Commonwealth of Pennsylvania
Department of Public Welfare
Division of Procurement
Room 525, Health & Welfare Building
625 Forster Street
PO Box 2675
Harrisburg, PA 17120

Daniel R. Boyd
Director

Telephone: 717-783-3767
Fax: 717-787-3560

October 21, 2011

Crest Environmental Services Corp
PO Box 15086
Reading, PA 19612

Dear Vendor:

This is your notification that Contract # 4300305729 has obtained all the necessary Commonwealth approvals. The Department of Public Welfare, Selinsgrove Center, awarded this Contract for ACM – Hot water tank removal. The term of the Contract shall commence on the Effective Date 11/01/2011 and shall end on the Expiration Date of 11/30/2011 as identified in the Contract, subject to the other provisions of the Contract.

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

The fully executed Contract does not contain "ink" signatures by the Commonwealth. The Contractor understands and agrees that the receipt of an electronically-printed Contract with the printed name of the Commonwealth purchasing agent constitutes a valid, binding contract with the Commonwealth. The printed name of the purchasing agent on the Contract represents that all approvals required by Commonwealth contracting procedures have been obtained.

The Contractor **may not start** performance until all of the following have occurred: a. the Effective Date has been established and b. the Contractor has received a Purchase Order. The Commonwealth shall not be liable to pay the Contractor for any supply furnished or work performed or expenses incurred before the Effective Date or before the Contractor receives a copy of the fully-executed Contract or before the Contractor has received a Purchase Order. ***No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Contract prior to the Effective Date and receipt of Purchase Order.***

The Commonwealth will issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery under the Contract. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Contractors are not permitted to accept Purchase Orders, which require performance extended beyond those performances time periods specified in the Contract. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

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

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

If you have any questions concerning this contract, please contact Rose Heller at (570) 372-5675.

Sincerely,

Daniel R. Boyd, Director
DPW Division of Procurement

FULLY EXECUTED - REPRINT
Purchase Order No: 4300305729
Original PO Effective Date: **10/20/2011**
PO Issue Date: **10/20/2011**

Your SAP Vendor #: 199089

Supplier Name/Address:
CREST ENVIRONMENTAL SERVICES CORP
P.O. Box 15086
READING PA 19612 US

Supplier Phone Number: 6106857711
Supplier Fax Number: 610-685-7733

Please Deliver To:
DPW SELINSGROVE CENTER
1000 ROUTE 522 Maint
Selinsgrove PA 17870-0500 US

Please Bill To:
Commonwealth of Pennsylvania - PO Invoice
PO Box 69180
Harrisburg, Pennsylvania 17106

Purchasing Agent
Name: Rose Heller
Phone: 570-372-5671
Fax: 570.372.5675

Purchase Order Description:
7011 CREST ENVIRONMENTAL##

This Purchase Order is comprised of: The above-referenced Solicitation, the Suppliers Bid or Proposal, and any documents attached to this Purchase Order or incorporated by reference.

Suppliers must provide four mandatory elements on PO invoices: PO Number, Invoice Date, Invoice Number, and Invoice Gross Amount. Failure to comply will result in the return of the invoice. Additional optional information such as supplier name, address, remit to information and PO Line Item information will improve invoice processing.

Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
1	ACM Removal (4) 1425 gallon tanks	1	Lot	11/01/2011	18,000.00	1	18,000.00

Item Text
REMOVE FOUR(4) 1425 GALLON TANKS AND PIPING THAT ARE COVERED WITH ACM IN TWO(2) MECHANICAL ROOMS IN CENTRAL BUILDINGS 5 AND 7 PER ATTACHED WORK STATEMENT

General Requirements for all Items:

Information:

Total Amount:
SEE LAST PAGE FOR TOTAL OF ALL ITEMS

Currency: USD

Supplier's Signature _____ **Title** _____

Printed Name _____ **Date** _____

FULLY EXECUTED - REPRINT

Purchase Order No: 4300305729

Original PO Effective Date: **10/20/2011**

PO Issue Date: **10/20/2011**

Supplier Name:

CREST ENVIRONMENTAL SERVICES CORP

Header Text

ANTICIPATED CONTRACT PERIOD: NOVEMBER 1, 2011 THROUGH
NOVEMBER 30, 2011 OR WITHIN THIRTY(30) DAYS AFTER RECEIPT OF AN APPROVED CONTRACT

SERVICE: ACM TANK REMOVAL

IN ADDITON TO THIS DOCUMENT, THE FOLLOWING CONTRACT TERMS, CONDITIONS, AND SPECIFICATIONS ARE A PART OF THE CONTRACT:

1. 4300305729 WORK STATEMENT

2. 4300305729 STANDARD TERMS AND CONDITIONS

2c. 4300305729 DPW HIPAA

3. 4300305729 DPW ADDENDUM

No further information for this PO.

Information:

Total Amount: **18,000.00**

Currency: USD

I. WORK OBJECTIVE:

The contractor will remove four hot water tanks/abandoned steam/pipe runs and all associated asbestos containing thermal system insulation material from abandoned hot water tanks/pipe runs located in mechanical rooms located in Central building mechanical room areas # 5&7 located on the campus of Selinsgrove Center per the attached documentation for the Removal of Asbestos Containing Material.

II. PHASES:

The contractor shall designate a person who shall be familiar with the contract and authorized to act on the contractor's behalf in resolving any issues relating to the contract and who shall be available to the facility during regular business hours and emergency requests.

The contractor's contact person shall be: DENNIS BINCAROSKY
Telephone No: 610-685-7711
Emergency Telephone No.: 484-955-5868 cell
Email: dennis@crestenv.com

III. BACKGROUND INFORMATION:

LOCATION: Selinsgrove Center, 1000 Route 522, Selinsgrove, PA 17870

LENGTH OF AGREEMENT: The anticipated term of the contract will be one (1) month beginning November 1, 2011 to November 30, 2011 or upon receipt of an approved contract.

The beginning date of the term of the contract is an estimate only. The contract will not be valid or enforceable until fully executed, approved, and delivered to the contractor. No payment can be made for services provided prior to delivery of the contract to the contractor.

PAYMENT PROVISION: Failure to submit invoices in compliance with the following instructions may result in the invoice being returned to the contractor and substantially delay processing of payment. The contractor shall be paid upon satisfactory completion of work performed and submission of an invoice on the contractor's letterhead, in triplicate. The invoice should contain at minimum the information listed below:

1. Contract Number
2. Contractor's Federal Employer's Identification Number (EIN)
3. Date of invoice
4. Date(s) on which service was provided
5. Description of service provided
6. Number of hours of labor charged and rate per hour
7. Itemized list of parts used with part number, description, unit price
8. Total amount charged.

Invoice must be submitted in TRIPLICATE TO:

Commonwealth of Pennsylvania – PO Invoice
PO Box 69180
Harrisburg, PA 17106

A copy of the invoice may be mailed to Selinsgrove Center or faxed to 570.372.2544.

Invoices will be verified and approved by the Contract Monitor prior to payment being made.

The contractor shall be paid only for services and/or materials accepted by the facility. Mileage and travel time costs are to be included in the bid prices. No additional reimbursements will be made to the contractor other than for the bid prices.

The contractor agrees to provide the services described in the Invitation for Bid (IFB) in accordance with the provisions of the specifications.

IV. TECHNICAL REQUIREMENTS:

The definitions of the following terms shall apply:

Facility – Selinsgrove Center, a center operated by the Pennsylvania Department of Public Welfare

Contractor – the party that has been awarded a contract based on this specification.

Bidder – a party submitting an offer to provide services specified herein

Fiscal Year – July 1st thru June 30th (12 consecutive months)

The facility has the right to request proof of qualifications for all persons performing services under the contract.

If requested by the facility, the bidder shall, within three (3) days after bid opening date, submit proof of qualifications, in the form of a resume or statement of experience, that shall include the names, addresses, and telephone numbers of not less than three (3) customers for whom the contractor has provided services similar to that required by this specification.

