

REQUEST FOR PROPOSALS FOR

Phase 3 – Middle Creek Interactive Displays

**PENNSYLVANIA GAME COMMISSION
BUREAU OF ADMINISTRATIVE SERVICES
CONTRACTS AND PROCUREMENT DIVISION
2001 ELMERTON AVENUE
HARRISBURG, PA 17110-9797**

RFP NUMBER

RFP-MC-2013-3

January 22, 2014

REQUEST FOR PROPOSALS FOR
Phase 3 – Middle Creek Interactive Displays

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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 bmercer@pa.gov	Potential Offerors	March 4, 2014
Optional - Pre-proposal Conference—Middle Creek Visitor Center. (see attached directions)	Issuing Office/Potential Offerors	Feb. 28, 2014 10:30 AM
Answers to Potential Offeror questions posted to the DGS website (http://www.dgsweb.state.pa.us/RTA/Search.aspx) no later than this date.	Issuing Office	March 12, 2014
Please monitor website for all communications regarding the RFP.	Potential Offerors	
Sealed proposal must be received by the Issuing Office at PA Game Commission Attn: Bobbi Mercer Bureau of Administrative Services Contracts and Procurement Division 2001 Elmerton Avenue	Offerors	March 19, 2014

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Part I - General Information

PART I - GENERAL INFORMATION

I.1 RFP-001.1 Purpose

I-1. This request for proposals (RFP) provides to those interested in submitting proposals for the subject procurement ("Offerors") sufficient information to enable them to prepare and submit proposals for the Pennsylvania Game Commission's (PGC) consideration on behalf of the Commonwealth of Pennsylvania ("Commonwealth") to satisfy a need for the design, fabrication and installation of several interactive and educational displays, located at the PA Game Commission's Middle Creek Wildlife Management Visitors Center, located in Kleinfeltersville, PA.

I.2 RFP-002.1 Issuing Office

The PA GAME COMMISSION (Issuing Office) has issued this RFP on behalf of the Commonwealth. The sole point of contact in the Commonwealth for this RFP shall be Bobbi Mercer, 2001 Elmerton Avenue, Harrisburg PA 17110, bmercerc@pa.gov, the Issuing Officer for this RFP. Please refer all inquiries to the Issuing Officer.

I.3 RFP-003.1 Scope

This RFP contains instructions governing the requested proposals, including the requirements for the information and material to be included; a description of the service to be provided; requirements which Offerors must meet to be eligible for consideration; general evaluation criteria; and other requirements specific to this RFP.

I.4 RFP-004.1 Problem Statement

Middle Creek Wildlife Management Area is visited each year by thousands of people, many of whom are not familiar with what we do at Middle Creek. The objective is to educate the public, through a series of interactive displays, about the PA Game Commission, Middle Creek and wildlife with an emphasis on waterfowl and the important role Middle Creek plays in the "big picture" of waterfowl management. In addition, we hope to educate the non-hunting public about the role hunter's play in the conservation of wildlife. Additional detail is provided in Part IV of the RFP.

Additional detail is provided in **Part IV** of this RFP.

I.5 RFP-006.1 Rejection of Proposals

The Issuing Office reserves the right, in its sole and complete discretion, to reject any and all proposals received as a result of this RFP.

I.6 RFP-007.1 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.7 RFP-008.1a Optional Pre-proposal Conference

Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. Attendance at the Pre-proposal Conference is optional.
The pre-proposal conference will be held on 02/28/2014, at 10:30 AM, MIDDLE CREEK VISITOR CENTER.

1.8 RFP-009.1 Questions and Answers

If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (**with the subject line 'RFP-MC-2013-3 Question'**) to the Issuing Officer. If the Offeror has questions, they must be submitted via email **no later than 03/04/2014**. The Issuing Officer shall post the answers to the questions on the following website at www.emarketplace.state.pa.us.

An Offeror who submits a question *after* the deadline date for receipt of questions 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, the Issuing Officer *may* respond to the 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, the answer must be provided to all Offerors through an addendum.

All questions and responses as posted on the Issuing Office website are considered as an addendum to, and part of, this RFP. Each Offeror shall be responsible to monitor the Issuing Office 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.

1.9 RFP-010.1 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 following website at www.emarketplace.state.pa.us. 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.

1.10 RFP-011.1a Proposal Response Date

To be considered for selection, hard copies of proposal must arrive at the Issuing Office on or before 03/19/2014 by 2:00 PM. 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 Issuing 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.

1.11 RFP-012.1a Proposals

To be considered, Offerors should submit a complete response to this RFP to the Issuing Office, using the format provided in Part II, providing four (4) paper copies of the Technical Submittal and one (1) paper copy of the Cost Submittal and two (2) paper copies of the Small Diverse Business (SDB) participation Submittal. In addition to the paper copies of the proposal, Offerors shall submit two complete and exact copies of the entire proposal (Technical, Cost and SDB Submittals, along with all requested documents) on CD-ROM or Flash drive in Microsoft Office or Microsoft Office-compatible format. The electronic copy must be a mirror image of the paper copy and any spreadsheets must be in Microsoft Excel. The Offerors may not lock or protect any cells or tabs. Offerors should

ensure that there is no costing information in the technical submittal. Offerors should not reiterate technical information in the cost submittal. The CD or Flash drive should clearly identify the Offeror and include the name and version number of the virus scanning software that was used to scan the CD or Flash drive before it was submitted. The Offeror shall make no other distribution of its proposal to any other Offeror or Commonwealth official or Commonwealth consultant. Each proposal page should be numbered for ease of reference. An official authorized to bind the Offeror to its provisions must sign the proposal. If the official signs the Proposal Cover Sheet (an Appendix to this RFP) and the Proposal Cover Sheet is attached to the Offeror's proposal, the requirement will be met. For this RFP, the proposal must remain valid for 120 days or until a contract is fully executed. If the 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.

I.12 RFP-013.1a Small Diverse Business Information

The Issuing Office encourages participation by small diverse businesses as prime contractors, and encourages all prime contractors to make a significant commitment to use small diverse businesses as subcontractors and suppliers.

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

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

Questions regarding this Program can be directed to:

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

The Department's directory of BSBO-verified minority, women, veteran and service disabled veteran-owned businesses can be accessed from: Searching for Small Diverse Businesses.

I.13 RFP-014.1 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 RFP-015.1 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 RFP-016.1 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 RFP-017.1 Prime Contractor Responsibilities

The contract will require the selected Offeror to assume responsibility for all services offered in its proposal whether it produces them itself or by subcontract. The Issuing Office will consider the selected Offeror to be the sole point of contact with regard to contractual matters.

I.17 RFP-018.1 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. If financial capability information is submitted in response to Part II of this RFP such financial capability information is exempt from public records disclosure under 65 P.S. § 67.708(b)(26).

I.18 RFP-019.1 Best and Final Offers

A. While not required, the Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining "best and final offers." To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following, in any combination and order:

1. Schedule oral presentations;
2. Request revised proposals;
3. Conduct a reverse online auction; and
4. Enter into pre-selection negotiations.

B. 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 III, Section III-RFP-005.2b**, 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.

C. The Evaluation Criteria found in **Part III, Section III-RFP-004.1a** shall also be used to evaluate the Best and Final offers.

D. Price reductions offered through any reverse online auction shall have no effect upon the Offeror's Technical Submittal. Dollar commitments to Small Diverse Businesses can be reduced only in the same percentage as the percent reduction in the total price offered through any reverse online auction or negotiations.

I.19 RFP-020.1 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 RFP-021.1 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 RFP-021.2 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.22 RFP-022.1 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 nor toll the time for filing a protest (See Section I-RFP-024.1a or I-RFP-024.1b of this RFP).

I.23 RFP-023.1 Issuing Office Participation

Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work, except as otherwise provided in **Part IV**.

1.24 RFP-024.1b RFP Protest Procedure

A protest by a party not submitting a proposal must be filed within **seven** days after the protesting party knew or should have known of the facts giving rise to the protest, but no later than the Proposal Responsive Date. Offerors may file a protest within **seven** 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** days after the date the notice of award of the contract is posted on the DGS website at <http://www.dgsweb.state.pa.us/comod/ProtestProcedures.doc>. 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 day.

1.25 Submission-001.1 Representations and Authorizations

By submitting its proposal, each Offeror understands, represents, and acknowledges that:

A. All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa. C.S. § 4904.

B. The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential offeror.

C. The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.

D. The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.

E. The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.

F. To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, and employees are not currently under investigation by any governmental agency and have not in the last **four** years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.

G. To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.

H. The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.

I. The Offeror has not made, under separate contract with the 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.

Part II - PROPOSAL REQUIREMENTS

PART II - PROPOSAL REQUIREMENTS

II.1 RFP-001.1a General Requirements

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

- a. Technical Submittal
- b. Small Diverse Business Participation Submittal
- c. Cost Submittal

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.

