

CONTRACT FOR HEARING OFFICER LEGAL SERVICES

This Contract for Legal Services (the "Contract") is entered as of January 9, 2004, by and between **EDWARD S. FINKELSTEIN, ESQUIRE** (the "Hearing Officer") and the **COMMONWEALTH OF PENNSYLVANIA, OFFICE OF GENERAL COUNSEL** ("OGC").

WHEREAS, OGC has a need for professional and specialized legal services in connection with the matters described in Appendix A; and

WHEREAS, the Hearing Officer is qualified to and has agreed to perform such professional and specialized legal services.

NOW, THEREFORE, OGC and the Hearing Officer, with the intention of being legally bound, hereby agree as follows:

1. Services. The Hearing Officer shall perform the services described in Appendix A.
2. Compensation. The Hearing Officer shall be compensated by OGC for the services contracted for in an amount not to exceed \$50,000, in accordance with the provisions established in Appendices B and C.
3. Term of Contract.
 - a. The term of this Contract shall commence on the date that a fully executed and approved copy of this Contract is mailed to the Hearing Officer by OGC (the "Effective Date") and shall end on June 30, 2004 (the "Termination Date"), subject to the other provisions of this Contract.
 - b. Except as otherwise specifically provided for herein, OGC shall not be liable to pay the Hearing Officer for any services or work performed or expenses incurred before the Effective Date.
 - c. The term of this Contract may be extended by and at the sole option of the General Counsel or her designee where a continued need exists for the services of the Hearing Officer and there has been no termination under the terms of this Contract. The Hearing Officer agrees that the extension of this Contract on the same terms and conditions as the original Contract may be accomplished by a letter signed by OGC. Extension of this Contract on substantially different terms and conditions must be incorporated into a formal written amendment to this Contract, signed by

both parties and executed in the same manner as this original Contract and in accordance with applicable law.

4. Billing. The Hearing Officer shall submit invoices on a monthly to OGC for services performed during the term of the Contract.

- a. Each invoice shall itemize the services performed by the Hearing Officer, indicating the date(s), hours worked, and description of services, and shall generally follow the format appearing in Appendix D.
- b. The amount shown on each invoice for labor costs shall be in accordance with Appendix B.
- c. The invoices shall also list non-labor costs (such as those incurred for travel, food, and lodging) to the extent permitted under Appendix C.
- d. OGC agrees to pay the Hearing Officer for travel, lodging, and meal costs in reasonable amounts incurred in connection with performance of services under this Contract to the extent provided in Appendix C.
- e. OGC will use its best effort to make payments on invoices within a reasonable time after their rendering.
- f. All such invoices shall contain a statement that reads substantially as follows:

The Hearing Officer hereby certifies that the services supplied and expenses incurred as stated in the attached invoice have met all of the required standards set forth in the Contract for Hearing Officer Legal Services dated as of January 9th, 2004, between the Hearing Officer and OGC.

- g. All such invoices or accompanying letters of transmittal shall be signed by the Hearing Officer and shall contain the Hearing Officer's federal employer identification number.
 - h. Upon notification of its availability by OGC, copies of all invoices and all supporting documentation shall be submitted by the Hearing Officer through the OGC LawNet extranet or other similar software application in the manner and form indicated by the General Counsel.
5. Consultation. The Hearing Officer shall keep the General Counsel or her designee fully informed as to the progress of all matters covered by this Contract. The Hearing Officer shall consult and cooperate with, and shall be responsible directly to the General Counsel or her designee on all matters regarding the scheduling of hearings, any general administrative practice and

procedure guidelines established by the General Counsel and any other matters or duties in connection with the services described in Appendix A to the extent they do not affect the merits of a particular proceeding. Upon request, the Hearing Officer shall promptly furnish the General Counsel, or her designee, with copies of all correspondence and other documents prepared in connection with the services rendered under this Contract.