V. MEASURES:

The contractor shall report to the Contract Monitor upon arrival at the facility. Each service visit shall be recorded on a service acknowledgement or other acceptable form, prepared by the contractor, which shall provide the following information:

a. Contractor's name

b. Date service provided
c. Time serviceman arrived at the facility
d. Time servicemen left the facility
e. Total time serviceman spent at the facility
f. Description and location of equipment serviced
g. Description of service performed
h. Itemized list of parts used
i. Signature of Serviceman
j. Signature of Contract Monitor or designee

VI. MISCELLANEOUS ISSUES:

The Contract Monitor on behalf of Selinsgrove Center will be:

Jeff Augustine, Facilities Maintenance Manager
Selinsgrove Center
Selinsgrove, PA 17870
Telephone: 570.372.5743

It will be the responsibility of each bidder to make a complete survey of the services as covered and requested in the Invitation for Bid. Any misunderstanding arising from failure to make the survey shall not relieve the Contractor from fulfilling the requirements of the proposal and contract of which this proposal become a part thereof. All questions regarding the specification should be forwarded to the Contract Monitor.

Due to concerns over privacy, confidentiality, security, and sensitivity;

1. Living areas where individuals reside cannot be accessed unless accompanied by a facility representative.
2. And the use of the photographic capabilities of personal camera, picture, or video cellular telephones is prohibited by Contractors or vendors at Commonwealth owned/leased work sites. This policy does not forbid normal voice use of cellular phones that have photographic capabilities; however, it prohibits the use of the camera-related technology while in Commonwealth work settings.

Violations of this policy may result in termination of contract

REMOVAL OF ASBESTOS CONTAINING MATERIALS

PART 1 - GENERAL

1.01 STIPULATIONS

A. The "General Conditions", "Special Requirements" and "General Requirements" are incorporated into this section by reference.

B. The procedures specified in this section are guidelines for minimum performance. The Contractor is responsible for his own methods of operations and conformance to regulatory codes, rules and guidelines. The Contractor is required to obtain all permits, licenses and approvals to perform the work, including any rights to use patented systems.

C. Asbestos Project Designer:

Name: DENNIS J. BINCAROSKY

PA L&I Certification No. 002859

Signature: D J. Bincarosky

1.02 SCOPE OF WORK

A. The scope of work for this project covers the supplying of all labor, tools, materials, equipment, services and appurtenances to accomplish the work specified. The work shall be performed to the complete satisfaction of DPW Selinsgrove Center in accordance with the current federal asbestos OSHA/EPA regulations, Pa. Department of Labor and Industry's (Act 194) legislation and local government regulations.

B. Work under this project includes but is not limited to the following: Removal of four hot water tanks/abandoned steam/pipe runs and all associated asbestos containing thermal system insulation material from abandoned hot water tanks/pipe runs located in mechanical rooms located in Central building mechanical room areas # 5&7 located on the campus of Selinsgrove Center. Abatement areas are delineated and marked within each mechanical room. Vendor needs to verify actual room locations and demolition square/linear foot totals prior to bid submittal and commencing with abatement project.

Removal consists of asbestos containing thermal system insulation (TSI) material on a total of four (4) abandoned hot water tanks and identified/marked adjacent abandoned steam/pipe runs. Each tank is approximately 1,425 gallon in capacity. There is approximately fifty (50) linear feet of TSI steam/pipe/elbow/valve runs that need demolition/disposal. Each abatement project area shall be adequately cleaned and cleared via area air sampling for re-occupancy.

C. Contractor may work extended daily hours Monday through Friday beyond 7:00am-5:00pm contingent upon approval and coordination of proposed hours thru the facility representative. Areas/sequence of work will

be identified by the facility representative in support of other activities in the building.

D. Vendor has all salvage rights on all metals associated with the abatement/demolition project.

1.03 CONTROL OF WORK

A. All work which does not conform to the requirements of the contract, plans and specifications will be considered unacceptable.

B. Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the work, shall be corrected immediately and replaced in an acceptable manner at the Contractor's expense.

C. All bidders shall inspect job site prior to bidding to determine job conditions.

D. If the facility finds the materials furnished, work performed, or the finished product not within reasonably close conformity with the plans and specifications and have resulted in an unacceptable finished product, the affected work or material shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

E. The term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the work in accordance with the specifications. The term shall not be construed as waiving the Department's right to insist on strict compliance with the requirements of the contract, plans and specifications during the Contractor's prosecution of the work, when in the Department's opinion and judgement such compliance is essential to provide an acceptable finished work.

F. Water and electricity will be supplied by facility. Vendor is responsible to have own electrical panel for tie in to facility's existing electrical supply.

G. Any questions in regards to the requirements of this work shall be directed to the facility maintenance manager Mr. Jeff Augustine (or designee)at Selinsgrove Center, Department of Public Welfare.

1.04 QUALITY ASSURANCE

A. Monitoring and Air Testing Firm:

1) The Contractor will be responsible for the monitoring and air testing throughout project. The Contractor will hire an Independent Third party monitoring firm.

2) The Monitoring Firm will be responsible for certifying the project was completed in accordance with the specification; and, all OSHA/EPA/PADEP/PADOLI standards and regulations.

3) The Contractor and Air Monitioring Firm will complete Appendix A (Asbestos Certification Of Visual Inspection) for

each work area as demarcated on drawings to include at minimum the following:

- Mechanical room # 5- Abatement Area
- Mechanical room # 7- Abatement Area

B. Contractor Experience:

1) The Asbestos Abatement Contractor shall have a minimum of three (3) years experience in the asbestos abatement business. He shall have successfully completed three (3) projects of similar or larger size and dollar value to this project and shall not have defaulted on an asbestos abatement project within the last three (3) years. The Contractor shall be certified by Pennsylvania Department of Labor and Industry.

C. Worker Certification:

1) Documentation of workers medical exams, consist of x-rays and pulmonary function shall be submitted and as may be required by current OSHA and any other applicable State and Local Government regulations.

2) There must be on site at all times, a PaDL&I Certified Asbestos Supervisor. The Asbestos Supervisor shall have successfully completed a 5-day supervisory course. All asbestos workers shall have successfully completed a 4-day workers course. The Contractor must provide copies of certificates from Pennsylvania Department of Labor and Industry for all workers and supervisors.

3) The Contractor, Abatement Supervisor, and Abatement Workers shall be licensed by the Pennsylvania Department of Labor and Industry (PADOLI). Each worker/supervisor shall have current photo identification issued by PADOLI available on request by the Department.

1.05 POSTING OF REGULATIONS

The Contractor will have at all times in his possession at his office one (1) copy and in view at the job site one (1) copy, current OSHA Regulations 29 CFR 1926.1101, Asbestos and current Environmental Protection Agency 40 CFR Part 61, Subpart M: National Emission Standard for Asbestos, Asbestos Stripping Work Practices and Disposal of Asbestos Waste.

1.06 REGULATORY SUBMITTALS (CONTRACTOR'S RESPONSIBILITY)

A. The Contractor is required to notify the building occupants and the following agencies in writing ten (10) days prior to starting work for notification and instructions concerning proper disposal of asbestos waste material.

1) United States Environmental Protection Agency - Region III
Asbestos - NESHAP Coordinator (3AT33)
1650 Arch Street
Philadelphia, PA. 19106-2029

2) Pennsylvania Department of Environmental Protection
Bureau of Air Quality Control
Regional Manager

3) Pennsylvania Department of Labor and Industry
Asbestos Occupation Accreditations & Certification
Bureau of Occupational and Industrial Safety
Labor and Industry Building Room 1601
Seventh & Forster Streets
Harrisburg, Pennsylvania 17120. Five(5)day maximum notice.

4) EPA, DEP approved asbestos landfill proposed to be used by the Contractor.

