



FULLY EXECUTED - REPRINT
 Purchase Order No: 4300109855
 Original PO Effective Date: 07/28/2008
 PO Issue Date: 07/28/2008

Your SAP Vendor #: 314442

Please Deliver To:
 PA Lottery Headquarters
 1200 Fulling Mill Rd Suite 1
 Middletown PA 17057 US

Supplier Name/Address:
 MARC USA/PITTSBURGH INC
 225 W STATION SQUARE DR STE 500
 PITTSBURGH PA 15219-1174 US

Please Bill To:
 Commonwealth of Pennsylvania
 REV Lottery
 CS Comptroller Office
 PO Box 2769
 Harrisburg, Pennsylvania 17105-2769

Supplier Phone Number: 4125622002
 Supplier Fax Number: 4125621081

Payment Terms
 NET 30

Purchasing Agent
 Name: Mary Breen
 Phone: 717-772-0511
 Fax: 717-787-5954

Purchase Order Description:
 P00495366 07/23/2008 11:46

This Purchase Order is issued pursuant to the referenced Contract and constitutes the Suppliers authority to deliver the item(s) referenced below at the prices stated below to the location(s) identified above in accordance with the Contract terms and conditions.

Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
1	1st \$5M - MEDIA >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 4/17/2008 - 6/30/2008	1,770,800.000	Each	04/17/2008	1.00	1	1,770,800.00
2	1st \$5M - MEDIA COMMISSION >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012	1,770,800.000	Each	04/17/2008	129.41	1,000	229,159.23

Information:

Total Amount:
 SEE LAST PAGE FOR TOTAL OF ALL ITEMS

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Supplier's Signature _____
 Printed Name _____

Title _____
 Date _____



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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
3	PRODUCTION BILLING	1,056,800.000	Each	04/17/2008	1.00	1	1,056,800.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
4	PRODUCTION COMMISSION	186,493.500	Each	04/17/2008	1.00	1	186,493.50
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
PRODUCTION COMMISSION PERCENTAGE IS 1.17647%							
5	PUBLIC RELATIONS/PROMOTIONS SERVICES	12.000	Hour	04/17/2008	110.00	1	1,320.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
6	MARKET RESEARCH	300.000	Hour	04/17/2008	110.00	1	33,000.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
7	NON-MEDIA DEVELOPMENT PRODUCTION ITEMS	25,000.000	Each	04/17/2008	1.00	1	25,000.00
>>> Rel. ord. against contract 4400002693 Item 1							

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
8	HOURLY RATES, GENERAL	300.000	Hour	04/17/2008	115.00	1	34,500.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
9	TRAVEL COSTS	37,850.000	Each	04/17/2008	1.00	1	37,850.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
10	PRETESTING OUT-OF-POCKET COSTS	102,500.000	Each	04/17/2008	1.00	1	102,500.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 4/17/2008 - 6/30/2008							
PRINTING AND PROMOTIONAL ITEMS/OUT OF POCKET COSTS							
11	1ST \$5M - MEDIA	2,479,200.000	Each	07/01/2008	1.00	1	2,479,200.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2008 - 4/16/2009							
12	1st \$5 - GROSS MEDIA COMMISSION	2,479,200.000	Each	07/01/2008	129.41	1,000	320,833.27

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2008 - 4/16/2009							
13	\$5M TO \$10M - MEDIA	4,250,000.000	Each	07/01/2008	1.00	1	4,250,000.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2008 - 4/16/2009							
14	\$5M TO \$10M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2008	117.64	1,000	499,970.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2008 - 4/16/2009							
15	\$10M TO \$15M - MEDIA	4,250,000.000	Each	07/01/2008	1.00	1	4,250,000.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2008 - 4/16/2009							
16	\$10M TO \$15M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2008	94.12	1,000	400,010.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2008 - 4/16/2009							
17	OVER \$15M - MEDIA	6,932,400.000	Each	07/01/2008	1.00	1	6,932,400.00

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 4/16/2009						
18	OVER \$15 - GROSS MEDIA COMMISSION	6,932,400.000	Each	07/01/2008	64.71	1,000	448,595.60
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 4/16/2009						
19	1st \$5M - MEDIA	1,770,800.000	Each	04/17/2009	1.00	1	1,770,800.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 4/17/2009 - 6/30/2009						
20	1st \$5M - GROSS MEDIA COMMISSION	1,770,800.000	Each	04/17/2009	129.41	1,000	229,159.23
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 4/17/2009 - 6/30/2009						
21	PRODUCTION	6,036,860.000	Each	07/01/2008	1.00	1	6,036,860.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 6/30/2009						
22	PRODUCTION COMMISSION	1,065,324.680	Each	07/01/2008	1.00	1	1,065,324.68

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 6/30/2009						
	PRODUCTION COMMISSION PERCENTAGE IS 1.17647%						
23	PUBLIC RELATIONS/PROMOTIONS SERVICES	36.000	Hour	07/01/2008	110.00	1	3,960.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 6/30/2009						
24	MARKET RESEARCH SERVICE	1,503.000	Hour	07/01/2008	110.00	1	165,330.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 6/30/2009						
25	NON-MEDIA DEVELOPMENT	138,684.000	Each	07/01/2008	1.00	1	138,684.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 6/30/2009						
26	HOURLY RATE, GENERAL	9,845.000	Hour	07/01/2008	115.00	1	1,132,175.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2008 - 6/30/2009						

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
27	TRAVEL COSTS >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2008 - 6/30/2009	73,318.000	Each	07/01/2008	1.00	1	73,318.00
28	PRETESTING OUT-OF-POCKET COSTS >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2008 - 6/30/2009 PRINTING AND PROMOTIONAL ITEMS/OUT OF POCKET COSTS	228,400.000	Each	07/01/2008	1.00	1	228,400.00
29	1st \$5M - MEDIA >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2009 - 4/16/2010	2,479,200.000	Each	07/01/2009	1.00	1	2,479,200.00
30	1st \$5M - GROSS MEDIA COMMISSION >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2009 - 4/16/2010	2,479,200.000	Each	07/01/2009	129.41	1,000	320,833.27
31	\$5M TO \$10M - MEDIA >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012	4,250,000.000	Each	07/01/2009	1.00	1	4,250,000.00

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
Item Text Effective Dates: 7/1/2009 - 4/16/2010							
32	\$5M TO \$10M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2009	117.64	1,000	499,970.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 4/16/2010							
33	\$10M TO \$15M - MEDIA	4,250,000.000	Each	07/01/2009	1.00	1	4,250,000.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 4/16/2010							
34	\$10M TO \$15M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2009	94.12	1,000	400,010.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 4/16/2010							
35	OVER \$15M - MEDIA	6,861,940.000	Each	07/01/2009	1.00	1	6,861,940.00
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 4/16/2010							
36	OVER \$15M - GROSS MEDIA COMMISSION	6,861,940.000	Each	07/01/2009	64.71	1,000	444,036.14
>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012							