II.2 RFP-002.1 Technical Submittal Requirements - Standard

Offerors must include in their Technical Submittal, their responses to the following:

a. Statement of the Problem: State in succinct terms your understanding of the problem presented or the service required by this RFP.

b. Management Summary: Include a narrative description of the proposed effort and a list of the items to be delivered or services to be provided.

c. Work Plan: Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in Part IV of this RFP as your reference point. Modifications of the task descriptions are permitted; however, reasons for changes should be fully explained. Indicate the number of person hours allocated to each task. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

d. Prior Experience: Experience shown should be work done by individuals who will be assigned to this project as well as that of your company. Studies or projects referred to must be identified and the name of the customer shown, including the name, address, and telephone number of the responsible official of the customer, company, or agency who may be contacted.

e. Personnel: Include the number of executive and professional personnel, analysts, auditors, researchers, programmers, consultants, etc., who will be engaged in the work. Show where these personnel will be physically located during the time they are engaged in the Project. For key personnel, include the employee's name and, through a resume or similar document, the Project personnel's education and experience. Indicate the responsibilities each individual will have in this Project and how long each has been with your company. Identify by name any subcontractors you intend to use and the services they will perform.

f. Training: If appropriate, indicate recommended training of agency personnel. Include the agency personnel to

be trained, the number to be trained, duration of the program, place of training, curricula, training materials to be used, number and frequency of sessions, and number and level of instructors.

g. 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.

h. Objections and Additions to Standard Contract Terms and Conditions: The Offeror will identify which, if any, of the terms and conditions (contained in Part V) 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 V. All terms and conditions must appear in one integrated contract. The Issuing Office will not accept references to the Offeror's, or any other, online guides or online terms and conditions contained in any proposal.

Regardless of any objections set out in its proposal, the Offeror must submit its proposal, including the cost proposal, on the basis of the terms and conditions set out in Part V. The Issuing Office will reject any proposal that is conditioned on the negotiation of terms and conditions other than those set out in Part V.

II.3 RFP-003.1a Small Diverse Business Participation Submittal

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

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

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

1. **All** Offerors must include a numerical percentage which represents the total percentage of the work (as a percentage of the total cost in the Cost Submittal) to be performed by the Offeror and not by subcontractors and suppliers.

2. **All** Offerors must include a numerical percentage which represents the total percentage of the total cost in the Cost Submittal that the Offeror commits to paying to Small Diverse Businesses (SDBs) as subcontractors. To support its total percentage SDB subcontractor commitment, Offeror must also include:

- a) The percentage and dollar amount of each subcontract commitment to a Small Diverse Business;
- b) The name of each Small Diverse Business. The Offeror will not receive credit for stating that after the contract is awarded it will find a Small Diverse Business.
- c) The services or supplies each Small Diverse Business will provide, including the timeframe for providing the services or supplies.
- d) The location where each Small Diverse Business will perform services.
- e) The timeframe for each Small Diverse Business to provide or deliver the goods or services.
- f) A signed subcontract or letter of intent for each Small Diverse Business. The subcontract or letter of intent must identify the specific work, goods or services the Small Diverse Business will perform and how the work, goods or services relates to the project.

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

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

4. The name and telephone number of the Offeror's project (contact) person for the Small Diverse Business information.

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

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

E. An Offeror that qualifies as a Small Diverse 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.

II.4 RFP-004.1a Cost Submittal Requirements - Paper Submission

The information submitted in response to this paragraph 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 shall be broken down into the components listed in the paragraph entitled "Cost Submittal Components". Offerors should **not** include any assumptions in their cost submittals. 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 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.

II.5 RFP-004.1A1 Cost Submittal Components

a. **Direct Labor Costs** Itemize to show the following for each category of personnel with a different hourly rate:

- (1) Category (e.g., partner, project manager, analyst, senior auditor, research associate).
- (2) Estimated hours.
- (3) Rate per hour.
- (4) Total cost for each category and for all direct labor costs.

b. **Labor Overhead** Specify what is included and rate used.

c. **Travel and Subsistence** Itemize transportation, lodging and meals per diem costs separately. Travel and subsistence costs must conform with the requirements of the most current version of Commonwealth Management Directive 230.10, Travel and Subsistence Allowances. The Issuing Office may accept higher rates normally paid by an Offeror, if those rates were approved by the Offeror's officials and published prior to submitting this proposal to the Issuing Office.

d. **Consultant Costs** Itemize as in (a) above.

e. **Subcontract Costs** Itemize as in (a) above.

f. **Cost of Supplies and Materials** Itemize.

g. **Other Direct Costs.** Itemize

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

i. Fee or Profit [Inclusion of this item depends on type of contract to be awarded.]

j. Total Cost II.6 RFP-005.1

Domestic Workforce Utilization Certification

Offerors who seek consideration for the Domestic Workforce Utilization Certification criterion must complete, sign and submit the Domestic Workforce Utilization Certification Form, which is attached to and made a part of this RFP. The completed and signed Domestic Workforce Utilization Certification Form must be submitted in the same sealed envelope with the Technical Submittal.

Part III- Criteria for Selections

PART III - CRITERIA FOR SELECTION

III.1 RFP-001.1a Mandatory Responsiveness Requirements

To be eligible for selection, a proposal must be:

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

III.2 RFP-002.1 Technical Nonconforming Proposals

The Mandatory Responsiveness Requirements set forth in **Section III- RFP-001.1a** or **Section III-RFP-001.1b** above 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.

III.3 RFP-003.1a Evaluation

The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BSBO will evaluate the Small Diverse 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.

III.4 RFP-004.1a Evaluation Criteria

A. Technical: The Issuing Office has established the weight for the Technical criterion for this RFP as 50% of the total points. Evaluation will be based upon the following in order of importance: **Soundness of Approach, Offeror Qualification, Personnel Qualifications, Understanding the Problem, Financial Capability and Available Facilities**. 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.portal.state.pa.us/portal/server.pt/community/rfp_scoring_formulas_overview/20124.

B. Cost: The Issuing Office has established the weight for the Cost criterion for this RFP as 30 % of the total points. The cost criterion is rated by giving the proposal with the lowest total cost the maximum number of Cost points available. The remaining proposals are rated by applying the Cost Formula set forth at the following webpage: http://www.portal.state.pa.us/portal/server.pt/community/rfp_scoring_formulas_overview/20124

C. Small Diverse Business Participation:

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

- A business submitting a proposal as a prime contractor must perform 60% of the total contract value to receive points for this criterion under any priority ranking.
- To receive credit for an SDB subcontracting commitment, the SDB subcontractor must perform at least fifty percent (50%) of the work subcontracted to it.
- A significant subcontracting commitment is a minimum of five percent (5%) of the total contract value. **[Five percent (5%) may be adjusted with DGS approval for particular procurements based on the type of project and available SDBs; "total contract value" may be changed with DGS approval to another pre-defined contract cost component as appropriate to better reflect**

the amount of contractor compensation realized in particular contract payment structures.]

- A subcontracting commitment less than five percent (5%) of the total contract value is considered nominal and will receive reduced or no additional SDB points depending on the priority ranking.

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

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

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

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

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

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

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

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

$$\text{Priority Rank 1} = 50 \text{ Additional Points Available}$$

$$\text{Priority Rank 3} = 100 \text{ Total Points Available}$$

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

http://www.portal.state.pa.us/portal/server.pt/community/rfp_scoring_formulas_overview/20124

III.5 RFP-005.2b 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.

III.6 RFP-005.3 Final Ranking and Award

A. After any best and final offer process conducted, the Issuing Office will combine the evaluation committee's final technical scores, BSBO's final small diverse business participation scores, the final cost scores, and (when applicable) the domestic workforce utilization scores, in accordance with the relative weights assigned to these areas as set forth in this Part.

B. The Issuing Office will rank responsible offerors according to the total overall score assigned to each, in descending order.

C. The Issuing Office must select for contract negotiations the offeror with the highest overall score; PROVIDED, HOWEVER, THAT AN AWARD WILL NOT BE MADE TO AN OFFEROR WHOSE PROPOSAL RECEIVED THE LOWEST TECHNICAL SCORE AND HAD THE LOWEST COST SCORE OF THE RESPONSIVE PROPOSALS RECEIVED FROM RESPONSIBLE OFFERORS. IN THE EVENT SUCH A PROPOSAL ACHIEVES THE HIGHEST OVERALL SCORE, IT SHALL BE ELIMINATED FROM CONSIDERATION AND AWARD SHALL BE MADE TO THE OFFEROR WITH THE NEXT HIGHEST OVERALL SCORE.

D. The 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.

III.7 RFP-006.1a Method of Selection

The Issuing Office will notify the selected Offeror in writing of its selection for negotiation 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.

