but if none exists, then the trade name,
 - b) A hazard warning, if appropriate,
 - c) The name, address, and telephone number of the manufacturer, and
 - d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

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

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

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

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

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

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

28. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract purchase order 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 purchase order 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.

29. APPLICABLE LAW

The 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.

30. INTEGRATION

The RFQ - Invitation For Bids form and the Contract form, including all documents referenced on the forms, as well as the purchase orders constitute 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 is any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments will be made using the appropriate Commonwealth form.

31. **CHANGES**

The Commonwealth reserves the right to **make changes** at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the service within the scope of the Contract; 3) to exercise an option to purchase or early payment option; 4) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 5) 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**: a. the contracting officer shown on the Contract form, or b. the agency contracting officer for changes to purchase orders **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, modifications or exercises of purchase options 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 supply in accordance with the **change**. Any dispute by the Contractor in regard to the performance required **by any notification of change** shall be handled through Paragraph 21, "Contract Controversies".

EXHIBIT A-1
CONSTRUCTION PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All construction products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Construction Products	Material	% of Post-Consumer Materials	% of Total Recovered Materials
Structural Fiberboard	Recovered Materials	-	80
Laminated Paperboard	Post-consumer Paper	100	-
Rock Wool Insulation	Slag	-	75
Fiberglass Insulation	Glass Cullet	-	20
Cellulose Insulation (loose-fill and spray-on)	Post-consumer Paper	75	-
Perlite Composite Board Insulation	Post-consumer Paper	23	-
Plastic Rigid Foam, Polyisocyanurate/ Polyurethane: Rigid Foam Insulation	Recovered Material	-	9
Foam-in-Place Insulation	Recovered Material	-	5
Glass Fiber Reinforced Insulation	Recovered Material	-	6
Phenolic Rigid Foam Insulation	Recovered Material	-	5
Floor Tiles (heavy duty/commercial use)	Rubber	90	-
	Plastic	-	90
Patio Blocks	Rubber or Rubber Blends	90	-
	Plastic or Plastic Blends	-	90
Polyester Carpet Fiber Face	Polyethylene terephthalate (PET) resin	25	-
Latex Paint: --Consolidated ¹ --Reprocessed ² ----White, Off-White, Pastel Colors ----Grey, Brown, Earthtones, and Other Dark Colors	Recovered Material	100	-
	Recovered Material	20	-
	Recovered Material	50	-
Shower and Restroom Dividers/Partitions:	Plastic	20	-
	Steel ⁴	16	9
		67	33
Carpet Cushion: --Bonded Polyurethane --Jute --Synthetic Fibers --Rubber	Old Carpet Cushion	15	-
	Burlap	40	-
	Carpet Fabrication Scrap	-	100
	Tire Rubber	60	-
Railroad Grade Crossing Surfaces --Concrete --Rubber ³ --Steel ⁴	Coal Fly Ash	-	15
	Tire Rubber	-	85
	Steel	16	9
		67	33

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) **BIDDER'S CERTIFICATION**

¹ Consolidated latex paint used for covering graffiti, where color and consistency of performance are not primary concerns.

² Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceiling, and trim; gutterboards; and concrete, stucco, masonry, wood, and metal surfaces.

³The recommended recovered materials content for rubber railroad grade crossing surfaces are based on the weight of the raw materials, exclusive of any additives such as binders or additives

⁴ The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

Bidder certifies that the construction product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the construction product(s), to provide the Commonwealth with documentary evidence that the construction product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-2
VEHICULAR PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All vehicular products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Vehicular Product	Requirements
Re-Refined Oil	25% re-refined oil base stock for engine lubricating oils, hydraulic fluids, and gear oils.

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

"Re-refined oil" is oil that is manufactured with a minimum of twenty-five percent basestock made from used oil that has been recovered and processed to make it reusable as oil. Once the oil has been refined, no difference can be detected between re-refined and virgin oil.

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the vehicular product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE REFERENCED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the vehicular product(s), to provide the Commonwealth with documentary evidence that the vehicular product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-3
PAPER PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All paper offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer content as shown below for the applicable products:

