

REQUEST FOR PROPOSALS FOR

Plan Administration Services

Commonwealth of Pennsylvania Deferred Compensation Program

And

State Employees' Defined Contribution Plan

ISSUING OFFICE

Pennsylvania State Employees' Retirement Board

RFP NUMBER

SERS #18-003

DATE OF ISSUANCE

March 16, 2018

REQUEST FOR PROPOSALS FOR
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And
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CALENDAR OF EVENTS

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

Activity	Responsibility	Date
Deadline to submit Questions via email to Linda Engle at ER-OFA_Procurement@pa.gov .	Potential Offerors	March 30, 2018
Answers to Potential Offeror questions posted to the DGS website at http://www.emarketplace.state.pa.us/Search.aspx no later than this date.	Issuing Office	April 6, 2018
Please monitor website for all communications regarding the RFP.	Potential Offerors	
Sealed proposal must be received by the Issuing Office at: State Employees' Retirement System ATTN: Linda Engle 30 North Third Street, Suite 150 Harrisburg, PA 17101	Offerors	April 16, 2018

PART I

GENERAL INFORMATION

- I-1. Purpose.** This request for proposals (“RFP”) provides to those interested in submitting proposals for the subject procurement (“Offeror(s)”) sufficient information to enable them to prepare and submit proposals for the **Pennsylvania State Employees’ Retirement Board’s** (“Board”) consideration on behalf of the Commonwealth of Pennsylvania (“Commonwealth”) to satisfy a need for **third-party administration services for the Commonwealth of Pennsylvania Deferred Compensation Program and third-party administration services for the State Employees’ Defined Contribution Plan** (“Project”). This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.
- I-2. Issuing Office.** The **Board** (“Issuing Office”) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be **Linda Engle, Assistant Chief Financial Officer, State Employees’ Retirement System (“SERS”), 30 North Third Street, Suite 150, Harrisburg, PA 17101, ER-OFA.Procurement@pa.gov**, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.
- I-3. Overview of Project.** The Board currently administers the Commonwealth of Pennsylvania Deferred Compensation Program in accordance with §457(b) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereto (“457(b) Plan”), pursuant to and in accordance with Act of November 6, 1987, P.L. 394, No. 81 (amending Act of March 30, 1811, P.L. 145, No. 99), as amended, and any other applicable state law. The 457(b) plan document and trust declaration (“457(b) Plan Document”) is contained in **APPENDIX A** to this RFP.

Pursuant to Act of June 12, 2017, P.L. 11, No. 5 (“Act 2017-5”), the State Employees’ Defined Contribution Plan was established, to be administered by the Board, in accordance with §401(a) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereto (“401(a) Plan”). The Board shall be setting forth the terms and conditions of the 401(a) Plan in a plan document and trust declaration (“401(a) Plan Document”).

The Board seeks a third-party administrator (“TPA”) to provide plan administration services for the 457(b) Plan and a TPA to provide plan administration services for the 401(a) Plan (hereinafter the 457(b) Plan and the 401(a) Plan are jointly referred to as the “Plans”). The contract for the current TPA for the 457(b) Plan expires June 30, 2019. The TPA selected for the 457(b) Plan will be providing plan administration services effective July 1, 2019. The 401(a) Plan is to be launched no later than January 1, 2019, and demonstrate operational capability to allow for demonstrations, acceptance testing, and verification of operational readiness by November 30, 2018.

For this RFP, there will be two Lots as described below:

- Lot 1 – Plan Administration Services for the 457(b) Plan
- Lot 2 – Plan Administration Services for the 401(a) Plan

Offerors may submit proposals for one or both Lots. The Commonwealth reserves the right to award one or both Lots.

Act 5 also mandated the creation of the School Employees' Defined Contribution Plan ("PSERS Plan"), a defined contribution plan to be administered and managed by the Board of Trustees of the Public School Employees' Retirement Board ("PSERS Board") for eligible school employees of the Public School Employees' Retirement System ("PSERS") first hired on or after July 1, 2019. Similar to the SERS 401(a) Plan, Act 5 created two new hybrid classes of defined benefit/defined contribution options and a straight defined contribution option for PSERS members, to be effective on or after July 1, 2019. Accordingly, the PSERS Board has also identified the need to engage with a third-party administrator to serve as a recordkeeper to the PSERS Plan.

An Offeror who submits a proposal for the RFP issued by the PSERS Board for the PSERS Plan may also submit proposals for Lot 1 and/or Lot 2 of this RFP. An Offeror who only submits a proposal for Lot 1 and/or Lot 2 of this RFP and not the RFP issued by the PSERS Board will not have its proposal rejected, or have its scoring negatively affected, for that reason.

I-4. Objectives.

LOT 1: 457(b) Plan

The Board administered 457(b) Plan has approximately \$3.5 billion in assets with nearly 56,000 participants, diversified across six (6) core investment options, three (3) model portfolios, one (1) balanced fund, and a self-directed brokerage account.

The Board is seeking proposals from qualified vendors to serve as a TPA to provide full-service plan administration services for the 457(b) Plan. All costs are borne by the participants of the 457(b) Plan and not the Commonwealth of Pennsylvania.

The Board is seeking qualified vendors that demonstrate strong, relevant experience and commitment to servicing public deferred compensation plans. The required plan administration services are maintaining individual participant investment account records and providing participants and beneficiaries with sufficient information to manage their investments. The TPA must comply with the reporting requirements of the Plan Document, the requirements established and maintained under an agreement for services, and all pertinent federal, state, and local rules and regulations. Required services include, but are not limited to, the provision of:

- Enrollment services in the 457(b) Plan for employees;
- Marketing materials and programs explaining investment options in the 457(b) Plan to employees/participants;
- Advice tools and products, as to investments;
- Website maintenance and interface establishment with approximately 40 employers;
- Effective exchanges and transfers to, from, and among investment options offered within the 457(b) Plan;
- At least quarterly individual statements;
- Periodic distributions of benefits utilizing interface with Pennsylvania Treasury;
- Master recordkeeping responsibilities;
- Reports in support of compliance and regulatory obligations;

- An effective and automated interface with the Board’s custodian to initiate net trades on investment choices and rebalancing transactions as directed;
- Reports and information reconciliations to the Board or its designees, and the Board’s custodian;
- Open-architecture investment platform; and
- Model portfolios rebalancing on a quarterly basis.

LOT 2: 401(a) Plan

The Board is seeking proposals from qualified vendors to serve as a TPA to provide full service plan administration services for the 401(a) Plan. After an initial start-up period, the 401(a) Plan is to be administered without any costs to the Commonwealth of Pennsylvania. All other costs are borne by the participants of the 401(a) Plan, with the exception of implementation costs, which are to be borne by the Commonwealth of Pennsylvania.

The Board is seeking qualified vendors that demonstrate strong and relevant experience and commitment to servicing public defined contribution plans. The required plan administration services are maintaining individual participant investment account records and providing participants and beneficiaries with sufficient information to manage their investments. The TPA must comply with the reporting requirements of the Plan Document, the requirements established and maintained under an agreement for services, and all pertinent federal, state, and local rules and regulations. Required services include, but are not limited to, the provision of:

- Enrollment services in the 401(a) Plan for employees;
- Educational materials and programs explaining investment options in the 401(a) Plan to employees/participants;
- Advice tools and products, as to investments;
- Website maintenance and interface establishment with approximately 65 employers;
- Effective exchanges and transfers to, from, and among investment options offered within the 401(a) Plan;
- At least quarterly individual statements;
- Periodic distributions of benefits utilizing interface with Pennsylvania Treasury;
- Master recordkeeping responsibilities;
- Reports in support of compliance and regulatory obligations;
- An effective and automated interface with the custodian to initiate net trades on investment choices and rebalancing transactions as directed;
- Reports and information reconciliations to the Board or its designees, and the custodian; and
- Open-architecture investment platform.

I-5. Type of Contract. It is proposed that if the Issuing Office enters into a contract for Lot 1 as a result of this RFP, it will be a fixed price contract, with a per participant structure, as set forth in **Appendix F-1 – Cost Submittal LOT 1 – 457(b) PLAN**, for the 457(b) Plan (“Commonwealth of Pennsylvania Deferred Compensation Program Administration Services Agreement,” hereinafter, also referred to as the “457(b) Plan Contract”) containing the 457(b) Plan Contract Terms and Conditions as shown in **Part VI**. It is proposed that if the Issuing office enters into a contract for Lot 2 as a result of this RFP, it will be a fixed price contract, with a per participant structure, as set forth in **Appendix F-2 – Cost Submittal LOT 2 – 401(a) PLAN**, for the 401(a) Plan (“State Employees’ Defined Contribution Plan

Administration Services Agreement,” hereinafter, also referred to as the “401(a) Plan Contract”) containing the 401(a) Plan Contract Terms and Conditions as shown in **Part VI**. For the term of the contracts, including extensions, there will be no cost increase.

In the event Lot 1 and Lot 2 are awarded to a single Offeror, a separate 457(b) Plan Contract and 401(a) Plan Contract will be utilized. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

- I-6. Rejection of Proposals.** The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP.
- I-7. Incurring Costs.** The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.
- I-8. Pre-proposal Conference.** **There will be no Pre-proposal conference for this RFP. If there are any questions, please forward them to the Issuing Officer in accordance with Section I-9 below.**
- I-9. Questions & Answers.** If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line “RFP SERS #18-003 Question”**) to the Issuing Officer named in **Part I, Section I-2** of the RFP. If the Offeror has questions, they must be submitted via email **no later than** the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions on the DGS website by the date stated on the Calendar of Events. An Offeror who submits a question *after* the deadline date for receipt of questions indicated on the Calendar of Events assumes the risk that its proposal will not be responsive or competitive because the Commonwealth is not able to respond before the proposal receipt date or in sufficient time for the Offeror to prepare a responsive or competitive proposal. When submitted after the deadline date for receipt of questions indicated on the Calendar of Events, the Issuing Officer *may* respond to questions of an administrative nature by directing the questioning Offeror to specific provisions in the RFP. To the extent that the Issuing Office decides to respond to a non-administrative question *after* the deadline date for receipt of questions indicated on the Calendar of Events, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the DGS website are considered as an addendum to, and part of, this RFP in accordance with RFP **Part I, Section I-10**. Each Offeror shall be responsible to monitor the DGS website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is as described in Part I, Section I-26.

- I-10. Addenda to the RFP.** If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the DGS website at <http://www.emarketplace.state.pa.us/Search.aspx>. It is the Offeror’s responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the questions asked during the Questions & Answers period also will be posted to the website as an addendum to the RFP.

I-11. Response Date. To be considered for selection, hard copies of proposals must arrive at the Issuing Office on or before the time and date specified in the RFP Calendar of Events. The Issuing Office will **not** accept proposals via email or facsimile transmission. Offerors who send proposals by mail or other delivery service should allow sufficient delivery time to ensure timely receipt of their proposals. If, due to inclement weather, natural disaster, or any other cause, the Commonwealth office location to which proposals are to be returned is closed on the proposal response date, the deadline for submission will be automatically extended until the next Commonwealth business day on which the office is open, unless the Issuing Office otherwise notifies Offerors. The hour for submission of proposals shall remain the same. The Issuing Office will reject, unopened, any late proposals.

I-12. Proposal Requirements.

A. Proposal Submission: To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in **Section I-12B**. **Offerors may submit a proposal for Lot 1- 457(b) Plan, or for Lot 2 - 401(a) Plan, or for both Lots.** For each Lot for which an Offeror is submitting a proposal provide:

For Lot 1 – 457(b) Plan: (i) ten (10) paper copies (one (1) marked “ORIGINAL – Lot 1-457(b) Plan”) of the Technical Submittal; (ii) one (1) paper copy of the Cost Submittal marked “Lot 1- 457(b) Plan Cost Submittal”; and (iii) two (2) paper copies of the Lot 1 - 457 (b) Plan Small Diverse Business and Small Business (SDB/SB) Participation Submittal and related Letter(s) of Intent.

For Lot 2 - 401(a) Plan: i) ten (10) paper copies (one (1) marked “ORIGINAL – Lot 2- 401(a) Plan” of the Technical Submittal; (ii) one (1) paper copy of the Cost Submittal marked “Lot 2 - 401(a) Plan Cost Submittal”; and (iii) two (2) paper copies of Lot 2-401(a) Plan Small Diverse Business and Small Business (SDB/SB) Participation Submittal and related Letter(s) of Intent.

In addition to the paper copies of the proposal, Offerors shall submit **one (1) complete and exact** copy of the entire proposal (Technical, Cost and SDB/SB submittals, along with all requested documents) on CD-ROM or Flash drive in Microsoft Office or Microsoft Office-compatible format. Offerors submitting proposals for both Lot 1 and Lot 2 may include the submissions on one CD or Flash drive. The electronic copy must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. The Offerors may not lock or protect any cells or tabs. The CD or Flash drive should clearly identify the Offeror and include the name and version number of the virus scanning software that was used to scan the CD or Flash drive before it was submitted. The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant. Each proposal page should be numbered for ease of reference. An official authorized to bind the Offeror to its provisions must sign the proposal. If the official signs the **Proposal Cover Sheet (Appendix B** to this RFP) and the Proposal Cover Sheet is attached to the Offeror’s proposal, the requirement will be met. **A separate Proposal Cover Sheet shall be submitted for each Lot for which the Offeror is submitting a proposal.** For this RFP, the proposal must remain valid for **120** days or until a contract is fully executed. If the Issuing Office selects the Offeror’s proposal for award, the contents of the selected Offeror’s proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations.

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

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

LOT 1: 457(b) Plan Submission:

- 1. Technical Submittal, in response to RFP Part III – LOT 1 - 457(b) Plan below:**
 - a. Complete, sign and include **Appendix C – Domestic Workforce Utilization Certification;**
 - b. Complete, sign and include **Appendix D – Iran Free Procurement Certification;** and
 - c. Complete, sign and include **Appendix L-1 457(b) Plan Questionnaire**
- 2. Cost Submittal (Appendix F-1 LOT 1), in response to RFP Part IV below**
- 3. Small Diverse Business and Small Business (SDB/SB) Participation Submittal, in response to RFP Part V below:**
 - a. Complete and include **Appendix G - SDB/SB Participation Submittal Form;** and
 - b. Complete and include **Appendix H - SDB/SB Letter(s) of Intent.** Offeror must provide a Letter of Intent for each SDB and SB listed on the SDB/SB Participation Submittal Form

LOT 2: 401(a) Plan Submission:

- 1. Technical Submittal, in response to RFP Part III – LOT 2 - 401(a) Plan below:**
 - a. Complete, sign and include **Appendix C – Domestic Workforce Utilization Certification;**
 - b. Complete, sign and include **Appendix D – Iran Free Procurement Certification** and
 - c. Complete, sign and include **Appendix L- 2 401(a) Plan Questionnaire**

2. **Cost Submittal (Appendix F-2 LOT 2), in response to RFP Part IV below; and**
3. **Small Diverse Business and Small Business (SDB/SB) Participation Submittal, in response to RFP Part V below:**
 - a. Complete and include **Appendix G - SDB/SB Participation Submittal Form; and**
 - b. Complete and include **Appendix H - SDB/SB Letter(s) of Intent.** Offeror must provide a Letter of Intent for each SDB and SB listed on the SDB/SB Participation Submittal Form

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

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

- I-13. Economy of Preparation.** Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP.
- I-14. Alternate Proposals.** The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.
- I-15. Discussions for Clarification.** Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification. Clarifications may occur at any stage of the evaluation and selection process prior to contract execution.
- I-16. Prime Contractor Responsibilities.** The selected Offeror must perform the largest percentage of work as compared to its subcontractors and suppliers. Additionally, the contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. Further, the Issuing Office will consider the selected Offeror to be the sole point of contact with regard to all contractual matters.
- I-17. Proposal Contents.**
 - A. Confidential Information.** The Commonwealth is not requesting, and does not require, confidential proprietary information or trade secrets to be included as part of Offerors' submissions in order to evaluate proposals submitted in response to this RFP. Accordingly, except as provided herein, Offerors should not label proposal submissions as confidential or proprietary or trade secret protected. Any Offeror who determines that it must divulge such information as part of its proposal must submit the signed written statement described in **subsection C** below and must additionally provide a redacted version of its proposal, which removes only the confidential proprietary information and trade secrets, for required public disclosure purposes.

- B. Commonwealth Use.** All material submitted with the proposal shall be considered the property of the Commonwealth of Pennsylvania and may be returned only at the Issuing Office's option. The Commonwealth has the right to use any or all ideas not protected by intellectual property rights that are presented in any proposal regardless of whether the proposal becomes part of a contract. Notwithstanding any Offeror copyright designations contained on proposals, the Commonwealth shall have the right to make copies and distribute proposals internally and to comply with public record or other disclosure requirements under the provisions of any Commonwealth or United States statute or regulation, or rule or order of any court of competent jurisdiction.
- C. Public Disclosure.** After the award of a contract pursuant to this RFP, all proposal submissions are subject to disclosure in response to a request for public records made under the Pennsylvania Right-to-Know-Law, 65 P.S. § 67.101, et seq. If a proposal submission contains confidential proprietary information or trade secrets, a signed written statement to this effect must be provided with the submission in accordance with 65 P.S. § 67.707(b) for the information to be considered exempt under 65 P.S. § 67.708(b)(11) from public records requests. Refer to **Appendix E** of the RFP for a **Trade Secret Confidential Proprietary Information Notice Form**, which may be utilized as the signed written statement, if applicable. If financial capability information is submitted in response to Part III of this RFP such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

I-18. Best and Final Offers.

The Issuing Office will be conducting discussions with selected Offerors for the purpose of obtaining "best and final offers" ("BAFO") for TPA services for LOT 1 - 457(b) Plan and LOT 2 - 401(a) Plan. To obtain best and final offers from Offerors, the Issuing Office will be scheduling oral presentations with selected Offerors **during the period of May 21, 2018 through May 25, 2018.**

The Issuing Office will also do one or more of the following, in any combination and order:

1. Request revised proposals; and
 2. Enter into pre-selection negotiations.
- A.** The following Offerors will **not** be invited by the Issuing Office to submit a Best and Final Offer:
1. Those Offerors, which the Issuing Office has determined to be not responsible or whose proposals the Issuing Office has determined to be not responsive.
 2. Those Offerors, which the Issuing Office has determined in accordance with **Part II, Section II-5**, from the submitted and gathered financial and other information, do not possess the financial capability, experience or qualifications to assure good faith performance of the contract.
 3. Those Offerors whose score for their technical submittal of the proposal is less than 70% of the total amount of technical points allotted to the technical criterion.

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

- B. The Evaluation Criteria found in **Part II, Section II-4**, shall also be used to evaluate the Best and Final offers.
 - C. Any reduction to commitments to Small Diverse Businesses and Small Businesses must be proportional to the reduction in the total price offered through any BAFO process or contract negotiations unless approved by the Bureau of Diversity, Inclusion & Small Business Opportunities (“BDISBO”).
- I-19. News Releases.** Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.
- I-20. Restriction of Contact.** From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror’s proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror’s proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.
- I-21. Issuing Office Participation.** Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work.
- I-22. Term of Contract.** For both the 457(b) Plan Contract and the 401(a) Plan Contract the term of the Contract will commence on the Effective Date. The Issuing Office will fix the Effective Date after each Contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The Expiration Date for the 457(b) Plan Contract will be June 30, 2024, and the Expiration Date for the 401(a) Contract will be June 30, 2023. The Commonwealth has the option to renew each Contract for five (5) one (1) year contract renewals. The selected Offeror shall not start the performance of any work prior to the Effective Date of the Contract and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the Contract.
- I-23. Offeror’s Representations and Authorizations.** By submitting its proposal, each Offeror understands, represents, and acknowledges that:
- A. All of the Offeror’s information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the Contracts. The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.

- B.** The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.
- C.** The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- D.** The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.
- E.** The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- F.** To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four (4)** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.
- G.** To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.
- H.** The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
- I.** The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.
- J.** Each Offeror, by submitting its proposal, authorizes Commonwealth agencies to release to the Commonwealth information concerning the Offeror's Pennsylvania taxes, unemployment compensation and workers' compensation liabilities.
- K.** Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.
- L.** The Offeror is not currently engaged, and will not during the duration of the contract engage, in a boycott of a person or an entity based in or doing business with a jurisdiction which the Commonwealth is not prohibited by Congressional statute from engaging in trade or commerce.

I-24. Method of Award

The Commonwealth intends to award to one responsive and responsible Offeror for each Lot (Lot 1 – 457(b) Plan and Lot 2 – 401(a) Plan). Offerors may submit proposals for one or both Lots. An award will be made to the Offeror per Lot whose proposal is determined by the Issuing Office to be the most advantageous to the Commonwealth using the evaluation factors found in Part II, Section II-4 of this RFP.

I-25. Notification of Selection.

A. Contract Negotiations. The Issuing Office will notify all Offerors in writing of the Offeror selected for contract negotiations after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.

B. Award. Offerors whose proposals are not selected will be notified when contract negotiations have been successfully completed and the Issuing Office has received the final negotiated contract signed by the selected Offeror.

I-26. Debriefing Conferences. Upon notification of award, Offerors whose proposals were not selected will be given the opportunity to be debriefed. The Issuing Office will schedule the debriefing at a mutually agreeable time. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror's proposal in relation to all other Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute or toll the time for filing a protest (See **Section I-27** of this RFP).

I-27. RFP Protest Procedure. The RFP Protest Procedure is on the DGS website at <http://www.dgs.pa.gov/Documents/Procurement%20Forms/Handbook/Pt1/Pt%20I%20Ch%2058%20Bid%20Protests.pdf>. A protest by a party that has not (or not yet) submitted a proposal must be filed no later than the proposal submission deadline specified in the Calendar of Events above. Offerors may file a protest within **seven (7)** days after the protesting Offeror knew or should have known of the facts giving rise to the protest, but in no event may an Offeror file a protest later than **seven (7)** days after the date the notice of award of the contract is posted on the DGS website. The date of filing is the date of receipt of the protest. A protest must be filed in writing with the Issuing Office. To be timely, the protest must be received by 4:00 p.m. on the seventh (7th) day.

I-28. Use of Electronic Versions of this RFP. This RFP is being made available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to ensure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

I-29. Information Technology Policies. This RFP is subject to the Information Technology Policies (ITPs) (formerly known as Information Technology Bulletins) issued by the Office of Administration, Office for Information Technology (OA-OIT). ITPs may be found at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.