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
Item Text Effective Dates: 7/1/2009 - 4/16/2010							
37	1st \$5M - MEDIA	1,770,800.000	Each	04/17/2010	1.00	1	1,770,800.00
	>>> Rel. ord. against contract 4400002693 Item 1						
	Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 4/17/2010 - 6/30/2010							
38	1st \$5M - GROSS MEDIA COMMISSION	1,770,800.000	Each	04/17/2010	129.41	1,000	229,159.23
	>>> Rel. ord. against contract 4400002693 Item 1						
	Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 4/16/2010 - 6/30/2010							
39	PRODUCTION	6,036,860.000	Each	07/01/2009	1.00	1	6,036,860.00
	>>> Rel. ord. against contract 4400002693 Item 1						
	Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
40	PRODUCTION COMMISSION	1,065,324.680	Each	07/01/2009	1.00	1	1,065,324.68
	>>> Rel. ord. against contract 4400002693 Item 1						
	Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
PRODUCTION COMMISSION PERCENTAGE IS 1.17647%							
41	PUBLIC RELATIONS/PROMOTIONS SERVICES	36.000	Hour	07/01/2009	110.00	1	3,960.00
	>>> Rel. ord. against contract 4400002693 Item 1						

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
42	MARKET RESEARCH SERVICE	1,503.000	Hour	07/01/2009	110.00	1	165,330.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
43	NON-MEDIA DEVELOPMENT	138,684.000	Each	07/01/2009	1.00	1	138,684.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
44	HOURLY RATE - GENERAL	9,845.000	Hour	07/01/2009	115.00	1	1,132,175.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
45	TRAVEL COSTS	73,318.000	Each	07/01/2009	1.00	1	73,318.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
46	PRETESTING OUT-OF-POCKET COSTS	228,400.000	Each	07/01/2009	1.00	1	228,400.00
>>> Rel. ord. against contract 4400002693 Item 1							

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2009 - 6/30/2010							
PRINTING AND PROMOTIONAL ITEMS/OUT OF POCKET COSTS							
47	1st \$5M - MEDIA	2,479,200.000	Each	07/01/2010	1.00	1	2,479,200.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2010 - 4/16/2011							
48	1st \$5M - GROSS MEDIA COMMISSION	2,479,200.000	Each	07/01/2010	129.41	1,000	320,833.27
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2010 - 4/16/2011							
49	\$5M TO \$10M - MEDIA	4,250,000.000	Each	07/01/2010	1.00	1	4,250,000.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2010 - 4/16/2011							
50	\$5M TO \$10M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2010	117.64	1,000	499,970.00
>>> Rel. ord. against contract 4400002693 Item 1							
Valid from: 07/01/2008 to 04/16/2012							
Item Text Effective Dates: 7/1/2010 - 4/16/2011							
51	\$10M TO \$15M - MEDIA	4,250,000.000	Each	07/01/2010	1.00	1	4,250,000.00

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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2010 - 4/16/2011						
52	\$10M TO \$15M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2010	94.12	1,000	400,010.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2010 - 4/16/2011						
53	OVER \$15M - MEDIA	6,791,500.000	Each	07/01/2010	1.00	1	6,791,500.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2010 - 4/16/2011						
54	OVER \$15M - GROSS MEDIA COMMISSION	6,791,500.000	Each	07/01/2010	64.71	1,000	439,477.97
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2010 - 4/16/2011						
55	1st \$5M - MEDIA	1,770,800.000	Each	04/17/2011	1.00	1	1,770,800.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 4/17/2011 - 6/30/2011						
56	1st \$5M - GROSS MEDIA COMMISSION	1,770,800.000	Each	04/17/2011	129.41	1,000	229,159.23

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	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 4/17/2011 - 6/30/2011						
57	PRODUCTION	6,036,860.000	Each	07/01/2010	1.00	1	6,036,860.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2010 - 6/30/2011						
58	PRODUCTION COMMISSION	1,065,324.680	Each	07/01/2010	1.00	1	1,065,324.68
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2010 - 6/30/2011						
	PRODUCTION COMMISSION PERCENTAGE IS 1.17647%						
59	PUBLIC RELATIONS/PROMOTIONS SERVICES	36.000	Hour	07/01/2010	110.00	1	3,960.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2010 - 6/30/2011						
60	MARKET RESEARCH SERVICE	1,503.000	Hour	07/01/2010	110.00	1	165,330.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
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Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
66	1st \$5M - GROSS MEDIA COMMISSION	1,770,800.000	Each	07/01/2011	129.41	1,000	229,159.23
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2011 - 4/16/2012						
67	\$5M TO \$10M - MEDIA	4,250,000.000	Each	07/01/2011	1.00	1	4,250,000.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2011 - 4/16/2012						
68	\$5M TO \$10M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2011	117.64	1,000	499,970.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2011 - 4/16/2012						
69	\$10M TO \$15M - MEDIA	4,250,000.000	Each	07/01/2011	1.00	1	4,250,000.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2011 - 4/16/2012						
70	\$10M TO \$15M - GROSS MEDIA COMMISSION	4,250,000.000	Each	07/01/2011	94.12	1,000	400,010.00
	>>> Rel. ord. against contract 4400002693	Item	1				
	Valid from: 07/01/2008 to 04/16/2012						
	Item Text						
	Effective Dates: 7/1/2011 - 4/16/2012						

Information:

Total Amount:
 SEE LAST PAGE FOR TOTAL OF ALL
 ITEMS

Currency: USD



FULLY EXECUTED - REPRINT
 Purchase Order No: 4300109855
 Original PO Effective Date: 07/28/2008
 PO Issue Date: 07/28/2008

Supplier Name:
 MARC USA/PITTSBURGH INC

Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
61	NON-MEDIA DEVELOPMENT >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2010 - 6/30/2011	138,684.000	Each Item	07/01/2010 1	1.00	1	138,684.00
62	HOURLY RATE - GENERAL >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2010 - 6/30/2011	9,845.000	Hour Item	07/01/2010 1	115.00	1	1,132,175.00
63	TRAVEL COSTS >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2010 - 6/30/2011	73,318.000	Each Item	07/01/2010 1	1.00	1	73,318.00
64	PRETESTING OUT-OF-POCKET COSTS >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2010 - 6/30/2011 PRINTING AND PROMOTIONAL ITEMS/OUT OF POCKET COSTS	228,400.000	Each Item	07/01/2010 1	1.00	1	228,400.00
65	1st \$5M - MEDIA >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2011 - 4/16/2012	1,770,800.000	Each Item	07/01/2011 1	1.00	1	1,770,800.00

Information:

Total Amount:
 SEE LAST PAGE FOR TOTAL OF ALL
 ITEMS

Currency: USD



FULLY EXECUTED - REPRINT
 Purchase Order No: 4300109855
 Original PO Effective Date: 07/28/2008
 PO Issue Date: 07/28/2008