Item	Notes	Post-Consumer Content (%)
Printing and Writing Papers		
Reprographic	Business papers such as bond, electrostatic, copy, mimeo, duplicator and reproduction	30
Offset	Used for book publishing, commercial printing, direct mail, technical documents, and manuals	30
Tablet	Office paper such as note pads and notebooks	30
Forms bond	Bond type papers used for business forms such as continuous, cash register, sales book, unit sets, and computer printout, excluding carbonless	30
Envelope	Wove Kraft, white and colored (including manila) Kraft, unbleached Excludes custom envelopes	30 10 10
Cotton fiber	High-quality papers used for stationery, invitations, currency, ledgers, maps, and other specialty items	30
Text and cover	Premium papers used for cover stock, books, and stationery and matching envelopes	30
Supercalendered	Groundwood paper used for advertising and mail order inserts, catalogs, and some magazines	10
Machine finished groundwood	Groundwood paper used in magazines and catalogs	10
Papeteries	Used for invitations and greeting cards	30
Check safety	Used in the manufacture of commercial and government checks	10
Coated	Used for annual reports, posters, brochures, and magazines. Have gloss, dull, or matte finishes	10
Carbonless	Used for multiple-impact copy forms	30
File folders	Manila or colored	30
Dyed filing products	Used for multicolored hanging folders and wallet files	20
Index and card stock	Used for index cards and postcards	20
Pressboard	High-strength paperboard used in binders and report covers	20
Tags and tickets	Used for toll and lottery tickets, licenses, and	20

	identification and tabulating cards	
Newsprint		
Newsprint	Groundwood paper used in newspapers	20
Commercial Sanitary Tissue Products		
Bathroom tissue	Used in rolls or sheets	20
Paper towels	Used in rolls or sheets	40
Paper napkins	Used in food service applications	30
Facial tissue	Used for personal care	10
General-purpose industrial wipers	Used in cleaning and wiping applications	40
Paperboard and Packaging Products		
Corrugated containers (<300 psi) (300 psi)	Used for packaging and shipping a variety of goods	25 25
Solid fiber boxes	Used for specialized packaging needs such as dynamite packaging and army ration boxes	40
Folding cartons	Used to package a wide variety of foods, household products, cosmetics, pharmaceuticals, detergent, and hardware	40
Industrial paperboard	Used to create tubes, cores, cans and drums	45
Miscellaneous	Includes "chipboard" pad backings, book covers, covered binders, mailing tubes, game boards, and puzzles	75
Padded mailers	Made from kraft paper that is usually brown but can be bleached white	5
Carrierboard	A type of folding carton designed for multipack beverage cartons	10
Brown papers	Used for bags and wrapping paper	5
Miscellaneous Paper Products		
Tray liners	Used to line food service trays. Often contain printed information.	50

"Post-consumer" content is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer content is part of the broader category of recovered material."

The Commonwealth of Pennsylvania recognizes that paper products are universally made with scrap material recovered from the manufacturing process; use of such materials is a standard practice, both efficient and economical for the paper maker; therefore, bidders of paper products need not certify that their products are made with "pre-consumer," "recovered," or "secondary" paper fiber.

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the paper product(s) which the bidder is offering contains the required minimum percentage of post-consumer content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a mill certification must be completed and signed by the mill before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill

Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the paper product(s), to provide the Commonwealth with documentary evidence that the paper product(s) were in fact produced with the required minimum percentage of post-consumer content.

EXHIBIT A-4
LANDSCAPING PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All landscaping products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Landscaping Products	Recovered Material Content
Hydraulic Mulch: -----Paper -----Wood/Paper	100% (post-consumer) 100% (total)
Compost Made From Yard Trimmings and/or Food Waste	Purchase or use compost made from yard trimmings, leaves, grass clippings and/or food wastes for applications such as landscaping, seeding of grass or other plants, as nutritious mulch under trees and shrubs, and in erosion control and soil reclamation. DGS further recommends implementing a composting system for these materials when agencies have an adequate volume and sufficient space.
Garden Hose: -----Rubber and/or Plastic Soaker Hose: -----Rubber and/or Plastic	60% (post-consumer) 60% (post-consumer)
Lawn and Garden Edging: -----Rubber and/or Plastic	30% (post-consumer)/30-100% (total)
Landscaping Timber and Posts: -----HDPE -----Mixed Plastics/Sawdust -----HDPE/Fiberglass -----Other mixed Resins	25% (post-consumer) + 50% (recovered) 50% (post-consumer) + 50% (recovered) 75% (post-consumer) + 20% (recovered) 50% (post-consumer) + 45% (recovered)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the landscaping product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the landscaping product(s), to provide the Commonwealth with documentary evidence that the landscaping product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