All proposals must be submitted on the basis that all ITPs are applicable to this procurement. It is the responsibility of the Offeror to read and be familiar with the ITPs. Notwithstanding the foregoing, if the

Offeror believes that any ITP is not applicable to this procurement, it must list all such ITPs in its technical response, and explain why it believes the ITP is not applicable. The Issuing Office may, in its sole discretion, accept or reject any request that an ITP not be considered to be applicable to the procurement. The Offeror's failure to list an ITP will result in its waiving its right to do so later, unless the Issuing Office, in its sole discretion, determines that it would be in the best interest of the Commonwealth to waive the pertinent ITP.

PART II

CRITERIA FOR SELECTION

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

- A. Be timely received from an Offeror (see Part I, Section I-11); and
- B. Be properly signed by the Offeror (see Part I, Section I-12A).

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

II-3. Evaluation. The Evaluation Committee is comprised of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BDISBO will evaluate the Small Diverse Business and Small Business Participation Submittal and provide the Issuing Office with a rating for this component of each proposal. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to the Commonwealth as determined by the Issuing Office after taking into consideration all of the evaluation factors.

II-4. Evaluation Criteria. The Evaluation Committee shall be using the following criteria in evaluating and scoring proposals for each Lot:

- A. **Technical:** The Issuing Office has established the weight for the Technical criterion for this RFP as **60%** of the total points.

Evaluation will be based upon the following in order of importance:

- 1) Qualifications
- 2) Soundness of Approach
- 3) Understanding the Problem
- 4) Available Facilities and Staffing

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

<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

- B. **Cost:** The Issuing Office has established the weight for the Cost criterion for this RFP as **20%** of the total points. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage:

<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

C. Small Diverse Business and Small Business Participation: BDISBO has established the minimum evaluation weight for the Small Diverse Business and Small Business Participation criterion for this RFP as **20%** of the total points.

1. The Small Diverse and Small Business point allocation is based entirely on the percentage of the contract cost committed to Small Diverse Businesses and Small Businesses. If the Offeror is a Small Diverse Business, 100% of the contract cost is allocated to Small Diverse Business participation. If the Offeror is a Small Business, 100% of the contract cost is allocated to Small Business participation.
2. A total combined SDB/SB commitment less than one percent (1%) of the total contract cost is considered de minimis and will receive no Small Diverse Business or Small Business points.
3. Based on a maximum total of 200 available points for the Small Diverse Business and Small Business Participation Submittal, the scoring mechanism is as follows:

Small Diverse Business and Small Business Raw Score =

$$200 (\text{SDB}\% + (1/3 * \text{SB } \%))$$

4. The Small Diverse Business and Small Business Raw Score is capped at 200.
5. The Offeror with the highest raw score will receive 200 points. Each Offeror's raw score will be pro-rated against the Highest Offeror's raw score by applying the formula set forth on the following webpage:
http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/RFP_SCORING_FORMULA.aspx.
6. The Offeror's prior performance in meeting its contractual obligations to Small Diverse Businesses and Small Businesses will be considered by BDISBO during the scoring process. To the extent the Offeror has failed to meet prior contractual commitments, BDISBO may recommend to the Issuing Office that the Offeror be determined non-responsible for the limited purpose of eligibility to receive Small Diverse Business and Small Business points.

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

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

<http://www.dgs.pa.gov/Businesses/Materials%20and%20Services%20Procurement/Procurement-Resources/Pages/default.aspx>.

E. Iran Free Procurement Certification and Disclosure. Prior to entering a contract worth at least \$1,000,000 or more with a Commonwealth entity, an offeror must: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services (“DGS”) pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e). All offerors must complete and return the Iran Free Procurement Certification form, (**Appendix C, Iran Free Procurement Certification Form**), which is attached hereto and made part of this RFP. The completed and signed Iran Free Procurement Certification form must be submitted as part of the Technical Submittal.

See the following web page for current Iran Free Procurement list:

<http://www.dgs.pa.gov/businesses/materials%20and%20services%20procurement/procurement-resources/pages/default.aspx#.WdNfJJgo6Ht>

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

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

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

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

Further, the Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, Contractor Responsibility Program.

II-6. Final Ranking and Award.

- A.** After any best and final offer process conducted, the Issuing Office will combine the evaluation committee's final technical scores, BDISBO's final Small Diverse Business and Small Business Participation Submittal scores, the final cost scores, and (when applicable) the domestic workforce utilization scores, in accordance with the relative weights assigned to these areas as set forth in this Part.
- B.** The Issuing Office will rank responsible offerors according to the total overall score assigned to each, in descending order.
- C.** The Issuing Office must select for contract negotiations the offeror with the highest overall score.
- D.** The Issuing Office has the discretion to reject all proposals or cancel the request for proposals, at any time prior to the time a contract is fully executed, when it is in the best interests of the Commonwealth. The reasons for the rejection or cancellation shall be made part of the contract file.

PART III

TECHNICAL SUBMITTAL

LOT 1 - 457(b) PLAN

TECHNICAL SUBMITTAL

III-1.a. Statement of Work

The Pennsylvania State Employees’ Retirement Board and its professional staff (“Board”) administers a deferred compensation plan in accordance with §457 (b) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereto (“457(b) Plan”), pursuant to and in accordance Act of November 6, 1987, P.L. 394, No. 81 (amending Act of March 30, 1811, P.L. 145, No. 99), as amended, 72 P.S. §4521.2 (“Enabling Statute”) and any other applicable law. The 457(b) Plan may also be referred to as the Commonwealth of Pennsylvania Deferred Compensation Program.

The Board is seeking proposals from qualified vendors (“Offerors”) to serve as a third-party administrator (“TPA”) to provide full-service plan administration services for the 457(b) Plan. The 457(b) Plan is to be administered without any costs to the Commonwealth of Pennsylvania. All costs are borne by the participants of the 457(b) Plan and not the Commonwealth of Pennsylvania. The Board reserves the right to terminate the 457(b) Plan Contract upon ninety (90) days written notice. The contract for the current TPA for the 457(b) Plan expires June 30, 2019. The TPA selected for the 457(b) Plan will be providing plan administration services effective July 1, 2019. At a minimum, qualified vendors should be able to meet the following specifications and demonstrate ability to provide the following services:

Objective	Description
Deferred Compensation – Organizational Experience and Client Service	<ul style="list-style-type: none">• Offerors are expected to demonstrate strong and relevant experience and commitment to service of the public deferred compensation marketplace with specific experience administering 457(b) plans evident within client profile information.• Offerors are expected to provide evidence of understanding and compliance with Board requirements that an experienced team of dedicated account personnel be assigned exclusively to the 457(b) Plan minimally including the following: two (2) full time Administrative Personnel and eight (8) Representatives, and the Board expects that staffing levels will be increased appropriately in-line with the growth of the 457(b) Plan. The Board further expects that one (1) Relationship Management professional will be assigned and spend at least 80% of business time overseeing 457(b) Plan services.

Objective	Description
	<ul style="list-style-type: none"> • Evidence of client satisfaction and effective relationship management should be obtained through the provision of at least four (4) references of public sector DC recordkeeping clients for whom services have been provided for at least five (5) years and two (2) references from public sector DC clients that have successfully transitioned to the Offeror within the last two (2) years. • Organizational commitment to technology and supporting architecture should be reinforced by documentation of reasonable information technology and system resources in support of its service offerings, investment in the development and maintenance thereof, and effective documentation and testing of data security, disaster recovery, and business continuity plans with willingness to permit appropriate audits, access and required cost mitigation for potential participant exposure due to data breaches. • Organizational responsibility and commitment to serve the best interests of the 457(b) Plan and its participants and beneficiaries is expected to be demonstrated through the provision of licensed representatives with contractually enforceable standards of behavior. • Organizational commitment to provision of reasonable and transparent costs in line with the services delivered is required to be demonstrated through configuration options, features, and flexibility. • Commitment to service quality, achievement of metrics, and revenue transparency should be demonstrated through the willingness to put meaningful monthly fees at risk for non-mitigated failures to provide acceptable services and full revenue transparency reporting.

<p>Deferred Compensation – Trust, Custodial, Recordkeeping, and Administration Services</p>	<ul style="list-style-type: none"> • Product and service capability and fit with Board requirements and customizations should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable. • Response material should indicate an understanding of Board requirements, familiarity and successful performance with similar requirements, and the presence of creative and/or innovative solutions to specific enumerated requirements and known areas of challenges (specifically the requirement to process all distributions for the 457(b) Plan through the Pennsylvania Treasury and to transition the 457(b) Plan from an existing third-party administrator). • Recordkeeping and Administration services, including the comprehensive provision of services to participants, the Administrator, and other stakeholders should be comprehensively described, include sufficient details on the systems and personnel involved, and should indicate a mature service model with a commitment to quality appropriately balancing technological efficiencies with proactive personal service.
<p>Deferred Compensation – Marketing and Communications Services</p>	<ul style="list-style-type: none"> • Communications and reporting offerings should indicate capability and fit with Board requirements. • Customization and overall approach should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable. • The provision of example materials, proposed staffing and communication plans, and other information indicating the successful and effective delivery of services to similarly situated clients is expected and should reinforce stated willingness and abilities.
<p>Deferred Compensation – Compliance Services</p>	<ul style="list-style-type: none"> • Compliance support and related offerings should indicate capability and fit with Board requirements. • Customization and overall approach should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable.

<p>Deferred Compensation – Investment Services</p>	<ul style="list-style-type: none"> • Investment menu support and philosophical approach should indicate comprehensive capability to support Board menu design, portfolio allocation funds, and fit with Board requirements. • Compliance with primary and optional contingent proposal structures related to investment management and other services (advice and managed accounts) should be present. • Customization and overall approach should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable.
<p>Deferred Compensation – Implementation Services</p>	<ul style="list-style-type: none"> • Non-incumbent proposals are expected to include significant details and narrative response and discussion, which indicates experience with performing plan implementations from transfers from former administrators. • Narrative details and evidence of successful implementations indicating smooth transitions occurring over a reasonable time frame are expected.

Provide an executive summary (no longer than two (2) pages) of your understanding of the Statement of Work and your unqualified ability to provide the services required.

III-2.a. Statement of the Project

Provide an executive summary of your response in bulleted format (no longer than four (4) pages) that indicates the key differentiated features of your firm and why its proposal to the Board for deferred compensation recordkeeping services should be chosen.

III-3.a. Work Plan

The Offeror shall complete and submit the Questionnaire, as set forth in **Appendix L-1**, as the response to the III-3.a. Work Plan below. Using the task descriptions below as your reference points, provide a response to each question in the Questionnaire in narrative form describing your qualifications and your technical plan for accomplishing the work, as applicable. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. If more than one approach is apparent, comment on why you chose this approach.

Tasks:

A – 457(b) Deferred Compensation – Organizational Experience and Client Service

1. Offeror will be an experienced provider of recordkeeping for deferred compensation plans with reasonable experience with clients similar to the Board.
2. Offeror's organization will be stable, with strong credit ratings (if debt ratings currently are applicable) and will maintain reasonable insurance coverage.
3. Offeror will establish and maintain an experienced team of professionals to provide service to the account with limited professional turnover rates.
4. Offeror's professionals are expected to be broadly available by e-mail and phone and will exhibit prompt response (twenty-four (24) hour acknowledgment) to Board inquiries.
5. Offeror will provide and maintain necessary information technology and system resources in support of its service offerings, invest in the maintenance thereof, and have documented and tested data security, disaster recovery, and business continuity plans.
6. Offeror will demonstrate a commitment to cybersecurity and data privacy which will be supported by a contractual requirement to provide (at Offeror's sole cost) at least one (1) year of credit monitoring services for any and all participants for which a data breach may have exposed Personally Identifiable Information (PII).
7. Offeror agrees to provide the Board a detailed contingency plan for disaster recovery of Offeror's electronic data processing equipment that assures some system functionality will be back in operation within forty-eight (48) hours of a disaster.
8. Offeror will have an established backup plan in place that ensures the Offeror can restore all participant data, transaction history, and other client-related data in the event of a system malfunction or failure.
9. Offeror must have an established disaster recovery plan in place that includes procedures and regularly scheduled testing of the cut over to the recovery site and return switch over to the main site.
10. Offeror agrees that information regarding the 457(b) Plan that is contained in all materials, records, documents, accounting records, software programs, computer tapes or disks that are purchased, developed and /or maintained by Offeror for purposes relative to accounts of the 457(b) Plan belong to the Board and shall be accessible to the Board at all times.
11. Offeror shall maintain duplicate computer tapes or discs of all records in connection with the 457(b) Plan. Duplicate records shall, at all times, be kept offsite and in a place of safekeeping as approved by the Board.
12. Offeror shall open all books, records, ledgers and journals relating to the 457(b) Plan for inspection and audit by the Board or its designee, at any time during normal working hours, with seventy-two

(72) hours advance notice. Records requested shall be provided by Offeror on electronic media in an acceptable format within thirty (30) days from receipt of request.

13. Offeror agrees that all information obtained by it from any individual state or local employees, whether the employee becomes a participant or not, shall be kept in absolute confidence and shall not be utilized by Offeror or any of its officers, directors, agents or employees in connection with any other matter without prior written consent of the Board. Furthermore, only 457(b) Plan investments specifically approved by the Board for use in connection with the 457(b) Plan will be permissible for discussion in connection with the 457(b) Plan. In no event will Offeror be permitted to solicit or market any other investment product to participating or eligible participants.
14. The Offeror is to provide account representatives, a regional manager, and local office staff devoted solely to servicing the 457(b) Plan. Offeror must maintain an office in the metropolitan Harrisburg area that can be used to facilitate educational meetings and drop-in hours for participants. Service representatives are to be licensed in NASD 6, 63 and have a Pennsylvania insurance license. They must be trained to service the 457(b) Plan, to explain the 457(b) Plan and to enroll employees who desire to participate in the 457(b) Plan. Account representatives are to be knowledgeable in Section 457(b) plans. Account representatives must be employees of the firm. No subcontracting of account representatives will be permitted. Service representatives are strictly forbidden from marketing or otherwise soliciting any investment or service other than 457(b) Plan investment or services and from transacting any other business with employees beyond the duties specified within the Agreement. Any breach of this requirement shall constitute just cause for termination of the Agreement.
15. Offeror shall provide service representatives, who are duly licensed to sell securities and insurance products under applicable law and trained to service the 457(b) Plan, to explain the 457(b) Plan and to enroll employees who desire to participate in the 457(b) Plan. Service representatives are strictly forbidden from marketing or otherwise soliciting any investment or service other than 457(b) Plan investment or services and from transacting any other business with employees beyond the duties specified within the Agreement. Any breach of this requirement shall constitute just cause for termination of the Agreement.
16. Offeror must have the ability to provide recordkeeping services in an unbundled fashion that uses per-participant fees assessed on either a monthly or a quarterly basis, in arrears, using period-end counts of participants with a balance. Base fees paid by the participants and per-transaction fees paid by the requesting party may be used but must be transparently communicated and reasonable.
 - a) Offerors must clearly articulate their revenue requirement and expectations from the 457(b) Plan and overall account relationship on an annual basis and articulate/define any and all assumptions relied upon to generate such revenue.
 - b) Proposals for core recordkeeping services made with contingent assumptions of usage of certain products (including, but not limited to proprietary investment management vehicle and advice / managed accounts) must be clearly defined and such a contingent proposal must be accompanied by a proposal that clearly articulates the proposal for core recordkeeping services without such services.
 - c) Quarterly application of fees to participant accounts will be supported as follows:
 - i. Recordkeeping and administration fees structured as an asset based and a flat dollar platform fee.
 - ii. Apply an asset based wrap fee and/or a per participant fee to all participants.

- iii. Rebate all revenue sharing directly back to participants on a quarterly basis at a minimum.
 - iv. Ability for a sub-set of participants (with high balance) to receive an asset-based fee rebate or ability to cap administrative fees.
 - v. Any fees associated with the calculation of the net asset valuation for a white label fund are part of that fund's unit value and accrued on a daily basis.
 - vi. White label funds that are single manager funds do not incur unitization costs.
- d) Offeror must clearly identify ALL additional and/or transactional fees that may apply for both in scope as well as optional items.
 - e) Offeror must put forward its estimate of an annual communications budget applicable to this relationship.
 - f) Offeror must clearly outline any/all assumptions and conditions relied upon, if any, in assembling its response and economic proposal.
17. The Board may assess monetary penalties against Offeror for failure to meet performance standards stated within the Agreement if not met for two (2) consecutive quarters. The Board shall notify Offeror, in writing, of its intention to invoke a penalty that will be five percent (5%) of the Offeror's monthly compensation as set forth in the Agreement. The Offeror shall reimburse the 457(b) Plan participants any penalty assessed in such manner as directed by the Board. Upon the Offeror's receipt of written notice of the Board's intention to invoke a monetary penalty, the Offeror shall have sixty (60) days to research the problem and remedy it, to the sole satisfaction of the Board. If remedied within the sixty (60) days, the Board may, at its sole discretion, decide to waive the monetary penalty.
18. Any revenue sharing, including, but not limited to, shareholder servicing fees, administrative fee payments and sub-transfer agent fees received by the Offeror or its affiliates and retained service providers must be accounted for, reported to the Board and rebated directly back to participants on a quarterly basis at a minimum.
19. Offeror agrees that the sole compensation for performing the services under any resulting Agreement shall be the amount agreed to in the Agreement. On a quarterly basis, the Contractor will disclose to the Board all compensation or remuneration from investment companies associated with the 457(b) Plan, all of which will be used to offset recordkeeping costs or be passed on to the Board. The Contractor's failure to comply will constitute a material breach of the Agreement.
20. In the event of a transition to a new provider after entering into a contract with the Board, Offeror shall be a responsible partner in that transition. Offeror is expected to provide a timetable and method of transfer of all data for possible conversion to a new TPA. All account balances must be reconciled in an appropriate and timely manner prior to such a transfer.
21. Offeror shall provide a subcontracting plan for all subcontractors, including small diverse business and small business subcontractors. As noted above, in Part 111-1.A.14, no subcontracting of account representatives will be permitted. The Offeror is prohibited from subcontracting or outsourcing any other part of the services without the express written approval from the Commonwealth. Upon award of the contract resulting from this RFP, subcontractors included in the proposal submission are deemed approved. For each position included in your subcontracting plan provide:

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

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

B – 457(b) Deferred Compensation – Trust, Custodial, Recordkeeping, and Administration Services

1. The Board, an independent administrative board of the Commonwealth of Pennsylvania, which has been directed to administer the 457(b) Plan pursuant to and in accordance with the Enabling Statute will serve as Administrator and shall be the Trustee. The Offeror must administer the 457(b) Plan in accordance with applicable federal law, the enabling statute and any other applicable State law, and the 457(b) Plan Document, which is attached as **Appendix A**.
2. As retained by the Trustee, the Offeror will provide custodial services directly, through an affiliate, or through another qualified entity. Such custodial services will include, but are not limited to the following: register and safe-keep all 457(b) Plan assets, to execute and settle all buy, sell and reinvestment transactions, and to collect and report all dividend and interest payments.
3. The Commonwealth of Pennsylvania Treasury acts as Trustee and Custodian for the 457(b) Plan through a sub-custodial agreement with BNY Mellon. Offeror must maintain an effective relationship with the firm as a qualified third-party provider of custodial services. All cash contributions to the 457(b) Plan pending investment, all cash being transferred among the investment options offered by the 457(b) Plan and all cash awaiting distribution to the 457(b) Plan participants and beneficiaries will be held in a custodial bank account for the exclusive benefit of 457(b) Plan participants and their beneficiaries. It is expected that the Offeror will, in a timely and accurate manner, provide direction to the Treasury to facilitate the movement of cash and investments, direct the deposit of daily payroll, rollover, and any other checks, and provide information for the distribution of checks or ACH payments.
4. Offeror will deduct administrative fees based on a percentage of assets on a monthly basis and will direct quarterly payments to certain entities at the direction of the Board. Offeror will calculate, track, and report monthly to the Board on all payments and related activities. The Board may change the administrative fees and payment methodology from time to time.

5. Offeror will accommodate receipt of contributions daily via direct debit, ACH or other mutually agreeable format, including contributions by check.
6. Offeror will, with respect to any investment directed by the participants, process transactions according to the elections made by the participant and authorized by the Board.
7. Offeror will execute all buy, sell, and reinvestment direction from the Board or its duly appointed investment manager; and shall follow the direction of the participant in the investment of their individual account balances among the investment options made available under the 457(b) Plan.
8. Offeror will place trades that are directed after the close of any major stock exchange as of the next day the applicable stock exchange is open and conducting business. In the event that a trade is not placed correctly by the Offeror and the 457(b) Plan experiences a loss as a result, the Offeror will be responsible for the funding of the loss to the 457(b) Plan. In the event that a trade is not placed correctly by the Offeror and the 457(b) Plan experiences a gain as a result, the 457(b) Plan will receive the benefits of the gain.
9. Offeror's recordkeeping system(s) must have the capability to:
 - a) administer single and multi-manager white label and portfolio allocation funds, including account unitization, account rebalancing instructions, etc.;
 - b) execute fund replacements and mappings as directed by Administrator (underlying managers within white label structures, white label funds, and portfolio allocation funds);
 - c) process daily valuation and settlement of trades for investment funds;
 - d) accurately maintain and record-keep participant accounts established pursuant to the terms of a deferred compensation plan;
 - e) administer self-directed brokerage accounts ("SDBA") and/or work with a third-party provider of SDBA services. The current SDBA provider is Charles Schwab. The Offeror must be able to co-ordinate with Charles Schwab or a successor SDBA provider regarding the SDBA;
 - f) track contributions and other various metrics usually provided by a TPA and as directed by the Board to be reported;
 - g) maintain transaction history with archiving capabilities;
 - h) provide the 457(b) Plan administrator with appropriate demographic information, as updated from a mutually agreed upon payroll file structure and allow for viewing of beneficiary information and facilitate updates by the 457(b) Plan administrator and participants; and
 - i) provide access to participant data via TPA software to give the Board the ability to produce its own reports.
10. Offeror will provide or facilitate the following services related to Benefit Payments:
 - a) Offeror will process withdrawals and distributions, including any required minimum distributions, properly requested and consented to by the participant, beneficiary, and alternate payee, if applicable, and approved by the Board.
 - i. The Commonwealth of Pennsylvania Treasury issues all benefit payments, per the instruction of the TPA. All withdrawals and distributions must be processed through the Commonwealth of Pennsylvania Treasury (taking approximately ten (10) days and requiring additional system interfaces) in compliance with

Commonwealth of Pennsylvania Fiscal Code 72 P.S. §307 – Audits of and warrants for disbursement. Communication of the information required to process payments must be in an acceptable format for the PA State Treasury, as set forth in Appendix J. Benefit payments are mailed three (3) times per month. Offeror must allow for data communications, to the PA State Treasury, to initiate direct deposit or to produce hard checks. Offeror must also provide the necessary data in the required format for the Commonwealth of Pennsylvania Treasury to process federal withholding tax payments to the IRS.

ii. The Offeror will also provide participant benefit payment information to the Board on an Excel spreadsheet, or a similar format, as requested by the Board.