Supplier Name:
 MARC USA/PITTSBURGH INC

Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
71	OVER \$15M - MEDIA >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2011 - 4/16/2012	5,137,076.000	Each Item 1	07/01/2011	1.00	1	5,137,076.00
72	OVER \$15M - GROSS MEDIA COMMISSION >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2011 - 4/16/2012	5,137,076.000	Each Item 1	07/01/2011	64.71	1,000	332,420.19
73	PRODUCTION >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2011 - 4/16/2012	4,769,000.000	Each Item 1	07/01/2011	1.00	1	4,769,000.00
74	PRODUCTION COMMISSION >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012 Item Text Effective Dates: 7/1/2011 - 4/16/2012 PRODUCTION COMMISSION PERCENTAGE IS 1.17647%	841,585.430	Each Item 1	07/01/2011	1.00	1	841,585.43
75	PUBLIC RELATIONS/PROMOTIONS SERVICE >>> Rel. ord. against contract 4400002693 Valid from: 07/01/2008 to 04/16/2012	28.000	Hour Item 1	07/01/2011	110.00	1	3,080.00

Information:

Total Amount:
 SEE LAST PAGE FOR TOTAL OF ALL
 ITEMS

Currency: USD



FULLY EXECUTED - REPRINT
 Purchase Order No: 4300109855
 Original PO Effective Date: 07/28/2008
 PO Issue Date: 07/28/2008

Supplier Name:
 MARC USA/PITTSBURGH INC

Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
Item Text Effective Dates: 7/1/2011 - 4/16/2012							
76	MARKET RESEARCH SERVICE	1,190.000	Hour	07/01/2011	110.00	1	130,900.00
	>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 7/1/2011 - 4/16/2012							
77	NON-MEDIA DEVELOPMENT	110,000.000	Hour	07/01/2011	1.00	1	110,000.00
	>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 7/1/2011 - 4/16/2012							
78	HOURLY RATE, GENERAL	7,800.000	Hour	07/01/2011	115.00	1	897,000.00
	>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 7/1/2011 - 4/16/2012							
79	TRAVEL COSTS	57,000.000	Each	07/01/2011	1.00	1	57,000.00
	>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012						
Item Text Effective Dates: 7/1/2011 - 4/16/2012							
80	PRETESTING OUT-OF-POCKET COSTS	180,000.000	Each	07/01/2011	1.00	1	180,000.00
	>>> Rel. ord. against contract 4400002693 Item 1 Valid from: 07/01/2008 to 04/16/2012						

Information:	Total Amount: SEE LAST PAGE FOR TOTAL OF ALL ITEMS
	Currency: USD



FULLY EXECUTED - REPRINT
 Purchase Order No: 4300109855
 Original PO Effective Date: 07/28/2008
 PO Issue Date: 07/28/2008

Supplier Name:
 MARC USA/PITTSBURGH INC *

Item	Material/Service Desc	Qty	UOM	Delivery Date	Net Price	Price Unit	Total
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Item Text
 Effective Dates: 7/1/2011 - 4/16/2012

PRINTING AND PROMOTIONAL ITEMS/OUT OF POCKET COSTS

General Requirements for all Items:

Header Text

This Purchase Order is for the Department of Revenue/Pennsylvania Lottery.

This Purchase Order is for MARC USA to provide advertising services for the PA Lottery.

****ALL AMOUNTS ARE ESTIMATED****

Effective Date: April 17, 2008
 Termination Date: April 16, 2012

No further information for this PO.

Information:

Total Amount:
 118,385,445.83

Currency: USD

AGREEMENT FOR LOTTERY SERVICES

THIS AGREEMENT is made as of the 17th day of April, 2008, by and between the COMMONWEALTH OF PENNSYLVANIA, (hereinafter referred to as the "COMMONWEALTH"), acting through the DEPARTMENT OF REVENUE (hereinafter referred to as the "DEPARTMENT"), for the Pennsylvania Lottery (hereinafter referred to as the "LOTTERY" and MARC USA, (hereinafter referred to as "AGENCY" or "CONTRACTOR"), a corporation duly organized and in good standing under the laws of the COMMONWEALTH, with offices at Suite 500, Four Station Square, Pittsburgh, Pennsylvania, 15219-1119, and having Federal Employer Identification Number [REDACTED]

WHEREAS, the DEPARTMENT has as one of its responsibilities the operation and management of the Pennsylvania Lottery, in accordance with the provisions of Act No. 91 of 1971, P.L. 351, approved August 26, 1971, as amended, sometimes known as the "State Lottery Law," (hereinafter also referred to as the "Act"); and,

WHEREAS, under the provisions of the Act, the DEPARTMENT has the authority and duty to pay costs incurred in the operation and administration of the LOTTERY, including costs resulting from any contracts entered into for promotional, advertising or operation services, or for the purchase of LOTTERY materials; and,

WHEREAS, the DEPARTMENT further has the authority to allocate monies from the Lottery Fund to pay the expenses of the operation of the LOTTERY; and,

WHEREAS, the DEPARTMENT deems it necessary to engage the services of a qualified advertising agency to perform the full range of advertising services; and,

WHEREAS, the AGENCY has demonstrated that it is qualified by training and experience to perform the services required in the manner and on the terms and conditions set forth herein; and,

WHEREAS, Officials of the COMMONWEALTH and the DEPARTMENT have determined that the AGENCY is qualified to serve the present needs of the COMMONWEALTH, Department of Revenue, Pennsylvania LOTTERY.

II. AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth, and intending to be legally bound, the parties hereto agree as follows:

1. DEFINITIONS

As used in this Agreement, the term:

a. "Agreement" shall mean this Agreement for Lottery Advertising Services dated as of the date first recited above.

b. "Commencement Date" with respect to this Agreement shall mean the date affixed at the beginning of this Agreement.

- c. "Lottery" shall mean the Pennsylvania Lottery.
- d. "Director" shall mean the Executive Director of the Pennsylvania Lottery.
- e. "Secretary" shall mean the Secretary of Revenue of the Commonwealth of Pennsylvania.
- f. "Subcontractor" with respect to this Agreement shall mean any individual or firm that provides goods or services which do not represent a component of a project or job being developed or managed by the AGENCY.
- g. "Supplier/Vendor" with respect to this Agreement shall mean any individual or firm that provides goods or services which represent a component of a service, project or job developed or managed by the AGENCY.
- h. "Term" with respect to this Agreement shall mean the four year period, plus any extensions, for which this Agreement is in effect.

2. WORK STATEMENT

The AGENCY shall provide full professional advertising services and advice during the term of the Agreement, including but not limited to marketing concepts, designs, layouts, copy, research, liaison, public relations coordination and supervision, media placement, pre-testing of advertising materials, media recommendations, marketing assistance, and execution and supervision of all subcontracted assignments as more fully set forth in the DEPARTMENT's Request for Proposals (hereinafter

referred to as the "RFP"), attached hereto and made a part hereof as Appendix A, and any amendments thereto, and the AGENCY'S Proposal, attached hereto and made a part hereof as Appendix B.