Part IV - Statement of Work
PART IV - STATEMENT OF WORK
IV.1 WORK STATEMENT

Part IV, Statement of Work, is attached and made part of this RFP.

APPENDIX A

PART V - CONTRACT TERMS and CONDITIONS

V.1 CONTRACT-001.1a Contract Terms and Conditions

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

V.2 CONTRACT-002.1b Term of Contract – PO

The term of the Contract created by the issuance of the Purchase Order shall commence on the Issue Date, which will be printed on the Purchase Order after the Purchase Order has been signed and returned by the contractor, electronically signed by the Commonwealth and approved as required by Commonwealth contracting procedures. If the Purchase Order output form does not have "Fully Executed" at the top of the first page and does not have the name of the Purchasing Agent printed in the appropriate box, the Purchase Order has not been fully executed. Subject to the other provisions of the Contract, the Contract shall end on the later of: a) complete delivery and acceptance of the awarded item(s); b) the expiration of any specified warranty and maintenance period; c) payment by the Commonwealth for the item or items received; or d) any Expiration Date identified in the Purchase Order.

V.3 CONTRACT-002.2b Renewal of Contract Term – Mutual

The Contract may be mutually renewed for a maximum of 3 additional 1 year term(s), so long as the Commonwealth provides written notice to the Contractor of its intention to extend the Contract by letter dated not less than 090 days prior to the expiration of the term of the agreement, or any extension thereof, and the Contractor consents to the renewal not less than 060 days prior to the expiration of the term of the agreement or any extension thereof. The renewal may be exercised as individual or multiple year terms(s). Any renewal will be under the same terms, covenants and conditions. No further document is required to be executed to renew the term of the contract.

V.4 CONTRACT-002.3 Extension of Contract Term

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

V.5 CONTRACT-003.1d Signatures - PO

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

The Purchase Order will be signed in counterparts. The Contractor shall sign the Purchase Order "in ink" and return it to the Commonwealth. After the Purchase Order is signed by the Contractor and returned to the Commonwealth, it will be processed for Commonwealth signatures and approvals. When the Purchase Order has been electronically signed and approved by the Commonwealth as required by Commonwealth contracting procedures, it shall: 1) clearly indicate "Fully executed" at the top of the form; 2) include a printed Issue Date and 3) include the printed name of the Purchasing Agent indicating that the document has been electronically signed and approved by the Commonwealth. Until the Contractor receives the Purchase Order output form with this information on the Purchase Order output form, there is no legally binding contract between the parties.

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

The Commonwealth and the Contractor specifically agree as follows:

a. No handwritten signature by the Commonwealth shall be required in order for the Purchase Order to be legally enforceable.

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

c. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document if necessary.

V.6 CONTRACT-004.1a Definitions

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

a. Agency: The department, board, commission or other agency of the Commonwealth of Pennsylvania listed as the Purchasing Agency. If a COSTARS entity or external procurement activity has issued an order against this contract, that entity shall also be identified as "Agency".

b. Contracting Officer: The person authorized to administer this Contract for the Commonwealth and to make written determinations with respect to the Contract.

c. Days: Unless specifically indicated otherwise, days mean calendar days.

d. Developed Works or Developed Materials: All documents, sketches, drawings, designs, works, papers, files, reports, computer programs, computer documentation, data, records, software, samples or any other tangible material without limitation authored or prepared by Contractor as the work product covered in the scope of work for the Project.

e. Documentation: All materials required to support and convey information about the services required by this Contract. It includes, but is not necessarily restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.

f. Services: All Contractor activity necessary to satisfy the Contract.

V.7 CONTRACT-006.1 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.

V.8 CONTRACT-008.1a 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. Unless otherwise stated in the

Contract, all items are warranted for a period of one year following delivery by the Contractor and acceptance by the Commonwealth. The Contractor shall repair, replace or otherwise correct any problem with the delivered item. When an item is replaced, it shall be replaced with an item of equivalent or superior quality without any additional cost to the Commonwealth.

V.9 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity

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

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

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

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

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

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

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

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

V.10 CONTRACT-009.1d Ownership Rights

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

V.11 CONTRACT-010.2 Product Conformance

The Commonwealth reserves the right to require any and all Contractors to:

1. Provide certified data from laboratory testing performed by the Contractor, or performed by an independent laboratory, as specified by the Commonwealth.
2. Supply published manufacturer product documentation.
3. Permit a Commonwealth representative to witness testing at the Contractor's location or at an independent laboratory.
4. Complete a survey/questionnaire relating to the bid requirements and specifications.
5. Provide customer references.
6. Provide a product demonstration at a location near Harrisburg or the using agency location.
- 7.

V.12 CONTRACT-010.3 Rejected Material Not Considered Abandoned

The Commonwealth shall have the right to not regard any rejected material as abandoned and to demand that the Contractor remove the rejected material from the premises within thirty (30) days of notification. The Contractor shall be responsible for removal of the rejected material as well as proper clean-up. If the Contractor fails or refuses to remove the rejected material as demanded by the Commonwealth, the Commonwealth may seek payment from, or set-off from any payments due to the Contractor under this or any other Contract with the Commonwealth, the costs of removal and clean-up. This is in addition to all other rights to recover costs incurred by the Commonwealth.

V.13 CONTRACT-011.1a 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.

V.14 CONTRACT-013.1 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. Section 691.601 et seq.; the Pennsylvania Solid Waste Management Act, Act of July 7, 1980 (P.L. 380, No. 97), as amended, 35 P.S. Section 6018.101 et seq. ; and the Dam Safety and Encroachment Act, Act of November 26, 1978 (P.L. 1375, No. 325), as amended, 32 P.S. Section 693.1.

V.15 CONTRACT-014.1 Post-Consumer Recycled Content

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

V.16 CONTRACT-014.3 Recycled Content Enforcement

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

V.17 CONTRACT-017.1 Taxes

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

V.18 CONTRACT-018.1 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.

V.19 CONTRACT-019.1 Hold Harmless Provision

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

V.20 CONTRACT-020.1 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.

V.21 CONTRACT-021.1 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 ensure the completion of the specified work in accordance with the Contract or Purchase Order terms;
- 3) Unsatisfactory performance of the work;
- 4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;
- 5) Improper delivery;
- 6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;
- 7) Delivery of a defective item;
- 8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
- 9) Discontinuance of work without approval;
- 10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
- 11) Insolvency or bankruptcy;
- 12) Assignment made for the benefit of creditors;
- 13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
- 14) Failure to protect, to repair, or to make good any damage or injury to property;
- 15) Breach of any provision of the Contract;
- 16) Failure to comply with representations made in the Contractor's bid/proposal; or
- 17) Failure to comply with applicable industry standards, customs, and practice.

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

c. If the Contract or a Purchase Order is terminated as provided in Subparagraph a. above, the Commonwealth, in

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

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

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

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

V.22 CONTRACT-022.1 Force Majeure

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

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

V.23 CONTRACT-023.1a 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 the Subparagraph a.

V.24 CONTRACT-024.1 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.

V.25 CONTRACT-025.1 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. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign

its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

e For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of stock of a publicly traded company.

f Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

g A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

V.26 CONTRACT-026.1 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.

V.27 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause

The Contractor agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
2. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.
3. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
4. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.
5. The Contractor and each subcontractor shall, within the time periods requested by the Commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Small Business Opportunities (BSBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD-28, the "Monthly Contract Compliance Report for Construction Contractors", each month no later than the 15th of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD-21 within the past 12 months may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.

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

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

V.28 CONTRACT-028.1 Contractor Integrity Provisions

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

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 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 Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

3. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act*, 65 Pa.C.S. §§1101 et seq.; the *State Adverse Interest Act*, 71 P.S. §776.1 et seq.; and the *Governor's Code of Conduct*, Executive Order 1980-18, 4 Pa. Code §7.151 et seq., or to breach any other state or federal law or regulation.

4. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

5. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct*, Executive Order 1980-18, 4 Pa. Code §7.151 et seq. or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

6. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.

7. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

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

9. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law*, 65 P.S. §§ 67.101-3104, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance

of this contract shall be kept confidential unless disclosure of such information is:

- a. Approved in writing by the Commonwealth prior to its disclosure; or
- b. Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or
- c. Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or
- d. Necessary for purposes of Contractor's internal assessment and review; or
- e. Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or
- f. Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain; or
- g. Otherwise required by law.

10. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

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

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

- c. Violation of federal or state antitrust statutes.
 - d. Violation of any federal or state law regulating campaign contributions.
 - e. Violation of any federal or state environmental law.
 - f. Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.
 - g. Violation of the *Act of June 2, 1915 (P.L. 736, No. 338)*, known as the *Workers' Compensation Act*, 77 P.S. 1 *et seq.*
 - h. Violation of any federal or state law prohibiting discrimination in employment.
 - i. Debarment by any agency or department of the federal government or by any other state.
 - j. Any other crime involving moral turpitude or business honesty or integrity.
- Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon

such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

11. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

a. Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars (\$1,000) by any individual during the preceding year; or

b. Any employee or members of his immediate family whose political contribution exceeded one thousand dollars (\$1,000) during the preceding year.