6. Ownership Rights. All documents, data, and records produced by the Hearing Officer in carrying out the obligations and services hereunder, whether preliminary or final, are and shall become and remain the property of OGC.
 - a. OGC shall have the right to use all such documents, data, and records without restriction or limitation and without additional compensation to the Hearing Officer, and the Hearing Officer shall have no right or interest therein.
 - b. Upon completion of the services hereunder or at the termination of this Contract, all such documents, data, and records shall, at the option of OGC, be appropriately arranged, indexed, and delivered OGC by the Hearing Officer.
 - c. Any documents, data, and records given to or prepared by the Hearing Officer under this Contract shall not be made available to any individual or organization by the Hearing Officer without the prior written approval of the General Counsel. Any information secured by the Hearing Officer from OGC in connection with carrying out the services under this Contract shall be kept confidential unless disclosure of such information is approved in writing by the General Counsel or is directed by a court or other tribunal of competent jurisdiction. In addition, the hearing officer shall not discuss matters arising out of the obligations and services performed pursuant to this contract with any member of the media during or after the expiration of the contract without the express written approval of the General Counsel or her designee.
 - d. Notwithstanding the provisions of this Paragraph 6, the Hearing Officer may retain copies of documents delivered to OGC.
7. Modification or Changes. The General Counsel or her designee and the Hearing Officer, may make modifications to this Contract at any time during the term of the Contract or any renewals or extensions thereof. Changes to the statement of work within the general scope of the statement of work and changes that do not increase the maximum reimbursement to the Hearing Officer permitted under this Contract or any renewals or extensions thereof may be accomplished by a letter of mutual consent signed by the General Counsel and the Hearing Officer. A change in the general scope of the statement of work or an increase in the maximum reimbursement permitted

under this Contract or any renewals or extensions thereof must be approved by the General Counsel or her designee and incorporated into a formal written amendment to this Contract, signed by both parties and executed in the same manner as this original Contract and in accordance with applicable law.

8. Conflict of Interest. The Hearing Officer, by signing this Contract, covenants that it has no undisclosed public or private interest, direct or indirect, and shall not acquire directly or indirectly any such interest which does or may conflict in any manner with the performance of the services or obligations under this Contract. Any such conflicts shall be promptly disclosed to the General Counsel. The Hearing Officer further covenants that, in the performance of this Contract, no person having such interest shall be employed by or associated with the Hearing Officer.
9. License to Appear. The Hearing Officer, by signing this Contract, warrants that he or she is now duly licensed to practice law in the Commonwealth of Pennsylvania (the "Commonwealth") and is a member in good standing with the Pennsylvania Supreme Court.
10. Independent Contractor. In performing the services required by this Contract, the Hearing Officer will act as an independent contractor and not as an employee or agent of the Commonwealth or OGC.
11. Termination. The Commonwealth and OGC have the right to terminate this Contract at any time for its convenience or any other reason. Termination shall be effective upon written notice to the Hearing Officer.
12. Integration Clause. This Contract, including all referenced appendices and documents, constitutes the entire agreement between the parties. No agent, representative, employee, or officer of either the Commonwealth or the Hearing Officer has authority to make, or has made, any statement, agreement, or representation, oral or written, in connection with this 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 this Contract.
13. Nondiscrimination/Sexual Harassment. The Hearing Officer shall comply with all applicable provisions of state and federal constitutions, laws, regulations, and judicial orders pertaining to nondiscrimination, sexual harassment, and equal employment opportunity, including the provisions of the Nondiscrimination/Sexual Harassment Clause attached hereto as Appendix E.
14. Integrity Provisions. The Hearing Officer shall comply with the Integrity Provisions, attached hereto as Appendix F.

15. Responsibility Provisions. The Hearing Officer shall comply with the Responsibility Provisions attached hereto as Appendix G.
16. The Americans With Disabilities Act. The Hearing Officer shall comply with *The Americans With Disabilities Act* Provisions, attached hereto as Appendix H.
17. Audit Provisions. The Commonwealth and OGC shall have the right, at reasonable times and at a site designated by the Commonwealth or OGC to audit the books, documents, and records of the Hearing Officer to the extent that the books, documents, and records relate to costs or pricing data for this Contract. The Hearing Officer agrees to maintain records that will support the prices charged and costs incurred for this Contract.