The AGENCY shall prepare and submit to the DEPARTMENT annually or at such other times as required by the LOTTERY a marketing plan and a marketing research plan or such portion or portions of either plan thereof as required by the DEPARTMENT. The plan shall be prepared in cooperation with the LOTTERY'S marketing division and submitted to the Secretary, the LOTTERY, and its marketing division. The document shall cover a period specified by the DEPARTMENT and shall be submitted at a date specified by the DEPARTMENT.

The AGENCY also shall provide general professional advertising services and advice to the DEPARTMENT at the discretion of the Secretary and under the prices and terms set forth in this Agreement and any amendment(s) hereto.

3. CONTRACT TERM AND EXTENSIONS

This Agreement is for a term commencing on the effective date, and expiring at midnight four (4) years from the Commencement Date, unless extended as hereinafter provided. It is understood and agreed by the parties that the DEPARTMENT, at its option, may extend the term of this Agreement for up to three (3) additional years in terms of one (1) year each, or any combination of years, not to exceed three years in total. The DEPARTMENT may exercise such option by sending written notice to

the AGENCY at least three (3) months prior to the expiration date of the Agreement or by such other date as shall be mutually agreed upon by both parties in writing. Such extension(s) shall be based upon the terms and conditions agreed to between the DEPARTMENT and the AGENCY pursuant to this Agreement.

4. AVAILABILITY FOR CONFERENCES

a. The AGENCY shall provide such employees as may be required by the DEPARTMENT for at least quarterly advertising review meetings.

b. The AGENCY shall provide such employees as are required by the DEPARTMENT for such conferences as may be called by the DEPARTMENT.

5. PROPRIETARY RIGHTS

The AGENCY shall relinquish to the DEPARTMENT any and all copyrights or privileges to data developed and delivered to the DEPARTMENT under this Agreement. The term "data," as used herein, includes but is not limited to written reports, studies, drawings or other graphic, electronic, chemical, or mechanical representations, and work of any similar nature which is required to be delivered by the AGENCY to the DEPARTMENT under this Agreement. The AGENCY further agrees that it shall not include in the data any copyrighted matter without the written approval of the Secretary, unless the AGENCY provides the DEPARTMENT with the written permission of the copyright owner for the DEPARTMENT to use such copyrighted matter.

The AGENCY shall retain all rights to proprietary software tools and other proprietary technology it possesses at the time of the effective date of this Agreement, subject to the license granted to the DEPARTMENT to use such proprietary software tools and proprietary technology pursuant to this Agreement. The AGENCY shall provide the LOTTERY with a complete list of all claimed proprietary software tools and proprietary technology used in connection with the website prior to the commencement of services under this Agreement.

6. PATENT, TRADEMARK AND COPYRIGHT PROTECTION

The AGENCY, at its sole expense, agrees to defend and hold harmless the COMMONWEALTH, the DEPARTMENT, the LOTTERY, its agents and employees, against any claims, damages, losses or expenses, for the infringement of United States patents or copyrights or any trademarks or other copyrights by the data furnished by the AGENCY and used by the DEPARTMENT for LOTTERY purposes in accordance with any restrictions or use which the AGENCY had communicated to the DEPARTMENT. The DEPARTMENT agrees to give the AGENCY prompt written notice of all such suits and shall reasonably cooperate with the AGENCY in the defense of such suits.

The AGENCY shall indemnify and hold the COMMONWEALTH harmless from all damages, costs, and expenses, including attorney's fees that the AGENCY 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 data provided or used in the performance of the Agreement. If any of the data provided by the AGENCY in such suit or proceeding are held to constitute infringement and the use is enjoined, the AGENCY shall, at its own expense and at its option, either procure the right to continue use of such infringement data, replace them with non-infringement equal performance products or modify them so that they are no longer infringing. If the AGENCY is unable to do any of the preceding, the AGENCY agrees to remove all the equipment or software which are obtained contemporaneously with the infringing products, 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.

7. INDEMNIFICATION

The AGENCY shall indemnify and hold harmless the COMMONWEALTH, the DEPARTMENT and the LOTTERY, its agents and employees, from and against all claims, demands, actions, damages, losses and expenses, including reasonable attorneys fees, based upon or arising out of any activities performed by the AGENCY for loss or injury alleged to have been caused in whole or in part by any negligent or equally or more culpable act or omission of:

- (a) the AGENCY; or,
- (b) any subcontractor to the AGENCY; or,

(c) any person directly or indirectly employed by the AGENCY or by a subcontractor to the AGENCY; or,

(d) any person for whose acts or omissions the AGENCY or subcontractor to the AGENCY may be liable in performing obligations of the AGENCY under this Agreement, including situations in which the allegation is made that the alleged loss or injury was caused in part by an act or omission of any person or entity indemnified hereunder.

Notwithstanding the foregoing, in the case of loss or injury caused in part by persons listed in (a)-(d) above, the AGENCY'S indemnification shall be limited to its comparative share. The maximum liability of the AGENCY for any loss or injury set forth herein shall not exceed one million dollars (\$1,000,000).

8. INDEPENDENT CONTRACTOR AND GOVERNMENTAL RESPONSIBILITY

The AGENCY shall perform its services under this Agreement as an independent contractor and not as an employee or agent of the Commonwealth shall provide and pay for such workmen's compensation and other insurance as is required by law. The AGENCY shall further provide for such social security, tax and any other payments or deductions as are required by law.

9. PRIME CONTRACTOR RESPONSIBILITIES

The AGENCY shall be the prime contractor, and, as such, is responsible for all contractual activities performed under this Agreement whether or not the AGENCY performs them. The AGENCY shall be the sole point of contact with regard to contractual

matters, including payment of any or all charges under this Agreement.

10. SUBCONTRACTING

No subcontracting is permitted without the express, written approval of the DEPARTMENT. The DEPARTMENT reserves the right to require the AGENCY to replace, at no increase in the contract price or extension of the time for the AGENCY'S performance, such subcontractors reasonably found to be unacceptable to the DEPARTMENT. The AGENCY shall be responsible for enforcing against subcontractors those provisions of the Agreement applicable to subcontractors. Any change in subcontractors or in the location of facilities at which work is to be performed to a location outside the COMMONWEALTH, must be approved by the DEPARTMENT in writing prior to such change.

11. TICKET PURCHASE AND PRIZE PAYMENT RESTRICTIONS

The AGENCY acknowledges that, under the LOTTERY rules and regulations and DEPARTMENT policy generally, no officer or employee and no spouse, child, brother, sister, or parent residing in the household of any officer or employee of the AGENCY or of any subcontractor shall purchase a Pennsylvania Lottery ticket or be paid a prize in any Pennsylvania Lottery game. The AGENCY warrants that it has communicated this requirement to each officer and employee of the AGENCY and any subcontractors.