**EXHIBIT A-5
MISCELLANEOUS PRODUCTS
RECYCLED CONTENT**

(A) REQUIREMENT

All miscellaneous products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Miscellaneous Products	Recovered Material Content
Awards and Plaques -----Glass -----Wood -----Paper -----Plastic and Plastic/Wood Composites	75% (post-consumer) + 25% (recovered) 100% (total) 40% (post-consumer) 50% (post-consumer) + 45% (recovered)
Industrial Drums -----Steel ¹ -----Plastic (HDPE) -----Fiber (paper)	16% (post-consumer) + 9% (recovered) 30% (post-consumer) 100% (post-consumer)
Mats -----Rubber -----Plastic -----Rubber/Plastic Composite	75% (post-consumer) + 10% (recovered) 10% (post-consumer) + 90% (recovered) 100% (post-consumer)
Pallets -----Wood -----Plastic -----Thermoformed -----Paperboard	95% (post-consumer) 100% (post-consumer) 25% (post-consumer) 50% (post-consumer)
Signage -----Plastic -----Aluminum -----Plastic Sign Posts/Supports -----Steel Sign Posts/Supports ²	80% (post-consumer) 25% (post-consumer) 80% (post-consumer) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered)
Sorbents -----Paper -----Textiles -----Plastics -----Wood ³ -----Other Organics/Multimaterials ⁴	90% (post-consumer) + 10% (recovered) 95% (post-consumer) 25% (total) 100% (total) 100% (total)
Manual-Grade Strapping -----Polyester -----Polypropylene -----Steel ²	50% (post-consumer) 10% (total) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

¹Steel used in steel drums is manufactured using the Basic Oxygen Furnace (BOF) process, which contains 25-30% total recovered material, of which 16% is post-consumer steel. Steel used in manual-grade strapping is manufactured using either the BOF process or the Electric Arc Furnace (EAF) process, which contains 100% total recovered materials, of which 67% is post-consumer steel.

² The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

³ "Wood" includes materials such as sawdust and lumber mill trimmings.

⁴ Examples of other organics include, but are not limited to, peanut hulls and corn stover. An example of multimaterial sorbents would include, but not be limited to, a polymer and cellulose fiber combination.

² The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the miscellaneous product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the miscellaneous product(s), to provide the Commonwealth with documentary evidence that the miscellaneous product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-6
NONPAPER OFFICE PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All nonpaper office products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Nonpaper Office Product	Recovered Material Content
Recycling Containers and Waste Receptacles: -----Plastic -----Steel ¹ -----Paper -----Corrugated -----Solid Fiber Boxes -----Industrial Paperboard	20% (post-consumer) 16% (post-consumer) + 9% (recovered) 25% (post-consumer) 40% (post-consumer) 40% (post-consumer) + 60% (recovered)
Plastic Desktop Accessories (polystyrene) including desk organizers, sorters, and trays, and memo, note, and pencil holders.	25% (post-consumer)
Binders: -----Plastic-Covered -----Paper-Covered -----Pressboard -----Solid Plastic -----HDPE -----PE -----PET -----Misc. Plastics	25% 75% (post-consumer) + 15% (recovered) 20% (post-consumer) + 30% (recovered) 90% (post-consumer) 30% (post-consumer) 100% (post-consumer) 80% (post-consumer)
Trash Bags (plastic)	10% (post-consumer)
Toner Cartridges	Return used toner cartridges for remanufacturing and reuse or purchase a remanufactured or recycled-content replacement cartridge.
Printer Ribbons	Procure printer ribbon reinking or reloading services or procure reinked or reloaded printer ribbons.
Plastic Envelopes	25% (post-consumer)
Plastic Clipboards: -----HDPE -----PS -----Misc. Plastics	90% (post-consumer) 50% (post-consumer) 15% (post-consumer)
Plastic File Folders -----HDPE	90% (post-consumer)
Plastic Clip Portfolios -----HDPE	90% (post-consumer)
Plastic Presentation Folders -----HDPE	90% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

¹ The recommended recovered materials content levels for steel in this table reflect the fact that the designated item is made from steel manufactured from in a Basic Oxygen Furnace (BOF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel.

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the nonpaper office products which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the paper, to provide the Commonwealth with documentary evidence that the nonpaper office product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-7
PARK & RECREATION PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All park and recreation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Park & Recreation Product	Recovered Material Content ¹
Park Benches & Picnic Tables:	
-----Plastic ²	90% (post-consumer) + 10% (recovered)
-----Plastic Composites	50% (post-consumer) + 50% (recovered)
-----Aluminum	25% (post-consumer)
-----Concrete	15% (total)
-----Steel ³	16% (post-consumer) + 9% (recovered)
	67% (post-consumer) + 33% (recovered)
Plastic Fencing for Specified Uses⁴	60% (post-consumer) + 30% (recovered)
Playground Equipment	
-----Plastic ³	90% (post-consumer) + 10% (recovered)
-----Plastic Composites	50% (post-consumer) + 45% (recovered)
-----Steel ⁴	16% (post-consumer) + 9% (recovered)
	67% (post-consumer) + 33% (recovered)
-----Aluminum	25% (post-consumer)
Playground Surfaces:	
-----Plastic or Rubber	90% (post-consumer)
Running Tracks:	
-----Plastic or Rubber	90% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the park and recreational product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the park and recreational product(s), to provide the Commonwealth with documentary evidence that the park and recreational product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

¹ The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

² "Plastic" includes both single and mixed plastic resins. Park benches and picnic tables made with recovered plastic may also contain other recovered materials such as sawdust, wood, or fiberglass. The percentage of these materials contained in the product would also count toward the recovered materials content level of the item.