- b) Payroll deductions will be made utilizing deduction codes and deductions may be made weekly, biweekly, semimonthly, and/or monthly according to employer payroll processing cycles.
- c) Offeror will comply with relevant federal income tax withholding and reporting laws on benefit payments and provide timely reconciliation and mailing of all appropriate federal or state required tax forms.
- d) Offeror will have an established process to handle RMD processing for participants and beneficiaries.
- e) Offeror will have an established process to handle death benefit processing. In its role as the TPA, Offeror will take calls from family, collect death certificates, confirm beneficiary information, and process the transfer to the appropriate beneficiary(ies).
- f) Offeror will be responsible for notifying the Board on a periodic (not less than annual) basis of all participants for whom Offeror receives returned mail or otherwise does not have a current mailing address. It is expected that the Offeror will utilize a research platform to help the 457(b) Plan locate these participants if necessary. The Board will be responsible for determining which Participants and beneficiaries have outstanding distribution checks, and the Offeror will include these participants in their searches and assist the Board in outreach for updated mailing addresses.
- g) Offeror will make determinations to approve or disapprove all hardship withdrawal requests in accordance with clearly defined IRC rules and regulations, which will be made available to the Board. The Offeror will conduct a second review of denied applications if requested by the participant. The Board handles all final appeals, and the TPA will provide documentation and/or live testimony upon request during the process to support the Board.
- h) Offeror will provide to participants that have terminated service a conformation of their request for benefit payment. (See **Appendix N**)

11. Offeror will provide or facilitate the following services related to Administrative Reporting:

- a) Offeror will allow participants to update their beneficiary designation via an online platform or call-center facilitated process. This includes online enrollment for new participants
- b) Offeror will review any forms (e.g., beneficiary designation forms) submitted by participants for completeness and create electronic images of such forms to make them viewable on an online platform.
- c) Offeror will issue participant statements after the end of each plan year quarter; three quarterly statements and one annual statement. These statements should include a cumulative review of historical returns, fees, and a current valuation of each investment

option. It will also include a detailed summary of the participant's activity during the statement period. It will also include a separate summary of any Roth 457, SDBA balances, and rollovers from other plans.

- d) Participant statements will be mailed directly to participants at their home addresses, as supplied by the participants, and/or posted directly to the participant's online account with Offeror.
12. Offeror will provide email notification to the online address supplied by each participant when the participant's statement is available on the online platform.
 13. Offeror will provide three (3) quarterly and one (1) annual customized statements mailed to the participants who opt to receive paper statements.
 14. Offeror will provide a transmission file for downloading system-generated changes that impact payroll processing. This includes, but is not limited to contribution rate changes, suspension for hardship withdrawals, and other payroll-related activities.
 15. Offeror will use its best efforts to notify participants of any over deferral amounts being refunded to them prior to payment distribution, potentially utilizing multiple communications channels. Payroll has primary responsibility for ensuring that IRS limits are adhered to.
 16. Offeror will provide or facilitate the following Voice Response Unit ("VRU") services:
 - a) Offeror will provide 457(b) Plan Participants toll-free access to the VRU modules.
 - b) Offeror will use commercially reasonable efforts to ensure that the VRU system is available seven (7) days a week and twenty-four (24) hours a day, except during maintenance downtime.
 - c) Offeror will issue each participant a Personal Identification Number ("PIN"), which allows the participant access to 457(b) Plan and individual account information or transactional capabilities.
 - d) Services will include access to account balances, requesting mailed brochures or other 457(b) Plan literature, current deferral rates, and other information the Board deems necessary. The Board expects that the Offeror will be able to make reasonable customizations to the VRU for the Board at no additional cost.
 17. Offeror will provide or facilitate the following services provided by Customer Service Representative ("CSR") team ("CSR Team"):
 - a) Offeror will provide participants access to the services of a CSR Team by means of a toll-free number.
 - b) Offeror will make CSRs available to provide participants with 457(b) Plan information and to initiate or execute 457(b) Plan transactions upon receiving oral instructions from participants.
 - c) Toll-free number must minimally provide 8 AM to 6 PM coverage within the US Eastern Time Zone.
 - d) The Board expects that the Offeror will be able to make reasonable customizations to call center processes and procedures for the Board at no additional cost.
 18. Offeror will provide or facilitate the following services provided by an Internet or Online Platform:

- a) Offeror will provide participants twenty-four (24) hour access to their account information through a secure online or internet web site.
 - b) Offeror will also provide the Board online access to a secure plan sponsor web site.
 - c) The Board expects that the Offeror will be able to make reasonable customizations for the Board to the website at no additional cost.
 - d) The website must provide an interactive experience to allow for participants to change allocations, process transfers between investment options, view daily unit prices, view periodic investment returns, and complete online enrollment.
 - e) Website must also allow for posting of current news items or other information deemed relevant by the Board, on a timely basis.
19. Subject to Board authorization and direction, Offeror will process the following types of changes to the individual account of any participant based on the electronic instructions, or the oral instructions if conveyed directly to a CSR, of any person who is properly authenticated by providing his or her Social Security number and PIN (or user name and password for Secure online or web site access):
- a) Investment Transfers
 - b) Investment Election Changes
 - c) Distributions and approved Withdrawals
 - d) Address changes for terminated participants (CSR only)
20. Offeror must have systems and procedures in place to provide assistance to the 457(b) Plan Administrator with qualification of / capabilities to process Plan Approved Domestic Relations Orders (PADRO), Hardship Withdrawals, Account Transfer to Beneficiary(-ies) in case of death of Participant, and Plan-to-Plan Transfers, as specified in the relevant plan documents. Fees, if any, for such services must be fully disclosed and reasonable.
21. Offeror must provide legal and tax best practice knowledge and consultation to the Board on any plan issues.
22. Offeror shall provide periodic review of the 457(b) Plan as requested by the Board.
23. Offeror shall assist in the review and revision of the 457(b) Plan Document as needed.
24. Offeror shall use the 457(b) Plan's Federal Tax Identification Number to process all annual tax documents to participants and government entities on behalf of the 457(b) Plan. The 457(b) Plan also requires a detailed file breakout on the tax forms that were issued at year-end. All proper income tax reporting shall be provided to the participants, the Pennsylvania Department of Revenue (if needed), and various other jurisdictions if required. Information must be provided to the 457(b) Plan and its participants in a timely manner in accordance with federal requirements.
25. Offeror must be capable of allowing participant contributions to be made as a fixed dollar amount or as a percentage of salary.
26. Offeror must be capable of allowing the participant to make traditional pre-tax deferrals, after-tax Roth deferrals, and a mixture of the two. The 457(b) Plan requires that separate records are provided for Roth contributions and Rollover accounts.

27. Offeror must be capable of maintaining participant's account history to determine catch-up limitations. The Offeror is expected to work with payroll ensure that the underutilized amounts are reported to employers and ensure that the participant's catch-up is limited to three consecutive years. The Offeror will monitor program deferral limits in accordance with existing IRC requirements and refund over-deferrals as needed to participants in accordance with IRC Section 457 limitations and IRA limitations.
28. Offeror will have the ability to accommodate weekly, biweekly, and monthly payroll feeds from multiple employers and employing agencies and should expect that payroll will be received daily.
29. Offeror must be capable of processing employer payroll through FTP file transfer or by use of a payroll portal that employers have the ability to access. Contributions must be recorded to participant's accounts no later than one business day after being received, and allocations to the investment products chosen by the participant will be the sole responsibility of the Offeror. Any gain caused by lag of trade initiation must be forfeited to the 457(b) Plan, and any losses due to a lag of trade initiation must be reimbursed to the 457(b) Plan by the Offeror.
30. All electronically transmitted social security numbers must be protected, and the Offeror must indicate what safeguards are in place to ensure this information is not being accessed by unauthorized users.
31. Offeror must be able to accept and capture deferral data, employee data, and separation of service information.
32. Offeror must be able to provide each employer with a detail file of the changes made by participants for input into their respective payroll systems. The Offeror must have a working relationship with individual employers so that they can resolve any issues regarding the data being exchanged.
33. Payroll deferral information will be provided to the Offeror by the employer via various reporting methods (hardcopy or electronically) for the purpose of recordkeeping and verification to release the investment funds to the investment managers. (See **Appendix M-1**)
34. Offeror must be able to accommodate a minimum of six (6) core investment product selections per participant, and a SDBA option. The Offeror must also maintain a minimum of four (4) profile funds consisting of various combinations of the six (6) core funds. Profile funds will be rebalanced quarterly by the Offeror. The Offeror must be able to maintain separate records for other accounts, such as Roth and Rollovers.
35. Offeror must be able to establish a necessary amount of Unallocated 457(b) Plan Asset accounts to use for applying any unanticipated gains or administrative fees the 457(b) Plan may charge.
36. Offeror must perform annual reviews of the employee database in order to determine the number of deceased participants and participants with incomplete records. The Offeror is expected to utilize a research system to assist in locating updated contact information. The Offeror will follow-up with beneficiaries and participants in order to maintain up-to-date records.
37. Offeror must have appropriate errors and omissions insurance, and will be held liable for any errors to participant accounts due to untimely and improper recordkeeping.

38. Offeror will provide SSAE18 (and successors) review of internal controls to Board for all in-scope service areas.
39. The Board will provide a 457(b) Plan Eligibility File to the Offeror which is attached as **Appendix K**. The Offeror will need to update participant information based on the 457(b) Plan Eligibility File each week when received.

C – 457(b) Deferred Compensation – Marketing and Communications Services

1. Communications support including personnel and marketing must be provided and made available for the Board needs. Offeror must have a communications staff for the purpose of collaborating with the Board to produce an agreed upon number of marketing and communication materials that are designed to meet the information needs of specific 457(b) Plan participants, their beneficiaries and the Board, as well as potential 457(b) Plan participants on an ongoing basis, specifically, including digital and website marketing materials and the development of communications for 457(b) Plan changes.
2. All marketing and communications materials must be approved by the Board before being distributed to participants. The Board has the ability to suggest design concepts that help align the material with standard Commonwealth of Pennsylvania branding. The Offeror must make available a marketing team that the Board can work with on a regular basis.
3. Offeror must develop a detailed marketing plan for all marketing campaigns.
4. Offerors must be willing to assist with the design and implementation of a process and procedure to manage both initial and ongoing communication for all active, terminated, vested, and eligible participants in the 457(b) Plan. Such communications expected to include:
 - a) postcard campaigns (the provider will cover the production and mailing costs for the first two (2) campaigns each year; cost for mailings in excess of two (2) will be borne by the Board)
 - b) other communications in targeting all eligible participants
 - c) provision of Plan Features and Highlights along with Active Choice fliers for inclusion with 457(b) Plan new member packets
 - d) having representatives at various locations throughout the state
 - i. Roughly 1,600 representative days used per year. General expectation among the eight (8) state territories is that each of the eight (8) dedicated field representatives will supply at least 200 days annually. The Offeror will maintain a level of account representatives as mutually agreed to with the Board. Account Representatives are to be licensed in NASD series 6, 63, and have a Pennsylvania Insurance License. Account Representatives are to be knowledgeable in Section 457(b) plans. The Account Representatives must be employees of the Offeror. No subcontracting of Account Representatives will be permitted.
 - e) provide “lunch and learn” seminars based on approved list that last at least thirty (30) minutes. The Offeror must work with Commonwealth employers and the PA Office of Administration in the coordination of these events.
 - f) participate in benefit fairs held by the Commonwealth.

- g) provide periodic group meetings (separate from lunch and learn) with participants on a statewide basis, at employee locations, or as otherwise approved by the Board. This includes general investment education information.
 - h) provision of custom messaging on website.
 - i) assist with National Retirement Security Week.
 - j) cooperative incorporation of Board branded look/messaging
 - k) provide annual plan review along with presenting to the Board as requested
 - l) provide at least nine (9) targeted communications on topics relevant to the 457(b) Plan's participants each year, such as Features and Highlights, Active Choice Fliers, Benefits of the 457 Flier, Making Deferral Changes Online Flier, Roth Option Brochure, Consequences of Deferring Pre-Tax or Roth, Fee Comparison Flier, Advisory Services Flier, and Retire Checklist.
 - m) materials must be updated and available for distribution sixty (60) days after a change in tax law, plan administration, or investment change option.
 - n) develop and mail one (1) survey to participants annually as requested, and provide survey results and analysis within thirty (30) days of receiving responses unless there is reasonable complexity such that a longer time period is necessitated.
 - o) as needed, the Offeror will conduct direct mail campaigns to distribute notices, such as for participants who do not have an updated beneficiary form.
 - p) provide quarterly newsletters that contain articles that address the needs of the 457(b) Plan participants in a timely manner. The newsletters will provide all participants (active, inactive, and terminated) with an informative newsletter on topics pertaining to the 457(b) Plan, and the newsletters will be pre-approved by the Board or its designees prior to distribution. The newsletter should include articles for active employees, as well as retirees.
 - q) provide the Board and its designees with assistance in developing materials specific to the Board's State Employees' Retirement System website.
5. Offeror must provide quarterly management reporting at both 457(b) Plan and employer level, including:
- a) monthly and quarterly trust/accounting statements;
 - b) production of comprehensive performance information for inclusion in quarterly statements;
 - c) production of fund fact sheets quarterly (ability to customize for white label funds, including single manager white label funds); and
 - d) Production of quarterly investment options at a glance.
6. Offeror must develop and produce quarterly participant statements, plan enrollment, participant transaction notification, and other strategic communications materials as agreed upon by Offeror and the Board as part of the recordkeeping services and included within core participant fees. More specifically:
- a. The participant account statements shall list beginning values, contributions, transfers, withdrawals, fees, and ending values for the quarter. Separate information should be reported for all retirement plans offered. These statements should include a cumulative review of historical returns, fees, and a current valuation of each investment option. It will also include a separate summary of any Roth 457, SDBA balances, and rollovers from other plans. Statement shall be released to participants within fifteen (15) business days after the end of each quarter.

- b. Offeror must ensure participant distribution statements lists the type of benefit option selected, federal withholding, remaining account balance, gross amount, year to date payments, and net pay.
7. Offeror shall demonstrate the ability to provide 457(b) Plan letterhead, envelopes, and postage for benefit payments that are mailed by the Board.
8. Offeror may charge for the costs of production or reproduction of communications other than participant statements, participant transaction notification, plan enrollment and other strategic communications materials (including the two (2) postcard mailings) as agreed upon by Offeror and the Board provided that an advance cost estimate is prepared by Offeror and mutually agreed upon in writing by both parties.
9. Offeror may be required to assist with the regular updates of summary plan documents (“SPD”) or posting of current SPDs on the vendor’s participant website for access by participants.
10. Offeror must be able to communicate directly with participants concerning relevant changes in tax legislation which affect relevant defined contribution plans, changes in enrollments, investment options, transmittal of distributions, and distribution of quarterly benefit statements including required fee disclosures. Telephone representatives are to be knowledgeable of the requirements of the Enabling Statute, the 457(b) Plan Document, the Roth 457 provision, and IRC §457.
11. The information provided in all such communications should also be available at a centralized web location, and should be sent out by email upon request.
12. Provide monthly administration reports to the Board as determined.
13. Provide to the Board, timely reconciliation of monthly statements between investment manager and records maintained by the Offeror.
14. Provide to the Board and Board staff a timely reconciliation of the annual IRS participant tax forms to annual disbursements and 457(b) Plan level tax forms.
15. Report timely, the investment rate of returns to the Board, and maintain historical rates of returns for the selected investment options consistent with SEC and AIMR requirements.
16. Offeror must maintain an office or nexus in the metropolitan Harrisburg area for Board staff, 457(b) Plan Representatives, and participants to utilize for various purposes that is solely devoted to serving the 457(b) Plan. Offeror is to provide, in addition to account representatives as discussed elsewhere in this statement, a regional manager and staff to operate this office.
17. Offeror must provide all administrative forms (provide examples) necessary to operate the 457(b) Plan. This includes enrollment forms, change of deferral forms, change of information forms, beneficiary forms, catch-up election forms, sick and annual leave deferral forms, hardship withdrawal forms, rollover forms, plan to plan transfer forms, and normal withdrawal forms. The forms may be provided to employees via reasonable access channel(s). Forms must be uniform for all participants, and must be pre-approved by the Board.

18. Offeror must be able to provide administrative assistance to participants in their selection of the appropriate benefit payout method.
19. Offeror shall make available, in Excel or a similar format, participant contribution reports, participant disbursement reports, participant balance reports, fund balance reports, fund demographic reports (age group, account balance, etc.), census reports, analytic reports, and be willing to work with the Board to accommodate any special reporting needs. Participant related reports must contain fields that include the type of payment, gross and net amounts paid, full SSN (with the ability to mask), pay dates, effective dates, federal withholding tax, and other additional fields that may be required. Demographic reports shall at a minimum consist of plan participation by employer, deferral accounts by salary group or age, the number of participants using catch-up options, and others that could be requested by the Board.
20. Offeror shall provide the Board with a monthly emergency hardship report. The report shall list name, SSN, approval/disapproval, amount, and a brief description of the reason for approval or denial.
21. Every reasonable effort will be made to provide all participants with information relative to the 457(b) Plan as well as access to enrollment on a continuing basis. Such efforts will consist of, but are not limited to:
 - a. Publicizing the 457(b) Plan through internal communications, brochures, various employee organization publications, internet, direct mailings, and other types of distribution outlets.
 - b. Preparation of a detailed brochure that will be available to all participants.
 - c. Conducting meetings with interested employees (included in the representative days above). Such meetings will be scheduled and held at the discretion of the Board, at places throughout the Commonwealth of PA where satisfactory attendance can be expected. Such meetings will be organized by the Offeror and conducted by representatives of the TPA who have a thorough knowledge of each investment product offered. Meetings must be posted and updated on a monthly basis on the 457(b) Plan's website.

D – 457(b) Deferred Compensation – Compliance Services

1. Offeror will provide periodic compliance tests as required by the circumstances of the 457(b) Plan.
2. Offeror will provide legal services and assistance to the Board in implementing new laws, regulations, and guidance.
3. Offeror will supply the Board annually with summary annual report(s) with information on the 457(b) Plan.
4. Offeror will prepare and distribute to participants all disclosures currently and prospectively required by DOL and/or IRS regulations, as applicable.

E – 457(b) Deferred Compensation – Investment Management Services

1. Offeror will provide a primary proposal that leverages an open architecture recordkeeping structure with no proprietary investment management vehicles and/or contingent requirements for services including advice and managed accounts.

2. As authorized by the Board, a Offeror may offer a proposal containing proprietary investment vehicles and/or contingent requirements for services including advice and managed accounts (but must clearly specify the offset and/or impact to primary proposal pricing).
3. Offeror must accurately and fully disclose all investment expenses and revenue-sharing arrangements associated with all investment offerings through the 457(b) Plan. This includes both proprietary and non-proprietary investment options.
4. Revenue-sharing (including sub-transfer-agent fees and proprietary fund investment fund sharing) monies, for both proprietary and non-proprietary products, MUST be disclosed to the Board, and credited back to the participants.
5. Offeror may offer a tool to all participants that they can utilize to determine an appropriate asset allocation based on their unique circumstances.
6. The Offeror must be able to provide managed account services to individual 457(b) Plan participants. The firm must stand as a fiduciary, if it provides that service directly, or through a partnership with another financial services firm.

F – 457(b) Deferred Compensation – Implementation Services

1. Non-Incumbent Offerors will provide a well-articulated description of a transition/conversion process clearly outlining expectations of the Board, timelines, and resources involved.
2. If selected, a Non-Incumbent Offeror will effectively and in a risk-controlled manner facilitate the conversion of participant records and recordkeeping processing for the 457(b) Plan no later than July 1, 2019, or as subsequently mutually agreed.

III-4.a. Training. If appropriate, indicate recommended training of Board personnel. Include the Board personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

Offeror Response

III-5.a. Financial Capability. Describe your company's financial stability and economic capability to perform the contract requirements. Provide your company's financial statements (audited, if available) for the past three fiscal years. Financial statements must include the company's Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report, if available. If your company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The Commonwealth reserves the right to request additional information it deems necessary to evaluate an Offeror's financial capability.

Offeror Response

III-6.a. Objections and Additions to Standard Contract Terms and Conditions. The Offeror will identify which, if any, of the terms and conditions (contained in **Part VI** below) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Part VI** below. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

The Offeror's failure to make a submission under this **Section III - 6.a.** will result in its waiving its right to do so later, but the Issuing Office may consider late objections and/or proposed changes if to do so, in the Issuing Office's sole discretion, would be in the best interests of the Commonwealth. Except as provided above, the Issuing Office may, in its sole discretion, accept or reject any proposed changes to the standard contract terms. All final terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

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

Offeror Response

LOT 2 - 401(a) PLAN

TECHNICAL SUBMITTAL

III-1.a. Statement of Work

Pursuant to Act of June 12, 2017, P.L. 11, No. 5 (“Act 2017-5”), 71 Pa.C.S. §§5101-5958 (“Enabling Statute”), the State Employees’ Defined Contribution Plan was established, to be administered by the Pennsylvania State Employees’ Retirement Board and its professional staff (“Board”) in accordance with §401(a) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereto (“401(a) Plan”). The Board shall be setting forth the terms and conditions of the 401(a) Plan in a plan document and trust declaration. The 401(a) Plan may also be referred to as the Commonwealth of Pennsylvania Defined Contribution Program. The 401(a) Plan is required to be launched no later than January 1, 2019 and demonstrate operational capability to allow for demonstrations, acceptance testing, and verification of operational readiness by November 30, 2018.