The Hearing Officer shall preserve books, documents, and records that relate to costs or pricing data for this Contract for a period of three years from date of final payment. The Hearing Officer shall give full and free access to all records to OGC and/or its authorized representatives.

18. Offset Provision. The Hearing Officer agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Hearing Officer to the Commonwealth against any payments due the Hearing Officer under any contract with OGC or the Commonwealth.
19. Hold Harmless Provision. The Hearing Officer shall hold OGC and the Commonwealth harmless from and indemnify OGC and the Commonwealth against any and all claims, demands, and actions based upon or arising out of any activities performed by the Hearing Officer under this Contract and shall, at the request of the Commonwealth, defend any and all actions brought against OGC or the Commonwealth based upon any such claims or demands.
20. Notice. Any written notice to OGC under this Contract shall be sufficient if mailed by certified mail to:

The Honorable Leslie Anne Miller
General Counsel
Main Capitol Building, Room 225
Harrisburg, Pennsylvania 17120-0020

Any written notice to the Hearing Officer under this Contract shall be sufficient if mailed by certified mail to:

Edward S. Finkelstein, Esquire
700 Green Street
Harrisburg, PA 17102-3015

21. Contract Controversies. In the event the Hearing Officer has a claim arising from this Contract, the Hearing Officer must, within six months after the cause of action accrues, file a written notice of controversy or claim with the General Counsel for a determination. The General Counsel shall send her written decision to the Hearing Officer. The decision of the General Counsel shall be final and conclusive unless, within 30 days after receipt of such written determination, the Hearing Officer files a claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Hearing Officer shall proceed diligently with the performance of this Contract in a manner consistent with the interpretation of the General Counsel and shall compensate the Hearing Officer pursuant to the terms of this Contract.
22. Applicable Law. This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions). The Hearing Officer 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 Hearing Officer agrees that any such court shall have in personam jurisdiction over him or her, and consents to service of process in any manner authorized by Pennsylvania law.
23. Headings. The headings and captions in this Contract are for convenience and reference purposes only and shall not be construed or deemed to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions hereof.

IN WITNESS WHEREOF, OGC and the Hearing Officer have caused this Contract to be executed as of the date first above written.

Hearing Officer

Office of General Counsel



Edward S. Finkelstein, Esquire

Date: 12/18/03



Date: 12/23/03

APPROVED FOR FORM AND LEGALITY


Executive Deputy General Counsel
Office of General Counsel

12/23/03
Date


Chief Deputy Attorney General
Office of Attorney General

12/31/03
Date

Approved:


Comptroller

1-9-04
Date

I certify that funds are available in the amount of \$ 50,000.00 under expenditure symbol (appropriation) number

Fund - 105-9903000
Cost center - 813151000
G/L Act. - 6342100

APPENDIX A DESCRIPTION OF SERVICES

1. The Hearing Officer shall serve as a fair, neutral and impartial Presiding Officer for Administrative Hearings regarding matters which the various departments, agencies, boards, and commissions within the Commonwealth of Pennsylvania shall adjudicate as required by law. These duties include but are not limited to the following for each matter: rule on pre-hearing and in-hearing motions and continuances; attend and preside over hearing proceedings and, if necessary, depositions; review transcript of hearing along with documentary evidence; determine and advise the parties of briefing schedules; review briefs; when acting pursuant to 1 Pa. Code § 35.201, certify the record to the agency head within 30 days of the expiration of the time for filing briefs; when acting pursuant to 1 Pa. Code § 35.202, prepare and distribute a written Proposed Report (Report) within 60 days of the last filed pleading; return files and transcript with the Report to the designated docket coordinator(s); determine and advise all parties of the exceptions schedule and their right to file those exceptions and replies with the head of the department, agency, board, or commission to which the Hearing Officer detailed; and, if required by OGC, attend and participate in administrative practice and procedure training sponsored by the General Counsel.