³ The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (AF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

⁴ Designation includes fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.

EXHIBIT A-8
TRANSPORTATION PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All transportation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Transportation Products	Recovered Material Content ¹
Traffic Cones: -----Plastic (PVC and LDPE) -----Crumb Rubber	50% (recovered) 50% (recovered)
Traffic Barricades (type I and II only): -----Plastic (HDPE, LDPE, PET) -----Steel ² -----Fiberglass	80% (post-consumer) + 20% (recovered) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 100% (recovered)
Parking Stops: -----Plastic and/or Rubber -----Concrete Containing Coal Fly Ash -----Concrete Containing Ground Granulated Blast Furnace Slag	100% (recovered) 20% (recovered) 15% when used as a partial cement replacement as an admixture in concrete. 25% (recovered)
Traffic Control Devices: -----Channelizers: -----Plastic -----Rubber (base only) -----Delineators: -----Plastic -----Rubber (base only) -----Steel (base only) ² -----Flexible Delineators	25% (post-consumer) 100% (post-consumer) 25% (post-consumer) 100% (post-consumer) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 25% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the transportation product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are **not** required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the transportation product(s), to provide the Commonwealth with documentary evidence that the transportation product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

¹ Content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

² The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

MANUFACTURER/MILL CERTIFICATION

(To be submitted with invoice for each order)

TO BE COMPLETED BY MANUFACTURER/MILL:

NAME OF MANUFACTURER/MILL: _____

ADDRESS OF MANUFACTURER/MILL: _____

FEDERAL EMPLOYER I.D. NO.: _____

CONTRACT OR REQUISITION NO. _____

NAME OF CONTRACTOR: _____

ADDRESS OF CONTRACTOR: _____

Type of product(s) which the manufacturer/mill furnished to the contractor: _____

CERTIFICATION: I, the undersigned officer of the above-named manufacturer/mill, do hereby certify that I am authorized to provide this certification on behalf of the above-named manufacturer/mill and that the type of product(s) listed above which my company furnished to the contractor named above for the referenced contract or purchase requisition, contained not less than _____% post-consumer materials and _____% recovered materials as those terms are defined in the invitation for bids. I understand that this document is subject to the provisions of the Unsworn Falsification of Authorities Act (18 P.S. Section 4904).

Signature

Name of Signatory

Title

Date

EXHIBIT A - SPECIAL TERMS AND CONDITIONS

CONTRACT SCOPE/OVERVIEW: This Contract is for Catering Services for all agencies of the Commonwealth within the geographic coverage specified on page 1 under Contract Scope/Overview and below under the Geographic Coverage clause.

SPECIAL TERMS AND CONDITIONS: These Special Terms And Conditions supplement the General Conditions And Instructions to Bidders for Services as well as the Standard Contract Terms And Conditions For Statewide Services Contracts. Should any discrepancy or conflict occur, these Special Terms And Conditions shall prevail.

OPTION TO RENEW: The Contract or any part of the Contract may be renewed for three (3) additional one (1) year terms by mutual agreement between the Department of General Services and the Supplier. If the Contract is renewed, these same Terms And Conditions shall apply.

BILLING REQUIREMENTS: Suppliers are required to establish separate billing accounts with each Using Agency. Invoices are to be sent directly to the agency Comptroller or as directed by the agency for payment. Invoices shall be itemized with adequate detail as required by agencies to verify charges. In no instance shall any payment be made for services that are not in accordance with the prices on the Suppliers quote provided to the requesting agency.

AGENCY PURCHASE ORDER: Commonwealth agencies may issue Purchase Orders against this Contract for services required by the agencies (using agencies). Such orders may cover all anticipated requirements for a set period of time (i.e. a month, quarter, or remainder of the fiscal year).

These orders constitute the Suppliers authority to perform the services described in the Purchase Order. **All Purchase Orders received by the Supplier up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the order and the Contract.** The period of performance under any Purchase Order can extend beyond the expiration date of the Contract but cannot exceed the performance time periods specified in the Contract. No new Purchase Orders can be issued under the Contract after the expiration date of the Contract. Purchase Orders must be performed within One Year of issue date, but no Purchase Order can be performed after One year of the contracts expiration. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract

BID AND PERFORMANCE SECURITY: There is no Bid or Performance Security for the Catering Services Contract.

STATEMENT OF WORK/SPECIFICATIONS: The Supplier shall cater Commonwealth functions on an "as needed" basis. Using agencies may contact any Supplier on this Contract and request a quote for needed services for their specific functions. Using agencies will provide the Supplier with all the details of the function. The Using Agency shall retain the right to negotiate lower prices than those provide on the Suppliers Menu.