The Board is seeking proposals from qualified vendors (“Offerors”) to serve as a third-party administrator (“TPA”) to provide full service administration services for the 401(a) Plan. After an initial start-up period, the 401(a) Plan is to be administered without any costs to the Commonwealth of Pennsylvania. All other costs are borne by the participants of the 401(a) Plan, with the exception of implementation costs, which are to be borne by the Commonwealth of Pennsylvania. The Board reserves the right to terminate the 401(a) Plan Contract upon ninety (90) days written notice. At a minimum, qualified vendor should be able to meet the following specifications and demonstrate ability to provide the following services:

Objective	Description
Defined Contribution – Organizational Experience and Client Service	<ul style="list-style-type: none">• Offerors are expected to demonstrate strong and relevant experience and commitment to service of the public defined contribution marketplace with specific experience administering 401(a) hybrid public optional plans evident within client profile information.• Offerors are expected to provide evidence of understanding and compliance with Board requirements that an experienced team of dedicated account personnel be assigned exclusively to the 401(a) Plan consistent with the specific requirements and factors attendant with the creation of a new public DC plan, and the Board expects that staffing levels will be increased appropriately in-line with the growth of the 401(a) Plan.• Evidence of client satisfaction and effective relationship management should be obtained through the provision of at least four (4) references of public sector DC recordkeeping clients for whom services have been provided for at least five (5) years and two (2) references from public sector DC clients that have successfully transitioned to the Offeror within the last two (2) years. Optimally, a reference

Objective	Description
	<p>from another newly established 401(a) plan implementation will be offered.</p> <ul style="list-style-type: none"> • Organizational commitment to technology and supporting architecture should be reinforced by documentation of reasonable information technology and system resources in support of its service offerings, investment in the development and maintenance thereof, and effective documentation and testing of data security, disaster recovery, and business continuity plans with willingness to permit appropriate audits, access and required cost mitigation for potential participant exposure due to data breaches. • Organizational responsibility and commitment to serve the best interests of the 401(a) Plan and its participants and beneficiaries is expected to be demonstrated through the provision of licensed representatives with contractually enforceable standards of behavior. • Organizational commitment to provision of reasonable and transparent costs in line with the services delivered is required to be demonstrated through configuration options, features, and flexibility. • Commitment to service quality, achievement of metrics, and revenue transparency should be demonstrated through the willingness to put meaningful monthly fees at risk for non-mitigated failures to provide acceptable services and full revenue transparency reporting.
<p>Defined Contribution – Trust, Custodial, Recordkeeping, and Administration Services</p>	<ul style="list-style-type: none"> • Product and service capability and fit with Board requirements and customizations should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable. • Response material should indicate an understanding of Board requirements, familiarity and successful performance with similar requirements, and the presence of creative and/or innovative solutions to specific enumerated requirements and known areas of challenges (specifically the successful establishment of a newly created 401(a) plan and the requirement to process all distributions for the 401(a) Plan through the Pennsylvania Treasury).

Objective	Description
	<ul style="list-style-type: none"> Recordkeeping and Administration services, including the comprehensive provision of services to participants, the Administrator, and other stakeholders should be comprehensively described, include sufficient details on the systems and personnel involved, and should indicate a mature service model with a commitment to quality appropriately balancing technological efficiencies with proactive personal service.
Defined Contribution – Communication and Reporting Services	<ul style="list-style-type: none"> Communications and reporting offerings should indicate capability and fit with Board requirements. Customization and overall approach should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable. The provision of example materials, proposed staffing and communication plans, and other information indicating the successful and effective delivery of services to similarly situated clients is expected and should reinforce stated willingness and abilities.
Defined Contribution – Compliance Services	<ul style="list-style-type: none"> Compliance support and related offerings should indicate capability and fit with Board requirements. Customization and overall approach should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable.
Defined Contribution – Investment Services	<ul style="list-style-type: none"> Investment menu support and philosophical approach should indicate comprehensive capability to support Board menu design, portfolio allocation funds, and fit with Board requirements. Compliance with primary and optional contingent proposal structures related to investment management and other services (advice and managed accounts) should be present. Customization and overall approach should be apparent and reinforced through a Offeror’s narrative response and discussions, as applicable.

Objective	Description
Defined Contribution – Implementation Services	<ul style="list-style-type: none"> • Proposals are expected to include significant details and narrative response and discussions which indicates experience with performing new 401(a) plan implementations and the associated implementation of integrations and hybrid plan choice activities. • Narrative details and evidence of successful implementations and case examples indicating smooth implementations occurring over a reasonable time frame are expected.

Provide an executive summary (no longer than two (2) pages) of your understanding of the Statement of Work and your unqualified ability to provide the services required.

III-2.a. Statement of the Project

Provide an executive summary of your response in bulleted format (no longer than four (4) pages) that indicates the key differentiated features of your firm and why its proposal to the Board for defined contribution recordkeeping services should be chosen.

III-3.a. Work Plan

The Offeror shall complete and submit the Questionnaire, as set forth in **Appendix L-2**, as the response to the III-3.a. Work Plan below. Using the task descriptions below as your reference points, provide a response to each question in the Questionnaire in narrative form describing your qualifications and your technical plan for accomplishing the work, as applicable. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. If more than one approach is apparent, comment on why you chose this approach.

Tasks:

A – 401(a) Defined Contribution – Organizational Experience and Client Service

1. Offeror will be an experienced provider of recordkeeping for public defined contribution plans with reasonable experience with clients similar to the Board.
2. Offeror’s organization will be stable, with strong credit ratings (if debt ratings currently are applicable) and will maintain reasonable insurance coverage.
3. Offeror will establish and maintain an experienced team of professionals to provide service to the account with limited professional turnover rates.
4. Offeror’s professionals are expected to be broadly available by e-mail and phone and will exhibit prompt response (twenty-four (24) hour acknowledgment) to Board inquiries.

5. Offeror will provide and maintain necessary information technology and system resources in support of its service offerings, invest in the maintenance thereof, and have documented and tested data security, disaster recovery, and business continuity plans.
6. Offeror will demonstrate a commitment to cybersecurity and data privacy which will be supported by a contractual requirement to provide (at Offeror's sole cost) at least one (1) year of credit monitoring services for any and all participants for which a data breach may have exposed Personally Identifiable Information (PII).
7. Offeror agrees to provide the Board a detailed contingency plan for disaster recovery of Offeror's electronic data processing equipment that assures some system functionality will be back in operation within forty-eight (48) hours of a disaster.
8. Offeror will have an established backup plan in place that ensures the Offeror can restore all participant data, transaction history, and other client-related data in the event of a system malfunction or failure.
9. Offeror must have an established disaster recovery plan in place that includes procedures and regularly scheduled testing of the cut over to the recovery site and return switch over to the main site.
10. Offeror agrees that information regarding the 401(a) Plan that is contained in all materials, records, documents, accounting records, software programs, computer tapes or disks that are purchased, developed and /or maintained by Offeror for purposes relative to accounts of the 401(a) Plan belong to the Board and shall be accessible to the Board at all times.
11. Offeror shall maintain duplicate computer tapes or discs of all records in connection with the 401(a) Plan. Duplicate records shall, at all times, be kept offsite and in a place of safekeeping as approved by the Board.
12. Offeror shall open all books, records, ledgers and journals relating to the 401(a) Plan for inspection and audit by the Board or its designee, at any time during normal working hours, with seventy-two (72) hours advance notice. Records requested shall be provided by Offeror on electronic media in an acceptable format within thirty (30) days from receipt of request.
13. Offeror agrees that all information obtained by it from any individual state or local employees, whether the employee becomes a participant or not, shall be kept in absolute confidence and shall not be utilized by Offeror or any of its officers, directors, agents or employees in connection with any other matter without prior written consent of the Board. Furthermore, only 401(a) Plan investments specifically approved by the Board for use in connection with the 401(a) Plan will be permissible for discussion in connection with the 401(a) Plan. In no event will Offeror be permitted to solicit or market any other investment product to participating or eligible participants.
14. The Offeror is to provide account representatives, a regional manager, and local office staff devoted solely to servicing the 401(a) Plan. Offeror must maintain an office in the metropolitan Harrisburg area that can be used to facilitate educational meetings and drop-in hours for participants. Service representatives are to be licensed in NASD 6, 63 and have a Pennsylvania insurance license. They must be trained to service the 401(a) Plan, to explain the 401(a) Plan and to enroll employees who

desire to participate in the 401(a) Plan. Account representatives are to be knowledgeable in Section 401(a) plans. Account representatives must be employees of the firm. No subcontracting of account representatives will be permitted. Service representatives are strictly forbidden from marketing or otherwise soliciting any investment or service other than 401(a) Plan investment or services and from transacting any other business with employees beyond the duties specified within the Agreement. Any breach of this requirement shall constitute just cause for termination of the Agreement.

15. Offeror shall provide service representatives, who are duly licensed to sell securities and insurance products under applicable law and trained to service the 401(a) Plan, to explain the 401(a) Plan and to enroll employees who desire to participate in the 401(a) Plan. Service representatives are strictly forbidden from marketing or otherwise soliciting any investment or service other than 401(a) Plan investment or services and from transacting any other business with employees beyond the duties specified within the Agreement. Any breach of this requirement shall constitute just cause for termination of the Agreement.
16. Offeror must have the ability to provide recordkeeping services in an unbundled fashion that uses per-participant fees assessed on either a monthly or a quarterly basis, in arrears, using period-end counts of participants with a balance. Base fees paid by the Board, including implementation costs for the 401(a) as applicable, and per-transaction fees paid by the requesting party may be used but must be transparently communicated and reasonable.
 - a) Offerors must clearly articulate their revenue requirement and expectations from the 401(a) Plan and overall account relationship on an annual basis and articulate/define any and all assumptions relied upon to generate such revenue.
 - b) Proposals for core recordkeeping services made with contingent assumptions of usage of certain products (including, but not limited to proprietary investment management vehicles and advice / managed accounts) must be clearly defined and such a contingent proposal must be accompanied by a proposal that clearly articulates the proposal for core recordkeeping services without such services.
 - c) Quarterly application of fees to participant accounts will be supported as follows:
 - i. Recordkeeping and administration fees structured as an asset based and a flat dollar platform fee.
 - ii. Apply an asset based wrap fee and/or a per participant fee to all participants.
 - iii. Rebate all revenue sharing directly back to participants on a quarterly basis at a minimum.
 - iv. Ability for a sub-set of participants (with high balance) to receive an asset-based fee rebate or ability to cap administrative fees.
 - v. Any fees associated with the calculation of the net asset valuation for a white label fund are part of that fund's unit value and accrued on a daily basis.
 - vi. White label funds that are single manager funds do not incur unitization costs.
 - d) Offeror must clearly identify ALL additional and/or transactional fees that may apply for both in scope as well as optional items.
 - e) Offeror must put forward its estimate of an annual communications budget applicable to this relationship.
 - f) Offeror must clearly outline any/all assumptions and conditions relied upon, if any, in assembling its response and economic proposal.

17. The Board may assess monetary penalties against Offeror for failure to meet performance standards stated within the Agreement if not met for two (2) consecutive quarters. The Board shall notify Offeror, in writing, of its intention to invoke a penalty that will be five percent (5%) of the Offeror's monthly compensation as set forth in the Agreement. The Offeror shall reimburse the 401 (a) Plan participants any penalty assessed in such manner as directed by the Board. Upon the Offeror's receipt of written notice of the Board's intention to invoke a monetary penalty, the Offeror shall have sixty (60) days to research the problem and remedy it, to the sole satisfaction of the Board. If remedied within the sixty (60) days, the Board may, at its sole discretion, decide to waive the monetary penalty.
18. Any revenue sharing, including, but not limited to, shareholder servicing fees, administrative fee payments and sub-transfer agent fees received by the Offeror or its affiliates and retained service providers must be accounted for, reported to the Board and rebated directly back to participants on a quarterly basis at a minimum.
19. Offeror agrees that the sole compensation for performing the services under any resulting Agreement shall be the amount agreed to in the Agreement. On a quarterly basis, the Contractor will disclose to the Board all compensation or remuneration from investment companies associated with the 401(a) Plan, all of which will be used to offset recordkeeping costs or be passed on to the Board. The Contractor's failure to comply will constitute a material breach of the Agreement.
20. In the event of a transition to a new provider after entering into a contract with the Board, Offeror shall be a responsible partner in that transition. Offeror is expected to provide a timetable and method of transfer of all data for possible conversion to a new TPA. All account balances must be reconciled in an appropriate and timely manner prior to such a transfer.
21. Offeror shall provide a subcontracting plan for all subcontractors, including small diverse business and small business subcontractors. As noted above, in Part 111-1.A.14, no subcontracting of account representatives will be permitted. The Offeror is prohibited from subcontracting or outsourcing any other part of the services without the express written approval from the Commonwealth. Upon award of the contract resulting from this RFP, subcontractors included in the proposal submission are deemed approved. For each position included in your subcontracting plan provide:
 1. Name of subcontractor;
 2. Address of subcontractor;
 3. Number of years worked with the subcontractor;
 4. Number of employees by job category to work on this project;
 5. Description of services to be performed;
 6. What percentage of time the staff will be dedicated to this project;
 7. Geographical location of staff; and

8. Resumes (if appropriate and available).

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

B – 401(a) Defined Contribution – Trust, Custodial, Recordkeeping, and Administration Services

1. The Board, an independent administrative board of the Commonwealth of Pennsylvania, which has been directed to administer the 401(a) Plan pursuant to and in accordance with the Enabling Statute will serve as Administrator and shall be the Trustee. The Offeror must administer the 401(a) Plan in accordance with applicable federal law, the enabling statute and any other applicable State law, and the 401(a) Plan and trust documents ("401(a) Plan Document").
2. As retained by the Trustee, the Offeror will provide custodial services directly, through an affiliate, or through another qualified entity. Such custodial services will include, but are not limited to the following: register and safe-keep all 401(a) Plan assets, to execute and settle all buy, sell and reinvestment transactions, and to collect and report all dividend and interest payments.
3. The Commonwealth of Pennsylvania Treasury is expected to act as Trustee and Custodian for the 401(a) Plan through a sub-custodial agreement with BNY Mellon. Offeror must maintain an effective relationship with the firm as a qualified third-party provider of custodial services. All cash contributions to the 401(a) Plan pending investment, all cash being transferred among the investment options offered by the 401(a) Plan and all cash awaiting distribution to the 401(a) Plan participants and beneficiaries will be held in a custodial bank account for the exclusive benefit of 401(a) Plan participants and their beneficiaries. It is expected that the Offeror will, in a timely and accurate manner, provide direction to the Treasury to facilitate the movement of cash and investments, direct the deposit of daily payroll, rollover, and any other checks, and provide information for the distribution of checks or ACH payments.
4. Offeror will deduct administrative fees based on a percentage of assets on a monthly basis and will direct quarterly payments to certain entities at the direction of the Board. Offeror will calculate, track, and report monthly to the Board on all payments and related activities. The Board may change the administrative fees and payment methodology from time to time.
5. Offeror will accommodate receipt of contributions daily via direct debit, ACH or other mutually agreeable format, including contributions by check.
6. Offeror will, with respect to any investment directed by the participants, process transactions according to the elections made by the participant and authorized by the Board.
7. Offeror will execute all buy, sell, and reinvestment direction from the Board or its duly appointed investment manager; and shall follow the direction of the participant in the investment of their individual account balances among the investment options made available under the 401(a) Plan.

8. Offeror will place trades that are directed after the close of any major stock exchange as of the next day the applicable stock exchange is open and conducting business. In the event that a trade is not placed correctly by the Offeror and the 401(a) Plan experiences a loss as a result, the Offeror will be responsible for the funding of the loss to the 401(a) Plan. In the event that a trade is not placed correctly by the Offeror and the 401(a) Plan experiences a gain as a result, the 401(a) Plan will receive the benefits of the gain.
9. Offeror's recordkeeping system(s) must have the capability to:
 - a) administer single and multi-manager white label and portfolio allocation funds, including account unitization, account rebalancing instructions, etc.;
 - b) execute fund replacements and mappings as directed by Administrator (underlying managers within white label structures, white label funds, and portfolio allocation funds);
 - c) process daily valuation and settlement of trades for investment funds;
 - d) accurately maintain and record-keep participant accounts established pursuant to the terms of a 401(a) plan;
 - e) administer self-directed brokerage accounts ("SDBA") and/or work with a third-party provider of SDBA services;
 - f) track contributions and other various metrics usually provided by a TPA and as directed by the Board to be reported;
 - g) maintain transaction history with archiving capabilities;
 - h) provide the 401(a) Plan administrator with appropriate demographic information, as updated from a mutually agreed upon payroll file structure and allow for viewing of beneficiary information and facilitate updates by the 401(a) Plan administrator and participants; and
 - i) Provide access to participant data via TPA software to give the Board the ability to produce its own reports.
10. Offeror will provide or facilitate the following services related to Benefit Payments:
 - a) Offeror will process withdrawals and distributions, including any required minimum distributions, properly requested and consented to by the participant, beneficiary, and alternate payee, if applicable, and approved by the Board.
 - i. The Commonwealth of Pennsylvania Treasury issues all benefit payments, per the instruction of the TPA. All withdrawals and distributions must be processed through the Commonwealth of Pennsylvania Treasury (taking approximately ten (10) days and requiring additional system interfaces) in compliance with *Commonwealth of Pennsylvania Fiscal Code 72 P.S. §307 – Audits of and warrants for disbursement*. Communication of the information required to process payments must be in an acceptable format for the PA State Treasury, as set forth in Appendix J. Benefit payments are mailed three (3) times per month, with the frequency being subject to change. Offeror must allow for data communications, to the PA State Treasury, to initiate direct deposit or to produce hard checks. Offeror must also provide the necessary data in the required format for the Commonwealth of Pennsylvania Treasury to process federal withholding tax payments to the IRS.
 - ii. The Offeror will also provide participant benefit payment information to the Board on an Excel spreadsheet, or a similar format, as requested by the Board.

- b) Payroll deductions will be made utilizing deduction codes and deductions may be made weekly, biweekly, semimonthly, and/or monthly according to employer payroll processing cycles.
 - c) Offeror will comply with relevant federal income tax withholding and reporting laws on benefit payments and provide timely reconciliation and mailing of all appropriate federal or state required tax forms.
 - d) Offeror will have an established process to handle RMD processing for participants and beneficiaries.
 - e) Offeror will have an established process to handle death benefit processing. In its role as the TPA, Offeror will take calls from family, collect death certificates, confirm beneficiary information, and process the transfer to the appropriate beneficiary(ies).
 - f) Offeror will be responsible for notifying the Board on a periodic (not less than annual) basis of all participants for whom Offeror receives returned mail or otherwise does not have a current mailing address. It is expected that the Offeror will utilize a research platform to help the 401(a) Plan locate these participants if necessary. The Board will be responsible for determining which Participants and beneficiaries have outstanding distribution checks, and the Offeror will include these participants in their searches and assist the Board in outreach for updated mailing addresses.
 - g) Offeror will provide to participants that have terminated service a conformation of their request for benefit payment. (See **Appendix N**)
 - h) Offeror will provide documentation and/or live testimony upon request during any administrative appeals process to support the Board.
11. Offeror will provide or facilitate the following services related to Administrative Reporting:
- a) Offeror will allow participants to update their beneficiary designation via an online platform or call-center facilitated process. This includes online enrollment for new participants
 - b) Offeror will review any forms (e.g., beneficiary designation forms) submitted by participants for completeness and create electronic images of such forms to make them viewable on an online platform.
 - c) Offeror will issue participant statements after the end of each plan year quarter; three quarterly statements and one annual statement These statements should include a cumulative review of historical returns, fees, and a current valuation of each investment option. It will also include a detailed summary of the participant's activity during the statement period. It will also include a separate summary of any SDBA balances, employer contributions, and participant voluntary contributions, including rollovers from other plans.
 - d) Participant statements will be mailed directly to participants at their home addresses, as supplied by the participants, and/or posted directly to the participant's online account with Offeror.
12. Offeror will provide email notification to the online address supplied by each participant when the participant's statement is available on the online platform.
13. Offeror will provide three (3) quarterly and one (1) annual customized statements mailed to the participants who opt to receive paper statements.

14. Offeror will provide a transmission file for downloading system-generated changes that impact payroll processing. This includes, but is not limited to, employee voluntary contribution rate changes and other payroll-related activities.
15. Offeror will use its best efforts to notify participants of any over deferral amounts being refunded to them prior to payment distribution, potentially utilizing multiple communications channels. Payroll has primary responsibility for ensuring that IRS limits are adhered to.
16. Offeror will provide or facilitate the following Voice Response Unit (“VRU”) services:
 - a) Offeror will provide 401(a) Plan Participants toll-free access to the VRU modules.
 - b) Offeror will use commercially reasonable efforts to ensure that the VRU system is available seven (7) days a week and twenty-four (24) hours a day, except during maintenance downtime.
 - c) Offeror will issue each participant a Personal Identification Number (“PIN”), which allows the participant access to 401(a) Plan and individual account information or transactional capabilities.
 - d) Services will include access to account balances, requesting mailed brochures or other 401(a) Plan literature, current deferral rates, and other information the Board deems necessary. The Board expects that the Offeror will be able to make reasonable customizations to the VRU for the Board at no additional cost.
17. Offeror will provide or facilitate the following services provided by a Customer Service Representative (“CSR”) team (“CSR Team”):
 - a) Offeror will provide participants access to the services of a CSR Team by means of a toll-free number.
 - b) Offeror will make CSRs available to provide participants with 401(a) Plan information and to initiate or execute 401(a) Plan transactions upon receiving oral instructions from participants.
 - c) Toll-free number must minimally provide 8 AM to 6 PM coverage within the US Eastern Time Zone.
 - d) The Board expects that the Offeror will be able to make reasonable customizations to call center processes and procedures for the Board at no additional cost.
18. Offeror will provide or facilitate the following services provided by an Internet or Online Platform:
 - a) Offeror will provide participants twenty-four (24) hour access to their account information through a secure online or internet web site.
 - b) Offeror will also provide the Board online access to a secure plan sponsor web site.
 - c) The Board expects that the Offeror will be able to make reasonable customizations for the Board to the website at no additional cost.
 - d) The website must provide an interactive experience to allow for participants to change allocations, process transfers between investment options, view daily unit prices, view periodic investment returns, and complete online enrollment.
 - e) Website must also allow for posting of current news items or other information deemed relevant by the Board, on a timely basis.
19. Subject to Board authorization and direction, Offeror will process the following types of changes to the individual account of any participant based on the electronic instructions, or the oral instructions

if conveyed directly to a CSR, of any person who is properly authenticated by providing his or her Social Security number and PIN (or user name and password for Secure online or web site access):

- a) Investment Transfers
 - b) Investment Election Changes
 - c) Distributions and approved Withdrawals
 - d) Address changes for terminated participants (CSR only)
20. Offeror must have systems and procedures in place to provide assistance to the 401(a) Plan Administrator with qualification of / capabilities to process Plan Approved Domestic Relations Orders (PADRO), Account Transfer to Beneficiary(-ies) in case of death of Participant, and Plan-to-Plan Transfers, as specified in the relevant plan documents. Fees, if any, for such services must be fully disclosed and reasonable.
 21. Offeror must provide legal and tax best practice knowledge and consultation to the Board on any plan issues.
 22. Offeror shall provide periodic review of the 401(a) Plan as requested by the Board.
 23. Offeror shall assist in the review and revision of the 401(a) Plan Document as needed.
 24. Offeror shall use the 401(a) Plan's Federal Tax Identification Number to process all annual tax documents to participants and government entities on behalf of the 401(a) Plan. The 401(a) Plan also requires a detailed file breakout on the tax forms that were issued at year-end. All proper income tax reporting shall be provided to the participants, the Pennsylvania Department of Revenue (if needed), and various other jurisdictions if required. Information must be provided to the 401(a) Plan and its participants in a timely manner in accordance with federal requirements.
 25. Offeror must be capable of allowing participant contributions to be made as a fixed dollar amount or as a percentage of salary.
 26. Offeror must be capable of allowing the participant to make mandatory contributions and voluntary contributions. The 401(a) Plan will require that separate records are provided for employer contributions, participant pre-tax contributions, and participant post-tax contributions.
 27. Offeror will have the ability to accommodate weekly, biweekly, and monthly payroll feeds from multiple employers and employing agencies and should expect that payroll will be received daily.
 28. Offeror must be capable of processing employer payroll through FTP file transfer or by use of a payroll portal that employers have the ability to access. Contributions must be recorded to participant's accounts no later than one business day after being received, and allocations to the investment products chosen by the participant will be the sole responsibility of the Offeror. Any gain caused by lag of trade initiation must be forfeited to the 401(a) Plan, and any losses due to a lag of trade initiation must be reimbursed to the 401(a) Plan by the Offeror.
 29. All electronically transmitted social security numbers must be protected, and the Offeror must indicate what safeguards are in place to ensure this information is not being accessed by unauthorized users.