12. TERMS OF PAYMENT

The DEPARTMENT agrees to remit to the AGENCY, for the Term of this Agreement, plus any extensions and amendments, payment for services provided as set forth in Appendix C, Prices and Terms, attached hereto and made a part hereof by reference.

13. ABSENCE OF CERTAIN CHANGES OR EVENTS

The AGENCY warrants that:

A. As of the effective date of this Agreement, the AGENCY has not, except as disclosed to the LOTTERY:

(1) sold, assigned, voluntarily encumbered, granted a license or sublicense with respect to or disposed of all or substantially all of its assets, other than in the ordinary course of its business as conducted on the date of its proposal May 11, 2007.

(2) entered into any contract or commitment except in the ordinary course of business except for acquisitions within its business area as conducted on the date of the AGENCY'S Proposal, May 11, 2007.

(3) changed in any respect material to this Agreement its business policies or practices;

(4) altered or revised in any way its accounting principles, procedures, methods or practices;

(5) entered into any other transaction or taken any other action except in the ordinary course of business as conducted on the date of its Proposal, May 11, 2007.

Neither the DEPARTMENT nor the AGENCY are aware of any

plans of any member of the AGENCY'S management, supervisory or key employees actively involved in the AGENCY'S performance of this Agreement to retire or otherwise cease being an employee of the AGENCY prior to or within one (1) year following the commencement of the term of this Agreement.

B. As of the effective date of this Agreement, there has been no material adverse change in the financial condition, business, properties, or prospects of the AGENCY.

If the AGENCY experiences any changes as outlined in A or B, above, during the period of this Agreement, the AGENCY shall notify the DEPARTMENT and the LOTTERY, in the manner set forth in Paragraph 30 of this Agreement, of such change at the time the change occurs or is identified, whichever is earlier. Failure to notify the DEPARTMENT and the LOTTERY of such change will be sufficient grounds for terminating this Agreement.

14. KEY AGENCY PERSONNEL

The DEPARTMENT has the right to designate up to five individuals employed by the AGENCY as personnel determined to be key to the successful implementation of this Agreement. Upon notice, as set forth in Paragraph 31 of this Agreement, by the DEPARTMENT of the designation of such key agency personnel, the AGENCY agrees to warrant to the DEPARTMENT, in writing, that it shall undertake to exert its best efforts consistent with the

prudent conduct of business and reasonable terms of employment, to retain the services of such key personnel for the entire term of this Agreement plus all extensions thereof.

Should any of the designated employees terminate his or her employment, the AGENCY shall give advance notice to the DEPARTMENT within three (3) business days after the AGENCY becomes aware of the termination.

The AGENCY also warrants that it shall exert its best efforts to develop and maintain a staff of sufficient depth and continuity to serve the LOTTERY.

15. ASSIGNMENT

The AGENCY is prohibited from assigning, transferring, or otherwise disposing of this Agreement or any section or portion thereof, its rights, title, or interests therein, or its power to execute such Agreement to any other person, company, corporation, or entity without the prior written consent of the DEPARTMENT. The DEPARTMENT shall not reasonably withhold its consent under this Paragraph in the case of any corporate reorganization which would not materially prejudice the DEPARTMENT'S interest hereunder.

16. QUARTERLY REPORT - MBE/WBE SERB

The AGENCY must provide the Department of General Services, Minority and Women Business Enterprise Office, with quarterly reports that indicate whether the AGENCY utilized a Minority Business Enterprise, Women's Business Enterprise, or

Socially/Economically Restricted Business for activities under this Agreement during the quarter and list the names of and the amount paid to the Minority Business Enterprise, Women's Business Enterprise, or Socially/Economically Restricted Business utilized. The first such report shall be due on the 100th day after the starting date of this Agreement, and subsequent reports shall be due each 100th day thereafter.

17. AMERICANS WITH DISABILITIES ACT PROVISIONS

During the term of this Agreement, the AGENCY agrees as follows:

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the AGENCY understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from activities provided for under this Agreement. As a condition of accepting and executing this Agreement, the AGENCY 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 the benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

b. The AGENCY 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.

18. CONFIDENTIALITY

The AGENCY agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with performance of this Agreement, except to authorized DEPARTMENT personnel or upon approval of the Secretary of Revenue. The AGENCY agrees to abide by the terms of the DEPARTMENT'S confidentiality provisions, attached hereto and made a part hereof as Appendix D, which provisions shall survive the term of this Agreement and any extensions thereof. News releases pertaining to any service provided by the AGENCY under this Agreement will not be made without prior written approval of the DEPARTMENT.

19. CONTRACTOR INTEGRITY

a. For purposes of this clause only, the words "confidential information," "consent," "CONTRACTOR," "financial interest," and "gratuity" shall have the following definitions.

1. Confidential Information mean information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair,

unethical, or illegal advantage to another desiring to contract with the COMMONWEALTH.

2. Consent means written permission signed by a duly authorized officer or employee of the COMMONWEALTH, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the COMMONWEALTH shall be deemed to have consented by virtue of execution of this Agreement.

3. CONTRACTOR means the individual or entity that has entered into the Contract with the COMMONWEALTH, including directors, officers, partners, managers, key employees and owners of more than a five percent interest.

4. Financial interest means:

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

5. Gratuity mean any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

b. The CONTRACTOR shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the COMMONWEALTH.

c. The CONTRACTOR shall not disclose to others any confidential information gained by virtue of the Contract.

d. The CONTRACTOR shall not, in connection with this or any other agreement with the COMMONWEALTH, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on any as consideration for the decision, opinion, recommendation, vote or other exercise of discretion, or violation of a known legal duty by any officer or employee of the COMMONWEALTH.

e. The CONTRACTOR shall not, in connection with this or any other agreement with the COMMONWEALTH, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the COMMONWEALTH.

f. Except with the consent of the COMMONWEALTH, neither the CONTRACTOR nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.

g. Except with the consent of the COMMONWEALTH, the CONTRACTOR shall not have a financial interest in any other

contractor, subcontractor, or supplier providing services, labor, or material on this project.

h. The CONTRACTOR, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the COMMONWEALTH in writing.

i. The CONTRACTOR, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.

j. The CONTRACTOR, upon the inquiry or request of the Inspector General of the COMMONWEALTH or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the CONTRACTOR's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the CONTRACTOR's business or financial records, documents or files of any type or form which refers to or concern the Contract. Such information shall be retained by the CONTRACTOR for a period of three years beyond the termination of the Contract unless otherwise provided by law.

k. For violation of any of the above provisions, the COMMONWEALTH may terminate this and any other agreement with the CONTRACTOR, claim liquidated damages in an amount equal to the

value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another CONTRACTOR to complete performance hereunder, and debar and suspend the CONTRACTOR from doing business with the COMMONWEALTH. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the COMMONWEALTH may have under law, statute, regulation, or otherwise.