No information is available on the specific needs of each agency. Bidders must establish a Menu Price List of services that they feel will meet Commonwealth agencies' needs. Most agencies will request Breakfast, Break or a Lunch Menus. Bidders may also update their Menu's after award as they learn more information about agency requirements (see Update Option and Application clause).

A new section is added to the contract for **EVENT PLANNING and CUSTOM MENUS**. These are for services specified and quoted on a job-by-job basis. This section would normally be reserved for formal affairs. Pre-established menus and pricing are not required under this section on the contract.

GEOGRAPHIC COVERAGE: Service shall be provided, as needed and as ordered, to all Commonwealth agencies within a twenty (20) mile radius of the Main Capitol Building. Bidders, at their option may indicate on a separate sheet additional service areas.

ZONE PRICING: Zone pricing is acceptable. The Supplier may include a service charge to Using Agencies located outside of the twenty (20) mile radius of the Main Capitol. The service charge must be listed on the Suppliers Menu.

ELIGIBILITY: In order to be eligible for award, a bidder must have successfully catered three (3) functions within the twenty (20) mile radius of the Main Capitol and meet all other requirements of this invitation for bids. Bidders shall include three (3) references with their bids for functions held within the last 12 months. References shall include the name of company, organization, etc., number of people served, type of service provided, (lunch, break, etc.) name and phone number of contact person.

LIMITATION OF LIABILITY: Except as otherwise provided, the contractor's liability to the Commonwealth under the Contract shall be limited to one hundred thousand dollars (\$100,000.00). This limitation will apply, except as otherwise stated in this clause, regardless of the form of action, whether in contract or in tort including negligence. This limitation does not, however, apply to damages for bodily injury, illness or death, or damage to real property or tangible personal property for which the Contractor is legally liable, nor will the limitation apply to the contractor's indemnity of the Commonwealth for patent, copyright, or trademark infringement.

METHOD OF AWARD: (MULTIPLE AWARD): Award will be made to all responsible and responsive bidders. A Commonwealth agency shall select the Caterer for an event from the list of Suppliers on the Contract based upon best value. The selected Supplier will be required to furnish catering services, ordered by Commonwealth agencies, at the prices on the Suppliers Menu less the amount of the Contract discount, if any, plus any additional discount offered to the using agency.

Under **EVENT PLANNING and CUSTOM MENUS**, using agencies may select a supplier that is deemed to be the best fit for a particular event based on their resume and culinary arts qualifications, style of menu offered, and availability to a particular schedule, and request a quote for a custom event and menu. The agency may request multiple quotes for a particular event if it is desired.

Interested suppliers may bid either for the Catering Services or the Event Planning and Custom Menus sections of this contract, or for both.

PENNSYLVANIA INDUSTRIES FOR THE BLIND AND HANDICAPPED: Section 520 of the Commonwealth Procurement Code provides that the Commonwealth is required to procure services from agencies for persons with disabilities when such agencies are able to meet the procurement specifications and provide the services at a predetermined fair market price. Suppliers who offer to provide boxed lunches to Commonwealth locations in the general Harrisburg area should be aware that, as a result of the master agreement between the Commonwealth and Pennsylvania Industries for the Blind and Handicapped (PIBH), Commonwealth agencies located in a specified "carve-out" area (defined as Commonwealth facilities within a 15-mile radius of Mechanicsburg, Cumberland County) may be required to order boxed lunches through PIBH in most instances. A map showing the "carve-out" area is included on the DGS web site.

PROVISION FOR DONATION OF EXCESS PREPARED FOOD: As a further condition for receiving Field Purchase Orders, Contractors must agree to make a good faith effort to donate to a nonprofit organization for ultimate free distribution to needy individuals any apparently wholesome food or grocery products apparently fit for human consumption which are not consumed at the Commonwealth function. A good faith effort includes, but is not limited to, contacting one or more of the entities appearing on the referral listing maintained by the Department of Agriculture. Contractor is hereby put on notice that liability will not attach if the Contractor complies with 42 PA. C.S. 8338. Agencies are to include this provision (which is required by Management Directive No. 215.13) on all Field Purchase Orders issued under this Contract.

MENU PRICE LISTS: Bidders shall include a copy of their current Menu price list for their catering services with their bid. The Menu price list shall include all prices, fees, and rates that apply to the bidder's services. When requested by an agency, a Supplier shall provide a written quote for all services including food items at the amounts listed on the price lists submitted with its bid or through the Update option. Contractors may not bill for any services/prices that are not included on their Menu Price list and written quote to the Using agency.

Menu prices are not a factor in receiving an award for this Contract. Bidders should be creative in developing a Menu price list that best addresses the many variables of this industry.

This requirement is not applicable to the **EVENT PLANNING and CUSTOM MENUS** section of the contract.

The following are a list of questions which should be considered in developing a Menu Price List for the contract. Information provided will be beneficial to agencies in the selection process.