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

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

14. 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.

15. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

16. 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.

17. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph.

a. "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through an act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.

b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth,

provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.

c. "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.

d. "Financial interest" means:

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

e. "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.

f. "Immediate family" means a spouse and any unemancipated child.

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

h. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

V.29 CONTRACT-029.1 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 of Pennsylvania (Commonwealth). The term contractor includes a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

1. The Contractor certifies, in writing, for itself and its subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any such subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid/Contract, a written explanation of why such certification cannot be made.

2. The Contractor also certifies, in writing, that as of the date of its execution of this Bid/Contract it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with

the Commonwealth.

5 The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6 The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the Internet at <http://www.dgs.state.pa.us/> or contacting the:

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

V.30 CONTRACT-030.1 Americans with Disabilities Act

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

V.31 CONTRACT-032.1 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.

V.32 CONTRACT-033.1 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.

V.33 CONTRACT-034.2a Order of Precedence - RFP

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

V.34 CONTRACT-034.3 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.

V.35 CONTRACT-035.1a 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 Contract Controversies Provision.

V.36 CONTRACT-041.1 Small Diverse Business Participation

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

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

If a contract is assigned to another contractor, the new contractor must maintain the Small Diverse Business participation of the original contract.

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

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

V.37 CONTRACT-045.1 Insurance - General

The Contractor is required to have in place during the term of the Contract and any renewals or extensions thereof, the following types of insurance, issued by companies acceptable to the Commonwealth and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

- A. Worker's Compensation Insurance** for all of the Contractor's employees and those of any subcontractor, engaged in work at the site of the project as required by law.
- B. Public Liability and Property Damage Insurance** to protect the Commonwealth, the Contractor, and any and all subcontractors from claims for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property including the loss of use resulting from any property damage, which may arise from the activities performed under the Contract or the failure to perform under the Contract, whether such performance or non-performance be by the Contractor, by any subcontractor, or by anyone directly or indirectly employed by either. The minimum amounts of coverage shall be \$250,000 per person and \$1,000,000 per occurrence for bodily injury, including death, and \$250,000 per person and \$1,000,000 per occurrence for property damage. Such policies shall be occurrence rather than claims-made policies and shall not contain any endorsements or any other form designated to limit and restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the Contract and at each insurance renewal date during the term of the Contract, the Contractor shall provide the Commonwealth with current certificates of insurance. These certificates or policies shall name the Commonwealth as an additional insured and shall contain a provision that the coverage's afforded under the policies will not be cancelled or changed until at least thirty (30) days written notice has been given to the Commonwealth.

The Commonwealth shall be under no obligation to obtain such certificates from the Contractor(s). Failure by the Commonwealth to obtain the certificates shall not be deemed a waiver of the Contractor's obligation to obtain and furnish certificates. The Commonwealth shall have the right to inspect the original insurance policies.

V.38 CONTRACT-048.3 Commencement of Work

The Contractor should not begin work until all required security and insurance certificates, if required, have been submitted to and approved by the Commonwealth. If required security and insurance certificates are not submitted within required time frames, the Commonwealth has the right to cancel this order and surcharge your company for any increase in price.

V.39 CONTRACT-050.01a Steel Products Procurement Act "A"

In the performance of any contract awarded pursuant to this invitation to bid, the contractor and all subcontractors, materialmen, and suppliers shall use only "steel products" as defined in the Steel Products Procurement Act, Act of March 3, 1978, P.L. 6, No. 3, 73 P.S. §§ 1881-1887 ("SPPA"), including products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. The definition of steel products also includes cast iron products, as well as machinery or other steel making process. The definition of steel products also includes cast iron products, as well as machinery and equipment listed in United States Department of Commerce Standard Industrial Classification 25 (furniture and fixture), 35 (machinery, except electrical) and 37 (transportation equipment) and made of, fabricated from, or containing steel components. If a product contains both foreign and United States steel, such products shall be determined to be a United States Steel product only if at least 75% of the cost of the articles, materials and supplies have been mined, produced or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of Public Law 97-424 (96 Stat. 2136).

The SPPA provides that, when a contractor supplies unidentified steel products for a public agency's use as part of any Public Works Project, before a public agency may authorize, provide for, or make payment, the Contractor must provide documentation including, but not limited to, invoices, bills of lading and mill certification that the steel was melted and manufactured in the United States before a public agency may authorize, provide for, or make

payment. If a steel product is identifiable on its face, the contractor must submit certification which satisfies the purchasing agency that the contractor has fully complied with this provision.

If a purchasing agency has made any payment to the Contractor and later finds that the Contractor did not comply with the SPPA's requirements, the purchasing agency may recover such payment directly from the Contractor. The Contractor shall not deny repayment unless it can demonstrate that it has complied with the SPPA's requirements.

The SPPA also provides that any person who willfully violates any of its provisions shall be prohibited from submitting any bids to any public agency for a period of five years after the date of the determination that a violation has occurred. If the Contractor violates the SPPA, the public agency may debar the Contractor from performing any work or supplying any materials to a public agency for five years after the date of the determination that a violation has occurred.

The Contractor shall include these provisions regarding the SPPA's requirements in its subcontracts and supply contracts, so that the SPPA's provisions of the Act shall be binding upon each subcontractor and supplier.

V.40 CONTRACT-050.02 Prohibition Against The Use of Certain Steel and Aluminum Products (Oct 2009)

In accordance with the Trade Practices Act of July 23, 1968 P.L. 686 (71 P.S. §773.101 et seq.), the Contractor cannot and shall not use or permit to be used in the work any aluminum or steel products made in a foreign country which is listed below as a foreign country which discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Brazil, South Korea, Spain and Argentina have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted.

1. BRAZIL: Welded carbon steel pipes and tubes; carbon steel wire rods; tool steel; certain steel products, including hot-rolled stainless steel bar; stainless steel wire rod and cold-formed stainless steel bar; pre-stressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet and cold-rolled carbon steel sheet.
2. SPAIN: Certain stainless steel products, including stainless steel wire rod, hot-rolled stainless steel bars and cold-formed stainless steel bars; pre-stressed concrete steel wire strands; certain steel products, including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel bars and cold-formed carbon steel bars.
3. SOUTH KOREA: Welded carbon steel pipes and tubes hot-rolled carbon steel plate; hot-rolled carbon steel sheet and galvanized steel sheet.
4. ARGENTINA: Carbon steel wire rod and cold-rolled carbon steel sheet.

Penalties for violations of this paragraph may be found in the Trade Practices Act, which penalties include becoming ineligible for public works contracts for a period of three years.

Note: This provision in no way relieves the Contractor of its responsibility to comply with those provisions of this Agreement that prohibit the use of foreign-made steel and cast iron products.

V.41 CONTRACT-050.03 Separation for Plumbing, Heating, Ventilation and Electrical Work

The contract shall be subject to the provisions of the Act of May 1, 1913 (P.L. 155, No. 104); 71 P.S. Section 1618.

V.42 CONTRACT-050.04 Progress Payments

Based upon Applications for Payment submitted to the Agency by the Contractor, the Agency will make progress payments on account of the Price to the Contractor, as provided below.

V.43 CONTRACT-050.05 Schedule of Progress Payments

Within thirty (30) days of the Effective Date of this Agreement and prior to the first Application for Payment, the Contractor shall submit to the Agency for approval, a detailed Contract Breakdown Sheet, indicating a Schedule of Progress Payments for all work, equipment, and materials required for the acquisition and installation of the Security System (the "Work"). The total amount to be paid according to the Schedule of Progress Payments must equal the Price. The progress payments on the Schedule must be divided so as to facilitate payments to subcontractors, and

be prepared in such form as specified by the Agency and supported by such data required by the Agency to substantiate its correctness. Each item in the Schedule of Progress Payments shall include its proper share of any overhead and profit. When more than one building or structure is included in a project, the contractor shall submit a Contract Breakdown Sheet, indicating Unit Prices for all items of Work within the separate buildings or structures. The Schedule of Progress Payments, when approved by the Agency, will be used as a basis for the Contractor's Application for Payments. This schedule may also be used by the Agency to determine the cost or credit to the Agency resulting from the changes in the Work.

V.44 CONTRACT-050.06 Application for Progress Payments

During the progress of the Work, in accordance with the Agreement, the Contractor shall prepare periodic estimates of the value of the Work performed and shall submit to the Agency itemized Applications for Payment. The applications shall be supported by data, as required by the Agency substantiating the Contractor's right to payment.