1.07 AIR TESTING AND MONITORING

A. Air sampling of the work areas and surrounding environment will be conducted during the performance of this contract by the monitoring firm so as to ensure compliance with all codes, regulations, ordinances and take corrective action to prevent contamination to areas beyond the work area(s).

B. The Contractor shall fully cooperate with the monitoring firm and all others responsible for testing and inspecting the work. An air testing and monitoring schedule shall be submitted prior to the start of work.

C. Air testing and analyses shall be in accordance with current EPA and requirements of Section 29 CFR 1926.1101 of the current OSHA Regulations, as a minimum. Analysis shall be performed by Phase Contrast Microscopy per NIOSH 7400 Method and/or Transmission Electron Microscopy (TEM) per EPA Level I analytical procedures.

D. Air tests taken prior to start of work (background) and at completion (pre-clearance) will be analyzed by PCM-Phase Contrast Microscopy. Final (clearance) testing inside mechanical rooms shall be by PCM. Immediately outside mechanical room entrance doors corridor area must be cleared by TEM.

E. Air samples will be received at the approved laboratory within twelve (12) hours of the time the samples were taken.

F. The monitoring firm shall give verbal notification to the Department of the results of each test within twenty-four (24) hours of the time the samples were delivered to the laboratory. The monitoring firm shall confirm the results in writing within three (3) days thereafter.

G. Prompt reports are necessary so that, if required, modifications to work methods and/or practices may be implemented as soon as possible, if such action is required.

H. Representatives of the monitoring firm shall have access to the work area at all times. The Contractor shall provide facilities for such access in order that the monitoring firm may properly perform its function.

I. Specimens and samples for testing shall be taken by the testing personnel. Sampling equipment and personnel will be provided by the monitoring firm.

J. Air sampling shall be performed in each work area prior to commencement of the work at that location. Perform final clearance testing by PCM (NIOSH 7400) and TEM (EPA Level I) analytical procedure in aforementioned specific areas.

K. Air samples shall be taken in accordance with, but not necessarily limited to, the following schedule:

AREA (Liters. /min.)	WHEN	NUMBER	MINIMUM VOLUME SAMPLE (liters)	COLLECTION RATE
MR #5/#7 (PCM)	Prior to job start	1-each	1200	10
MR #5/#7 (PCM)	During abatement work	1-each- Daily low volume flow rate		2-4
MR #5/#7 (PCM)	Upon work (pre-clearance)	1-each	1200	10
MR #5/#7 (PCM)	At completion	1-for each abatement area (Final)	1200	10
MR #5/#7 (TEM)	At completion-	1 for each corridor adjacent to mechanical room entrance door	1200	10

NOTE:
1 - Consecutive daily air samples will be taken during abatement to yield a minimum of eight (8) hours of sampling time for each active work area.

L. Work area clearance testing shall be completed before work site protective barriers are removed.

M. The Contractor is responsible for performing the thirty (30) minute excursion air sampling per OSHA regulations.

N. The Contractor is responsible for performing personal air samples in the employees breathing zone per OSHA regulations.

1.08 AIR FILTERING - (FOR GUIDELINE PURPOSES ONLY)

A. An approved negative pressure/air movement atmosphere may be created in the active work area using HEPA equipped air movement units.

B. Air may be drawn from clean areas through the decontamination and active work areas, HEPA filtered and exhausted through air movement units to the containment exterior. Replace filters in accordance with manufacturer's instructions.

C. Air movement should be sufficient quantity to ensure a minimum of four (4) air changes per hour.

Example: Active work area = 50' x 50' x 20' H = 50,000 cu. ft.

For four air changes per hour = 4 AC/HR x 50,000 CF/AC
= 200,000 cu.ft./hr.

In cubic feet per minute = 200,000 CF/HR: 60 min/hr
= 3,333 cu. ft. /minute

This active work area would require a combination of air movement/HEPA units, i.e., 2,500 CFM and 1,500 CFM

D. The exhaust system must be sufficient to maintain a minimum pressure differential of -0.02 inches of water relative to unsealed, adjacent area. Provide continuous, twenty-four (24) hours per day monitoring of the pressure differential with an automatic recording instrument.

E. The exhaust system(s) will run twenty-four (24) hours/day until final clearance is obtained and will be maintained in accordance with ANSI Z9.2 and the manufacturers' directions.

F. To ensure continuous operation, the Contractor shall have a spare negative exhaust unit available.

1.09 ALTERNATIVE AIR FILTERING METHODS

Other approved air filtering methods may be utilized at the Contractor's discretion, with the stipulation that designated regulatory agencies provide documented approval to the Department. It shall be the responsibility of the Contractor to submit all documentation required to the appropriate regulatory agency for their review and approval.

1.10 PLACEMENT OF WARNING SIGNS AND LABELS

A. The Contractor shall furnish and place warning signs at all approaches to asbestos control areas containing concentrations of airborne asbestos fibers. Locate warning signs at such a distance that personnel may read the warning sign and take the necessary protective action required before entering the area. Warning signs shall be in place for the duration of the work. The Contractor shall furnish and attach caution labels to all disposal containers holding asbestos materials, scrap waste, debris and other products contaminated with asbestos.

B. Warning Signs: Provide warning signs conforming to 29 CFR 1926.58 with the following legend:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING ARE
REQUIRED IN THIS AREA

Provide spacing between lines at least equal to the height of the upper of any two (2) lines.

C. Danger Labels: Attach label to the outside of all disposal bags and containers which hold asbestos contaminated materials and are to be removed from the site. Danger labels shall be printed in

letters of sufficient size and contrast so as to be readily visible and legible and shall display the following legend:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

D. Identification Labels: Attach label to the outside of all disposal bags and containers which hold asbestos contaminated materials and are to be transported off facility site. Identification labels shall display the following legend:

Waste Generator Name: _____Fill Out_____

Generator Location: _____Fill Out_____

E. Transportation marking shall conform to 49 CFR 171 and 172 and shall be provided on all containers with more than one pound of friable asbestos. Transportation marking shall display the following legend:

R Q HAZARDOUS SUBSTANCE
SOLID, NOS
ORM-E, NA 2212
(ASBESTOS)-PG III

PART 2 - PRODUCTS

2.01 EQUIPMENT AND MATERIALS

A. The list of required materials will include, but is not necessarily limited to the following:

1) Respirators: Provide respiratory protection in accordance with OSHA Regulation 29 CFR 1926.1101 and appendices ANSI Z88.2-1980. Respiratory protection shall be as listed below. There shall be NO EXCEPTION to this requirement. As minimum protection, Powered Air Purifying, Positive Pressure, full face respirators shall be worn during scraping, wetting, bagging, and removal of asbestos material. No employee or visitor shall enter the area without this protection until all visible asbestos has been removed from the area. Employees or visitors shall wear this type respirator. Respirators shall be NIOSH/MSHA approved.

2) Protective Clothing:

a) Disposable Clothing - Manufactured by "Tyvek" by DuPont, or equal. Clothing shall consist of coverall, head cover and foot cover. Gloves will be worn for hand cover as required.

3) Wetting Agents - The asbestos material will be sprayed with water containing an additive to enhance penetration. The additive, or wetting agent, will be polyoxyethylene at a concentration of one (1) ounce per five (5) gallons of water. A fine spray of this solution must be applied to prevent fiber disturbance preceding the removal of the asbestos material. The asbestos will be sufficiently saturated to prevent emission of airborne fibers in excess

of the exposure limits prescribed in the current OSHA standards referenced in these specifications. DRY REMOVAL WILL NOT BE ALLOWED.

4) Polyethylene sheeting: Six (6) mils, for vertical protection (walls, doors, windows) and for all other uses (floors, fixed equipment, HVAC supply and return openings).

5) All asbestos waste shall be placed in leak tight/proof containers for proper handling and disposal as per EPA/DEP regulations.

6) Tape: High quality vinyl or fabric duct tape. Paper masking tape will not be permitted.