Service Capabilities

Please list the guest count you have the capability of serving on the following:

- BREAKFAST SEATED/SERVED
- BREAKFAST BUFFET
- BRUNCH
- LUNCHEON SEATED/SERVED
- LUNCHEON BUFFET
- DINNER SEATED/SERVED
- DINNER BUFFET
- RECEPTION

Wait Staff

Attire - Can you provide the following?

- FULL TUXEDO
- WHITE GLOVE SERVICE
- TUXEDO SHIRTS, BOW TIES, CUMMERBUNDS
- INFORMAL (please describe)

How many permanent employees and/or temporary employees do you employ?

Do you utilize employees from a temp agency?

Linens

Do you OWN or RENT the following?:

- QUALITY OF FABRIC (cotton, linen, poly, blend, other)
- SELECTION OF FABRIC
- 120" ROUNDS
- 108" ROUNDS
- 96" ROUNDS
- OVERLAYS
- BAR/BUFFET DRAPES LINENS
- MATCHING NAPKINS
- TRADITIONAL SKIRTING

Glassware

Do you OWN or RENT the following?

- STEMMED GOBLETS, WATER AND WINE
- CHAMPAGNE GLASSES
- ROCKS GLASSES
- HIGHBALL GLASSES
- PILSNER GLASSES
- LIQUEUR GLASSES
- JUICE GLASSES
- ICED TEA GLASSES

On the above, how many guests can you serve?

China

Do you OWN or RENT the following?

- DINNER PLATES (what size, what color, describe pattern, if any)
- CHARGERS (what size, describe)
- LUNCHEON PLATES (what color, describe pattern, if any)

- SALAD PLATES (what color, describe pattern, if any)
- BREAD & BUTTER PLATES (what color, describe pattern, if any)
- CUP & SAUCER (what color, describe pattern, if any)
- SOUP CUP W/ HANDLES (what color, describe pattern, if any)
- SOUP BOWL W/ RIM (what color, describe pattern, if any)

On the above, how many place settings do you have available?

Silverware

Do you OWN or RENT the following?

- Silver, Silver-plated, Stainless
- Service for how many

Table & Chairs

Do you OWN or RENT the following?

Please give counts available for the following

- 60" rounds
- 48" rounds
- 36" rounds
- 36" stand-ups
- 8' rectangles
- 6' rectangles
- Matching folding chairs

Accessories

Do you OWN or RENT the following?

- Silver: sugar/creamers on trays
- Glass: sugar/creamers on trays
- Other: sugar/creamers on trays
- Silver: salt/pepper shakers
- Other: salt/pepper shakers
- Silver: water pitchers
- Glass: water pitchers
- Silver: coffee serving pitchers
- Other: coffee serving pitchers
- Silver: tea serving pots
- Other: tea serving pots
- Silver trays
- Tray Jacks
- Menu cards (describe size, holder, etc.)
- Table Number Signs (describe)
- Reserved Signs (describe)
- Votive Candles (describe)
- Clear Vases w/ clear marbles
- Silver Coffee Urns (capacity)
- Coffee Pumps
- Mirrored Discs (sizes)
- Candlesticks (describe, sizes, count)

Miscellaneous

- Please list how staffing numbers are assigned for various events.
- Please include a brief statement on how catering managers would handle a problem with an employee during an event.
- Please list your policy on cancellation of events due to inclement weather (i.e. snow/ice storm).
- Please list how many years you have been in business, if you have a specialty, maximum numbers of guests you can serve, and if you have any limitations.

NOTE: Agencies reserve the right to request customer references.

Any Terms And Conditions that may appear on the price list, including but not limited to, prices subject to change and price to be determined at time of order will not be part of the Contract and will have no force or effect on the Contract.

For the purposes of the Contract, bidders may bid a discount from their Menu price list or, the bid discount may be zero, with the Menu price list reflecting net prices.

Within ten (10) days after a request from a Commonwealth agency, a contractor shall furnish the requesting agency with a copy of the price list.

UPDATE OPTION AND APPLICATION: The contract is an “open enrollment” bidding process. Interested suppliers may access an Invitation for Bids form from the Department of General Services official website and submit a bid as instructed on the instructions to bidders. New bidders, if qualified, may be added at any time at the discretion of the Department of General Services. The Department of General Services reserves the right to reject any bid submissions deemed to be non-responsive and/or non-responsible. The Department also reserves the right to reject bids that offer a range of services that are not in keeping with the goals of this contract or considered inappropriate for use by state agencies.

Contractors may update their Contract price lists on a quarterly basis during the Contract period and any renewal to reflect new prices/discounts and to add/delete service within the scope of the Contract.