20. CONTRACTOR RESPONSIBILITY

a. The AGENCY certifies, for itself and all its subcontractors, that as of the date of its execution of this Agreement, that neither the AGENCY, nor any subcontractors, nor any suppliers are under suspension or debarment by the COMMONWEALTH or any governmental entity, instrumentality, or authority and, if the AGENCY cannot so certify, then it agrees to submit a written explanation of why such certification cannot be made.

b. The AGENCY also certifies, that as of the date of its execution of this Agreement, it has no tax liabilities or other COMMONWEALTH obligations.

c. The AGENCY's obligation pursuant to these provisions are ongoing from and after the effective date of the Agreement through the termination date thereof. Accordingly, the AGENCY shall have an obligation to inform the Commonwealth if, at any time during the term of the Agreement, it becomes delinquent in

the payment of taxes, or other COMMONWEALTH, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

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

e. The AGENCY agrees to reimburse the COMMONWEALTH for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the AGENCY's compliance with the terms of this or any other agreement between the AGENCY and the COMMONWEALTH, which results in the suspension or debarment of the AGENCY. 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 AGENCY shall not be responsible for investigative costs for investigations that do not result in the AGENCY's suspension or debarment.

f. The AGENCY 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
603 North Office Building
Harrisburg, PA 17125
Telephone No.: (717) 783-6472

21. COVENANT AGAINST CONTINGENT FEES

The AGENCY warrants that no person or selling agency has been employed or retained to solicit or secure the Agreement 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 of violation of this warranty, the COMMONWEALTH shall have the right to terminate the Agreement without liability or in its discretion to deduct from the Agreement price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

22. TAXES

The DEPARTMENT shall have no responsibility for the payment of any federal, state or local taxes which become payable by the AGENCY or its subcontractors as a result of this Agreement. The DEPARTMENT agrees to provide the AGENCY with applicable Pennsylvania sales and use tax exemption certificates.

The DEPARTMENT reserves the right to offset against the compensation due the AGENCY any COMMONWEALTH liability, except tax liabilities which are properly appealed by the AGENCY.

23. ACCOUNTING RECORDS

The AGENCY shall maintain, in accordance with generally accepted accounting principles, all pertinent books, documents, financial and accounting records and evidence pertaining to the Agreement to the extent and in such detail as necessary to document all net costs, direct and indirect, for which payment is claimed.

Subject to execution by the DEPARTMENT, or its designee, of the AGENCY'S confidentiality statement, such financial and accounting records shall be made available for inspection and copying, upon request, to the Department, its designees, the State Inspector General or any authorized agency of the Commonwealth of Pennsylvania at any time during the contract period and any extension thereof, and for three (3) years from expiration date or final payment under this Agreement, whichever is later in time.

24. RIGHT TO AUDIT

Subject to execution by the DEPARTMENT, or its designee, of the AGENCY'S confidentiality statement, the AGENCY agrees to permit the audit of its records by the DEPARTMENT, its designees, and the State Inspector General. All billings, cost, and financial accounting records, source documentation, data systems, programs, applications, project planning summaries, and filed summaries, will be available for audit, examination, inspection and copying. The COMMONWEALTH reserves the right to perform, at

its sole discretion, additional audits, including but not limited to audits of a financial/compliance, economy/efficiency, program results nature, or limited scope audits. Additionally, the COMMONWEALTH and the DEPARTMENT reserve the right to inspect and copy any of the AGENCY'S third-party auditor's reports and management letters.

25. WAIVER

The failure of a party to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Agreement.

26. AMENDMENTS, MODIFICATIONS

This Agreement may not be modified, amended, or extended, unless in writing and signed by both parties and any breach or default by a party shall not be waived or release other than in writing signed by the other party.

27. FORCE MAJEURE

A party shall be excused from any breach or default with respect to this Agreement to the extent that the party was prevented from performance by reason of anything beyond the party's control not reasonably avoidable such as a strike or other labor disturbance, act of any governmental authority or agency, fire, flood, wind, storm or any act of God, or the act or omission of any party not controlled by that party ("force majeure").

Neither the AGENCY nor the DEPARTMENT shall be liable to the other for any delay in or failure of performance under this Agreement due to a force majeure. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of delay or failure shall extend the period for performance to such extent as determined by the Secretary to be necessary to enable complete performance by the AGENCY if reasonable diligence is exercised after the causes of delay or failure has been removed.

28. NONDISCRIMINATION/SEXUAL HARASSMENT

The AGENCY agrees:

1. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the Agreement or any subcontract, the AGENCY, 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 AGENCY 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 AGENCY and its subcontractors 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 AGENCY 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 AGENCY and each subcontractor shall furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the contracting agency and the 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 AGENCY or any subcontractor does not possess documents or records reflecting the necessary information requested, the contractor or subcontractor shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Contract Administration and Business Development.

6. The AGENCY shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

7. The COMMONWEALTH may cancel or terminate the Agreement, and all money due or to become due under this Agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the

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

29. DISPUTE

In the event that any dispute arises between the parties with respect to the performance which is required of the AGENCY under this Agreement, the DEPARTMENT shall make a determination in writing of its interpretation and shall send the same to the AGENCY. That interpretation shall be final, conclusive and unreviewable in all respects, unless the AGENCY within thirty (30) days of the receipt of said writing delivers to the Secretary of Revenue or his duly authorized designee a written appeal. The decision of the Secretary (or said designee) on any such appeal shall be final, conclusive and unreviewable in that the AGENCY shall thereafter with good faith and diligence render such performance as the DEPARTMENT or Secretary of Revenue has determined is required of it. The AGENCY'S sole options with respect to any such decision shall be either:

- (1) to accept said decision as a correct and binding interpretation of the Agreement; or,
- (2) to make such claim as it may desire to the COMMONWEALTH'S Board of Claims pursuant to the Act of May 20, 1937. P.L. 728, No. 193, as amended. 72 P.S. § 4651-1, et seq.

Pending a final resolution of any such claim brought before said Board, the AGENCY shall proceed diligently and in good faith with the performance of this Agreement as interpreted by the DEPARTMENT and the DEPARTMENT shall compensate the AGENCY pursuant to the terms of this Agreement.

30. TERMINATION

This Agreement may be terminated by the DEPARTMENT:

A. If, because of legislative or other governmental changes or lack of funding, continuation of the Pennsylvania Lottery or its games shall be determined by the DEPARTMENT not to be in the best interest of the COMMONWEALTH. Such termination shall be effected by the DEPARTMENT sending notice to the AGENCY, in writing, of its intention to terminate at least thirty (30) days prior to the termination date;

B. By sending to the AGENCY at least thirty (30) days' notice that it will terminate this Agreement due to the AGENCY'S nonperformance or inadequate performance or other cause unless the AGENCY adequately remedies its nonperformance or inadequate performance or other cause during such reasonable period as the DEPARTMENT shall have specified; or,

C. Upon the occurrence of any changes, as set forth in Paragraph 13 of this Agreement, which the DEPARTMENT, in its sole discretion, determines to be contrary to the best

interest of the COMMONWEALTH by sending to the AGENCY at least thirty (30) days' notice prior to the termination date.