30. Offeror must be able to accept and capture deferral data, employee data, and separation of service information.
31. Offeror must be able to provide each employer with a detail file of the changes made by participants for input into their respective payroll systems. The Offeror must have a working relationship with individual employers so that they can resolve any issues regarding the data being exchanged.
32. Payroll deferral information will be provided to the Offeror by the employer via various reporting methods (hardcopy or electronically) for the purpose of recordkeeping and verification to release the investment funds to the investment managers. (See **Appendix M-2**)
33. Offeror must be able to accommodate a minimum of ten (10) core investment product selections per participant, including a target date fund suite and a SDBA option. The Offeror must also be able to maintain profile funds consisting of various combinations of the core funds, rebalanced quarterly.
34. Offeror must be able to establish a necessary amount of Unallocated 401(a) Plan Asset accounts to use for applying any unanticipated gains or administrative fees the 401(a) Plan may charge.
35. Offeror must perform annual reviews of the employee database in order to determine the number of deceased participants and participants with incomplete records. The Offeror is expected to utilize a research system to assist in locating updated contact information. The Offeror will follow-up with beneficiaries and participants in order to maintain up-to-date records.
36. Offeror must have appropriate errors and omissions insurance, and will be held liable for any errors to participant accounts due to untimely and improper recordkeeping.
37. Offeror will provide SSAE18 (and successors) review of internal controls to Board for all in-scope service areas.
38. Offeror will need to provide the Board all necessary participant distribution information that relates to any arbitration and grievance transactions within 24 hours after the day the request is received so that the Board can create an invoice for the funds distributed to the participant during the wrongful termination. The Offeror will need to have knowledge of current IRS guidelines related to retroactivity.
39. Offeror must provide to the Board, in specific detail, what information that the Offeror will need to calculate any retroactive loss of earnings adjustments. The Offeror must also provide the amount of time that it will take the Offeror to complete the loss of earnings adjustment calculations, as well as provide the Board with all of the specific data fields that the Board or Commonwealth of Pennsylvania employers will need to submit in order for the Offeror to complete the loss of earnings adjustment calculations.

C – 401(a) Defined Contribution – Communication and Reporting Services

1. Communications support including personnel and educational must be provided and made available for the Board needs. Offeror must have a communications staff for the purpose of collaborating with

the Board to produce an agreed upon number of education and communication materials that are designed to meet the information needs of specific 401(a) Plan participants, their beneficiaries and the Board, as well as potential 401(a) Plan participants on an ongoing basis, specifically, including digital and website educational materials and the development of communications for 401(a) Plan changes.

2. All communication materials must be approved by the Board before being distributed to participants. The Board has the ability to suggest design concepts that help align the material with standard Commonwealth of Pennsylvania branding. The Offeror must make available a communications team that the Board can work with on a regular basis.
3. Offeror must develop a detailed communication plan for all communications efforts.
4. Offerors must be willing to assist with the design and implementation of a process and procedure to manage both initial and ongoing communication for all active, terminated, and vested participants in the 401(a) Plan. Such communications expected to include:
 - a) provision of Plan Features and Highlights, Investment Fund information, and TPA contact information for inclusion with 401(a) Plan new member packets
 - b) having representatives at various locations throughout the state
 - i. Site / meeting volumes are subject to launch variability. The Offeror will maintain a level of account representatives as mutually agreed to with the Board. Account Representatives are to be licensed in NASD series 6, 63, and have a Pennsylvania Insurance License. Account Representatives are to be knowledgeable in Section 401(a) plans. The Account Representatives must be employees of the Offeror. No subcontracting of Account Representatives will be permitted.
 - c) participate in benefit fairs held by state.
 - d) provide periodic group meetings (separate from lunch and learn) with participants on a statewide basis, at employee locations, or as otherwise approved by the Board. This includes general investment education information.
 - e) provision of custom messaging on website.
 - f) assist with National Retirement Security Week.
 - g) cooperative incorporation of Board branded look/messaging
 - h) provide annual plan review along with presenting to the Board as requested
 - i) provide appropriate targeted communications on topics relevant to the 401(a) Plan's participants each year.
 - j) materials must be updated and available for distribution sixty (60) days after a change in tax law, plan administration, or investment options.
 - k) develop and mail one (1) survey to participants annually as requested, and provide survey results and analysis within thirty (30) days of receiving responses unless there is reasonable complexity such that a longer time period is necessitated.
 - l) as needed, the Offeror will conduct direct mail campaigns to distribute notices, such as for participants who do not have an updated beneficiary form.
 - m) provide quarterly newsletters that contain articles that address the needs of the 401(a) Plan participants in a timely manner. The newsletters will provide all participants (active, inactive, and terminated) with an informative newsletter on topics pertaining to the 401(a) Plan, and the newsletters will be pre-approved by the Board prior to distribution. The newsletter should include articles for active employees, as well as retirees.

- n) provide the Board with assistance in developing materials specific to the Board's State Employees' Retirement System website.
5. Offeror must provide quarterly management reporting at both 401(a) Plan and employer level, including:
 - a) monthly and quarterly trust/accounting statements;
 - b) production of comprehensive performance information for inclusion in quarterly statements;
 - c) production of fund fact sheets quarterly (ability to customize for white label funds, including single manager white label funds); and
 - d) Production of quarterly investment options at a glance.
 6. Offeror must develop and produce quarterly participant statements, plan enrollment, participant transaction notification, and other strategic communications materials as agreed upon by Offeror and the Board as part of the recordkeeping services and included within core participant fees. More specifically:
 - a. The participant account statements shall list beginning values, contributions, transfers, withdrawals, fees, and ending values for the quarter. Separate information should be reported for all retirement plans offered. These statements should include a cumulative review of historical returns, fees, and a current valuation of each investment option. It will also include a separate summary of any SDBA balances. Statement shall be released to participants within fifteen (15) business days after the end of each quarter.
 - b. Offeror must ensure participant distribution statements lists the type of benefit option selected, federal withholding, remaining account balance, gross amount, year to date payments, and net pay.
 7. Offeror shall demonstrate the ability to provide 401(a) Plan letterhead, envelopes, and postage for benefit payments that are mailed by the Board.
 8. Offeror may charge for the costs of production or reproduction of communications other than participant statements, participant transaction notification, plan enrollment and other strategic communications materials as agreed upon by Offeror and the Board provided that an advance cost estimate is prepared by Offeror and mutually agreed upon in writing by both parties.
 9. Offeror may be required to assist with the regular updates of summary plan documents ("SPD") or posting of current SPDs on the vendor's participant website for access by participants.
 10. Offeror must be able to communicate directly with participants concerning relevant changes in tax legislation which affect relevant defined contribution plans, changes in enrollments, investment options, transmittal of distributions, and distribution of quarterly benefit statements including required fee disclosures. Telephone representatives are to be knowledgeable of the requirements of the Enabling Statute, the 401(a) Plan Document, plan provisions, and IRC §401(a).
 11. The information provided in all such communications should also be available at a centralized web location, and should be sent out by email upon request.
 12. Provide monthly administration reports to the Board as determined.

13. Provide to the Board, timely reconciliation of monthly statements between investment manager and records maintained by the Offeror.
14. Provide to the Board and Board staff a timely reconciliation of the annual IRS participant tax forms to annual disbursements and 401(a) Plan level tax forms.
15. Report timely, the investment rate of returns to the Board, and maintain historical rates of returns for the selected investment options consistent with SEC and AIMR requirements.
16. Offeror must maintain an office or nexus in the metropolitan Harrisburg area for Board staff, 401(a) Plan Representatives, and participants to utilize for various purposes that is solely devoted to serving the Board. Offeror is to provide, in addition to account representatives as discussed elsewhere in this statement, a regional manager and staff to operate this office.
17. Offeror must provide all administrative forms (provide examples) necessary to operate the 401(a) Plan. This includes enrollment forms, change of deferral forms, change of information forms, beneficiary forms, plan to plan transfer forms, and normal withdrawal forms. The forms may be provided to employees via reasonable access channel(s). Forms must be uniform for all participants, and must be pre-approved by the Board.
18. Offeror must be able to provide administrative assistance to participants in their selection of the appropriate benefit payout method.
19. Offeror shall make available, in Excel or a similar format, participant contribution reports, participant disbursement reports, participant balance reports, fund balance reports, fund demographic reports (age group, account balance, etc.), census reports, analytic reports, and be willing to work with the 401(a) Plan to accommodate any special reporting needs. Participant related reports must contain fields that include the type of payment, gross and net amounts paid, full SSN (with the ability to mask), pay dates, effective dates, federal withholding tax, and other additional fields that may be required. Demographic reports shall at a minimum consist of plan participation by employer, deferral accounts by salary group or age, and others that could be requested by the Board.
20. Every reasonable effort will be made to provide all participants with information relative to the 401(a) Plan as well as access to enrollment on a continuing basis. Such efforts will consist of, but are not limited to:
 - a. Publicizing the 401(a) Plan through internal communications, brochures, various employee organization publications, internet, direct mailings, and other types of distribution outlets.
 - b. Preparation of a detailed brochure that will be available to all participants.
 - c. Conducting meetings with employees (included in the representative days above). Such meetings will be scheduled and held at the discretion of the Board, at places throughout the Commonwealth of PA where satisfactory attendance can be expected. Such meetings will be organized by the Offeror and conducted by representatives of the TPA who have a thorough knowledge of each investment product offered. Meetings must be posted and updated on a monthly basis on the 401(a) Plan's website.

D – 401(a) Defined Contribution – Compliance Services

1. Offeror will provide periodic compliance tests as required by the circumstances of the 401(a) Plan.

2. Offeror will provide legal services and assistance to the Board in implementing new laws, regulations, and guidance.
3. Offeror will supply the Board annually with summary annual report(s) with information on the 401(a) Plan.
4. Offeror will prepare and distribute to participants all disclosures currently and prospectively required by DOL and/or IRS regulations, as applicable.

E – 401(a) Defined Contribution – Investment Management Services

1. Offeror will provide a primary proposal that leverages an open architecture recordkeeping structure with no proprietary investment management vehicles and/or contingent requirements for services including advice and managed accounts.
2. As authorized by the Board, a Offeror may offer a proposal containing proprietary investment vehicles and/or contingent requirements for services including advice and managed accounts (but must clearly specify the offset and/or impact to primary proposal pricing).
3. Offeror must accurately and fully disclose all investment expenses and revenue-sharing arrangements associated with all investment offerings through the 401(a) Plan. This includes both proprietary and non-proprietary investment options.
4. Revenue-sharing (including sub-transfer-agent fees and proprietary fund investment fund sharing) monies, for both proprietary and non-proprietary products, MUST be disclosed to the Board, and credited back to the participants.
5. Offeror may offer a tool to all participants that they can utilize to determine an appropriate asset allocation based on their unique circumstances.
6. The Offeror must be able to provide managed account services to individual 401(a) Plan participants. The firm must stand as a fiduciary, if it provides that service directly, or through a partnership with another financial services firm.

F – 401(a) Defined Contribution – Implementation Services

1. Offerors will provide a well-articulated description of the effective and smooth implementation of a new 401(a) plan implementation and the associated integration components of hybrid plan choice activities.
2. Implementation process details must clearly outline expectations of the Board, timelines, and resources involved.
3. If selected, Offeror will effectively and in a risk-controlled manner facilitate the establishment and launch of the 401(a) Plan no later than January 1, 2019 and demonstrate operational capability to allow for demonstrations, acceptance testing, and verification of operational readiness by November 30, 2018.

III.4.a. Training. If appropriate, indicate recommended training of Board personnel. Include the Board personnel to be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

Offeror Response

III-5.a. Financial Capability. Describe your company's financial stability and economic capability to perform the contract requirements. Provide your company's financial statements (audited, if available) for the past three fiscal years. Financial statements must include the company's Balance Sheet and Income Statement or Profit/Loss Statements. Also include a Dun & Bradstreet comprehensive report, if available. If your company is a publicly traded company, please provide a link to your financial records on your company website in lieu of providing hardcopies. The Commonwealth reserves the right to request additional information it deems necessary to evaluate an Offeror's financial capability.

Offeror Response

III-6.a. Objections and Additions to Standard Contract Terms and Conditions. The Offeror will identify which, if any, of the terms and conditions (contained in **Part VI** below) it would like to negotiate and what additional terms and conditions the Offeror would like to add to the standard contract terms and conditions. The Offeror's failure to make a submission under this paragraph will result in its waiving its right to do so later, but the Issuing Office may consider late objections and requests for additions if to do so, in the Issuing Office's sole discretion, would be in the best interest of the Commonwealth. The Issuing Office may, in its sole discretion, accept or reject any requested changes to the standard contract terms and conditions. The Offeror shall not request changes to the other provisions of the RFP, nor shall the Offeror request to completely substitute its own terms and conditions for **Part VI** below. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

The Offeror's failure to make a submission under this **Section III-6.a.** will result in its waiving its right to do so later, but the Issuing Office may consider late objections and/or proposed changes if to do so, in the Issuing Office's sole discretion, would be in the best interests of the Commonwealth. Except as provided above, the Issuing Office may, in its sole discretion, accept or reject any proposed changes to the standard contract terms. All final terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

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

Offeror Response

PART IV

COST SUBMITTAL

IV-1. Cost Submittal. The information requested in this **Part IV** shall constitute the Cost Submittal. The Cost Submittal shall be placed in a separate sealed envelope within the sealed proposal, separated from the technical submittal. The total proposed cost should be broken down into the components set forth in **Appendix F-1 – Cost Submittal LOT 1 – 457(b) PLAN or Appendix F-2 – Cost Submittal LOT 2 – 401(a) PLAN**. The percentage of commitment to Small Diverse Businesses and Small Businesses should not be stated in the Cost Submittal. Offerors should **not** include any assumptions in their cost submittals. **For purposes of the preparation of the Cost Submittal LOT 1 – 457(b) PLAN, included in this PART IV is the Plan Information – 457(b). For purposes of the preparation of the Cost Submittal LOT 2 – 401(a) PLAN, included in this PART IV is the Plan Information – 401(a).** If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office pursuant to **Part I, Section I-9** of this RFP any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office’s written answer so that all proposals are submitted on the same basis.

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

PLAN INFORMATION –457(b)

Plan Statistics

DC Plan Data	Plan Totals as of 9/30/2017 457 Plan
Eligible participants (includes accounts without a balance)	96,622
Participants with deferral rate >0	33,416
Active participants with a balance	37,918
Terminated/vested participant accounts with a balance	17,289
Beneficiary/Alternative payee participant accounts with a balance	51
Total Accounts with a balance (excluding beneficiaries and alternate payees)	55,207
Active w/ balance Average Deferral Rate Excludes 0	Before Tax %:12.97 Roth %:10.04 Before Tax \$:139.65 Roth \$:85.78
Active w/ balance Average Deferral Rate Includes 0	Before Tax %:11.62 Roth %:8.71 Before Tax \$:126.14 Roth \$:72.37
Active w/ balance Median Deferral Rate Excludes 0	Before Tax %:5 Roth %:5 Before Tax \$:55 Roth \$:40
Active w/ balance Median Deferral Rate Includes 0	Before Tax %:5 Roth %:4 Before Tax \$:50 Roth \$:25
Average Participant Balance (Excluding participants with \$0 balances)	\$62,011
Median Participant Balance (Excluding participants with \$0 balances)	\$21,429

DC Plan Data	1 Year Totals as of 9/30/2017 457 Plan
New Enrollments Processed	3,713
Contributions (Participant, Employer, and Rollover, excluding in-plan Roth conversions) (\$)	\$201,158,298
Distributions (count)	26,774
Distributions (\$)	\$226,458,906
Hardship withdrawals (number)	299
Hardship withdrawals (\$)	\$1,087,064
Hardship withdrawals (avg \$)	\$3,635.67
Non-hardship in-service withdrawals (number)	33
Non-hardship in-service withdrawals \$	\$131,633
Non-hardship in-service withdrawals (avg \$)	\$3,988.89
Required Minimum Distributions (number)	4,893
Required Minimum Distributions (\$)	\$10,459,596
Required Minimum Distributions (avg \$)	\$2,137.67
non-RMD Inactive Distributions (number)	20,628
non-RMD Inactive Distributions (\$)	\$204,661,835
non-RMD Inactive Distributions (avg \$)	\$9,921.55
Other distributions* (number)	921
Other distributions* (\$)	\$10,118,776
Other distributions* (avg \$)	\$10,986.73
Domestic Relations Orders Processed	30
Web usage** (distinct users)	96,480
Web usage** (distinct user monthly average)	8,040
Web usage** (total logins)	578,447
Web usage** (total logins monthly average)	48,204
VRU usage** (total calls)	49,242
VRU usage** (total calls monthly average)	4,104

*Other Distributions includes Death claims, QDRO payments, in plan roth conversions, and excess contribution payments

**As of December 2016

Investment Lineup

Fund Name / Fund Type	Manager / Vehicle	Asset Class	Benchmark	Investment Market Values (\$) 9/30/2017 457(b) Plan
Stable Value Fund	*Invesco (multi-manager stable value separate account)	Stable Value	Heuler Stable Value Index (EWA)	\$1,087,795,657
U.S. Large Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	S&P 500 Index	\$847,753,768
U.S. Small/Mid Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	DJ US Cmpl TSM Index	\$365,268,443
International Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	MSCI EAFE Index	\$135,278,207
U.S. Bond Index Fund	Mellon Capital Management - Sec Lending (CIT)	Fixed Income	Bloomberg US Agg Bond Index	\$134,192,266
Short-Term Investment Fund	PA Treasury	Cash Equivalent	BofA ML 3 Mo US T-Bill Index	\$55,139,616
60/40 Balanced Stock & Bond Fund	Combination of underlying funds (detail below)	Balanced		\$256,796,899
U.S. Large Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	S&P 500 Index	\$154,078,139
U.S. Bond Index Fund	Mellon Capital Management - Sec Lending (CIT)	Fixed Income	BofA ML 3 Mo US T-Bill Index	\$102,718,760
Moderate Portfolio Fund	Combination of underlying funds	Multi-Asset		\$171,662,999
U.S. Bond Index Fund	Mellon Capital Management - Sec Lending (CIT)	Fixed Income	Bloomberg US Agg Bond Index	\$68,665,199
U.S. Large Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	S&P 500 Index	\$61,798,679
International Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	MSCI EAFE Index	\$25,749,450
U.S. Small/Mid Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	DJ US Cmpl TSM Index	\$15,449,670
Aggressive Portfolio Fund	Combination of underlying funds	Multi-Asset		\$153,364,250
U.S. Large Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	S&P 500 Index	\$73,614,840
U.S. Bond Index Fund	Mellon Capital Management - Sec Lending (CIT)	Fixed Income	Bloomberg US Agg Bond Index	\$30,672,850
International Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	MSCI EAFE Index	\$30,672,850
U.S. Small/Mid Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	DJ US Cmpl TSM Index	\$18,403,710
Conservative Portfolio Fund	Combination of underlying funds	Multi-Asset		\$67,184,804
U.S. Bond Index Fund	Mellon Capital Management - Sec Lending (CIT)	Fixed Income	Bloomberg US Agg Bond Index	\$33,592,402
Short-Term Investment Fund	PA Treasury	Cash Equivalent	BofA ML 3 Mo US T-Bill Index	\$13,436,961
U.S. Large Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	S&P 500 Index	\$11,421,417
International Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	MSCI EAFE Index	\$5,374,784
U.S. Small/Mid Company Stock Index Fund	Mellon Capital Management - Sec Lending (CIT)	Equity	DJ US Cmpl TSM Index	\$3,359,240
Self-Directed Brokerage Account	External	N/A		\$113,366,023
PLAN TOTAL				\$4,036,811,882

*Invesco will be taking over as the program manager for the PA stable value fund.