7) Negative Pressure Filtration Equipment: Air movement and filtering equipment equipped with HEPA filters rated at 99.97% removal down to 0.3 microns, and of sufficient capacity to provide a minimum of four (4) air changes per hour for each active work area.

8) Airless Spray Equipment: Electric airless spray equipment for saturating and mist fiber control. Low pressure (500 psi) equipment must be available on-site and utilized as required.

9) Vacuum: HEPA rated for surface cleaning and house-keeping. Hand operated and power tools such as, but not limited to, saws, scorers, abrasive wheels and drills should be provided with local exhaust ventilation systems with HEPA filters.

10) Hand Tools: Brooms, plastic shovels, scrapers, brushes, etc., in sufficient quantity to ensure the appropriate level of housekeeping.

11) Water Filtration System: Shower and contaminated water filtration system.

12) GFI Equipment: All electrical connections in the work area must be through "ground fault" protected outlets/circuits.

13) Penetrating Encapsulant: Penetrating encapsulants to be used on this project are International Protective Coatings Corporation Serpiflex Shield, Fiberlock Technology ABC Asbestos Binding Compound Concentrate, and others listed as acceptable in the Environmental Protection Agency - Battelle Laboratory Encapsulant Study, or approved equal.

14) Bridging Encapsulant: Bridging encapsulants to be used on this project are American Coatings Corporation Cable Coating 2B, Decadex Laboratories Firecheck, Fiberlock Technology ABC Asbestos Binding Compound Concentrate, or approved equal.

2.02 PERSONAL PROTECTION

A. Personal protection is required for laborers, mechanics, supervision and visitors at the work site during the set-up and abatement operations.

B. Each worker shall be supplied with a minimum of two (2) complete protective work clothes and respirator filter changes per day for the complete duration of the project. Hard hats should be available as appropriate which meet ANSI Z-89.1 standards. Safety toe footwear is to be worn underneath the disposable shoe covers and must meet the requirements and specifications in ANSI Z-41.1. Eye wear and face protection must meet the standards and specifications of ANSI Z-87.1.

C. In addition to sets of protective work clothes for workers, the Contractor shall have on hand two (2) additional sets of disposable work clothes, per day and respirators for personnel who are authorized to inspect the work site. Hard hats should be available as appropriate which meet ANSI Z-41.1. Eye wear and face protection must meet the standards and specifications of ANSI Z-87.1.

D. Respirators approved for asbestos use and protective work clothes will be worn by laborers and mechanics as a minimum during set-up operations (plastic draping, light-fixture dropping or removal, etc.).

E. Appropriate respirators will be worn by all personnel in the active work area.

F. Upon leaving the active work area, filters will be discarded, cartridges removed and respirators cleaned in disinfectant solution and clean water rinse.

G. Clean respirators will be stored in plastic bags when not in use.

H. Respirators will be inspected daily for broken, missing, or deteriorated parts.

PART 3 - EXECUTION

3.01 AREA PREPARATION

A. Movable furniture, blinds and equipment will be removed from area of work by the Using Agency.

B. Heating and ventilating system servicing the areas of work must be shut down prior to starting any work. Notify the Institution prior to starting any work in order that they may arrange to have the heating and ventilating system shut down. The HVAC system shall be locked out and tagged out by the facility representative.

C. The Contractor shall isolate the work area for the duration of the work by installing critical barriers completely sealing off all openings in the work area, including, but not limited to, heating, ventilation ducts, doorways, corridors, windows, roof ventilator openings, and wall vents, with plastic sheeting taped securely in place.

D. The Contractor shall build decontamination chamber(s) to be connected to each active work area for entrance to or exit from the active work area. When required a separate material load out unit shall be constructed.

E. All floor and wall surfaces in the work areas shall be covered with plastic sheeting taped securely in place to protect them from water damage and asbestos contamination.

F. The Contractor shall cover all fixtures, fixed demountable partitions, lighting, fixed items and equipment in the work area with plastic sheeting taped securely in place.

G. Duct tape, staples, wood strips and other methods will be used to attach vertical plastic barriers to walls and to floors. All edges of plastic material shall overlap the adjoining sheet a minimum of twelve inches. All joints (vertical and horizontal) to be continuously sealed with duct tape.

H. Upon completion of area isolation, the Contractor shall remove, where practical, all detachable electrical heating and ventilation equipment, wipe and vacuum, clean and remove from active work area.

3.02 DECONTAMINATION BUILDING (USAGE AND ACTIVITIES)

A. Outside room (clean room). In this room the worker leaves all street clothes and dresses in clean working clothes (usually disposable coveralls). Respiratory protection equipment is also picked up in this area. No asbestos contaminated items should enter this room. Workers enter this room either from outside the structure dressed in street clothes, or naked from the showers, after showering.

B. Shower Room: This is a separate room used for transit by cleanly dressed workers entering the job from the outside room or by workers headed for the showers after undressing in the equipment room.

C. Equipment Room (contaminated area): Work equipment, footwear, additional contaminated work clothing is left here. This is a change and transit area for workers.

D. Decontamination chambers require temporary services. Verify during bidding period the availability for temporary hook up. Mobilization, hook-up and demobilization, disconnection costs will be the responsibility of the Contractor. Installation of temporary services during demolition shall be per current EPA and OSHA regulations.

E. Work Area: The work area should be separated by polyethylene barriers from the equipment room. If the airborne asbestos level in the work area is expected to be high, as in dry removal an additional intermediate cleaning space may be added between the equipment room and the work area. Isolation of the work areas, as required, is necessary to prevent contamination and fiber dispersal to other areas of the building during work and clean-up operation. Air movement will flow uninterrupted from outside the work area through the change and equipment rooms and into the active work area. It is then HEPA filtered and exhausted to the building exterior.

3.03 WORK AREA ENTRANCE/EXIT

A. All workers involved in the removal of asbestos will utilize the following procedure for work area entrance and exit.

B. The worker enters the outside room and removes clothing, puts on clean uniform, gloves and respirator. Protective clothing sleeves will be taped to gloves and protective clothing legs will be taped to foot covers. The neck collar, zipper seam, wrists and ankles of protective clothing will be taped closed.

C. Worker proceeds via shower room to equipment room. Any additional clothing and equipment left in equipment room and required by worker is put on. This includes additional warm garments workers usually provide themselves when the work area is too cold for coveralls only. These must be treated as contaminated clothing and left in the decontamination area.

D. Worker proceeds to work area.

E. Before leaving the work area, the worker should remove all gross contamination and debris from the protective clothing, by vacuuming down the clothes with a vacuum cleaner with a HEPA filter. In practice, this is carried out by one worker assisting another.

F. The worker proceeds to equipment room and removes all clothing except respiratory protection equipment. Extra work clothing may be stored in contaminated end of the area.

G. Disposable protective clothing is placed in a bag for disposal with other material. The worker then proceeds into the shower room. Respiratory protection equipment should only be removed after wetting in shower to prevent inhalation of fibers. Ensure that employees shower daily before entering the clean room.

H. After showering, the worker moves to the clean room and dresses in either new protective clothes for another entry or street clothes if leaving.

I. Respirators are picked up, washed and wrapped by protected workers. The respirators are then brought to the clean room by an outside worker.

J. Workers shall not eat, drink, smoke, chew gum, or chew tobacco in the work area. To eat, drink or smoke, workers shall follow the decontamination procedure outlined above.

K. All footwear shall be left inside work area until completion of the job, then cleaned or discarded.

3.04 METHOD OF REMOVAL

A. Remove and dispose of all asbestos-containing materials (ACM) in accordance with the methods and procedures outlined in the United States Department of Labor, Occupational Safety and Health

Administration (OSHA) Asbestos Regulations, Codes of Federal Regulations Title 29, Part 1926, Section 1926.1101.

B. Dry removal will not be allowed except when wet removal will create a safety hazard. Dry removal process will require written authorization by the Department.