31. NOTICE

The parties agree that all notices given pursuant to the terms of this Agreement shall be sufficient and deemed given upon receipt if in writing and mailed first class mail or overnight delivery service. Any such notice or communication shall be sent to the following addresses of the respective parties, or such other addresses as may be designated from time to time by the parties in writing:

(a) As to the DEPARTMENT:

Secretary of Revenue
Pennsylvania Department of Revenue
Department 281100
11th Floor
Strawberry Square
Harrisburg, Pennsylvania 17128-1100
Telephone No. (717) 783-3682
Facsimile No. (717) 783-3990

and

Executive Director
Pennsylvania State Lottery
1200 Fulling Mill Road
Middletown, Pennsylvania 17057
Telephone No. (717) 702-8000
Facsimile No. (717) 702-8024

(b) As to the AGENCY:

President and CEO
Michele Fabrizi
Suite 500
Four Station Square
Pittsburgh, PA 15219
Telephone No. (412) 562-2057
Facsimile No. (412) 562-1680

32. ORDER OF PRECEDENCE

This Agreement shall be interpreted in the following order of precedence:

- (1) Contract terms;
- (2) The RFP;
- (3) AGENCY'S proposal.

33. RESOLUTION

The Resolution signed by the President of the AGENCY or its Secretary or Assistant Secretary, authorizing the signatory to execute this Agreement between the AGENCY and the Commonwealth of Pennsylvania is attached hereto and made a part hereof as Appendix E.

34. APPENDICES

The following documents are hereby made a part of this Agreement and are included as Appendices hereto:

- | | |
|------------|---|
| APPENDIX A | Request for Proposals dated April 2, 2007. |
| APPENDIX B | Proposal for Advertising Services to the Pennsylvania State Lottery dated May 11, 2007. |
| APPENDIX C | Prices and Terms |
| APPENDIX D | Confidentiality Provisions |
| APPENDIX E | Resolution |

35. GENERAL PROVISIONS

This Agreement shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. This Agreement constitutes the entire Agreement between the DEPARTMENT and the AGENCY with respect to lottery advertising services. It shall not be amended or modified except by an instrument in writing duly signed by both parties. Any such modification or amendment shall be as the parties may mutually agree and shall be as permitted by law.

36. EFFECTIVE DATE

This Agreement shall be effective only upon full and complete execution by all of the signatories hereto, including the Office of Attorney General. No party shall have any right to rely upon any terms of this Agreement until all required signatures have been affixed to this Agreement, including all required signatures for form and legality.

37. SEVERABILITY

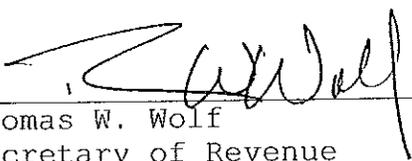
If a court of competent jurisdiction determines any portion of this Agreement to be invalid, it shall be severed and the remaining portions of this Agreement shall remain in effect.

[Remainder of Page Intentionally Left Blank.]

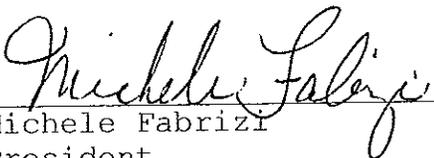
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

MARC USA



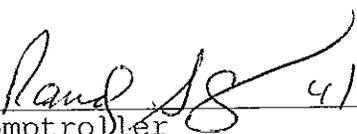
Thomas W. Wolf
Secretary of Revenue

By: 

Michele Fabrizi
President

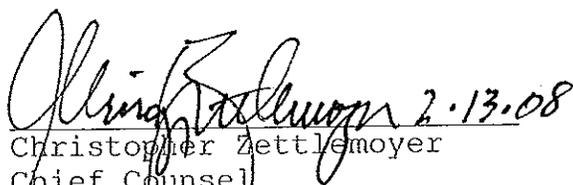
THOMAS W WOLF

By: MICHELE FABRIZI

 4/17/08

Comptroller
Department of Revenue

Approved as to legality and manner of execution:

 2.13.08

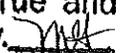
Christopher Zettlemoyer
Chief Counsel
Department of Revenue



Office of Attorney General



Office of General Counsel

Certified a True and
Correct Copy. 

APPENDIX A

APPENDIX A

REQUEST FOR PROPOSALS FOR ADVERTISING SERVICES FOR THE
PENNSYLVANIA STATE LOTTERY DATED APRIL 2, 2007.

APPENDIX A

REQUEST FOR PROPOSALS FOR
PENNSYLVANIA LOTTERY ADVERTISING SERVICES



ISSUING OFFICE

Pennsylvania Department of Revenue
Pennsylvania Lottery
2850 Turnpike Industrial Drive
Middletown, PA 17057

RFP NUMBER

Lottery Advertising 1-2007

DATE OF ISSUANCE

April 2, 2007

REQUEST FOR PROPOSALS FOR
LOTTERY ADVERTISING SERVICES

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Appendix A STANDARD CONTRACT TERMS AND CONDITIONS

Appendix B DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

Appendix C COMMONWEALTH MANAGEMENT DIRECTIVE – TRAVEL &
SUBSISTENCE

Appendix D CURRENT CONTRACT W/AMENDMENTS #1, #2, #3

CALENDAR OF EVENTS

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

Activity	Responsibility	Date
RFP Posting Date	Issuing Office	April 2, 2007
Deadline to submit Questions via email as recorded by the CWOPA email system. Questions are to be submitted to: <u>cbloss@state.pa.us</u> Subject Line: "RFP Lottery 1-2007"	Potential Offerors	2:00 p.m. April 16, 2007
Pre-Proposal Conference: Forum Place 555 Walnut Street, 6 th Floor Conference Room 9 Harrisburg, PA 17101-1914	Issuing Office/Potential Offerors	10:00 a.m. April 20, 2007
Answers to Potential Offeror questions posted to the DGS website (http://www.dgsweb.state.pa.us/comod/main.asp) no later than this date. (Please monitor this website for all communications regarding the RFP.)	Issuing Office	2:00 p.m. April 25, 2007
Sealed proposals, including the separately sealed cost portion including Appendix B and MWBEO portion must be received by the Issuing Office at: Commonwealth of Pennsylvania Pennsylvania Lottery Attn: Connie Bloss 2850 Turnpike Industrial Drive Middletown, PA 17057.	Offerors	2:00 p.m. May 15, 2007

PART I
GENERAL INFORMATION

I-1. Purpose.

This request for proposals (RFP) provides to those interested ("Offerors") sufficient information to enable them to prepare and submit proposals for consideration on behalf of the Commonwealth of Pennsylvania ("Commonwealth") to satisfy a need for Pennsylvania Lottery Advertising Services. To be considered, proposals must satisfy all requirements stated in the RFP. Offerors are cautioned that all stated Mandatory Requirements are non-negotiable, regardless of other terminology used or implied.