V.45 CONTRACT-050.07 Stored Materials

Upon the determination of the Agency as to reasonableness, payments may be made to the Contractor on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site, or at some other location agreed upon in writing. Contractor shall remain responsible for all losses of materials and equipment, which remain under its custody and control, regardless of the exclusions in the insurance policies.

Upon the determination of the Agency as to reasonableness, payments may be made to the Contractor on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site, or at some other location agreed upon in writing. Contractor shall remain responsible for all losses of materials and equipment, which remain under its custody and control, regardless of the exclusions in the insurance policies.

V.46 CONTRACT-050.08 Contractor Warrants That Title To All Work, Equipment and Materials Associated with the Security System Passes Free of Liens

The Contractor warrants and guarantees that title to all Work covered by an Application for Payment, whether incorporated in the Security System or not, will pass to the Agency upon the receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in these Sections as "liens"; and that no work, materials or equipment covered by an Application for Payment was acquired by the Contractor, or by any other person performing the Work at the site of furnishing materials and equipment for the Security System, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

V.47 CONTRACT-050.09 Neither Payment Nor Occupancy Accepts Work Not in Conformance with Contract Documents

No Application for Payment, nor any progress payment, nor any partial or entire use of occupancy of the Security System by the Agency constitutes an acceptance of any Work not in accordance with the Agreement.

V.48 CONTRACT-050.10 Payments Withheld

The Agency may decline to approve an Application for Payment in whole or in part if the Work has not progressed to the point indicated, or the quality and quantity of the Work is not in accordance with the Agreement. The Agency may also decline to approve any Applications for Payment, because of subsequently discovered evidence or subsequent inspections, which may nullify the whole or any part of any Application for Payment previously issued to such extent as may be necessary in its opinion to protect the agency from loss because of:

- (1) Defective work not remedied;
- (2) Claims filed or reasonable evidence indicating probable filing of claims;
- (3) Reasonable doubt that the work can be completed for the unpaid balance of the contract sum;
- (4) Damages to another prime contractor or subcontractor;
- (5) Reasonable indication that the Work will not be completed within the contract time;
- (6) Unsatisfactory prosecution of the Work by the Contractor, or
- (7) Failure of the Contractor to pay subcontractors or suppliers. It is within the Agency's discretion to withhold payment because of the Contractor's failure to pay subcontractors or suppliers. The failure to withhold payment for this reason does not give rise to a cause of action on the part of the subcontractor or supplier.

- (8) Failure of the Contractor to maintain insurance.

The Agency will notify the Contractor of the reason for withholding payment within fifteen (15) days of its receipt of the Application for Payment.

V.49 CONTRACT-050.11 Payments Made When Grounds Are Removed

When the grounds set out in the preceding subsection are removed, payment shall be made for amounts withheld because of them.

V.50 CONTRACT-050.12 Retainage

In computing the amount payable in accordance with this Article on any current Application for Payment:

- (1) Ten percent (10%) *[six percent (6%) for the Department of General Services]* of the then total applications for Payment shall be deducted and retained by the Agency until fifty percent (50%) of the Work called for by the Agreement has been satisfactorily completed and all Contract obligations have been met as determined by the Agency.
- (2) Upon completion of fifty percent (50%) of the work called for by the Agreement, the Work having been satisfactorily completed and all Agreement obligations having been met as determined by the Agency, the retainage withheld by the Agency shall be reduced to three percent (3%) of the original Agreement sum.

V.51 CONTRACT-050.13 Money Withheld Due To Claims of One Prime Based on Delay of Another

In the event a dispute arises between the Agency and another contractor, which dispute is based upon increased costs claimed by the other contractor occasioned by delays or other actions of Contractor, additional retainage in the sum of one and one-half (1-1/2) times the amount of any possible liability may be withheld from the Contractor until such time as a final resolution is agreed to by all parties directly or indirectly involved, unless the Contractor furnishes a bond satisfactory to the Agency to indemnify the Agency against the claim.

V.52 CONTRACT-050.14 Failure of Payment

If the Agency fails to make payment to the Contractor within sixty (60) days after receipt of the Application for Payment, the Contractor may file a claim with the Agency contracting officer. Contractor is not entitled to stop work in any event.

V.53 CONTRACT-050.15 Occupancy

The Agency may use and occupy any completed or partially completed portions of the Work, whether or not the time may have expired for completing the entire Work or said portions of Work. Such use or occupancy shall not be deemed an acceptance of the portion of the Work so taken or used. Prior to such use or occupancy, an inspection of the Work to be occupied by the Agency shall be made by the Agency to determine if it is in conformity with the Agreement. Any damage subsequent to the inspection due solely to the use and occupancy of the completed portion is not the responsibility of the Contractor.

V.54 CONTRACT-050.16 Final Inspection

When the Contractor submits in writing to the Agency a request for a final inspection and an application for final payment, final inspection will be made within 30 days of the receipt of the request for final inspection and application for final payment. If the Work is substantially completed, the Agency will issue a certificate of final completion and final certificate for payment and the Agency will make payment in full within forty-five (45) days except as set out in this Section, less one and one-half times the amount required to complete any then-remaining uncompleted minor items. The Agency shall list in detail each uncompleted item and a reasonable cost of completion. Final payment of any amount withheld for the completion of minor items shall be paid upon completion of the items in the list. The Contractor shall complete all items (items to be corrected and/or completed) within thirty (30) days after the date of final inspection or show just cause to the satisfaction of the Agency why they cannot be completed. If the Contractor does not complete the punch list items within thirty (30) days, or show just cause to the satisfaction of the Agency why they cannot be completed, the Agency may correct those items and deduct the cost of completion from the amount retained.

V.55 CONTRACT-050.17 Final Payment

Final payment, constituting the entire unpaid balance of the Contract sum, will be paid by the Agency to the Contractor within thirty (30) days after final inspection of the installed Security System, if the Contract has been fully performed, and a final application for payment has been submitted.

V.56 CONTRACT-050.18 When Work Cannot Be Completed Through No Fault of Contractor

When, upon final inspection, items of Work cannot be completed because of unseasonable considerations, such as bituminous paving, etc., or, if the Agency agrees that particular items need not be completed until a subsequent date, or, if the Agency delays the final Application for Payment for any unreasonable length of time, the Agency may agree to release payment to the Contractor, less one and one-half (1-1-2) times the dollar value of uncompleted parts of items of the type described in this subsection.

V.57 CONTRACT-050.19 Final Payment Not Due Until Conditions Met

Neither the final payment nor the remaining retained percentage becomes due until the Contractor submits to the Agency:

- (1) An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Agency or its property might in any way be responsible, have been paid or otherwise satisfied;
- (2) Statements of surety and the Contractor's certificate on forms satisfactory to the Agency as to Contractor's payment of all claims for labor, materials, equipment rentals and public utility services; and
- (3) If required by the Agency, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as is designated by the Agency.

If any subcontractor refuses to furnish a release or waiver, as required by the Agency, the Contractor may furnish a bond satisfactory to the Agency to indemnify the Agency against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Agency all moneys that the latter may be compelled to pay in discharging such liens, including all costs and reasonable attorney's fees.

V.58 CONTRACT-050.20 Release of Funds Due to Delay in Final Inspection Not Due to the Fault of the Contractor

If, after final inspection of the work, final completion is materially delayed through no fault of the Contractor, the Agency shall make payment of the balance due for that portion of the Work fully completed and accepted. Such payment will not terminate the Agreement. If the remaining balance of work not fully completed or corrected is less than the retainage stipulated in Section 8.10, and, if bonds have been furnished as required, the Contractor must submit to the Agency, prior to certification of the payment, the written consent of the surety to the payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it does not constitute a waiver of any of the Agency's claims against the Contractor.

V.59 CONTRACT-050.21 Final Payment as Waiver of Claims

The making of final payment constitutes a waiver of all claims by the Agency, except those arising from:

- (1) Unsettled claims;
- (2) Faulty or defective work or material;
- (3) Failure of the work or material to comply with the requirements of the Contract Documents; or
- (4) Terms of any special guarantees required by the Contract Documents.

V.60 CONTRACT-050.22 Acceptance of Final Payment as Waiver of Claims

The acceptance of final payment by the Contractor constitutes a waiver of all claims by the Contractor.

V.61 CONTRACT-050.23 Subcontractor/Supplier Agreement

All Work performed for the Contractor by a subcontractor or supplier of materials shall be pursuant to an appropriate agreement between the Contractor and the subcontractor or supplier (and where appropriate between subcontractor and sub-subcontractors). The agreement must be a fully executed agreement and include the amount of subcontractor, sub-subcontractor or supplier is to be paid for the work to be performed or for the materials to be supplied.

V.62 CONTRACT-050.24 No Contractual Relationship Between Agency and Subcontractor Nothing contained in the Contract Documents creates any contractual relation between the Agency and any

subcontractor, sub-subcontractor or supplier.