A Supplier seeking to update its price list shall submit a letter with the new price list to the Department of General Services Commodity Specialist listed on the Contract requesting review and approval of the updated Menu price list. The Supplier shall itemize all changes in a clear and concise fashion. It is the responsibility of the Supplier to adequately justify changes. If approved, a contract change notice will be issued replacing the Menu price list with the updated price list to the Contract. It will then be the responsibility of the Supplier to distribute new Menu's to Commonwealth agencies.

At no time will Suppliers be allowed to unilaterally change the prices on their Menus. Approval must be granted by the Buyer via a change notice. Orders will be monitored to ensure compliance. Failure to comply shall result in termination of the Contract.

INSURANCE: Contractors shall, at their expense, procure and maintain during the term of the Contract, the following types of insurance, issued by companies acceptable to the Department of General Services 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 claims 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 the Contract or the failure to perform under the 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 and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.
- c. Product liability insurance to protect the Commonwealth, the contractor, and any and all subcontractors from claims for sickness, disease, or death which may arise from consumption of the food served by the contractor or any subcontractor. The limits of such insurance shall be in an amount not less than \$500,000 each person and \$2,000,000 each occurrence.

Prior to commencement of the work under the Contract and during the term of the Contract, the contractor shall provide the Department of General Services 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 of General Services.

MINIMUM ORDER: The minimum order under this contract shall be \$200.00. Orders amounts under the minimum are optional for both the agencies and the contractors.

INQUIRIES: Direct all questions concerning this Contract to Georgina Baltimore, Telephone No. (717) 783-5368 or e-mail: gbaltimore@state.pa.us

Department Of General Services

MBE/WBE SUBCONTRACTOR AND SUPPLIER SOLICITATION & COMMITMENT FORM

Bureau of Minority and Women Business Opportunities

IMPORTANT NOTE: The purpose of this Form is to document the bidder's compliance with the Commonwealth's non-discrimination program and to determine whether the bidder has discriminated in the selection of subcontractors and suppliers. Failure to complete this Form and submit it with the bid will be sufficient cause for rejection of the bid as NOT RESPONSIVE. Bidders must solicit BOTH MBE and WBE supplier participation for any work the bidders intend to subcontract or for any materials required to perform the contract.

Your Company Information:	Company Name:				Contact Person:		
	Address:						
	Tel #:		Fax #:		E-Mail:		
	SAP Vendor #:						
Contract/Solicitation Information:	Contract/ Solicitation Number:		Bid Opening Date:		Bid Amount (Bid Base #1):		

ALL FIRMS SOLICITED OR WHICH HAVE PROVIDED UNSOLICITED QUOTES MUST BE INCLUDED ON THIS FORM

(1) Subcontractor/Supplier Company Information • Company Name, Address, Zip Code • Tel. No. with Area Code • Contact Person's Name	(2) MBE, WBE or MWBE	(3) Type of Work to be Performed and/or Material to be Supplied	(4) Total Dollar Amount of Quote Received	(5) Total Commitment Dollar Amount
	Select One			
	Select One			
	Select One			
	Select One			

NOTE: Minimum Participation Levels (MPLs): MBE – 5%; WBE – 3%

A presumption of non-discrimination may be made if the dollar commitments to MBEs / WBEs reflect these minimum participation

(1)	Enter the official subcontractor or supplier's company name exactly as it appears on the Dept. of General Services (DGS) website list of certified MBEs/WBEs. Do not use D/B/A (Doing Business As) name.
(2)	Indicate whether the firm is DGS certified MBE or WBE. If the firm is both, the bidder will receive credit for the firm as either an MBE or a WBE.
(3)	Briefly describe the specific type of work to be performed and/or materials to be supplied by the listed DGS certified MBE or WBE. In order to count towards reaching the MPLs, bidders must solicit DGS certified MBEs/WBEs in the areas in which they are certified. For example, if an MBE/WBE is certified for electrical supplies and the bidder lists plumbing supplies, the bidder will not receive credit. Geographical location may not be used as a reason for limiting solicitation.
(4)	Enter the total dollar (\$) amount of the quote received. If the quote was received in the form of unit prices or hourly rates, a total dollar amount must still be provided. If the subcontractor did not respond to the bidder, the bidder must indicate "No Response." Copies of all MBE/WBE quotes must be submitted with the bid.

MBE/WBE SUBCONTRACTOR AND SUPPLIER SOLICITATION & COMMITMENT FORM

Bureau of Minority and Women Business Opportunities

- (5) Enter the total dollar (\$) amount of the contractual commitment made to the listed MBE/WBE. If the bidder does not use the total quote from a MBE/WBE because a lower priced quote was received, the bidder must submit a copy of the lower priced quote with its bid. On partial commitments, the bidder must explain why only a partial commitment was made and must submit a copy of the lower priced quote.

☐ If the Bidder does not intend to utilize any subcontractors or suppliers in the performance of this contract, please check this box.