C. Work of this section shall be performed in the following manner:

1) Eliminate air flow into containment area by isolating all supply and return air ducts from mechanical system. Turn off electrical power.

2) Install six (6) mil polyethylene critical barriers over all doors, wall openings, ceiling openings, electrical outlets, etc. Secure with duct tape on all sides.

3) Two layers of Six (6) mil polyethylene protecting floor surface from wall to wall.

4) Six (6) mil polyethylene protecting wall surface from floor to ceiling.

5) Isolation barriers separating occupied areas and work areas shall be framed and covered with 1/2 inch plywood and two (2) layers of six (6) mil polyethylene.

6) Duct HEPA filter unit to outside. Locate unit to prevent dead air pockets.

7) Install triple air curtain, six (6) mil polyethylene (typical), over door opening into decontamination unit or load out unit.

3.05 HOUSEKEEPING

A. Throughout the work period, the Contractor shall maintain the building and site in a standard of cleanliness as specified throughout these specifications.

B. Contaminated disposable clothing, respirator filters and other debris will be bagged, properly labeled and sealed at the end of each work day.

C. All asbestos generated by either removal, encapsulation or repair will be bagged, properly labeled, and sealed at the end of each work day.

D. Respirators will be thoroughly cleaned at the end of each work day and stored for the next day's use.

E. Retain all stored items in an orderly arrangement allowing maximum access, not impeding traffic, and providing the required protection of materials.

F. Do not allow the accumulation of scrap, debris, waste material, and other items not required for completion of this work.

G. At least weekly, and more often if necessary, completely remove all scrap, debris and waste material from the job site.

H. Unless otherwise noted or directed, materials resulting from demolition operations shall be the property of the Contractor, shall not be used in the work and shall be promptly removed from the site.

I. Daily and more often if necessary, inspect the work areas and adjoining spaces, and pick up all scrap, debris and waste material. Remove all such items to the place designated for their storage.

J. Provide adequate storage for all items awaiting removal from the job site, observing all requirements for fire protection and protection of the ecology.

K. Maintain the site in a neat and orderly condition at all times.

L. Compressed air is not to be used for cleaning purposes.

3.06 FINAL DECONTAMINATION OF WORK AREA

A. Following careful packaging of all removed asbestos material by the Contractor, he shall label packages/containers as required.

B. Packages/containers shall be wiped with clean damp cloths prior to transportation to approved disposal site.

C. Plastic barriers, as specified, shall be carefully removed, folded inward rolled into bundles and bagged for disposal. NOTE: Final barriers are not to be removed until work is completed.

D. During decontamination of the work area (after asbestos removal), the Contractor shall remove the polyethylene sheets from walls and floors only. The windows and doors shall remain sealed and any HEPA filtration systems shall remain in service until final acceptance by the owner's representative.

E. Hard surfaced flooring such as concrete, terrazzo, VAT and ceramic tile, shall be wet mopped, allowed to dry, and damp mopped a second time with clean mop heads.

F. Walls, furniture and equipment (which remain in work area during work operations), windows and other surfaces shall be thoroughly cleaned with damp cloths.

G. Carpeting shall be cleaned with a HEPA type vacuum cleaner. CONVENTIONAL VACUUMS WILL NOT BE PERMITTED.

H. All surfaces are to be left visually clean.

I. After the work area is found to be in compliance by visual inspection, and before removing plastic barriers, the Monitoring Firm shall take clearance samples as specified in Air Sample Schedule, Section 1.07 as soon as feasible but no longer than eight (8) hours after completion of all cleaning work, or as may be specified by the Department.

J. If clearance criteria are not met, repeat final cleaning as per 3.06 until additional tests indicate conformity before proceeding with final clearance testing by PCM. Contractor shall be

responsible for all additional costs associated with recleaning including air monitoring costs.

K. All mop heads and cleaning cloths are to be discarded in the same manner as asbestos waste.

L. Clean all glass inside of work area.

M. All windows, doors, louvers, etc., shall be unsealed and the sheeting, tape, etc., shall be disposed of as heretofore prescribed.

N. All plastic sheeting, tape, cleaning materials, clothing and all other disposable material or items used in the work area shall be packed into sealable plastic bags (6 mil. minimum) for transport. Double bagging is required.

O. Visually inspect all surfaces in the work area and remove all traces of waste materials, smudges, and other foreign matter. Droppings, spots, stains and dirt caused by cleaning agents or tools shall likewise be completely removed.

3.07 DISPOSAL OF ASBESTOS WASTE

A. All asbestos materials and miscellaneous debris will be transported to the predesignated disposal site in accordance with the guidelines of the U.S. Environmental Protection Agency, Title 40, Part 61, Subpart M, and all local agencies' regulations.

B. Workers unloading the asbestos materials and machinery operators will wear respirators and disposable work clothing, eye and foot protection when handling material at the disposal site.

C. The landfill area used for dumping shall be certified to receive and materials contaminated by asbestos.

D. Obtain signed Waste Shipment Record (WSR) indicating material is asbestos waste, and site it came from. WSR must also indicate amount of waste in cubic yards or tons.

E. Submit WSR with final report.

3.08 INSPECTIONS

A. All work procedures detailed in this specification will be strictly adhered to and meet or exceed all current EPA, OSHA, DEP and PDL&I regulations.

B. All work shall meet with the approval of the Department. Work which does not meet with the approval shall be determined to be unsatisfactory.

C. DPW representatives reserve the right to access the work area at any time from project start to completion.

3.09 Contract Completion

A. Upon completion of the project, the contractor will submit the following documentation in a consolidated, bound format:

1. A summary of all work that was done.
2. A brief description of how the work was accomplished.
3. A description of any problem areas encountered during the work.
4. A copy of the daily log maintained at the job site throughout the project.
5. A summary of all testing performed during the project.
6. The final air-clearance data.
7. A copy of Asbestos Certificate of Visual Inspection's (Appendix A) for each work area.
8. All shipping, disposal records and manifests (WSR's returned from the landfill).
9. The name title and signature of the person who submits the documents.

B. Payment is contingent upon receipt of items in 3.09 A; and completion of all items in the specification and drawings.

3.10 Dates of Completion

A. All work shall be complete within 30 days after receipt of a fully executed contract.

ASBESTOS CERTIFICATION OF VISUAL INSPECTION

Project Name: _____

Project Number: _____

Building Name: _____

Work Area Location: _____

ABATEMENT CONTRACTOR CERTIFICATION

In accordance with Project Specifications and scope of work, the abatement contractor hereby certifies that the Abatement Contractor has visually inspected the work area (all surfaces including pipes, beams, ledges, walls, ceiling, floor, soil, decontamination unit, sheet plastic, etc.) and has found no asbestos dust, debris or residue.

Abatement Contractor Name: _____

Signature: _____ Print Name: _____

Print Title: _____ Date: _____

QUALITY ASSURANCE CONSULTANT

The Air testing Firm hereby certifies that he/she has accompanied the Abatement Contractor on the visual inspection and verifies that this inspection has been thorough and to the best of his/her knowledge and belief, the Abatement Contractor's certification above is a true and honest one.

Ait Testing Firm Name: _____

Inspector Signature: _____ Date: _____

Print Inspector Name: _____

APPENDIX A

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PART I - GENERAL INFORMATION

PART I - GENERAL INFORMATION

I.1 IFB-001.1 Purpose (Oct 2006)

The Commonwealth of Pennsylvania (Commonwealth) is issuing this Invitation for Bids (IFB) to meet the needs of 2117 SELINSGROVE CENTER to satisfy a need for **2117 ACM TANK REMOVAL .**

I.2 IFB-005.1 Type of Contract (Oct. 2006)

If the Issuing Office enters into a contract as a result of this IFB, it will be a ESTABLISHED PRICE CONTRACT contract containing the Contract Terms and Conditions as shown in Part V of this IFB.