V.63 CONTRACT-050.25 Payment to Subcontractors

Performance by a subcontractor in accordance with the provisions of the contract entitles the Subcontractor to payment from the party with which the Subcontractor has contracted. For purposes of this section, the contract between the Contractor and Subcontractor is presumed to incorporate the terms of the contract between the Contractor and the agency.

V.64 CONTRACT-050.26 Contractor Disclosure of Due Date for Progress Payments From Agency

The Contractor shall disclose to a subcontractor, before a subcontract is executed, the due date for receipt of progress payments from the Agency. If the Contractor fails to accurately disclose the due date to a subcontractor, the Contractor must pay the subcontractor as though the agency has paid the Contractor within forty-five (45) days of receipt of its application for payment. This section does not apply to a change in due dates because of conditions beyond the Contractor's control, including, but not limited to, design changes, change orders or delays in construction due to weather conditions.

V.65 CONTRACT-050.27 Time for Subcontractor Payment

When a subcontractor has performed in accordance with the provisions of the contract, the Contractor shall pay to the subcontractor, the full or proportional amount received for each subcontractor's work and material, based on work completed or services provided under the contract, within fourteen (14) days of receipt of a progress payment.

V.66 CONTRACT-050.28 Interest on Subcontractor Payments

If any progress payment is not made to a subcontractor by the due date the Contractor shall pay to the subcontractor, in addition to the amount due, interest as computed at the rate determined by the Secretary of Revenue for interest payments on overdue taxes or the refund of taxes as provided in Sections 806 and 806.1 of the Act of April 9, 1929 (P.L. 343, No. 176), known as "The Fiscal Code," and any subsequent amendments to those sections.

V.67 CONTRACT-050.29 Deficiency Items

The Contractor may withhold payment from any subcontractor responsible for a deficiency item. The Contractor shall pay any subcontractor according to the provisions of this section for any item which appears on the application for payment and which has been satisfactorily completed.

V.68 CONTRACT-050.30 Notification of Deficiency Item

If a Contractor withholds payment from a subcontractor for a deficiency item, it must notify the subcontractor or supplier and the contracting body of the reasons within 15 calendar days of the date after receipt of the notice of the deficiency item from the owner.

V.69 CONTRACT-050.31 Failure of Agency to Make Progress Payment

If the Agency fails to issue an approved Application for Payment for any cause which is the fault of the Contractor and not the fault of a particular subcontractor, the Contractor shall pay that subcontractor, upon demand made by the subcontractor at any time after the approved Application for Payment should otherwise have been issued, for its work to the extent completed, less the retained percentage.

V.70 CONTRACT-050.32 Insurance Receipts

The Contractor shall pay each subcontractor a just share of any insurance moneys received by the Contractor, and shall require each subcontractor to make similar payments to its sub-subcontractors.

V.71 CONTRACT-050.33 Percentage of Completion

The Agency may, on request, furnish to any subcontractor, if practicable, information regarding percentages of completion certified to the Contractor on account of work done by such subcontractor.

V.72 CONTRACT-050.34 No Obligation on Part of Agency to Pay Subcontractor

The Agency shall have no obligation to pay, or to see to the payment of, any moneys to any subcontractor except as may otherwise be required by law.

V.73 CONTRACT-050.35 Subcontractor Responsibility

If the Contractor enters into any agreements under this Contract with subcontractors or suppliers, which are currently suspended or debarred by the Commonwealth, or who become suspended or debarred by the Commonwealth during the term of this Contract or any extensions or renewals of it, the Agency may require the Contractor to terminate such contract.

V.74 CONTRACT-050.36 Time of the Essence

All time limits stated in the Purchase Order are of the essence.

V.75 CONTRACT-050.37 Initial Job Conference

The initial job conference will be held within thirty days from the Effective Date of the Purchase Order.

V.76 CONTRACT-050.38 Construction and Installation Schedule

Construction and equipment installation shall proceed in accordance with the Construction and Installation schedule approved by Agency and attached to the Purchase Order.

V.77 CONTRACT-050.39 Delays and Extensions of Time

If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the Agency or by any Agency employee or by changes ordered in the Work, by labor disputes, fire, unavoidable casualties, or by delay due to suspension of Work, or by any cause that the Agency determines may justify the delay, then the time may be extended, by the approval of the Agency, of an extension of time for such reasonable time as the Agency may determine. The Agency will respond to the request for Extension of Time within twenty (20) days of its receipt.

V.78 CONTRACT-050.40 Requests for Extensions of Time

All requests for extensions of time shall be made to the Agency in writing. All such requests must be filed within ten days of the end of the event or issue, which caused the alleged delay.

V.79 CONTRACT-050.41 Construction and Equipment Installation

- a. The Contractor shall be responsible for the professional and technical accuracy, of all construction and services performed in the installation of the Interactive Displays, whether by the Contractor or its subcontractors or others on its behalf, throughout the term of this Contract.
- b. The Contractor shall provide overall coordination, management, and responsibility, and shall assure that all Work is completed in a good and workmanlike manner. Subject to other provisions of this Contract, the Contractor will act as a turn-key general contractor assuming total responsibility for the procurement of labor and material for installation and start-up of the Interactive Displays, including: selecting subcontractors; awarding subcontracts; receiving and evaluating submitted drawings on the equipment; progress inspections during installation; developing and presenting subcontractor punch lists after each inspection; receiving and evaluating record drawings; and operation and maintenance manuals from subcontractors; providing for training of Agency personnel on proper operation of the newly installed Interactive Displays; and final inspection and recommendation for approval to the Agency for acceptance of the Interactive Displays
- c. The Contractor shall conduct a thorough and systematic performance test of each element and total system of the installed Interactive Displays prior to acceptance of the Interactive Displays by Agency. The Contractor shall provide notice to the Agency of the scheduled test(s) and the Agency and/or its designees shall have the right to be present at any or all such tests conducted by the Contractor and/or manufacturers of the equipment. The Contractor shall be responsible for correcting and/or adjusting all deficiencies in systems and equipment operations that may be observed during performance testing.

V.80 CONTRACT-050.42 Permits and Approvals

The Contractor shall be responsible for obtaining all necessary permits and approvals for completion of the project and shall pay any and all permit fees. Agency shall use its best efforts to assist the Contractor in obtaining all necessary permits and approvals. In no event shall Agency be directly responsible for payment of any permit fees. The Contractor shall furnish copies of each permit or license which is required to perform the work to the Agency before the Contractor commences the portion of the work requiring such permit or license.

V.81 CONTRACT-050.43 Coordination During Installation

The Agency and the Contractor shall coordinate the activities of the Contractor's equipment installers with those of the Agency, its employees, and agents. The Contractor shall not commit or permit any act which will interfere with the performance of business activities conducted by the Agency or its employees without prior written approval of the Agency.

V.82 CONTRACT-050.44 Performance by the Contractor

The Contractor shall remain responsible for the professional and technical accuracy of all services performed, whether by the Contractor or its subcontractors or others on its behalf, throughout the term of this Contract. The Contractor is responsible for general broom cleaning at cost. At least once a week, the Contractor shall remove from the Premises all discarded material and rubbish resulting from the work and assure the Premises are free of such materials and rubbish.

V.83 CONTRACT-050.45 Prevailing Minimum Wages

The contract with the awarded vendor is subject to and shall comply with the provisions, duties, obligations, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. Sections 165-1 through 165-17 and its regulations 34 Pa. Code Sections 9.101 through 9.112, which are incorporated herein by reference as if fully set forth herein. The contractor shall pay no less than the wage rates including contributions for employee benefits as determined by the Secretary of Labor and Industry (hereinafter referred to in this paragraph as "Secretary") for each craft or classification of all workers needed to perform this contract during the term hereof for the county in which the work is to be performed. In compliance with said Pennsylvania Prevailing Wage Act, the Prevailing Minimum Wage Predetermination, as approved by the Secretary, is attached hereto and made a part hereof.

A. The provisions of this paragraph shall apply to all work performed on the contract by the contractor and to all work performed on the contract by all subcontractors. The contractor shall insert in each of its subcontracts all of these required contract provisions and stipulations contained in this paragraph and such other stipulations as may be required.

B. No worker may be employed on the public work except in accordance with the classifications set forth in the decisions of the Secretary. In the event that additional or different classifications are necessary, the procedure set forth in section 8 of the Act (43 P.S. § 165-8) and section 9.107 of the Act's Regulations (relating to petition for review of rates and hearings) shall be followed.

C. Workers employed or working on the public work shall be paid unconditionally, regardless of whether any contractual relationship exists or the nature of a contractually relationship which may be alleged to exist between a contractor, subcontractor and workers, at least once a week without deduction or rebate, on any account, either directly or indirectly, except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the appropriate classification. Nothing in the contract, the Prevailing Wage Act or its Regulations prohibits the payment of more than the general prevailing minimum wage rates as determined by the Secretary to any worker or public work.