CONFIRMATION CHECKLIST FOR SUBMISSION OF FORM STD-168 AND OTHER DOCUMENTATION

- ☐ The Bidder must complete and submit Form STD-168 with its bid. If the supplier is providing their response through SRM, this completed form may be electronically attached and submitted with the bid.
- ☐ Along with the Form STD-168, the Bidder must include all solicited and unsolicited quotes received by the Bidder from MBEs and WBEs as long as the quotes are within the scope of work.
- ☐ The Bidder's contact with MBE/WBE subcontractors and suppliers should be a minimum of (10) days prior to bid opening date. This will ensure that MBEs/WBEs have sufficient time to prepare a quote. Ten days is a guide; however, adequate time must be provided to all subcontractors and suppliers to respond.

If the minimum participation levels (MPLs) for this project are not achieved, you must provide a written explanation explaining the failure to achieve the MPLs for MBEs and/or WBEs. Failure to do so will result in rejection of the bid.

If there are any questions/comments concerning this form, please contact the issuing agency contracting officer. If additional forms are needed, you are permitted to photocopy form. If the supplier is providing their response through SRM, this completed form may be electronically attached and submitted with the bid.

OFFICIAL USE ONLY☐ Approved☐ Denied

Comments:

Reviewer:

Date:

I-IFB-027.1 COSTARS Program-Paper Submittal (March, 2007)

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

- A. Only those COSTARS Purchasers registered with DGS may participate as COSTARS Purchasers in a Commonwealth contract. Several thousand COSTARS Purchasers are currently registered with DGS; therefore, the Contractor agrees to permit only to DGS-registered COSTARS members to make COSTARS purchases from this Contract.
 - 1. A "local public procurement unit" is:
 - a. Any political subdivision;
 - b. Any public authority;
 - c. Any tax exempt, nonprofit educational or public health institution or organization;
 - d. Any nonprofit fire, rescue, or ambulance company; and
 - e. To the extent provided by law, any other entity, including a council of governments or an area government that expends public funds for the procurement of supplies, services, and construction.
 - 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 Educational Facilities Authority and the State System of Higher Education.
- B. COSTARS Purchasers have the option to purchase from a Contract awarded under this procurement, from any DGS contract established exclusively for COSTARS Purchasers 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 any prospective COSTARS Purchaser will place an order under this Contract, and that it is within the sole discretion of the registered COSTARS Purchaser whether to procure from this Contract or to use another procurement vehicle.
- C. DGS is acting as a facilitator for COSTARS Purchasers who may wish to purchase under this Contract. Registered COSTARS Purchasers who 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 Purchaser unless substantial interests of the Commonwealth are involved.

- D. Registered COSTARS Purchasers electing to participate in this Contract will order items directly from the Contractor and be responsible for payment directly to the Contractor.
- E. 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 day of the succeeding Contract quarter.
1. Until such time as DGS may provide the Contractor written notice of automated report filing, the Contractor shall either e-mail the reports to GS-PAcostars@state.pa.us or send the reports 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. When DGS has instituted automated reporting, the Contractor shall comply with DGS's written notice and instructions on automated Contract reports. DGS will provide these instructions with sufficient advance time to permit the Contractor to undertake automated reporting.
 2. The Contractor shall include on each report the Contractor's name and address, the Contract number, and the period covered by the report. For each PO received, the Contractor shall include on the report the name of each COSTARS-Registered Purchaser that has used the Contract along with the total 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.
- F. Additional information regarding the COSTARS Program is available on the DGS COSTARS Website at www.dgs.state.pa.us/costars
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.dgs.state.pa.us/costars, 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@state.pa.us

COSTARS PROGRAM QUESTIONNAIRE

If your firm is awarded a Contract, does it agree to sell/provide the awarded items/services at the same prices and/or discounts, and in accordance with the contractual terms and conditions, to registered COSTARS Purchasers who elect to participate in the contract?

Please Answer: YES____ NO____

Corporate or Legal Entity Name

Signature/Date

Printed Name/Title

**DOMESTIC WORKFORCE UTILIZATION CERTIFICATION FOR MULTIPLE
AWARD CONTRACTS**

To the extent permitted by the laws and treaties of the United States, this certification will be used by the Agency in making a best value selection for each particular assignment. Each quote will be evaluated for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those suppliers who will perform the contracted direct labor exclusively within the geographical boundaries of the United States or within the geographical boundaries of a country that is a party to the World Trade Organization Government Procurement Agreement. Those who propose to perform a portion of the direct labor outside of the United States and not within the geographical boundaries of a party to the World Trade Organization Government Procurement Agreement will receive a correspondingly smaller score for this criterion. In order to be eligible for any consideration for this criterion, suppliers must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the supplier for this criterion.

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

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

OR

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

[Use additional sheets if necessary]

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

Attest or Witness:

Corporate or Legal Entity's Name

Signature/Date

Signature/Date

Printed Name/Title

Printed Name/Title