Each Report must summarize the evidence and testimony received at the hearing and include either a decision or a recommendation as to the decision to be rendered by the decision-making authority. The Report must be signed and dated. The format of the Report shall include the appropriate caption and contain findings of fact with appropriate citations to the record; discussion; conclusions of law with appropriate case citations where necessary; a recommendation or decision; and a proposed Order. An electronic version of the Report shall be transmitted to the General Counsel's designee at lbarrett@state.pa.us.

2. Hearings shall be conducted pursuant to 2 Pa C. S. A. §§ 101 *et seq.*, commonly referred to as the Administrative Law and Procedures Act, and the General Rules of Administrative Practice and Procedure set forth in 1 Pa. Code §§ 35.1-35.25 or other statutory authority governing the duties and responsibilities of the department, agency, board, or commission to which the Hearing Officer is detailed.

3. The Hearing Officer shall consult with OGC on the matters referred to in Paragraphs 1 and 2 of this Appendix and on other matters requested by OGC.

4. All informational items should be copied to the parties or their counsel.

**APPENDIX B
BILLING RATE INFORMATION**

The hourly rate for **HEARING OFFICER** shall be \$100.00 per hour.

APPENDIX C
REIMBURSEMENT FOR COSTS

The Hearing Officer shall receive full payment for reimbursement of the Hearing Officer's eligible costs.

1. The Hearing Officer shall be reimbursed for all reasonable, actual, direct labor costs incurred in fulfilling the terms of this Contract in accordance with Paragraphs 2, 3, and 4.
2. The Hearing Officer shall be reimbursed for all reasonable, actual, ordinary, and necessary direct non-labor costs incurred in fulfilling the terms of this Contract, subject to specific limitations such as those set forth in Paragraph 4, including but not limited to, the following:
 - a. Reasonable, actual, ordinary, and necessary expenses for travel, meals, and lodging incurred by the Hearing Officer to fulfill the Hearing Officer's obligations under this Contract. The Hearing Officer shall retain all receipts therefore and shall provide copies to OGC if requested. Mileage reimbursement shall be made in accordance with the travel regulations applicable to OGC for the use of personally owned motor vehicles. Expenses for lodging and meals shall be reimbursed at rates limited to the single-occupancy rate at the nearest major moderately priced hotel or motel chain and the amount of reimbursement for meals shall be limited to the price of a moderately-priced meal at that hotel or motel. No reimbursement shall be allowed for any alcoholic beverages.
 - b. Reasonable, actual, ordinary, and necessary expenses for:
 - (1) communications, including telephone, telegraph, postage, parcel post, and freight and package express;
 - (2) photocopies made by the Hearing Officer "in house," to be reimbursed at the maximum rate of \$0.15 per page;
 - (3) other reproduction (including, but not limited to, photographs, photocopies, prints, and offset work); andthe Hearing Officer shall retain all receipts therefore and shall, upon request of OGC, provide any necessary documentation.
 - c. Reasonable, actual, ordinary, and necessary expenses for other specific materials required for and used solely in the fulfillment of this Contract. The Hearing Officer shall retain all receipts therefore and shall, upon request of OGC, provide any necessary documentation.

3. Travel, meals, lodging, and other direct non-labor costs which the Hearing Officer expects to incur under this Contract outside of the Commonwealth of Pennsylvania, with the exception of telephone, mailing, and other similar communication expenses, shall require the prior approval of OGC, which approval shall not be unreasonably withheld. Prior approval by OGC of travel to be undertaken by the Hearing Officer outside of the Commonwealth of Pennsylvania as an incident of the Hearing Officer's performance of services under this Contract shall constitute approval for the Hearing Officer to incur reasonable, actual, ordinary, and necessary expenses for travel, meals, lodging, and other ordinary and necessary direct non-labor costs. The Hearing Officer shall retain all receipts and shall, upon request of OGC, provide any necessary documentation.
4. The Hearing Officer shall acquire approval from OGC before incurring any extraordinary or unusual expenses.
5. The Hearing Officer shall advise OGC when direct labor and other costs reach 50% of the amount initially encumbered for performance of this Contract and also 50% of any amount encumbered by any amendment.