D. The contractor and each subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary, including the effective date of changes thereof, in a prominent and easily accessible place or places at the site of the work and at the place or places used by them to pay workers their wages. The posted notice of wage rates shall contain the following information:

1. The name of project.
2. The name of public body for which it is being constructed.
3. The crafts and classifications of workers listed in the Secretary's general prevailing minimum wage rate determination for the particular project.
4. The general prevailing minimum wage rates determined for each craft and classification and the effective date of changes.
5. A statement advising workers that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the contractor or subcontractor are not complying with the act or the regulations in any manner whatsoever, the worker may file a protest in writing with the Secretary of Labor and Industry within 3 months of the date of the occurrence, objecting to the payment to a contractor to the extent of the amount due or to become due to them as wages for work performed on the public work project. A worker paid less than the rate specified in the contract shall have a civil right of action for the difference between the wage paid and the wages stipulated in the contract, which right of action must be exercised within 6 months from the occurrence of the event creating the right.

E. The contractor and subcontractors shall keep an accurate record showing the name, craft or classification, number of hours worked per day, and the actual hourly rate of wage paid including employee benefits, to each worker employed by the contractor or subcontractor in connection with the public work. The record shall include deductions from each worker. The record shall be preserved for 2 years from the date of payment and shall be open at reasonable hours to the inspection of the public body awarding the contract and to the Secretary or the Secretary's authorized representatives.

F. Apprentices shall be limited to numbers in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with The Apprenticeship and Training Act (43 P.S. §§ 90.1 – 90.10), approved July 14, 1961 and the regulations issued thereto shall be employed on the public work project. A worker using the tools of a craft who does not qualify as an apprentice within the provisions of this subsection shall be paid the rate predetermined for journeymen in that particular craft or classification.

G. Wages shall be paid without deductions except authorized deductions. Employers not parties to a contract requiring contributions for employee benefits which the Secretary of Labor & Industry has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workers.

H. Payment of compensation to workers for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act, regardless of the average hourly earnings resulting therefrom.

I. Each contractor and each subcontractor shall file a statement each week and a final statement at the conclusion of the work on the contract with the contracting agency, under oath, and in form satisfactory to the Secretary, certifying that workers have been paid wages in strict conformity with the provisions of the contract. If wages remain unpaid, the contractor or subcontractor shall set forth the amount of wages due and owing to each worker respectively. A copy of the form entitled "Contractor's or Subcontractor's Weekly Payroll Certification for Public Works Projects" is attached hereto.

J. Before final payment is made, a final wage certification must be submitted by all contractors and subcontractors.

V.84 CONTRACT-051.1 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.

V.85 CONTRACT-052.1 Right to Know Law

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

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

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession,

constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

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

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

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

f. If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

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

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

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

PART IV

WORK STATEMENT

IV-1. Objectives.

A. **General.** The completion of Phase 3 will update displays in the remaining portion of the visitor's center, providing a more interactive and educational experience for all of our visitors. The vendor will design, fabricate, and install displays.

B. Specific.

1. Concept Design and recommendations
2. Site survey, field dimensions, and space functionally.
3. Work with representative from Middle Creek to indentify conceptual topics for audio visual media, software, hardware requirements, floor plans, etc.
4. Refine concepts for interpretive techniques and the exhibit's primary environmental characteristics along with traffic study plans.
5. Provide preliminary recommendations for colors, materials, and finishes keyed to space and theme.
6. Provide three-dimensional mock-up of a typical graphic configuration.

IV-2. Nature and Scope of the Project.

The scope of the projects includes 11 displays in 4 project areas which are described in Appendix E. A separate cost proposal should be submitted for each display so that depending on budget availability, projects can be constructed independently.

IV-3. Requirements.

The Middle Creek Visitors Center is visited by thousands annually and any display/exhibit must be constructed to withstand a high volume of traffic (particularly children) and take safety and liability issues into consideration. The display/exhibit must also be handicap accessible and adhere to ADA requirements.

Actual construction work conducted inside of the visitor center shall start no earlier than July 1, 2014 and should be handled in as timely a manner as possible but in any event should be completed by June 30, 2015 with the option of renewal to complete all displays.

A. Emergency Preparedness.

To support continuity of operations during an emergency, including a pandemic, the Commonwealth needs a strategy for maintaining operations for an extended period of time. One part of this strategy is to ensure that essential contracts that provide critical business

services to the Commonwealth have planned for such an emergency and put contingencies in place to provide needed goods and services.

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

IV-4. Tasks.

Task #1 Design

- A. Work to identify and refine concepts for interpretive techniques and the exhibit's primary environmental characteristics along with traffic study plans.
- B. Provide preliminary recommendations for colors, materials, and finishes keyed to space and theme.
- C. Provide three-dimensional mock-up of a typical graphic configuration.

Task #2 Fabrication

- D. Fabrication of those items included in the display that can be constructed off-site.

Task #3 Installation and Construction – Final Approval

- E. Construct and install interactive display on-site.

After each of the tasks listed below is completed you will receive payment of 1/3 of the total cost of this RFP. The Pennsylvania Game Commission will approve each task before it is completed.

IV-5. Reports and Project Control.

- A. **Task Plan.** A work plan for each task that identifies the work elements of each task, the resources assigned to the task, and the time allotted to each element and the deliverable items to be produced. Where appropriate, a PERT or GANTT chart display should be used to show project, task, and time relationship.
- B. **Status Report.** A periodic **project** progress report covering activities, problems and recommendations. This report should be keyed to the work plan the Offeror developed in its proposal, as amended or approved by the Issuing Office.
- C. **Problem Identification Report.** An “as required” report, identifying problem areas. The report should describe the problem and its impact on the overall project and on each affected task. It should list possible courses of action with advantages and disadvantages of each, and include Offeror recommendations with supporting rationale.
- D. **Final Report.**
 - 1. Summarization of work completed and recommendations.
 - 2. Identify any software, maintenance and warranty issues and requirements.
 - 3. Recommend a time-phased work plan for implementing the recommendations.]

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

All contracts containing Small Diverse Business participation must also include a provision requiring the selected contractor to meet and maintain those commitments made to Small Diverse Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BSBO. All contracts containing Small Diverse Business

participation must include a provision requiring Small Diverse Business subcontractors to perform at least **50%** of the subcontracted work.

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

If a contract is assigned to another contractor, the new contractor must maintain the Small Diverse Business participation of the original contract.

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

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

ATTACHMENT "A"

Cost Submission

The scope of the project includes 11 displays in 4 project areas. A separate cost proposal should be submitted for each display so that they may be constructed independently.

This RFP will be awarded to one vendor for all 11 displays.

Interactive Displays at Middle Creek

	Design	Fabrication	Installation/ Construction	Total
Project 1 Room 1				
A. Create a Duck				
B. Create Habitat				
C. Interactive Kiosk				
Project 2 Entrance Hallway				
Project 3 Alcove				
Project 4 Room 2				
A. Wall Display				
B. Pelt Display				
C. Station - Beaks				
D. Station - Teeth				
E. Station - Feet				
F. Station - Tracks				
			TOTAL -	\$

Please supply breakdown information on how you arrived at your individual project prices.

APPENDIX B
DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

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. Those who propose to perform a portion of the direct labor outside of the United States 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

- ☐ _____ 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. Please identify the direct labor performed under the contract that will be performed outside the United States.