I.3 IFB-008.1C No Pre-bid Conference (Oct. 2006)

There will be no pre-bid conference for this IFB. If there are any questions, please forward them to the Issuing Office prior to the bid opening date and time.

I.4 IFB-008.2 Mandatory Site Visitation (Oct. 2006)

All bidders, prior to submitting a bid, must visit the site to completely familiarize themselves with all of the agency's needs and requirements. Vendor shall contact JEFF AUGUSTINE at 570-372-5743 to schedule an appointment to visit the site.

I.5 IFB-009.1 Questions (Nov. 2006)

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

I.6 IFB-010.1 Addenda to the IFB (Oct. 2006)

If the Issuing Office deems it necessary to revise any part of this IFB before the bid response date, the Issuing Office will post an addendum to its website at WWW.DPW.STATE.PA.US it is the Bidder's responsibility to periodically check the website for any new information or addenda to the IFB.

I.7 IFB-011.1B Submission of Bids – Electronic Submittal (May 2011)

a. Bids are requested for the item(s) described in the Invitation For Bids and all the documents referenced in the form (collectively called the IFB). Bidders must submit their bids through the Commonwealth's electronic system (SRM).

b. It is the responsibility of each bidder to ensure that its Bid is received through the electronic system prior to the date and time set for the opening of bids ("Bid Opening Time"). No Bid shall be considered if it arrives after the Bid Opening Time, regardless of reason for the late arrival.

Bids that are timely received prior to the Bid Opening Time shall be opened publicly in the presence of one or more witnesses at the time and place designated in this IFB for the Bid opening.

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

d. The Bidder, intending to be legally bound hereby, offers and agrees, if this Bid is accepted, to provide the awarded items at the price(s) set forth in this Bid at the time(s) and place(s) specified.

I.8 IFB-024.1 Bid Protest Procedure (Oct 2006)

a. **Who May File the Protest.** Any Bidder or prospective bidder who is aggrieved in connection with the IFB or award of the contract solicitation or award of a contract may file a protest. Protests relating to cancellation of invitations for bids and protests relating to the rejection of all bids are <u>not</u> permitted. A Bidder is a person that submits a bid in response to the IFB. A prospective bidder is a person that has not submitted a bid in response to the IFB.

b. **Time for Filing.**

1) If a protest is submitted by a prospective bidder, the protest must be filed before bid opening time or proposal receipt date.

2) If a protest is filed by a Bidder, the protest must be filed within seven days after the protesting Bidder knew or should have known of the facts giving rise to the protest EXCEPT THAT IN NO EVENT MAY A PROTEST BE FILED LATER THAN SEVEN (7) DAYS AFTER THE DATE THE CONTRACT OR PURCHASE ORDER WAS AWARDED. Date of filing is the date of receipt of protest.

3) Untimely filed protests shall be disregarded.

c. **Form of Protest.**

1) A protest must be in writing and filed with the agency head (or designee) of the purchasing agency.

2) A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal.

3) The protesting party may submit with the protest any documents or information deemed relevant.

d. **Notice of Protest** If award has been made, the agency head (or designee) shall notify the successful Bidder or contractor of the protest. If the protest is received before award and substantial issues are raised by the protest, all Bidders who appear to have a substantial and reasonable prospect of winning the award shall be notified and may file their agreement/disagreement with the purchasing agency within three (3) days after receipt of notice of

the protest.

e. **Stay of Procurement.** The head of the purchasing agency (or designee) shall immediately decide, upon receipt of the protest, whether or not the solicitation or award shall be stayed, or if the protest is timely received after the award, whether the performance of the contract should be suspended. The Issuing Office shall not proceed further with the IFB or with the award of the contract, and shall suspend performance under the contract if awarded, unless the agency head of the purchasing agency makes a written determination that the protest is clearly without merit or that award of the contract/purchase order without delay is necessary to protect the substantial interests of the Commonwealth.

f. **Procedures.**

1) **Contracting Officer Response.** Within fifteen (15) days of the receipt of a protest, the contracting officer may submit a written response to the head of the purchasing agency (or designee). The response may include any documents or information that the contracting officer deems relevant to the protest.

2) **Protesting Party Reply.** Within ten (10) days of the date of the contracting officer response, the protesting party may file a written reply.

3) **Review.** The head of the purchasing agency (or designee) shall:

a) Review the protest and any response or reply.

b) Request and review any additional documents or information he deems necessary to render a decision.

c) Give the protesting party and the contracting officer reasonable opportunity to review and address any additional documents or information requested by the agency head.

d) In his sole discretion, conduct a hearing.

e) Within sixty (60) days of the receipt of the protest, issue a written determination stating the reasons for the decision.

f) If additional time is required to investigate the protest, inform the protesting party of the additional time needed to render a determination and obtain the protesting party's consent.

4) **"Clearly Without Merit" Determinations.** If the head of the purchasing agency (or designee) determines, upon receipt, that the protest is clearly without merit and does not stay the procurement, the head of the purchasing agency (or designee) shall immediately issue the decision as required by Subparagraph h below.

g. **Settlement.** The Issuing Office has the authority to settle and resolve bid protests.

h. **Decision.** The head of the purchasing agency (or designee) shall promptly, but in no event later than sixty (60) days from the filing of the protest, issue a written decision. The decision shall:

1) State the reasons for the decision.

2) If the protest is denied, inform the protesting party of its right to file an appeal in Commonwealth Court within fifteen (15) days of the mailing date of the decision.

3) If it is determined that the solicitation or award was contrary to law, enter an appropriate order.

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

I.9 IFB-025.1 Electronic Version of this IFB (Oct 2006)

This IFB is being made available by electronic means. If a Bidder electronically accepts the IFB, the Bidder acknowledges and accepts full responsibility to insure that no changes are made to the IFB. In the event of a conflict between a version of the IFB in the Bidder's possession and the Issuing Office's version of the IFB, the Issuing Office's version shall govern.

I.10 IFB-029.1 Prices (Dec 6 2006)

The bid submitted by the successful Bidder will be incorporated into any resulting Contract and the Bidder will be required to provide the awarded item(s) at the prices quoted in its Bid.

I.11 IFB-031.1 Alternates (Nov 2006)

A Bidder who wants to offer an alternate must notify the Issuing Office in writing, at least five (5) days prior to the scheduled Bid opening, that the Bidder intends to offer an alternate in its Bid. An "alternate" is a product that deviates from the requirements of the specifications in its composition, qualities, performance, size dimension, etc. The written notification from the Bidder must include a complete description of the alternate and must identify the product's deviations from the specifications. Upon receipt of the notification, the Issuing Office will determine whether the alternate is acceptable. If the Issuing Office, in its discretion, determines that the alternate is acceptable, the Issuing Office will issue a change notice to the invitation for bids that revises the specifications. If no change notice is issued revising the specification, a Bid offering the alternate will not be considered for award.

I.12 IFB-032.1 New Equipment (Nov 2006)

Unless otherwise specified in this invitation for bids, all products offered by Bidders must be new or remanufactured. A 'new' product is one that will be used first by the Commonwealth after it is manufactured or produced. A 'remanufactured' product is one which: 1) has been rebuilt, using new or used parts, to a condition which meets the original manufacturer's most recent specifications for the item; 2) does not, in the opinion of the Issuing Office, differ in appearance from a new item; and 3) has the same warranty as a new item. Unless otherwise specified in this invitation for bids, used or reconditioned products are not acceptable. This clause shall not be construed to prohibit Bidders from offering products with recycled content, provided the product is new or remanufactured.

I.13 I-IFB-033.1 Modification or Withdrawal of Bid (Nov 2006)

a. Bid Modification Prior to Bid Opening. Bids may be modified only by written notice or in person prior to the exact hour and date specified for Bid opening.