**APPENDIX D
INVOICE FORMAT
(SUMMARY)**

HEARING OFFICER: Edward S. Finkelstein, Esquire
ADDRESS: 700 Green Street
Harrisburg, PA 17102-3015
PHONE: 717-233-1667

COMMONWEALTH OF PENNSYLVANIA
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

CLIENT #:
DATE: (DATE)

ATTN: Linda C. Barrett, Esquire

RE: (MATTER)

NAME OF AGENCY TO WHICH HEARING OFFICER HAS BEEN
DETAILED:

TOTAL FEES FOR PROFESSIONAL SERVICES RENDERED
FROM (DATE) THROUGH (DATE)
\$(TOTAL FEES)

TOTAL EXPENSE ADVANCES MADE TO YOUR ACCOUNT
FROM (DATE) THROUGH (DATE)
\$(TOTAL EXPENSE ADVANCES)

FEDERAL EMPLOYER I.D. NO. (FEDERAL I.D. NUMBER)

(HEARING OFFICER) hereby certifies that the services supplied and expenses incurred as stated in the attached invoice have met all of the required standards set forth in the Contract for Hearing Officer Legal Services dated as of _____ between the Hearing Officer and OGC.

(SIGNATURE)

(MATTER)
(MATTER NO.)
(DOCKET NO.)
(SAP ACCOUNT CODE) _____

(OGC use only)

**APPENDIX D
INVOICE FORMAT
(TIME DETAIL)**

HEARING OFFICER: Edward S. Finkelstein, Esquire
 ADDRESS: 700 Green Street
 Harrisburg, PA 17102-3015
 PHONE: 717-233-1667

COMMONWEALTH OF PENNSYLVANIA
 Office of General Counsel
 333 Market Street, 17th Floor
 Harrisburg, PA 17101

CLIENT #:
 DATE: (DATE)

ATTN: Linda C. Barrett, Esquire

RE: (MATTER)

NAME OF AGENCY TO WHICH HEARING OFFICER HAS BEEN
 DETAILED:

TOTAL FEES FOR PROFESSIONAL SERVICES RENDERED FROM (DATE)
 THROUGH (DATE)

| DATE | HOURS | DESCRIPTION OF SERVICES | FEE |
|---------------|-------|-------------------------|-----|
| | | | |
| | | | |
| | | | |
| TOTAL: | | | |

(MATTER)
 (MATTER NO.)
 (DOCKET NO.)
 (SAP ACCOUNT CODE) _____

(OGC use only)

**APPENDIX D
INVOICE FORMAT
(COSTS)**

HEARING OFFICER: Edward S. Finkelstein, Esquire
ADDRESS: 700 Green Street
Harrisburg, PA 17102-3015
PHONE: 717-233-1667

COMMONWEALTH OF PENNSYLVANIA
Office of General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

CLIENT #:
DATE: (DATE)

ATTN: Linda C. Barrett, Esquire

RE: (MATTER)

NAME OF AGENCY TO WHICH HEARING OFFICER HAS BEEN
DETAILED:

TOTAL FEES FOR PROFESSIONAL SERVICES RENDERED FROM (DATE)
THROUGH (DATE)

| DATE | DESCRIPTION OF EXPENSE ADVANCES | AMOUNT |
|------|---------------------------------|--------|
| | | |
| | | |
| | | |

TOTAL:

(MATTER)
(MATTER NO.)
(DOCKET NO.)
(SAP ACCOUNT CODE) _____

(OGC use only)

APPENDIX E
NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of this Contract, the Hearing Officer agrees as follows:

1. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under this Contract, the Hearing Officer, or any person acting on behalf of the Hearing Officer, shall not by reason of gender, race, creed, or color discriminate against any citizen of the Commonwealth who is qualified and available to perform the work to which the employment relates.