PLAN INFORMATION – 401(a)

Plan Statistics

DC Plan Data	Estimated Plan Totals as of 6/30/2019 401(a) Plan	Estimated Plan Totals as of 6/30/2020 401(a) Plan	Estimated Plan Totals as of 6/30/2021 401(a) Plan	Estimated Plan Totals as of 6/30/2022 401(a) Plan	Estimated Plan Totals as of 6/30/2023 401(a) Plan
Total Accounts with a Balance (Expected to Vest)	2,048	6,051	10,054	14,057	18,060
401(a) Plan Estimated Asset Value (Expected to Vest)	\$ 4,864,782	\$ 14,573,752	\$ 24,364,846	\$ 34,210,840	\$ 49,078,978
DC Plan Data	Estimated 6 Month Totals as of 6/30/2019 401(a) Plan	Estimated 1 Year Totals as of 6/30/2020 401(a) Plan	Estimated 1 Year Totals as of 6/30/2021 401(a) Plan	Estimated 1 Year Totals as of 12/31/2022 401(a) Plan	Estimated 1 Year Totals as of 12/31/2023 401(a) Plan
New Enrollments Processed for Act 5 Eligible Participants	4,650	9,301	9,301	9,301	9,301
Contributions (Participant, Employer, including Balances Contributed that may be subject to Unvested Reduction) (\$)	\$9,400,000	\$27,800,000	\$46,000,000	\$64,300,000	\$92,300,000
Normal & Early Retirements (including Change in Active Members) Expected for Act 5 Eligible Participants	2,602	5,204	5,204	5,204	5,204
Benefit Payments and Unvested Reduction (All) (\$)	\$4,700,000	\$13,900,000	\$23,000,000	\$32,150,000	\$46,150,000

Investment Lineup

Fund Name / Fund Type	Manager / Vehicle	Asset Class	Investment Market Values (\$) By Plan as of:
			401(a) Plan
**The investment menu for the 401(a) Plan is still being developed, but it is expected that at least ten (10) investment options will be offered.			
PLAN TOTAL			

TARGET DATE SUITE	PROPOSER OPTION	80%	80%	80%	80%	80%
		Estimated Total Assets as of 6/30/2019 401(a) Plan	Estimated Total Assets as of 6/30/2020 401(a) Plan	Estimated Total Assets as of 6/30/2021 401(a) Plan	Estimated Total Assets as of 6/30/2022 401(a) Plan	Estimated Total Assets as of 6/30/2023 401(a) Plan
Target Date Suite		\$3,891,825.60	\$11,659,001.60	\$19,491,876.80	\$27,368,672.00	\$39,263,182.40
	TOTAL	\$3,891,825.60	\$11,659,001.60	\$19,491,876.80	\$27,368,672.00	\$39,263,182.40

PART V

SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION SUBMITTAL

V-1. Small Diverse Business and Small Business General Information. The Issuing Office encourages participation by Small Diverse Businesses and Small Businesses as prime contractors, and encourages all prime contractors to make significant commitments to use Small Diverse Businesses and Small Businesses as subcontractors and suppliers.

A Small Business must meet each of the following requirements:

- The business must be a for-profit, United States business;
- The business must be independently owned;
- The business may not be dominant in its field of operation;
- The business may not employ more than 100 full-time or full-time equivalent employees;
- The business, by type, may not exceed the following three-year average gross sales:
 - Procurement Goods and Services: \$20 million
 - Construction: \$20 million
 - Building Design Services: \$7 million
 - Information Technology Goods and Services: \$25 million

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

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

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

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

A Small Diverse Business or Small Business may be included as a subcontractor with as many prime contractors as it chooses in separate proposals.

The Department's directory of self-certified Small Businesses and DGS/BDISBO-verified Small Diverse Businesses can be accessed from: <http://www.dgs.internet.state.pa.us/suppliersearch>

Questions regarding the Small Diverse Business and Small Business Programs, including questions about the self-certification and verification processes can be directed to:

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

- V-2. Small Diverse Business and Small Business (SDB/SB) Participation Submittal.** All Offerors are required to submit for each Lot for which it is submitting a proposal **two (2)** copies of the Small Diverse Business and Small Business Participation Submittal Form contained in **(Appendix G)** and related Letter(s) of Intent **(Appendix H)**. To receive points for Small Diverse Business or Small Business participation commitments, the Small Diverse Business or Small Business must be listed in the Department's directory of self-certified Small Businesses and DGS/BDISBO-verified Small Diverse Businesses as of the proposal due date and time. BDISBO reserves the right to adjust overall Small Diverse Business or Small Business commitments to correctly align with the Small Diverse Business or Small Business status of a prime contractor or subcontractor as of the solicitation due date and time, and also to reflect the correct sum of individual subcontracting commitments listed within the Letters of Intent.

The submittal must be sealed in its own envelope, separate from the remainder of the proposal, and must be provided on the Small Diverse Business and Small Business Participation Submittal form, with information as follows:

- A.** Offerors must indicate their status as a Small Diverse Business and as a Small Business through selection of the appropriate checkboxes.
- B.** Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Diverse Businesses and Small Businesses as subcontractors.
- C.** Offerors must include a listing of and required information for each of the Small Diverse Businesses and/or Small Businesses with whom they will subcontract to achieve the participation percentages outlined on the Small Diverse Business and Small Business Participation Submittal.
- D.** Offerors must include a Letter of Intent (attached as **Appendix H** is a Letter of Intent template which may be used to satisfy these requirements) signed by both the Offeror and the Small Diverse Business or Small Business for each of the Small Diverse Businesses and Small Businesses identified in the Small Diverse Business and Small Business Participation Submittal form. At minimum, the Letter of Intent must include the following:
 - 1.** The fixed numerical percentage commitment and associated estimated dollar value of the commitment made to the Small Diverse Business or Small Business; and

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

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

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

V-3. Contract Requirements—Small Diverse Business and Small Business Participation

All contracts containing Small Diverse Business and Small Business Participation must contain the following contract provisions to be maintained through the initial contract term and any subsequent options or renewals:

- A. Each Small Diverse Business and Small Business commitment which was credited by BDISBO and the total percentage of such Small Diverse Business and Small Business commitments made at the time of proposal submittal, BAFO or contract negotiations, as applicable, become contractual obligations of the selected Offeror upon execution of its contract with the Commonwealth.
- B. All Small Diverse Business and Small Business subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.
- C. The individual percentage commitments made to Small Diverse Businesses and Small Businesses cannot be altered without written approval from BDISBO.
- D. Small Diverse Business and Small Business commitments must be maintained in the event the contract is assigned to another prime contractor.

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

- I. If the Selected Offeror fails to satisfy its Small Diverse Business and/or Small Business commitment(s), it may be subject to a range of sanctions BDISBO deems appropriate. Such sanctions include, but are not limited to, one or more of the following: a determination that the selected Offeror is not responsible under the Contractor Responsibility Program; withholding of payments; suspension or termination of the contract together with consequential damages; revocation of the selected Offeror's Small Diverse Business status and/or Small Business status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.

PART VI

LOT – 1

**457(b) PLAN CONTRACT
TERMS AND CONDITIONS**

1. TERM OF CONTRACT

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

2. RENEWAL OF CONTRACT TERM

The Commonwealth has the option to renew each Contract for five (5) one (1) year contract renewals, so long as the Commonwealth provides written notice to Contractor of its intention to renew the Contract by letter dated no less than 90 days prior to the expiration of the term of the Contract, or any extension thereof. Any renewal will be under the same terms, covenants and conditions. No further documentation is required to be executed to renew the term of the Contract.

3. EXTENSION OF CONTRACT TERM

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

4. DEFINITIONS

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

- a. Board: The Pennsylvania State Employees' Retirement Board and its professional staff, which is the Purchasing Agency and may also be referred to as the "Agency."
- b. Commonwealth: The Commonwealth of Pennsylvania and the Board.
- c. Contract: The contract entered into between the Commonwealth and the Contractor.

- d. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- e. Contractor: The vendor selected to provide services to the Commonwealth, as more particularly set forth in the Contract.
- f. Days: Unless specifically indicated otherwise, days mean calendar days.
- g. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- h. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- i. Services: All Contractor activity necessary to satisfy the Contract.

5. INDEPENDENT PRIME CONTRACTOR

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

6. DELIVERY

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

7. WARRANTY

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials.

8. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the Commonwealth under the contract. The Contractor shall defend any suit or proceeding brought against the Board and 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 Board 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, Board or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract. If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

9. OWNERSHIP RIGHTS

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

10. 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.

11. ENVIRONMENTAL PROVISIONS

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

12. POST-CONSUMER RECYCLED CONTENT

The Board has determined that the recycled content products provision is not applicable to this Contract for the type of service being provided by this Contractor. This determination was based on the fact that no material type products included on the Department of General Services "List of Products and Procurement Guidelines" are being requested under this Contract.

13. COMPENSATION

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.

14. ASSIGNMENT OF ANTITRUST CLAIMS

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

15. COMMONWEALTH HELD HARMLESS

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

16. 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.

17. DEFAULT

- a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:
- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;
 - 3) Unsatisfactory performance of the work;
 - 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 5) Improper delivery;
 - 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
 - 7) Delivery of a defective item;
 - 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
 - 9) Discontinuance of work without approval;
 - 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
 - 11) Insolvency or bankruptcy;
 - 12) Assignment made for the benefit of creditors;

- 13) Failure or refusal within ten (10) days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
 - 14) Failure to protect, to repair, or to make good any damage or injury to property;
 - 15) Breach of any provision of the Contract;
 - 16) Failure to comply with representations made in the Contractor's bid/proposal; or
 - 17) Failure to comply with applicable industry standards, customs, and practice.
- b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the 457(b) Plan participants and the Commonwealth for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.
- c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth for the benefit of the 457(b) Plan participants in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price paid for by the 457(b) Plan participants. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth on behalf of the 457(b) Plan participants shall be in an amount agreed upon by the Contractor and Contracting Officer and deemed to be a 457(b) Plan participant cost. The Commonwealth on behalf of the 457(b) Plan participants may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth and the 457(b) Plan participants against loss.
- d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

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

18. FORCE MAJEURE

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

The Contractor shall notify the Commonwealth orally within one (1) day and in writing within five (5) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

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

19. TERMINATION PROVISIONS

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

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for Contractor default under the Default Clause upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in the Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract or a Purchase Order for cause, then, at

the Commonwealth's discretion, the Contract or Purchase Order shall be deemed to have been terminated for convenience under Subparagraph a.

20. CONTRACT CONTROVERSIES

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.
- b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

21. ASSIGNABILITY AND SUBCONTRACTING

- a. Subject to the terms and conditions of this Paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. No subcontracting of account representatives will be permitted. The Contractor shall not subcontract with any other person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.
- c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the

Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

- d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.
- e. For the purposes of this Contract, the term “assign” shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.
- f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.
- g. A change of name by the Contractor, following which the Contractor’s federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

22. OTHER CONTRACTORS

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

23. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

- a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- d. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- g. The Contractor’s and each subcontractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- h. The Commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency

may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

24. CONTRACTOR INTEGRITY PROVISIONS

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

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

- 1) **“Affiliate”** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- 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 the execution of this contract.
- 3) **“Contractor”** means the individual or entity, that has entered into this contract with the Commonwealth.
- 4) **“Contractor Related Parties”** means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- 5) **“Financial Interest”** means either:
 - a) Ownership of more than a five percent interest in any business; or
 - b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- 6) **“Gratuity”** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [*Governor’s Code of Conduct, Executive Order 1980-18*](#), the *4 Pa. Code §7.153(b)*, shall apply.
- 7) **“Non-bid Basis”** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.

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

- 1) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.
- 2) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
- 3) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
- 4) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.
- 5) Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
 - a) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - b) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - c) had any business license or professional license suspended or revoked;
 - d) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - e) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

- 6) Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- 7) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- 8) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- 9) Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these

provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third-party beneficiaries shall be created thereby.

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

25. CONTRACTOR RESPONSIBILITY PROVISIONS

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

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.
- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government,

or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

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

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. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or

selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

28. APPLICABLE LAW

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

29. INTEGRATION

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

30. ORDER OF PRECEDENCE

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the solicitation; and the Contractor's response to the solicitation.

31. CONTROLLING TERMS AND CONDITIONS

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

32. CHANGES

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the

Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through the Contract Controversies Provision.

33. BACKGROUND CHECKS

- a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf>. The background check must be conducted prior to initial access and on an annual basis thereafter.
- b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed to be in default of its Contract.
- c. The Commonwealth specifically reserves the right of the Commonwealth to conduct background checks over and above that described herein.
- d. Access to certain Capitol Complex buildings and other state office buildings is controlled by means of card readers and secured visitors' entrances. Commonwealth contracted personnel who have regular and routine business in Commonwealth worksites may be issued a photo identification or access badge subject to the requirements of the contracting agency and DGS set forth in Enclosure 3 of Commonwealth Management Directive 625.10 (Amended) Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings. The requirements, policy and procedures include a processing fee payable by the Contractor for contracted personnel photo identification or access badges.

34. CONFIDENTIALITY

- a. The Contractor agrees to guard the confidentiality of the Commonwealth's and the 457(b) Plan participant's confidential information with the same diligence with which it guards its own proprietary information. If the Contractor needs to disclose all or part of project materials to third parties to assist in the work or service performed for the Commonwealth, it may do so only if such third parties sign agreements containing substantially the same provisions as contained in this Section. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this Contract. Each copy of such confidential information shall be marked by the party making the copy with all confidentiality notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only. Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default.
- b. The obligations stated in this Section do not apply to information that is:
 - 1) already known to the recipient at the time of disclosure other than through the contractual relationship;
 - 2) independently generated by the recipient and not derived from the information supplied by the disclosing party;
 - 3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;
 - 4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
 - 5) required to be disclosed by the recipient by law, regulation, court order, or other legal process.
- c. There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

35. NOTICE

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

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

36. RIGHT-TO-KNOW LAW

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-67.3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
- e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines

that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

- f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
- g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records, the SERS RTKL policy, or as otherwise provided by the RTKL if the fee schedule is inapplicable.
- h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

37. ENHANCED MINIMUM WAGE PROVISIONS

- a. **Enhanced Minimum Wage.** Contractor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
- b. **Adjustment.** Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.

- c. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
 - 1) exempt from the minimum wage under the Minimum Wage Act of 1968;
 - 2) covered by a collective bargaining agreement;
 - 3) required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
 - 4) required to be paid a higher wage under any state or local policy or ordinance.
- d. **Notice.** Contractor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
- e. **Records.** Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
- f. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
- g. **Subcontractors.** Contractor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

38. SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION

- a. Each Small Diverse Business and Small Business commitment which was credited by BDISBO and the total percentage of such Small Diverse Business and Small Business commitments made at the time of proposal submittal, BAFO or contract negotiations, as applicable, become contractual obligations of the Contractor upon execution of its contract with the Commonwealth.
- b. All Small Diverse Business and Small Business subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.
- c. The individual percentage commitments made to Small Diverse Businesses and Small Businesses cannot be altered without written approval from BDISBO.
- d. Small Diverse Business and Small Business commitments must be maintained in the event the contract is assigned to another prime contractor.
- e. The Contractor and each Small Diverse Business and Small Business for which a commitment was credited by BDISBO must submit a final, definitive subcontract agreement signed by the Contractor and the Small Diverse Business and/or Small

Business to BDISBO within 30 days of the final execution date of the Commonwealth contract. The subcontract must contain:

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

39. OFFSET PROVISION

The Contractor agrees that the Commonwealth of Pennsylvania (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.

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**401(a) PLAN CONTRACT
TERMS AND CONDITIONS**

1. TERM OF CONTRACT

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

2. RENEWAL OF CONTRACT TERM

The Commonwealth has the option to renew each Contract for five (5) one (1) year contract renewals, so long as the Commonwealth provides written notice to Contractor of its intention to renew the Contract by letter dated no less than 90 days prior to the expiration of the term of the Contract, or any extension thereof. Any renewal will be under the same terms, covenants and conditions. No further documentation is required to be executed to renew the term of the Contract.

3. EXTENSION OF CONTRACT TERM

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

4. DEFINITIONS

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

- a. Board: The Pennsylvania State Employees' Retirement Board and its professional staff, which is the Purchasing Agency and may also be referred to as the "Agency."
- b. Commonwealth: The Commonwealth of Pennsylvania and the Board.
- c. Contract: The contract entered into between the Commonwealth and the Contractor.

- d. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.
- e. Contractor: The vendor selected to provide services to the Commonwealth, as more particularly set forth in the Contract.
- f. Days: Unless specifically indicated otherwise, days mean calendar days.
- g. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.
- h. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.
- i. Services: All Contractor activity necessary to satisfy the Contract.

5. INDEPENDENT PRIME CONTRACTOR

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

6. DELIVERY

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

7. WARRANTY

The Contractor warrants that all items furnished and all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials.

8. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

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

Board 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, Board or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract. If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

9. OWNERSHIP RIGHTS

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

10. 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.

11. ENVIRONMENTAL PROVISIONS

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

12. POST-CONSUMER RECYCLED CONTENT

The Board has determined that the recycled content products provision is not applicable to this Contract for the type of service being provided by this Contractor. This determination was based on the fact that no material type products included on the Department of General Services "List of Products and Procurement Guidelines" are being requested under this Contract.

13. COMPENSATION

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.

14. ASSIGNMENT OF ANTITRUST CLAIMS

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

15. COMMONWEALTH HELD HARMLESS

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

16. 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.

17. DEFAULT

- a. The Commonwealth may, subject to the Force Majeure provisions of this Contract, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in the Termination Provisions of this Contract) the whole or any part of this Contract or any Purchase Order for any of the following reasons:
- 1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;
 - 3) Unsatisfactory performance of the work;
 - 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
 - 5) Improper delivery;
 - 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
 - 7) Delivery of a defective item;
 - 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
 - 9) Discontinuance of work without approval;
 - 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
 - 11) Insolvency or bankruptcy;
 - 12) Assignment made for the benefit of creditors;
 - 13) Failure or refusal within ten (10) days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

- 14) Failure to protect, to repair, or to make good any damage or injury to property;
 - 15) Breach of any provision of the Contract;
 - 16) Failure to comply with representations made in the Contractor's bid/proposal; or
 - 17) Failure to comply with applicable industry standards, customs, and practice.
- b. In the event that the Commonwealth terminates this Contract or any Purchase Order in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, items similar or identical to those so terminated, and the Contractor shall be liable to the Commonwealth for any costs paid for through Commonwealth appropriations and, for all other costs, to the 401(a) Plan participants, for any reasonable excess costs for such similar or identical items included within the terminated part of the Contract or Purchase Order.
- c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth for the benefit of the 401(a) Plan participants in the manner and to the extent directed by the Contracting Officer, such partially completed items, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract or Purchase Order as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price paid for by the Commonwealth through Commonwealth appropriations and the 401(a) Plan participants. Except as provided below, payment for partially completed items including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth on behalf of the 401(a) Plan participants shall be in an amount agreed upon by the Contractor and Contracting Officer and deemed to be either a Commonwealth cost or a 401(a) Plan participant cost, as determined by the Commonwealth in its sole discretion. The Commonwealth, on its own behalf or on behalf of the 401(a) Plan participants, may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth and the 401(a) Plan participants against loss.
- d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.
- f. Following exhaustion of the Contractor's administrative remedies as set forth in the Contract Controversies Provision of the Contract, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

18. FORCE MAJEURE

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

The Contractor shall notify the Commonwealth orally within one (1) day and in writing within five (5) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect to cancel the Contract, cancel the Purchase Order, or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

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

19. TERMINATION PROVISIONS

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

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid from any appropriations available for that purpose

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

20. CONTRACT CONTROVERSIES

- a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum. At the time the claim is filed, or within sixty (60) days thereafter, either party may request mediation through the Commonwealth Office of General Counsel Dispute Resolution Program.
- b. If the Contractor or the contracting officer requests mediation and the other party agrees, the contracting officer shall promptly make arrangements for mediation. Mediation shall be scheduled so as to not delay the issuance of the final determination beyond the required 120 days after receipt of the claim if mediation is unsuccessful. If mediation is not agreed to or if resolution is not reached through mediation, the contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.
- c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

21. ASSIGNABILITY AND SUBCONTRACTING

- a. Subject to the terms and conditions of this Paragraph, this Contract shall be binding upon the parties and their respective successors and assigns.
- b. No subcontracting of account representatives will be permitted. The Contractor shall not subcontract with any other person or entity to perform all or any part of the work to be

performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

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

22. OTHER CONTRACTORS

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

23. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Contractor agrees:

- a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not

discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract.
- c. The Contractor and each subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees in writing of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contracted services are performed shall satisfy this requirement for employees with an established work site.
- d. The Contractor and each subcontractor shall not discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
- e. The Contractor and each subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws, regulations and policies relating to nondiscrimination and sexual harassment. The Contractor and each subcontractor further represents that it has filed a Standard Form 100 Employer Information Report (“EEO-1”) with the U.S. Equal Employment Opportunity Commission (“EEOC”) and shall file an annual EEO-1 report with the EEOC as required for employers’ subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Contractor and each subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the contracting agency and the Bureau of Diversity, Inclusion and Small Business Opportunities for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.
- g. The Contractor’s and each subcontractor’s obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor and each subcontractor shall have an obligation to

inform the Commonwealth if, at any time during the term of the contract, it becomes aware of any actions or occurrences that would result in violation of these provisions.

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

24. CONTRACTOR INTEGRITY PROVISIONS

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

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

- 1) **“Affiliate”** means two or more entities where (a) a parent entity owns more than fifty percent of the voting stock of each of the entities; or (b) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
- 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 the execution of this contract.
- 3) **“Contractor”** means the individual or entity, that has entered into this contract with the Commonwealth.
- 4) **“Contractor Related Parties”** means any affiliates of the Contractor and the Contractor’s executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.
- 5) **“Financial Interest”** means either:
 - a) Ownership of more than a five percent interest in any business; or
 - b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
- 6) **“Gratuity”** means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [*Governor’s Code of Conduct, Executive Order 1980-18*](#), the *4 Pa. Code §7.153(b)*, shall apply.

- 7) **“Non-bid Basis”** means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- b. In furtherance of this policy, Contractor agrees to the following:
- 1) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.
 - 2) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
 - 3) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
 - 4) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor’s financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor’s submission of the contract signed by Contractor.
 - 5) Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
 - a) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - b) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - c) had any business license or professional license suspended or revoked;

- d) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
- e) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

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

- 6) Contractor shall comply with the requirements of the *Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.)* regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the *Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a)*.
- 7) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.
- 8) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- 9) Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third-party beneficiaries shall be created thereby.
- 10) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

25. CONTRACTOR RESPONSIBILITY PROVISIONS

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

- a. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.
- b. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

- c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.
- d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.
- e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

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

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. COVENANT AGAINST CONTINGENT FEES

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

28. APPLICABLE LAW

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

29. INTEGRATION

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

30. ORDER OF PRECEDENCE

In the event there is a conflict among the documents comprising this Contract, the Commonwealth and the Contractor agree on the following order of precedence: the Contract; the solicitation; and the Contractor's response to the solicitation.