1) If a Bidder intends to modify its Bid by written notice, the notice must specifically identify the Bid to be modified and must be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the modification to modify the Bid on behalf of the Bidder. The Bid modification must be received in a sealed envelope. The sealed envelope must identify the assigned Collective Number and the Bid Opening Time, and should state that enclosed in the envelope is a Bid modification

2) If a Bidder intends to modify its Bid in person, the individual who will modify the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to modify the Bid on behalf of the Bidder. If a Bidder intends to modify its Bid in person, the Bidder may do so only in the presence of an agency employee. (The agency employee will observe the actions taken by the individual to modify the Bid, but will not read the Bid or the modification).

b. Bid Withdrawal Prior to Bid Opening. Bids may be withdrawn only by written notice or in person prior to the exact hour and date specified for Bid opening.

1) If a Bidder intends to withdraw its Bid by written notice, the notice shall specifically identify the Bid to be withdrawn and shall be signed by the Bidder. The Bidder must include evidence of authorization for the individual who signed the bid withdrawal to withdraw the bid on behalf of the Bidder. Except as provided in Subparagraph c, below, bid withdrawals received after the exact hour and date specified for the receipt of Bids shall not be accepted.

2) If a Bidder intends to withdraw its Bid in person, the individual who will withdraw the Bid must arrive in the Bid Opening Room prior to the Bid Opening Time, show a picture identification and provide evidence of his/her authorization to withdraw the Bid on behalf of the Bidder.

c. Bid Withdrawal After Bid Opening. Bidders are permitted to withdraw erroneous Bids after Bid opening only if the following conditions are met:

1) The Bidder submits a written request for withdrawal.

2) The Bidder presents credible evidence with the request that the reason for the lower Bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the Bid.

3) The request for relief and supporting evidence must be received by the Issuing Office within three (3) business days after Bid opening, but before award of the contract.

4) The Issuing Office shall not permit a Bid withdrawal if the Bid withdrawal would result in the award of the contract on another Bid of the same Bidder, its partner, or a corporation or business venture owned by or in which the bidder has a substantial interest.

5) If a Bidder is permitted to withdraw its Bid, the Bidder cannot supply any material or labor or perform any subcontract or other work agreement for the awarded contractor, without the written approval of the Issuing Office.

d. Firm Bid. Except as provided above, a Bid may not be modified, withdrawn, or cancelled by any Bidder for a period of sixty (60) days following the time and date designated for Bid opening, unless otherwise specified by the Bidder in its Bid. If the lowest responsible Bidder, as determined by the Issuing Office, withdraws its Bid prior to the expiration of the award period or fails to comply with the requirements set forth in the IFB including but not limited to any requirement to submit performance or payment bonds or insurance certificates within the required time period, the Bidder shall be liable to the Commonwealth for all costs and damages associated with the re-award or re-bid including the difference between the Bidder's price and the actual cost that the Commonwealth pays for the awarded items.

e. Clarification and Additional Information. After the receipt of Bids, the Issuing Office shall have the right to contact Bidders for the purpose of seeking:

1) Clarification of the Bid which confirms the Issuing Office's understanding of statements or information in the Bid or;

2) Additional information on the items offered; provided the IFB does not require the rejection of the Bid for failure to include such information.

I.14 I-IFB-034.1 Rejection of Bids (Nov 2006)

The Issuing Office reserves the right to reject any and all Bids, to waive technical defects or any informality in Bids, and to accept or reject any part of any Bid if the best interests of the Commonwealth are thereby served.

PART II - REQUIREMENTS

PART II - REQUIREMENTS

II.1 II-IFB-008.1b Lobbying Certification and Disclosure – Electronic Submission. (Oct 2006).

With respect to an award of a federal contract, grant, or cooperative agreement exceeding $100,000 or an award of a federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding $150,000 all recipients must certify that they will not use federal funds for lobbying and must disclose the use of non-federal funds for lobbying by filing required documentation. Offerors must complete and return the Lobbying Certification Form and the Disclosure of Lobbying Activities Form, which are attached to and made a part of this IFB. The completed and signed Lobbying Certification Form and the Disclosure of Lobbying Activities Form should be submitted with the Bid Response. Commonwealth agencies will not contract with outside firms or individuals to perform lobbying services, regardless of the source of funds.

II.2 II-IFB-016.1 POST-SUBMISSION DESCRIPTIVE LITERATURE (Dec 2006)

T he Commonwealth may, during its evaluation of the bids, require any bidder to submit cuts, illustrations, drawings, prints, test data sheets, specification sheets and brochures which detail construction features, design, components, materials used, applicable dimensions and any other pertinent information which the Issuing Office may require in order to evaluate the product(s) offered. The required information must be submitted within two (2) business days after notification from the Issuing Office. Failure to submit the required information prior to the expiration of the second business day after notification shall result in the rejection of the bid as non-responsive.

PART III - SELECTION CRITERIA

PART III - SELECTION CRITERIA

III.1 III-IFB-001.1a Mandatory Responsiveness Requirements (Oct 2006)

To be eligible for selection, a bid must be:

a. Timely received from a Bidder;

b. Properly signed by the Bidder.

III.2 III-IFB-006.1a Method of Award (Oct 2006)

It is the intent of the Commonwealth to make a single award of item(s) listed in the IFB. The Commonwealth reserves the right to award by line item if it determines that it is in the best interest of the Commonwealth to do so.

III.3 III-IFB-007.1 Awards (May 2011)

Unless all Bids are rejected, and except as otherwise provided by law, award will be made through the issuance of a contract/purchase order in accordance with the method of award. Unless otherwise specified by the Issuing Office in the IFB form the Commonwealth reserves the right to award by item or on a total Bid basis, whichever is deemed more advantageous to the Commonwealth. In cases of discrepancies in prices, the unit price will be binding unless the unit price is obviously in error and the extended price is obviously correct, in which case the erroneous unit price will be corrected. As a condition for receipt of award of a contract/purchase order, the Bidder must be registered in the Commonwealth of Pennsylvania's Vendor Master file. In order to register, bidders must visit the Pa Supplier Portal at https://www.pasupplierportal.state.pa.us/ or call the Customer Support Center at 877-435-7363 or 717-346-2676.

III.4 III-IFB-008.1 Tie Bids (Nov 2006)

All tie bids will be broken by the Issuing Office.

III.5 III-IFB-009.1 Prompt Payment Discounts (Nov 2006)

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

III.6 III-IFB-010.1 OPTION FOR SEPARATE COMPETITIVE BIDDING PROCEDURE (NOV 2006)

The Commonwealth reserves the right to purchase products or services covered under this Contract through a separate competitive bidding procedure, whenever Commonwealth deems it in the best interest of the Commonwealth. The right will generally be exercised only when a specific need for a large quantity of the product

or service exists or when the price offered is significantly lower than the Contract price.

PART IV - WORK STATEMENT

PART IV - WORK STATEMENT

IV.1 IFB-001.1b STATEMENT OF WORK (Nov 2006)

The Commonwealth is seeking bids to procure the services set forth in the attached document entitled "Statement of Work."

PART V - CONTRACT TERMS and CONDITIONS

PART V - CONTRACT TERMS and CONDITIONS

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

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

V.2 CONTRACT-002.1a Term of Contract – Contract (March 2011)

The initial term of the Contract shall be 0 year(s).

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

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

V.3 CONTRACT-002.3 Extension of Contract Term (Nov 30 2006)

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

V.4 CONTRACT-003.1a Signatures – Contract (March 2007)

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

The Contract will not include an "ink" signature by the Commonwealth. The electronically-printed name of the Purchasing Agent represents the signature of that individual who has the authority, on behalf of the Commonwealth, to bind the Commonwealth to the terms of the Contract. If the Contract 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 Contract has <u>not</u> been fully executed.

The fully-executed Contract 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 Contract shall constitute receipt of the fully-executed Contract.

The Commonwealth and the Contractor specifically agree as follows:

a. No handwritten signature shall be required in order for the Contract to be legally enforceable.