[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

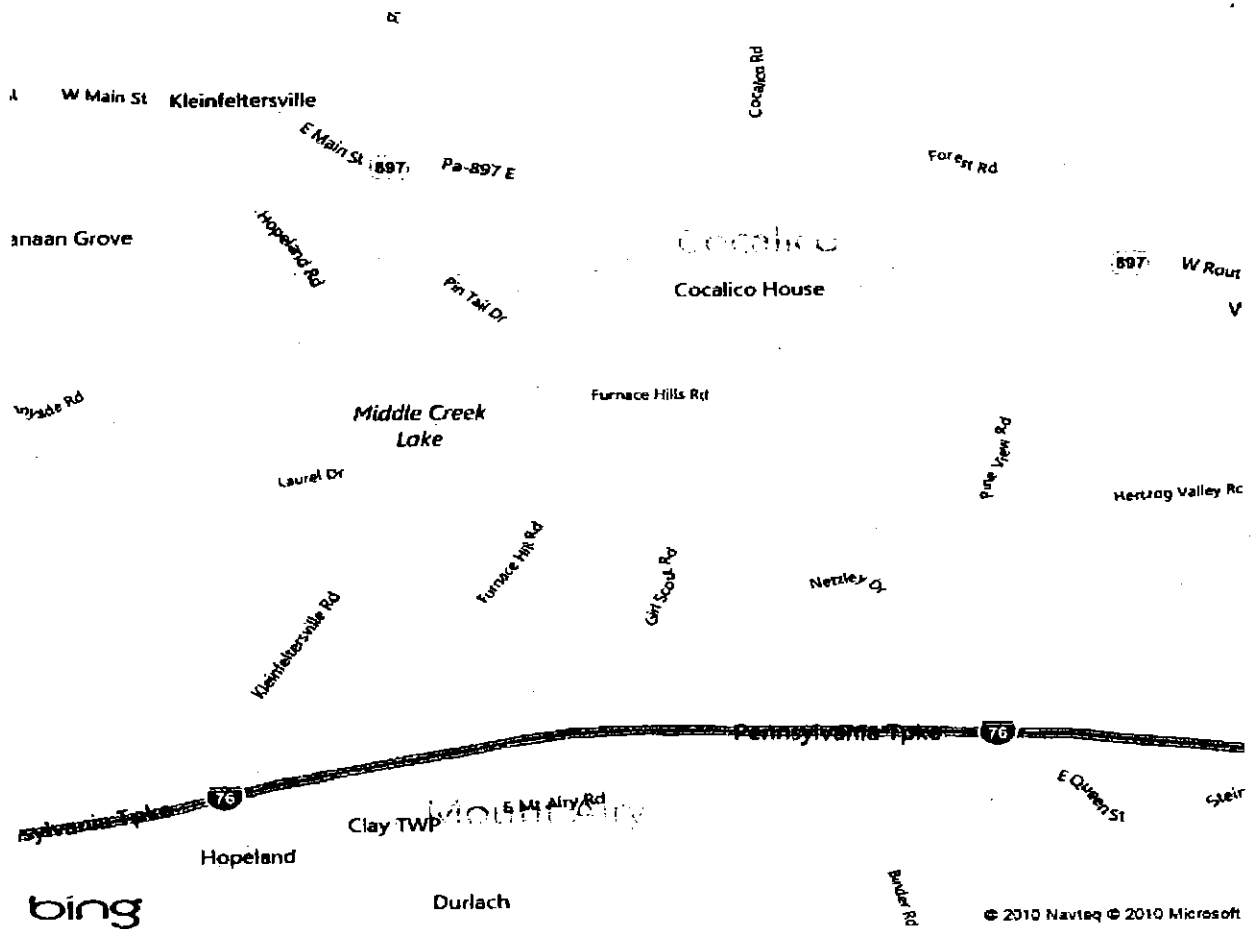
Printed Name/Title

Appendix "C"
Directions (Pre-Proposal Conference)

Pennsylvania Game Commission – State Wildlife Management Agency

Middle Creek Wildlife Management Area

Directions



From Pennsylvania Turnpike Exit 286 – Take Route 272 North for three miles, and at the traffic light, turn left on Route 897. Follow Route 897 North for about 14 miles into the village of Kleinfeltersville. In Kleinfeltersville make the first left after the stop sign (Hopeland Road). The Visitors Center will be on the right about 2 miles down Hopeland Road.

From Pennsylvania Turnpike Exit 266 – Take Route 72 North (about 4-5 miles to Route 419 North. Follow Route 419 North for approximately 7 miles to Route 897 in Shaefferstown, follow Route 897 South for about 2 miles to Kleinfeltersville. Turn right at Hopeland Road on Kleinfeltersville. The Visitors Center will be on the right about 2 miles down Hopeland Road.

APPENDIX D - PROPOSAL COVER SHEET
COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Game Commission
RFP# RFP-MC-2013-3

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:	
☐	Technical Submittal
☐	Small Diverse Business Participation Submittal
☐	Cost Submittal

<i>Signature</i>
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 E. - Description of Interactive Displays:

The scope of the project includes 11 displays in 4 project areas. A separate cost proposal should be submitted for each display so that depending on budget available, projects can be constructed independently. PGC staff will provide proposed text material for each display.

Middle Creek Visitor Center- Phase 3

Room 1

This set of displays would be constructed in Room 1 on the wall next to the auditorium, where the PGC centennial display case is currently housed. Staff would remove this display case.

The wall would be divided into 3 sections to address the following topics through interactive displays:

- 1) The first display would address what type of waterfowl we are attracting to Middle, Creek. This would start out with the concept of the difference between a puddle duck and a diving duck. Visitors would have the opportunity to "Create a Duck". On a computer screen, visitors would start with selecting a duck body, then add legs (front of body vs. rear of body) and a bill to create either a puddle duck or diving duck. They would then select the types of habitat you would find that type of duck (large, deep bodies of water vs. shallow lakes or small streams). Visitors would learn the difference between how puddlers and divers eat.
- 2) The second display would cover how we create habitat for waterfowl. It would primarily cover 2 habitats management practices-creating shallow water for ducks and creating open short grassy areas for geese. This would include information about what a dike is and how they work.
- 3) The third display on this wall is an interactive kiosk that depicts a map of Middle Creek. Visitors will use a touch screen computer which is also connected to a large flat screen TV mounted on the wall so other visitors can watch the same information. The map will include specific areas at Middle Creek where visitors can click on to get information & photos of individual land management practices (where they are, how they work and their benefit to wildlife.) The software program should be built to give visitors a virtual tour through photos and texts (provided by PGC agency) of the entire area. In addition to featuring those areas open to the public, this display allows us to showcase land management projects that are behind propagation wires that the public rarely gets a chance to see.

All of the colors, fonts, styles, etc. for these displays should be compatible with the displays currently in Room 1.

Entrance Hallway

This is an area where all visitors enter and travel through, but due to the width of the

hallway, current and past displays in this area have always been limited to license collections and posters. Considering that this hallway is the first area a visitor sees, it desperately needs to be updated. According to Middle Creek staff comments, one of the "favorite" displays currently at Middle Creek is the collection of eggs, nests and small songbird mounts. While we would like to continue to make them available for viewing, we need to get them out of the old 1970's style display cases. We think that we can "take care of 2 birds" by painting the hallway to look like giant tree branches, possibly even having branches extend over the walkway at ceiling height. The eggs, nests and songbirds would then be displayed in a shallow (6-8" deep) displays cases that run the length of the wall. The back of the display case would either be open or painted to match the tree branches so they show through behind the nests, eggs and songbird mounts. A bird song audio tape could be played in the background, giving visitors the impression of walking through a wooded area filled with songbirds.

Alcove

This area is a small alcove just outside of Room 1. This space lends itself well to an interactive waterfowl ID display. Life-size realistic plastic decoys of various waterfowl would be stored on shelves by the wall. Each decoy would have a UPC or QR code attached to it, which the user could then scan. A monitor on the wall would identify the waterfowl and give a couple facts about the species.

Room 2

This is the room where the front counter is located. Prior to the displays being constructed, agency personnel would remove the old display cases and move the vending machines to an area at the end of the viewing windows, opening up that wall for new displays.

New displays in the room would include:

- 1) On the wall that currently houses the vending machines, etc. and under the mural with the mounted ducks, we would have a display featuring many of the adaptations of an owl. Owls have been selected because they are a great example to use when discussing bird/animal adaptations. The display would incorporate interactive activities dealing with owl pellets, feathers, hearing, sight, sound and camouflage.
- 2) On the wall by the kid's corner, various animal pelts would be hanging and each pelt would have a UPC or QR code attached. Visitors can pick up and handle the pelt and try to identify it. They can then scan the code to learn the animal's ID and more about the species.
- 3) In addition to the permanent mounted displays described above, there would be 4 moveable stations in the center of this room. The stations would be constructed in a

way that they can be moved (although not be visitors) when necessary to accommodate the art show, etc. Each station would have cut-outs on the side where users could pick up additional information about the station topic. The 4 stations would each feature interactive activities dealing with:

- 1) Beaks- This would be an adaptation of the "Beaks and Tongues" activity in the *PA Songbirds* curriculum.
- 2) Teeth- By using bone clones of the skulls of a beaver, bobcat and bear, visitors can explore the difference in the teeth between herbivores, carnivores and omnivores.
- 3) Feet- This would be a variation of the activity "Feet Are Neat" also taken from *PA Songbirds*. Visitors would compare replicas of various bird feet to determine if the birds are graspers, perchers, waders, runners, etc.
- 4) Tracks- Track plates on this display would allow users to make "rubblings" of various wildlife tracks.

EXHIBIT 13

**SMALL DIVERSE BUSINESS
LETTER OF INTENT**

[DATE]

**[SDB Contact Name
Title
SDB Company Name
Address
City, State, Zip]**

Dear [SDB Contact Name]:

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

If [Offeror] is the successful vendor, [SDB] shall provide [identify the specific work, goods or services the SDB will perform, and the specific timeframe during the term of the contract and any option/renewal periods when the work, goods or services will be performed or provided].

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] will receive an estimated [identify associated estimated dollar value that the fixed percentage commitment represents] during the initial contract term.

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

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

Sincerely,

Acknowledged,

Offeror Name
Title
Company
Phone number

SDB Name
Title
Company
Phone number