31. CONTROLLING TERMS AND CONDITIONS

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations requested and received from the Contractor

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

32. CHANGES

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through the Contract Controversies Provision.

33. BACKGROUND CHECKS

- a. The Contractor must, at its expense, arrange for a background check for each of its employees, as well as the employees of any of its subcontractors, who will have access to Commonwealth facilities, either through on-site access or through remote access. Background checks are to be conducted via the Request for Criminal Record Check form and procedure found at <http://www.psp.state.pa.us/psp/lib/psp/sp4-164.pdf>. The background check must be conducted prior to initial access and on an annual basis thereafter.
- b. Before the Commonwealth will permit access to the Contractor, the Contractor must provide written confirmation that the background checks have been conducted. If, at any time, it is discovered that a Contractor employee has a criminal record that includes a felony or misdemeanor involving terroristic behavior, violence, use of a lethal weapon, or breach of trust/fiduciary responsibility or which raises concerns about building, system or personal security or is otherwise job-related, the Contractor shall not assign that employee to any Commonwealth facilities, shall remove any access privileges already given to the employee and shall not permit that employee remote access unless the Commonwealth consents to the access, in writing, prior to the access. The Commonwealth may withhold its consent in its sole discretion. Failure of the Contractor to comply with the terms of this Section on more than one occasion or Contractor's failure to appropriately address any single failure to the satisfaction of the Commonwealth may result in the Contractor being deemed to be in default of its Contract.

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

34. CONFIDENTIALITY

- a. The Contractor agrees to guard the confidentiality of the Commonwealth's and plan participant's confidential information with the same diligence with which it guards its own proprietary information. If the Contractor needs to disclose all or part of project materials to third parties to assist in the work or service performed for the Commonwealth, it may do so only if such third parties sign agreements containing substantially the same provisions as contained in this Section. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this Contract. Each copy of such confidential information shall be marked by the party making the copy with all confidentiality notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only. Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default.
- b. The obligations stated in this Section do not apply to information that is:
 - 1) already known to the recipient at the time of disclosure other than through the contractual relationship;
 - 2) independently generated by the recipient and not derived from the information supplied by the disclosing party;
 - 3) known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;

- 4) disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or
 - 5) required to be disclosed by the recipient by law, regulation, court order, or other legal process.
- c. There shall be no restriction with respect to the use or disclosure of any ideas, concepts, know-how, or data processing techniques developed alone or jointly with the Commonwealth in connection with services provided to the Commonwealth under this Contract.

35. NOTICE

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

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

36. RIGHT-TO-KNOW LAW

- a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-67.3104, (“RTKL”) applies to this Contract. For the purpose of these provisions, the term “the Commonwealth” shall refer to the contracting Commonwealth agency.
- b. If the Commonwealth needs the Contractor’s assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- c. Upon written notification from the Commonwealth that it requires the Contractor’s assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), the Contractor shall:
 - 1) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor’s possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and

- 2) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.
- d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.
 - e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
 - f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.
 - g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records, the SERS RTKL policy, or as otherwise provided by the RTKL if the fee schedule is inapplicable.
 - h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
 - i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

37. ENHANCED MINIMUM WAGE PROVISIONS

- a. **Enhanced Minimum Wage.** Contractor agrees to pay no less than \$10.15 per hour to its employees for all hours worked directly performing the services called for in this Contract/Lease, and for an employee's hours performing ancillary services necessary for the performance of the contracted services or lease when such employee spends at least twenty per cent (20%) of their time performing ancillary services in a given work week.
- b. **Adjustment.** Beginning January 1, 2017, and annually thereafter, Contractor/Lessor shall pay its employees described in Paragraph 1. above an amount that is no less than the amount previously in effect; increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (United States city average, all items, not seasonally adjusted), or its successor publication as determined by the United States Bureau of Labor Statistics; and rounded to the nearest multiple of \$0.05. The applicable adjusted amount shall be published in the Pennsylvania Bulletin by March 1 of each year to be effective the following July 1.
- c. **Exceptions.** These Enhanced Minimum Wage Provisions shall not apply to employees:
 - 1) exempt from the minimum wage under the Minimum Wage Act of 1968;
 - 2) covered by a collective bargaining agreement;
 - 3) required to be paid a higher wage under another state or federal law governing the services, including the Prevailing Wage Act and Davis-Bacon Act; or
 - 4) required to be paid a higher wage under any state or local policy or ordinance.
- d. **Notice.** Contractor shall post these Enhanced Minimum Wage Provisions for the entire period of the contract conspicuously in easily-accessible and well-lighted places customarily frequented by employees at or near where the contracted services are performed.
- e. **Records.** Contractor must maintain and, upon request and within the time periods requested by the Commonwealth, furnish all employment and wage records necessary to document compliance with these Enhanced Minimum Wage Provisions.
- f. **Sanctions.** Failure to comply with these Enhanced Minimum Wage Provisions may result in the imposition of sanctions, which may include, but shall not be limited to, termination of the contract or lease, nonpayment, debarment or referral to the Office of General Counsel for appropriate civil or criminal referral.
- g. **Subcontractors.** Contractor/Lessor shall include the provisions of these Enhanced Minimum Wage Provisions in every subcontract so that these provisions will be binding upon each subcontractor.

38. SMALL DIVERSE BUSINESS AND SMALL BUSINESS PARTICIPATION

- a. Each Small Diverse Business and Small Business commitment which was credited by BDISBO and the total percentage of such Small Diverse Business and Small Business commitments made at the time of proposal submittal, BAFO or contract negotiations, as applicable, become contractual obligations of the Contractor upon execution of its contract with the Commonwealth.
- b. All Small Diverse Business and Small Business subcontractors credited by BDISBO must perform at least 50% of the work subcontracted to them.
- c. The individual percentage commitments made to Small Diverse Businesses and Small Businesses cannot be altered without written approval from BDISBO.
- d. Small Diverse Business and Small Business commitments must be maintained in the event the contract is assigned to another prime contractor.
- e. The Contractor and each Small Diverse Business and Small Business for which a commitment was credited by BDISBO must submit a final, definitive subcontract agreement signed by the Contractor and the Small Diverse Business and/or Small Business to BDISBO within 30 days of the final execution date of the Commonwealth contract. The subcontract must contain:
 - 1) The specific work, supplies or services the Small Diverse Business and/or Small Business will perform; location for work performed; how the work, supplies or services relate to the project; and the specific timeframe during the initial term and any extensions, options and renewals of the prime contract when the work, supplies or services will be provided or performed.
 - 2) The fixed percentage commitment and associated estimated dollar value that each Small Diverse Business and/or Small Business will receive based on the final negotiated cost for the initial term of the prime contract.
 - 3) Payment terms indicating that the Small Diverse Business and/or Small Business will be paid for work satisfactorily completed within 14 days of the Contractor's receipt of payment from the Commonwealth for such work.
 - 4) Commercially reasonable terms for the applicable business/industry that are no less favorable than the terms of the Contractor's contract with the Commonwealth and that do not place disproportionate risk on the Small Diverse Business and/or Small Business relative to the nature and level of the Small Diverse Business' and/or Small Business' participation in the project.
- f. If the Contractor and a Small Diverse Business or Small Business credited by BDISBO cannot agree upon a definitive subcontract within 30 days of the final execution date of the Commonwealth contract, the Contractor must notify BDISBO.
- g. The Contractor shall complete the Prime Contractor's Quarterly Utilization Report and submit it to the contracting officer of the Issuing Office and BDISBO within ten (10) business days at the end of each quarter of the contract term and any subsequent options or renewals. This information will be used to track and confirm the actual dollar amount paid to Small Diverse Business and Small Business subcontractors and suppliers and will serve as a record of fulfillment of the contractual commitment. If there was no activity during the quarter, the form must be completed by stating "No activity in this quarter." A

late fee of \$100.00 per day may be assessed against Contractor if the Utilization Report is not submitted in accordance with the schedule above.

- h. The Contractor shall notify the Commonwealth and BDISBO when circumstances arise that may negatively impact the Contractor's ability to comply with Small Diverse Business and/or Small Business commitments and to provide a corrective action plan. Disputes will be decided by the Issuing Office and DGS.
- i. If the Contractor fails to satisfy its Small Diverse Business and/or Small Business commitment(s), it may be subject to a range of sanctions BDISBO deems appropriate. Such sanctions include, but are not limited to, one or more of the following: a determination that the Contractor is not responsible under the Contractor Responsibility Program; withholding of payments; suspension or termination of the contract together with consequential damages; revocation of the Contractor's Small Diverse Business status and/or Small Business status; and/or suspension or debarment from future contracting opportunities with the Commonwealth.

39. PAYMENT

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

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

40. BILLING REQUIREMENTS

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

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

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

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

APPENDIX A

457(b) PLAN DOCUMENT

This document can be located within electronic file listing for the solicitation posting. The solicitation document can be located on the Department of General Service's procurement website at www.eMarketplace.state.pa.us.

**APPENDIX B
PROPOSAL COVER SHEET
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE EMPLOYEES' RETIREMENT BOARD
RFP# 2018-003**

[NOTE: Insert either LOT 1 - 457(b) Plan or LOT 2 - 401(a) Plan]

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

Offeror Information:	
Offeror Name	
Offeror Mailing Address	
Offeror Website	
Offeror Contact Person	
Contact Person's Phone Number	
Contact Person's Facsimile Number	
Contact Person's E-Mail Address	
Offeror Federal ID Number	
Offeror SAP/SRM Vendor Number	

Submittals Enclosed and Separately Sealed:	
<input type="checkbox"/>	Technical Submittal <input type="checkbox"/> Domestic Workforce Utilization Certification
<input type="checkbox"/>	Small Diverse Business and Small Business Participation Submittal <input type="checkbox"/> Small Diverse Business and Small Business Participation Submittal Form <input type="checkbox"/> Small Diverse Business and Small Business Letter(s) of Intent
<input type="checkbox"/>	Cost Submittal

Signature

Signature of an official authorized to bind the Offeror to the provisions contained in the Offeror's proposal:

Printed Name

Title

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

**APPENDIX C
DOMESTIC WORKFORCE UTILIZATION CERTIFICATION**

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

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

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States or one of the following countries that is a party to the World Trade Organization Government Procurement Agreement: Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei, 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

APPENDIX D

IRAN FREE PROCUREMENT CERTIFICATION



IRAN FREE PROCUREMENT CERTIFICATION FORM

(Pennsylvania’s Procurement Code Sections 3501-3506, 62 Pa.C.S. §§ 3501-3506)

To be eligible for an award of a contract with a Commonwealth entity for goods or services worth at least \$1,000,000 or more, a vendor must either: a) certify it is not on the current list of persons engaged in investment activities in Iran created by the Pennsylvania Department of General Services (“DGS”) pursuant to Section 3503 of the Procurement Code and is eligible to contract with the Commonwealth under Sections 3501-3506 of the Procurement Code; or b) demonstrate it has received an exception from the certification requirement for that solicitation or contract pursuant to Section 3503(e).

To comply with this requirement, please insert your vendor or financial institution name and complete one of the options below. Please note: Pennsylvania law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made; contract termination; and three-year ineligibility to bid on contracts. (Section 3503 of the Procurement Code.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is eligible to contract with the Commonwealth of Pennsylvania Sections 3501-3506 of the Procurement Code.

Form with fields: Vendor Name/Financial Institution (Printed), By (Authorized Signature), Printed Name and Title of Person Signing, Date Executed

OPTION #2 – EXEMPTION

Pursuant to Procurement Code Section 3503(e), DGS may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to enter into a contract for goods and services.

If you have obtained a written exemption from the certification requirement, please fill out the information below, and attach the written documentation demonstrating the exemption approval.

Form with fields: Vendor Name/Financial Institution (Printed), By (Authorized Signature), Printed Name and Title of Person Signing, Date Executed

APPENDIX E

**TRADE SECRET CONFIDENTIAL PROPRIETARY INFORMATION NOTICE
FORM**

Instructions:

The Commonwealth may not assert on behalf of a third party an exception to the public release of materials that contain trade secrets or confidential proprietary information unless the materials are accompanied, at the time they are submitted, by this form or a document containing similar information.

It is the responsibility of the party submitting this form to ensure that all statements and assertions made below are legally defensible and accurate. The Commonwealth will not provide a submitting party any advice with regard to trade secret law.

Name of submitting party:

Contact information for submitting party:

Please provide a brief overview of the materials that you are submitting (e.g. bid proposal, grant application, technical schematics):

Please provide a brief explanation of why the materials are being submitted to the Commonwealth (e.g. response to bid #12345, application for grant XYZ being offered by the Department of Health, documents required to be submitted under law ABC)

Please provide a list detailing which portions of the material being submitted you believe constitute a trade secret or confidential proprietary information, and please provide an explanation of why you think those materials constitute a trade secret or confidential proprietary information. Also, please mark the submitted material in such a way to allow a reviewer to easily distinguish between the parts referenced below. (You may attach additional pages if needed)

Note: The following information will not be considered a trade secret or confidential proprietary information:

- Any information submitted as part of a vendor’s cost proposal
- Information submitted as part of a vendor’s technical response that does not pertain to specific business practices or product specification
- Information submitted as part of a vendor’s technical or disadvantaged business response that is otherwise publicly available or otherwise easily obtained
- Information detailing the name, quantity, and price paid for any product or service being purchased by the Commonwealth

Page Number

Description

Explanation

Acknowledgment

The undersigned party hereby agrees that it has read and completed this form, and has marked the material being submitted in accordance with the instructions above. The undersigned party acknowledges that the Commonwealth is not liable for the use or disclosure of trade secret data or confidential proprietary information that has not been clearly marked as such, and which was not accompanied by a specific explanation included with this form.

The undersigned agrees to defend any action seeking release of the materials it believes to be trade secret or confidential, and indemnify and hold harmless the Commonwealth, its agents and employees, from any judgments awarded against the Commonwealth in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives so long as the Commonwealth has possession of the submitted material, and will apply to all costs unless and until the undersigned provides a written statement or similar notice to the Commonwealth stating that it no longer wishes to exempt the submitted material from public disclosure.

The undersigned acknowledges that the Commonwealth is required to keep all records for at least as long as specified in its published records retention schedule.

The undersigned acknowledges that the Commonwealth reserves the right to reject the undersigned's claim of trade secret/confidential proprietary information if the Commonwealth determines that the undersigned has not met the burden of establishing that the information constitutes a trade secret or is confidential. The undersigned also acknowledges that if only a certain part of the submitted material is found to constitute a trade secret or is confidential, the remainder of the submitted material will become public; only the protected information will be removed and remain nonpublic.

If being submitted electronically, the undersigned agrees that the mark below is a valid electronic signature.

Signature

Title

Date

APPENDIX F-1

COST SUBMITTAL LOT 1 – 457(b) PLAN

This document can be located within electronic file listing for the solicitation posting. The solicitation document can be located on the Department of General Service's procurement website at www.eMarketplace.state.pa.us.

APPENDIX F-2

COST SUBMITTAL LOT 2 – 401(a) PLAN

This document can be located within electronic file listing for the solicitation posting. The solicitation document can be located on the Department of General Service's procurement website at www.eMarketplace.state.pa.us.

Listing SDB and SB Subcontractors

The Offeror must list in the chart below the SDBs and SBs that will be used to meet the percentage commitments provided above. Include the SDB/SB firm name, SDB or SB designation, SDB/SB Primary Contact Information, a description of the service or supplies the SDB/SB will provide, fixed percent of total contract cost committed, estimated dollar value of each commitment, and an indication as to the Offeror’s intent to utilize the SDB/SB subcontractor for contract options or renewals. Include as many pages as necessary. **Offerors must also include a Letter of Intent as indicated in RFP Part V, Section V-2 for each SDB/SB listed.**

SDB/SB Name	SDB or SB	Primary Contact Name & Email	Description of Services or Supplies to be provided	% of total Contract Cost Committed	Estimated \$ value of Commitment	Will SDB/SB be used for options/renewals? (yes/no)

APPENDIX H

SMALL DIVERSE AND SMALL BUSINESS
LETTER OF INTENT

[DATE]

[SDB/SB Contact Name

Title

SDB/SB Company Name

Address

City, State, Zip]

Dear [SDB/SB Contact Name]:

This letter serves as confirmation of the intent of [Offeror] to utilize [Small Diverse Business (SDB) or Small Business (SB)] on RFP [RFP number and Title] issued by the [Commonwealth agency name].

If [Offeror] is the successful vendor, [SDB or SB] shall provide [identify the specific work, goods or services the SDB/SB will perform] during the initial term of the prime contract and during any extensions, options or renewal periods of the prime contract exercised by the Commonwealth, as more specifically set forth below: [identify the specific time periods during the initial contract term and any extensions, options and renewals when the component work, goods or services will be provided or performed.]

These services represent [identify fixed numerical percentage commitment] of the total cost in the [Offeror's] cost submittal for the initial term of the contract. Dependent on final negotiated contract pricing and actual contract usage or volume, it is expected that [SDB or SB] will receive an estimated [identify associated estimated dollar value that the fixed percentage commitment represents] during the initial contract term.

[SDB/SB] represents that it meets the small or small diverse business requirements set forth in the RFP and all required documentation has been provided to [Offeror] for its SDB/SB submission.

We look forward to the opportunity to serve the [Commonwealth agency name] on this project. If you have any questions concerning our small business or small diverse business commitment, please feel free to contact me at the number below.

Sincerely,

Acknowledged,

Offeror Name

Title

Company

Phone number

SDB or SB Name

Title

Company

Phone number

APPENDIX I

MODEL FORM OF SMALL DIVERSE AND SMALL BUSINESS SUBCONTRACTOR AGREEMENT

This Subcontractor Agreement ("Subcontract") is made effective as of _____, 20____, by and between _____, ("Contractor") and _____, a Small Diverse Business or Small Business ("Subcontractor") (collectively referred to as the "Parties").

RECITALS

Contractor has entered into a contract dated _____ (the "Prime Contract") with the Department of _____ of the Commonwealth of Pennsylvania ("Commonwealth"). Under the Prime Contract, Contractor has agreed to provide certain supplies, services or construction ("Services") to the Commonwealth.

In connection with the Procurement leading to the Prime Contract, Contractor and Subcontractor entered into a letter agreement dated _____ ("Letter of Intent") whereby the Contractor committed a certain percentage of work ("Small Diverse Business or Small Business Commitment") under the Prime Contract to the Subcontractor.

As contemplated by the Letter of Intent and in accordance with the provisions of the Procurement and Prime Contract, the Parties have agreed to enter into this Subcontract to fulfill the Small Diverse Business or Small Business Commitment expressed in the Letter of Intent and as required by the Prime Contract.

DEFINITIONS

The following words and terms when used in this Subcontract shall have the following meanings:

Bureau – The Department's Bureau of Diversity, Inclusion and Small Business Opportunities.

Contracting Officer – The person authorized to administer and make written determinations for the Commonwealth with respect to the Prime Contract.

Department – The Department of General Services of the Commonwealth of Pennsylvania.

Issuing Office – The department, board, commission or other agency of the Commonwealth of Pennsylvania that issued the Procurement.

Procurement – The Invitation for Bids, Request for Quotes, Request for Proposals or other solicitation and all associated final procurement documentation issued by the Commonwealth to obtain proposals from firms for award of the Prime Contract.

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

Small Diverse Business – A Department-verified minority-owned small business, woman-owned small business, veteran-owned small business, service-disabled veteran-owned small business, LGBT-owned small business, or disability-owned small business.

AGREEMENT

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

1. Subcontractor Representations. Subcontractor represents and warrants to Contractor as follows:

- (a) Subcontractor is self-certified as a Small Business in accordance with the requirements and procedures established by the Bureau of Diversity, Inclusion and Small Business Opportunities; [Subcontractor is also verified as a Small Diverse Business by the Bureau of Diversity, Inclusion and Small Business Opportunities in accordance with the requirements and procedures established by the Bureau;]
- (b) Subcontractor possesses the necessary knowledge, experience, expertise, capital, resources and personnel required to perform the Services it will provide under this Subcontract;
- (c) Subcontractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;
- (d) The execution and performance by Subcontractor of the terms and provisions of this Subcontract have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract by Subcontractor will violate any provision of law, any order of any court or other agency of government, the organizational documents of Subcontractor or any indenture, agreement or other instrument to which Subcontractor is a party, or by which Subcontractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subcontractor pursuant to, any such indenture agreement or instrument;

- (e) Subcontractor has obtained all licenses, permits and approvals required to perform the Services it will provide under this Subcontract; and
 - (f) Subcontractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.
- 2. Contractor Representations. Contractor represents and warrants to Subcontractor as follows:
 - (a) Contractor (i) is duly organized, validly existing and in good standing under the laws of its state of incorporation or organization, (ii) has the power and authority to own its properties and to carry on business as now being conducted, and (iii) has the power to execute and deliver this Subcontract;
 - (b) The execution and performance by Contractor of the terms and provisions of this Subcontract by Contractor have been duly authorized by all requisite action, and neither the execution nor the performance of this Subcontract will violate any provision of law, any order of any court or other agency of government, the organizational documents of Contractor or any indenture, agreement or other instrument to which Contractor is a party, or by which Contractor is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Subcontract, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Contractor pursuant to, any such indenture agreement or instrument;
 - (c) Contractor has obtained all licenses, permits and approvals required to perform the Services to be provided by Contractor under the Prime Contract; and
 - (d) Contractor is not under suspension or debarment by the Commonwealth or any other governmental entity, instrumentality or authority.
- 3. Relationship of the Parties. The provisions of this Subcontract are not intended to create, nor shall be deemed or construed to create, any joint venture, partnership or other relationship between Contractor and Subcontractor, other than that of independent entities contracting with each other solely for the purpose of carrying out the provisions of this Subcontract. Neither of the Parties to this Subcontract, nor any of their respective employees, agents, or other representatives, shall be construed to be the agent, employee or representative of the other party. Neither party shall have the authority to bind the other party, nor shall a party be responsible for the acts or omissions of the other party, unless otherwise stated in this Subcontract. Similarly, the Parties expressly acknowledge that neither the Contractor nor the Subcontractor is an agent, employee or representative of the Commonwealth and each party covenants not to represent itself accordingly.