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

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

V.5 CONTRACT-004.1a Definitions (Dec 12 2006)

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.6 CONTRACT-005.1b Agency Purchase Orders (Dec 12 2006)

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

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

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

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

The Commonwealth and the Contractor specifically agree as follows:

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

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

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

Purchase Orders under five thousand dollars ($5,000) in total amount may also be made in person or by telephone using a Commonwealth Purchasing Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Purchasing Card.

V.7 CONTRACT-006.1 Independent Prime Contractor (Oct 2006)

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

V.8 CONTRACT-007.01b Delivery of Services (Nov 30 2006)

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

V.9 CONTRACT-007.02 Estimated Quantities (Nov 30 2006)

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

V.10 CONTRACT-008.1a Warranty. (Oct 2006)

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

V.11 CONTRACT-009.1c Patent, Copyright, and Trademark Indemnity (Oct 2006)

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.12 CONTRACT-009.1d Ownership Rights (Oct 2006)

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

V.13 CONTRACT-010.1a Acceptance (Oct 2006)

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

V.14 CONTRACT-011.1a Compliance With Law (Oct 2006)

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

V.15 CONTRACT-013.1 Environmental Provisions (Oct 2006)

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

V.16 CONTRACT-014.1 Post-Consumer Recycled Content (Oct 2006)

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

V.17 CONTRACT-014.3 Enforcement (Oct 2006)

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.18 CONTRACT-015.1 Compensation (Oct 2006)

The Contractor shall be required to furnish the awarded item(s) at the price(s) quoted in the Purchase Order. All item(s) shall be delivered within the time period(s) specified in the Purchase Order. The Contractor shall be compensated only for item(s) that are delivered and accepted by the Commonwealth.

V.19 CONTRACT-015.2 Billing Requirements (Dec 5 2006)

The Contractor shall include in all of its invoices the following minimum information:

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

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

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

V.20 CONTRACT-016.1 Payment (Oct 2006)

a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Bill To" address if a date on which payment is due is not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by

(a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or Purchase Order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or Purchase Order.

V.21 CONTRACT-016.2 ACH Payments (Aug 2007)

a. The Commonwealth will make contract payments through the Automated Clearing House (ACH). Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted their ACH information within their user profile in the Commonwealth's procurement system (SRM).

b. The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.

c. It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

V.22 CONTRACT-017.1 Taxes (Dec 5 2006)

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

V.23 CONTRACT-018.1 Assignment of Antitrust Claims (Oct 2006)

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

V.24 CONTRACT-019.1 Hold Harmless Provision (Nov 30 2006)

a. The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all third party claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract, provided the Commonwealth gives Contractor prompt notice of any such claim of which it learns. Pursuant to the Commonwealth Attorneys Act (71 P.S. Section 732-101, et seq.), the Office of Attorney General (OAG) has the sole authority to represent the Commonwealth in actions brought against the Commonwealth. The OAG may, however, in its sole discretion and under such terms as it deems appropriate, delegate its right of defense. If OAG delegates the defense to the Contractor, the Commonwealth will cooperate with all reasonable requests of Contractor made in the defense of such suits.

b. Notwithstanding the above, neither party shall enter into any settlement without the other party's written consent, which shall not be unreasonably withheld. The Commonwealth may, in its sole discretion, allow the Contractor to control the defense and any related settlement negotiations.

V.25 CONTRACT-020.1 Audit Provisions (Oct 2006)

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The 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.26 CONTRACT-021.1 Default (Dec 12 2006)

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

   1) Failure to begin work within the time specified in the Contract or Purchase Order or as otherwise specified;

   2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract or Purchase Order terms;

   3) Unsatisfactory performance of the work;

   4) Failure to deliver the awarded item(s) within the time specified in the Contract or Purchase Order or as otherwise specified;

   5) Improper delivery;

6) Failure to provide an item(s) which is in conformance with the specifications referenced in the Contract or Purchase Order;

7) Delivery of a defective item;

8) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;

9) Discontinuance of work without approval;

10) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;

11) Insolvency or bankruptcy;

12) Assignment made for the benefit of creditors;

13) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;

14) Failure to protect, to repair, or to make good any damage or injury to property;

15) Breach of any provision of the Contract;

16) Failure to comply with representations made in the Contractor's bid/proposal; or

17) Failure to comply with applicable industry standards, customs, and practice.

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

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

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

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

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

V.27 CONTRACT-022.1 Force Majeure (Oct 2006)

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.28 CONTRACT-023.1a Termination Provisions (Oct 2006)

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 for 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 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.29 CONTRACT-024.1 Contract Controversies (Oct 2006)

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum.

b. The contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the 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.30 CONTRACT-025.1 Assignability and Subcontracting (Oct 2006)

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.31 CONTRACT-026.1 Other Contractors (Oct 2006)

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

V.32 CONTRACT-027.1 Nondiscrimination/Sexual Harassment Clause (Aug 2010)

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 Minority and Women Business Opportunities (BMWBO), 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.33 CONTRACT-028.1 Contractor Integrity Provisions (March 2011)

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.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

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 17.

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 a 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.34 CONTRACT-029.1 Contractor Responsibility Provisions (Nov 2010)

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

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

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

3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or

other Commonwealth obligations, or if it or, to the best knowledge of the Contractor, any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

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

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

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

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

V.35 CONTRACT-030.1 Americans with Disabilities Act (Oct 2006)

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. Section 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Section 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of Subparagraph a. above.

V.36 CONTRACT-032.1 Covenant Against Contingent Fees (Oct 2006)

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

V.37 CONTRACT-033.1 Applicable Law (Oct 2006)

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

V.38 CONTRACT- 034.1b Integration (Nov 30 2006)

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

V.39 CONTRACT-034.2b Order of Precedence - IFB (Dec 6 2006)

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

V.40 CONTRACT-034.3 Controlling Terms and Conditions (July 2011)

The terms and conditions of this Contract shall be the exclusive terms of agreement between the Contractor and the Commonwealth. All quotations from the Contractor shall be deemed to have been made pursuant to these terms and conditions. Other terms and conditions or additional terms and conditions on the Contractor's quotations, invoices, business forms, or other documentation shall be unenforceable and shall not be binding on the Commonwealth.

V.41 CONTRACT-035.1a Changes (Oct 2006)

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

V.42 CONTRACT-036.1 Background Checks (Feb 2008)

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

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

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

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

V.43 CONTRACT-037.1b Confidentiality (Oct 2006)

The Contractor agrees to protect the confidentiality of the Commonwealth's information. The Commonwealth agrees to protect the confidentiality of Contractor's confidential information. In order for information to be deemed to be confidential, the party claiming confidentiality must designate the information as "confidential" in such a way as to give notice to the other party. The parties agree that such confidential information shall not be copied, in whole or in part, except when essential for authorized use under this Contract. Each copy of such confidential information shall be marked by the party making the copy with all notices appearing in the original. Upon termination or cancellation of this Contract or any license granted hereunder, the receiving party will return to the disclosing party all copies of the confidential information in the receiving party's possession, other than one copy, which may be maintained for archival purposes only. Both parties agree that a material breach of these requirements may, after failure to cure within the time frame specified in this Contract, and at the discretion of the non-breaching party, result in termination for default.

The obligations stated in this Section do not apply to information:

i. already known to the recipient at the time of disclosure;

ii. independently generated by the recipient and not derived from the information supplied by the isclosing party;

iii. known or available to the public, except where such knowledge or availability is the result of unauthorized disclosure by the recipient of the proprietary information;

iv. disclosed to the recipient without a similar restriction by a third party who has the right to make such disclosure; or

v. required to be disclosed by the recipient by law, regulation, court order, or other legal process.

V.44 CONTRACT-045.1 Insurance - General (Dec 12 2006)

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.45 CONTRACT-051.1 Notice (Dec 2006)

Any written notice to any party under this Contract shall be deemed sufficient if delivered personally, or by facsimile, 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.46 CONTRACT-052.1 Right to Know Law (Feb 2010)

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

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

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

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

2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

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

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

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

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

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

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