2. Neither the Hearing Officer nor any person on his or her 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 this Contract on account of gender, race, creed, or color.

3. The Hearing Officer shall establish and maintain a written sexual harassment policy and shall inform his or her 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 Hearing Officer 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 Hearing Officer shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by OGC and the Department of General Services, Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Hearing Officer does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by OGC, or the Department of General Services' Bureau of Contract Administration and Business Development.

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

**APPENDIX F
INTEGRITY PROVISIONS**

1. For purposes of this Appendix F, the words “confidential information”, “consent”, “financial interest”, “gratuity”, and “Hearing Officer” shall have the following definitions.
 - a. Confidential information means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.
 - 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 prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Contract.
 - c. Financial Interest means:
 - (1) ownership of more than a 5% interest in any business; or
 - (2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
 - d. Gratuity means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
 - e. Hearing Officer means the individual that has entered into this Contract with OGC.
2. The Hearing Officer shall maintain the highest standards of integrity in the performance of this Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
3. The Hearing Officer shall not disclose to others any confidential information gained by virtue of this Contract.
4. The Hearing Officer shall not, in connection with this or any other Contract with the Commonwealth, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.

5. The Hearing Officer shall not, in connection with this or any other Contract or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
6. Except with the consent of the Commonwealth, neither the Hearing Officer nor anyone in privity with the Hearing Officer shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this Contract except as provided herein.
7. The Hearing Officer, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify OGC in writing.
8. The Hearing Officer, by execution of this Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he or she has not violated any of these provisions.
9. The Hearing Officer, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Hearing Officer's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Hearing Officer's business or financial records, documents, or files of any type or form that refer to or concern this Contract. The Hearing Officer shall retain such information for a period of three years beyond the termination of the Contract unless otherwise provided by law.
10. For violation of any of the above provisions, the Commonwealth, as applicable, may terminate this Contract or any other agreement with the Hearing Officer, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Hearing Officer to complete performance hereunder, and debar and suspend the Hearing Officer from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation or otherwise.

APPENDIX G
RESPONSIBILITY PROVISIONS

1. The Hearing Officer certifies that, as of the date of his or her execution of this Contract, neither he nor she nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority.

2. The Hearing Officer also certifies that, as of the date of his or her execution of this Contract, neither he nor she has any tax liabilities or other Commonwealth obligations.

3. The Hearing Officer's obligations pursuant to these provisions are ongoing from and after the Effective Date through the Termination Date. Accordingly, the Hearing Officer shall have an obligation to inform the Commonwealth if, at any time during the term of this Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it is 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 Hearing Officer to notify OGC of his or her suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default under this Contract.

5. The Hearing Officer agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Inspector General for investigations of the Hearing Officer's compliance with the terms of this Contract or any other agreement between the Hearing Officer and the Commonwealth, including any of its departments or agencies, which results in the suspension or debarment of the Hearing Officer. 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 Hearing Officer shall not be responsible for investigative costs for investigations that do not result in the Hearing Officer's suspension or debarment.

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

Department of General Services
Office of Chief Counsel
North Office Building, Room 603
Harrisburg, Pennsylvania 17125
Phone: (717) 783-6472
Fax: (717) 787-9138

APPENDIX H
THE AMERICANS WITH DISABILITIES ACT PROVISIONS

1. Pursuant to federal regulations promulgated under the authority of *The Americans With Disabilities Act*, 28 C.F.R. § 35.101, *et seq.*, the Hearing Officer 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 Hearing Officer agrees to comply with the *General Prohibitions Against Discrimination*, 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of *The Americans With Disabilities Act* which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

2. The Hearing Officer 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 Hearing Officer's failure to comply with the provisions of Paragraph 1 of this Appendix H.

CONTRACTOR RESPONSIBILITY VERIFICATION

Document No. FC 4000005920

Edward S. Finkelstein, Esquire

This Contract has been reviewed and the Hearing Officer has been determined to be responsible in accordance with the procedures outlined in Management Directive 215.9 Amended, dated April 16, 1999.



Agency Designee

1.5.04

Date