4. Prime Contract Flow-Down.
- (a) General. This agreement is a subcontract under the Prime Contract and all provisions of the Prime Contract and any amendments thereto applicable to the Services being performed by the Subcontractor shall extend to and be binding upon the Parties as part of this Subcontract.
 - (b) Specific. The Parties agree to comply with the following provisions of the Prime Contract, which are incorporated herein by reference:
 - (1) The Americans with Disabilities Act Provisions.
 - (2) Nondiscrimination/Sexual Harassment Clause.
 - (3) Contractor Integrity Provisions.
 - (4) Contractor Responsibility Provisions.
 - (c) Termination. Should the Prime Contract be terminated pursuant to the terms and conditions provided in the Procurement, such termination shall have the same effect on this Subcontract. Payment for Services provided as of the date of termination must be made in accordance with the Section 13 of this Subcontract.
 - (d) 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 Parties to the extent that the books, documents, and records relate to the Parties' compliance with the provisions set forth in subsection (b) above or to the Small Diverse Business or Small Business Commitment effectuated through this Subcontract. The Parties shall preserve such books, documents, and records for a period of three years from the date of final payment hereunder. The Parties shall give full and free access to all such records to the Commonwealth and/or its authorized representatives.
5. Order of Precedence. The Letter of Intent, Procurement and Prime Contract are incorporated herein by reference into this Subcontract. In the event of any conflict or inconsistency among the individual components of this Subcontract, such conflict or inconsistency shall be resolved by observing the following order of precedence:
- (a) This Subcontract;
 - (b) The Letter of Intent;
 - (c) The Prime Contract; and
 - (d) The Procurement.
6. Further Action. The Parties shall take such actions and complete, execute and deliver any and all documents or instruments necessary to carry out the terms and provisions of this Subcontract, to effectuate the purpose of this Subcontract, and to fulfill the obligations of each party hereunder.

7. Description of Services. Subcontractor will perform the following Services for the Contractor which Contractor is obligated to provide to the Commonwealth under the Prime Contract:

[DESCRIBE IN DETAIL THE SPECIFIC SUPPLIES, SERVICES OR CONSTRUCTION THE SUBCONTRACTOR WILL PROVIDE OR PERFORM]

8. Small Diverse Business or Small Business Commitment. The above-referenced Services represent __ % of the final negotiated total cost for the initial term of the Prime Contract. Any proposed change to the Small Diverse Business or Small Business Commitment must be submitted in writing to the Bureau which will make a recommendation to the Commonwealth Contracting Officer regarding a course of action.

9. Performance of Services. Subcontractor may not subcontract more than 50% of the work subcontracted to it hereunder without written permission from the Bureau. Subcontractor will perform the Services strictly in accordance with any applicable plans and specifications as contained in the Prime Contract and the reasonable deadlines set by Contractor in view of the requirements of the Prime Contract, and in a good workmanlike manner consistent with industry standards, meeting all applicable local, state and federal laws, regulations and policies.

10. Location of Services. Subcontractor will provide the Services at the following address(es):

11. Timeframe for Performance of Services. The Services will be provided by Subcontractor during the initial term of the Prime Contract, and during any extensions, options or renewal periods of the Prime Contract exercised by the Commonwealth, as more specifically set forth below:

[IDENTIFY THE SPECIFIC TIME PERIODS DURING THE INITIAL CONTRACT TERM AND EXTENSIONS, OPTIONS AND RENEWALS WHEN THE SUBCONTRACTOR WILL PERFORM COMPONENT SERVICES]

12. Pricing of Services. Subcontractor shall provide or perform the Services at the pricing specified in Exhibit ___ to this Subcontract. [ATTACH A BILL OF MATERIALS, RATE CARD OR OTHER APPROPRIATE COST SHEET COVERING THE SERVICES TO BE PROVIDED.]

13. Payment for Services. Contractor shall exert reasonable and diligent efforts to collect prompt payment from the Commonwealth. Contractor shall pay Subcontractor in proportion to amounts received from the Commonwealth which are attributable to the Services performed by Subcontractor. Contractor shall pay Subcontractor within fourteen (14) days after the Contractor receives such payment from the Commonwealth, unless the parties expressly agree upon a different payment schedule or structure as set forth below:

_____.

14. Utilization Reports. Both the Contractor and Subcontractor shall complete Quarterly Utilization Reports (or similar type documents containing the same information) and submit them to the Contracting Officer and to the Bureau within ten (10) business days at the end of each quarter. This information will be used to determine the actual dollar amount paid to Subcontractor and will also serve as a record of fulfillment of Contractor's Small Diverse Business and Small Business Commitments. If there was no activity during the quarter, then the form must be completed by stating "No activity in this quarter." A late fee of \$100.00 per day may be assessed against the Contractor if its Utilization Report is not submitted in accordance with the schedule above.

15. Change Orders. If the Commonwealth issues any change order or other formal contract instrument either expanding or limiting the work to be performed under the Prime Contract, the Parties shall accept such Change Orders. Contractor agrees to provide Subcontractor with written notice of any such change orders that affect the Services to be provided by the Subcontractor hereunder as soon as practical after Contractor receives such notice. Any resulting increase or decrease in the Services, Small Diverse Business or Small Business Commitment provided for in Paragraphs 7 or 8 above must be in writing, mutually agreed to, and signed by both Parties and communicated to the Bureau. If the Parties are unable to reach an agreement regarding any adjustment to the Services, Small Diverse Business or Small Business Commitment necessitated by a Commonwealth Change Order, the Parties must submit the matter in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.

16. Force Majeure. Neither party will incur any liability to the other if its performance of any obligation under this Subcontract 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, epidemic and quarantines, general strikes throughout the trade, and freight embargoes. The existence of such causes beyond a party's control shall extend the period for performance to such extent as may be necessary to enable complete performance in the exercise of reasonable diligence after the causes have been removed.

17. Dispute Resolution.

(a) The Parties will attempt to resolve any dispute arising out of or relating to this Subcontract through friendly negotiations.

(1) The Parties expressly acknowledge and confer upon the Bureau and Contracting Officer the authority to adjudicate disputes that the Parties cannot resolve amicably concerning the Parties' compliance with their Small Diverse Business and Small Business Commitments as provided in the Prime Contract and this Subcontract.

(2) The Bureau may recommend to the Contracting Officer a range of sanctions it deems appropriate if the Bureau determines a party has failed to satisfy or perform its Small Diverse Business or Small Business commitment. Such sanctions include, but are not limited to, one or more of the following: a determination that the party is not responsible under the Contractor Responsibility Program; withholding of Prime Contract and/or Subcontract payments; suspension or termination of the Prime Contract and/or Subcontract together with consequential damages; revocation of the party's Small Business self-certification status and/or Small Diverse Business verification status; and/or suspension or debarment of one or both parties from future contracting opportunities with the Commonwealth.

(3) The Parties' acknowledge that their prior performance in meeting their Small Diverse Businesses and Small Businesses contractual obligations will be considered by the Bureau during future procurement scoring processes. To the extent a party has failed to meet prior contractual commitments, the Bureau may recommend to the Issuing Office that the party be determined non-responsible for the limited purpose of eligibility to receive SDB/SB points or consideration as a qualified Small Diverse Business or Small Business.

(b) Nothing herein shall be construed to prevent either party from seeking such relief as provided by law in a court or tribunal of competent jurisdiction.

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

If to Contractor:

If to Subcontractor:

19. Waiver. No waiver by either party of any breach of this Subcontract shall be deemed to waive any other breach. No acceptance of payment or performance after any breach shall be deemed a waiver of any breach. No failure or delay to exercise any right by a party upon another's default shall prevent that party from later exercising that right, nor shall such failure or delay operate as a waiver of any default.
20. Severability. If any provision of this Subcontract shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Subcontract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
21. Assignment. Neither party may assign or transfer this Subcontract without the prior written consent of the Commonwealth. If Contractor's Prime Contract with the Commonwealth is assigned to another contractor, the new contractor must maintain the Small Diverse Business and Small Business Commitment set forth in the Prime Contract as implemented through this Subcontract.
22. Applicable Law. This Subcontract shall be governed by the laws of the Commonwealth of Pennsylvania.
23. Entire Agreement. This Subcontract constitutes the entire agreement of the Parties regarding the subject of this Subcontract as of the date of execution. No other agreement or understandings, verbal or written, expressed or implied, are a part of this Subcontract unless specified herein.
24. Amendment. This Subcontract may be modified or amended only if made in writing and signed by both Parties. Any proposed change to the Contractor's Small Diverse Business or Small Business Commitment to Subcontractor must be submitted in writing to the Bureau which will make a recommendation to the Contracting Officer regarding a course of action.
25. Binding Effect. This Subcontract shall be binding upon, and inure to the benefit of, the Parties and their respective heirs, representatives, successors and assigns.

26. Counterparts. This Subcontract may be executed by the Parties in counterparts, each of which together shall be deemed an original but all of which together shall constitute one and the same instrument. A party's delivery of a duly executed signature page of this Subcontract in electronic format shall have the same force and effect as delivery of an original signature page.

ADDITIONAL TERMS AND CONDITIONS

[THE PARTIES MAY INCLUDE ADDITIONAL TERMS AND CONDITIONS APPROPRIATE FOR THE SERVICES TO BE PROVIDED SO LONG AS THEY ARE COMMERCIALY REASONABLE TERMS FOR THE APPLICABLE BUSINESS OR INDUSTRY, ARE NO LESS FAVORABLE THAN THE TERMS OF THE PRIME CONTRACT, AND DO NOT PLACE DISPROPORTIONATE RISK ON THE SMALL DIVERSE BUSINESS OR SMALL BUSINESS RELATIVE TO THE NATURE AND LEVEL OF THE SMALL DIVERSE BUSINESS' OR SMALL BUSINESS' PARTICIPATION IN THE PROJECT. SUCH TERMS MAY INCLUDE:

- Background Checks
- Confidentiality/Disclosure of Information
- Data Security
- Insurance
- Invoicing Requirements
- Environmental Protection
- Intellectual Property Rights
- Record Retention/Audits
- Service Level Agreements (SLAs) (consistent with Prime Contract SLAs)
- Public Works Construction Requirements (including Bonding, E-Verify, Prevailing Wage, and Prompt Payment provisions)

IN WITNESS WHEREOF, the Parties hereto have caused this Subcontract to be executed by their duly authorized officers as set forth below.

Contractor

Subcontractor

Insert Company Name

Insert Company Name

By: _____
Signature

By: _____
Signature

Printed Name

Printed Name

Title

Title

Date

Date

APPENDIX J

PROCESSING FORMAT FOR WITHDRAWALS AND DISTRIBUTIONS

Request Message

The Request Message is used to transmit requests for disbursements to Treasury. It is formatted as an XML document and may be submitted via web service or file. All Request Documents consist of a single document header containing control information and one or more payment request data modules consisting of the data elements necessary for creating a disbursement. Each payment request data module must be identified by a trace id that is unique to the submitting source system.

Sample Benefit Payment Request Document

```
<?xml version="1.0"?>
<APPR01Request xmlns="http://schemas.patreaury.gov/interface/schema/APPR01Request.v1">
  <DocumentHeader>
    <Control class="R">
      <InterfaceIdentifier>APPR01</InterfaceIdentifier>
      <SourceSystemCode>IES</SourceSystemCode>
      <DocumentIdentifier>123456789</DocumentIdentifier>
      <DocumentDateTime>2013-12-31T15:35:38.687500-05:00</DocumentDateTime>
      <ControlCount>1</ControlCount>
      <ControlAmount>100.00</ControlAmount>
    </Control>
  </DocumentHeader>
  <!-- 1 or more repetitions:-->
  <PaymentRequest>
    <Header class="R">
      <TraceId></TraceId>
      <OriginalTraceId></OriginalTraceId>
      <PaymentClass></PaymentClass>
      <PriorityCode></PriorityCode>
      <RecipientType></RecipientType>
      <RecipientId></RecipientId>
      <RecipientLocation></RecipientLocation>
      <TaxpayerId></TaxpayerId>
      <PreConsolidationIndicator></PreConsolidationIndicator>
      <VendorInvoiceId></VendorInvoiceId>
      <VendorInvoiceDate></VendorInvoiceDate>
      <SourceSystemReference></SourceSystemReference>
      <DocumentType></DocumentType>
      <GrossPaymentAmount></GrossPaymentAmount>
      <GrossEarningsAmount></GrossEarningsAmount>
      <DueDate></DueDate>
      <PaymentTerms></PaymentTerms>
      <PaymentTermsBasisDate></PaymentTermsBasisDate>
      <DocumentFormat></DocumentFormat>
      <DocumentVerificationValue></DocumentVerificationValue>
    </Header>
  </PaymentRequest>
</APPR01Request>
```

```

<DocumentURL></DocumentURL>
<BatchType></BatchType>
<BatchId></BatchId>
<BatchSequenceNumber></BatchSequenceNumber>
<ForceBatchProcessing></ForceBatchProcessing>
<Payment class="R">
  <PaymentNumber></PaymentNumber>
  <PaymentType></PaymentType>
  <PaymentMethod></PaymentMethod>
  <SeparatePayment></SeparatePayment>
  <PaymentHandlingCode></PaymentHandlingCode>
  <PrintRemittance></PrintRemittance>
  <PaymentMessage></PaymentMessage>
  <PayrollDeliveryBusinessArea></PayrollDeliveryBusinessArea>
  <CheckMemoLine></CheckMemoLine>
  <!--0 to 10008 repetitions:-->
  <Advice class="R">
    <LineType> </LineType>
    <LineTypeSequenceNumber></LineTypeSequenceNumber>
    <Text> </Text>
  </Advice>
  <!--0 to 9999 repetitions:-->
  <ACHAddenda class="R">
    <SequenceNumber></SequenceNumber>
    <Text> </Text>
  </ACHAddenda>
</Payment>
<Recipient class="R">
  <RecipientNumber></RecipientNumber>
  <NameOne></NameOne>
  <NameTwo></NameTwo>
  <Country></Country>
  <StreetAddressOne></StreetAddressOne>
  <StreetAddressTwo></StreetAddressTwo>
  <City></City>
  <State></State>
  <PostalCode></PostalCode>
</Recipient>
<!--Optional:-->
<EFTBeneficiary class="R">
  <BeneficiaryNumber></BeneficiaryNumber>
  <TransactionHandling> </TransactionHandling>
  <FormatCode> </FormatCode>
  <WireType></WireType>
  <AgencyLocationCode></AgencyLocationCode>
  <DFIQualifier></DFIQualifier>
  <DFI></DFI>
  <BankAccountType></BankAccountType>
  <BankAccountNumber></BankAccountNumber>
  <IBAN></IBAN>
  <BankName></BankName>

```

```

<Country></Country>
<StreetAddressOne></StreetAddressOne>
<StreetAddressTwo></StreetAddressTwo>
<City></City>
<State></State>
<PostalCode></PostalCode>
<PaymentDetailInformation></PaymentDetailInformation>
<FurtherCreditToIndicator></FurtherCreditToIndicator>
<BeneficiaryReference></BeneficiaryReference>
</EFTBeneficiary>
<!--1 to 99999 repetitions:-->
<Item class="R">
  <ItemNumber></ItemNumber>
  <Description></Description>
  <ItemAmount></ItemAmount>
  <ItemType> </ItemType>
  <ItemId></ItemId>
  <ItemLineNumber></ItemLineNumber>
  <ItemScheduleNumber></ItemScheduleNumber>
  <ItemDate></ItemDate>
  <ItemReference></ItemReference>
  <VendorId></VendorId>
  <VendorLocation></VendorLocation>
  <VendorTaxpayerId></VendorTaxpayerId>
  <SCDUNoncustodialParentName></SCDUNoncustodialParentName>
  <SCDUNoncustodialParentSSN></SCDUNoncustodialParentSSN>
  <SCDUEmploymentTerminated></SCDUEmploymentTerminated>
  <SCDUMedicalSupportIndicator></SCDUMedicalSupportIndicator>
  <SCDUFIPSCode></SCDUFIPSCode>
  <Issuer></Issuer>
  <AdvancementAccountBusinessArea></AdvancementAccountBusinessArea>
  <AdvancementAccountCode></AdvancementAccountCode>
  <PayeeNameOne></PayeeNameOne>
  <PayeeNameTwo></PayeeNameTwo>
  <AuditLookupType></AuditLookupType>
  <AuditLookupId></AuditLookupId>
  <AccountingReference></AccountingReference>
  <!--0 to 999 repetitions:-->
  <SupportingDocument class="R">
    <DocumentNumber></DocumentNumber>
    <Description></Description>
    <Type></Type>
    <Format></Format>
    <VerificationValue></VerificationValue>
    <URL></URL>
  </SupportingDocument>
  <!--1 to 99999 repetitions:-->
  <Funding class="R">
    <FundingLineNumber></FundingLineNumber>
    <Description></Description>
    <Amount></Amount>

```

```
<Fund></Fund>
<Department></Department>
<Appropriation></Appropriation>
<FiscalYear></FiscalYear>
<Account></Account>
</Funding>
</Item>
</Header>
</PaymentRequest>
</APPR01Request>
```

Acknowledgement Message

Payment Request messages are automatically responded to with an Acknowledgement message. The Acknowledgement is an XML document containing information on the loading status of payment requests in the initiating message. Detailed validation messages facilitate correcting invalid payment requests for resubmission. The Acknowledgement is returned as a synchronous response when the interface is accessed via its web service integration point and as a file, email message, or both when accessed via its file integration point.

Sample Acknowledgement of Benefit Payment Request

```
<?xml version="1.0"?>
<Acknowledgement xmlns="http://schemas.pat treasury.gov/interface/schema/Acknowledgement.v1">
  <DocumentHeader>
    <Control class="R">
      <InterfaceIdentifier></InterfaceIdentifier>
      <SourceSystemCode></SourceSystemCode>
      <DocumentIdentifier></DocumentIdentifier>
      <DocumentDateTime></DocumentDateTime>
      <ResponseCode></ResponseCode>
      <ReceiveCount></ReceiveCount>
      <ErrorCount></ErrorCount>
      <AcceptCount></AcceptCount>
      <RejectCount></RejectCount>
      <RequestDocumentIdentifier></RequestDocumentIdentifier>
      <RequestDateTime></RequestDateTime>
      <RequestSystemCode></RequestSystemCode>
      <RequestFilename></RequestFilename>
      <Message class="R">
        <MessageNumber></MessageNumber>
        <MessageSet></MessageSet>
        <Severity></Severity>
        <Text></Text>
      </Message>
    </Control>
  </DocumentHeader>
  <DataModule>
    <Reference class="R">
      <TraceId></TraceId>
      <TraceIdTwo></TraceIdTwo>
      <ErrorFlag></ErrorFlag>
      <SystemReferenceOne></SystemReferenceOne>
      <SystemReferenceTwo></SystemReferenceTwo>
      <SystemReferenceThree></SystemReferenceThree>
      <SystemReferenceFour></SystemReferenceFour>
      <ValidationMessage class="R">
        <MessageNumber></MessageNumber>
        <MessageSet></MessageSet>
        <Severity></Severity>
        <Text></Text>
      </ValidationMessage>
    </Reference>
  </DataModule>
</Acknowledgement>
```

```
<RecordName></RecordName>
<RecordReferenceOne></RecordReferenceOne>
<RecordReferenceTwo></RecordReferenceTwo>
<RecordReferenceThree></RecordReferenceThree>
<FieldName></FieldName>
<FieldValue></FieldValue>
</ValidationMessage>
</Reference>
</DataModule>
</Acknowledgement>
```

APPENDIX K

PLAN 457(b) ELIGIBILITY FILE

This file will help the TPA to indicate which participants are eligible to join the 457(b) Plan. The following are the fields to be reported to the TPA in the 457(b) Plan eligibility file:

- Employee Agency Number (Division Number)
- Employee Social Security Number
- Employee Social Security Number Extension
- Employee Last Name
- Employee First Name
- Employee Middle Initial
- Employee Suffix
- Employee Date of Birth
- Employee Gender
- Marital Status
- Employee Address 1
- Employee Address 2
- Employee City
- Employee State
- Employee Zip Code
- Hire Date
- Employee Salary

APPENDIX L – 1

457(b) PLAN QUESTIONNAIRE

This document can be located within electronic file listing for the solicitation posting. The solicitation document can be located on the Department of General Service's procurement website at www.eMarketplace.state.pa.us.

APPENDIX L – 2

401(a) PLAN QUESTIONNAIRE

This document can be located within electronic file listing for the solicitation posting. The solicitation document can be located on the Department of General Service's procurement website at www.eMarketplace.state.pa.us.

APPENDIX M – 1

457(b) PLAN CONTRIBUTION FILE

The following are the fields to be reported to the TPA in the 457(b) Plan contribution files:

- Plan Number (Case Number)
- TPA Payroll Subset
- Employee Social Security Number
- Employee Social Security Number Extension
- Employee Last Name
- Employee First Name
- Employee Middle Initial
- Employee Suffix
- Employee Date of Birth
- Employee Gender
- Employee Address 1
- Employee Address 2
- Employee City
- Employee State
- Employee Zip Code
- Employee Salary
- Payroll Date
- Contribution Amount - Pre-tax
- Contribution Amount - Roth

APPENDIX M – 2

401(a) PLAN CONTRIBUTION FILE

The following are the fields to be reported to the TPA in the 401(a) Plan contribution files:

- Plan Number (Case Number)
- TPA Payroll Subset
- Employee Social Security Number
- Employee Social Security Number Extension
- Employee Last Name
- Employee First Name
- Employee Middle Initial
- Employee Suffix
- Employee Date of Birth
- Employee Gender
- Employee Address 1
- Employee Address 2
- Employee City
- Employee State
- Employee Zip Code
- Employee Salary
- Payroll Date
- Deduction Amount – 401a Participant Mandatory Pre-Tax
- Deduction Amount – 401a Participant Voluntary Post-Tax
- Deduction Amount – 401a Employer Pre-Tax
- Deduction Amount – 401a Mandatory Post-Tax
- Retirement Covered Earnings
- Benefit Plan Code
- Hire Date
- Personnel Area (Agency/Sub-Agency Number)

APPENDIX N TERMINATION DATE FILE

Other than those enrolled in the 401a only option that TPA will have to track, the Board will provide a weekly termination date file to TPA to determine when participants are no longer eligible to participate in the Plans and eligible to request distribution as allowable. The following are the fields to be reported to the TPA in the Plans' termination date file:

- Plan Number (Case Number)
- Employee Social Security Number
- Employee Social Security Number Extension
- Employee Last Name
- Employee First Name
- Employee Birth Date
- SERS Status
- Enrollment Date
- Stop Date
- Rehire Date