I-2. Issuing Office.

This RFP is issued for the Pennsylvania Lottery by the Department of Revenue. The Issuing Office is the sole point of contact in the Commonwealth for this RFP. Please refer all inquiries to:

Connie Bloss
Pennsylvania Lottery
2850 Turnpike Industrial Drive
Middletown, PA 17057
Telephone No. (717) 986-4741
Fax No. (717) 986-1680
Email Address: cbloss@state.pa.us

I-3. Scope.

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

I-4. Background.

The Lottery was created by statute in 1971 to market and sell Lottery products to the public, all proceeds of which are to benefit older Pennsylvanians. By law, the Lottery is required to return at least 40% of revenues as prizes, and no less than 30% to designated programs benefiting older Pennsylvanians.

Pennsylvania Lottery sales are accomplished through a network of approximately 8,400 Lottery approved and licensed retail outlets. The Lottery is actively recruiting new retailers with a goal of achieving greater than 12,000 retailers/selling locations over the next five years. In addition, the Pennsylvania Lottery owns 3,400 Interlott model EDS-Q24 Instant Ticket Vending Machines each containing 24 bins, and 1,000 Player Activated Terminals (Sci-Games Play Central Devices) with 16 instant bins.

The Lottery has experienced record growth, through the sales of various on-line and instant games tickets, in each of the last three years with gross sales for the fiscal year ending June 30, 2006, of \$3.07 billion and a revenue figure of \$976 million.

All Lottery proceeds are, by statute, utilized for the benefit of older Pennsylvanians.

The 2005-2006 fiscal year budget for Lottery advertising and advertising related services, including the production and broadcast of the Lottery's nightly televised drawing show, was approximately \$30 million.

For additional information regarding the Lottery please visit www.palottery.com.

I-5. Problem Statement.

The Lottery needs to contract with an Advertising Firm ("Offeror") to assist in promoting each of the current and future Lottery games, using various media and providing a single point of contact. The Offeror will develop media plans, create advertising copy, produce commercial segments, place advertisements in media, monitor to ensure advertisements are run in conformance with billings submitted, assist in overall marketing analysis, strategy and production planning, conduct research studies, provide drawing input and any other related activities to promote the Lottery. All advertising efforts shall be conducted in a manner commensurate with the dignity of the Commonwealth of Pennsylvania.

Additionally, the Lottery conducts its live, nightly televised drawings in Harrisburg, Pennsylvania, in the studio of a local television station. The production of the drawings is contracted through the Lottery's advertising agency, with the approval of the Lottery. The successful Offeror will be required to negotiate and obtain contracts with an acceptable production studio in Harrisburg, uplink facility and six (6) major television networks throughout the Commonwealth for the nightly broadcast of the drawings, all acceptable to the Lottery.

Additional detail is provided in Part IV of this RFP.

I-6. Type of Contract.

It is proposed that if the Issuing Office enters into a contract as a result of this RFP, it will be a "maximum price contract," resulting in the issuance of a purchase order through the Commonwealth's SAP accounting system. The contract containing the Standard Contract Terms and Conditions is shown in Appendix A and available at www.dgsweb.state.pa.us/comod/main.asp. The Issuing Office, in its sole discretion, may undertake negotiations with Offerors whose proposals, in the judgment of the Issuing Office, show them to be qualified, responsible and capable of performing the Project.

I-7. Rejection of Proposals.

The Issuing Office reserves the right, in its sole and complete discretion, to reject any proposal received as a result of this RFP. Issuance of this RFP in no way constitutes a commitment by the Lottery to award a contract. The Issuing Office reserves the right to reject any or all proposals or portions of proposals received in response to this RFP or to cancel this RFP if it is in the best interest of the Commonwealth to do so. The Issuing

Office may reject any proposal if it is conditional, incomplete, or if it contains any irregularities.

In the event that all proposing Offerors do not meet one or more of the mandatory requirements, the Issuing Office reserves the right to continue the evaluation of the proposals and to select the proposal which most closely meets the requirements specified in the RFP.

Should any item in an Offerors' proposal be determined by the Issuing Office to be a material misrepresentation, such misrepresentation shall be grounds for rejection.

I-8. Incurring Costs.

The Issuing Office is not liable for any costs the Offeror incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

I-9. Pre-Proposal Conference.

The Issuing Office will hold a pre-proposal conference as specified in the Calendar of Events. The purpose of this conference is to provide opportunity for clarification of the RFP and questions and answers previously submitted. Offerors may also ask questions at the conference. It is requested that representation be limited to two individuals per Offerer. The pre-proposal conference is for information only. Any answers furnished during the conference will not be official until they have been verified, in writing, by the Issuing Office. All questions and written answers will be posted on the website by 2:00 p.m. on April 25, 2007. Attendance at the Pre-proposal Conference is optional.

I-10. Questions & Answers.

If an Offeror has any questions regarding this RFP, the Offeror must submit the questions by email (with the subject line "RFP Lottery 1-2007") no later than 2:00 p.m. on April 16, 2007, to the Issuing Officer named in Part I, Section I-2 of the RFP. If the Offeror has questions, they must be submitted via email NO LATER THAN the date indicated on the Calendar of Events. The Offeror shall not attempt to contact the Issuing Officer by any other means. The Issuing Officer shall post the answers to the questions on the DGS website by the date stated on the Calendar of Events.

All questions and responses as posted on the DGS website by 2:00 p.m. on April 25, 2007, are considered as an addendum to, and part of, this RFP in accordance with RFP Part I, Section I-11. Each Offeror shall be responsible to monitor the DGS website for new or revised RFP information. The Issuing Office shall not be bound by any verbal information nor shall it be bound by any written information that is not either contained within the RFP or formally issued as an addendum by the Issuing Office. The Issuing Office does not consider questions to be a protest of the specifications or of the solicitation. The required protest process for Commonwealth procurements is described on the Department of General Services' website.

I-11. Addenda to the RFP.

If the Issuing Office deems it necessary to revise any part of this RFP before the proposal response date, the Issuing Office will post an addendum to the DGS website at www.dgsweb.state.pa.us/comod/main.asp. It is the Offeror's responsibility to periodically check the website for any new information or addenda to the RFP. Answers to the questions and answers asked during the Questions & Answers period also will be posted to the website as an addendum to the RFP.

I-12. Response Date.

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

I-13. Proposals.

To be considered, Offerors should submit a complete response to this RFP, using the format provided in PART II, providing **one original and fifteen paper copies** of the proposal to the Issuing Office. Costs are to be submitted in one original and two paper copies, in a separately sealed package clearly indicating that the cost submittal is enclosed.

In addition to the original and paper copies of the proposal, Offerors shall submit one original (in PDF and Microsoft Office or Microsoft Office-compatible format) and fifteen copies (in PDF format) of the technical proposal on CD-ROM.
Costs are not to be included as part of the CD-ROM.

The Offeror shall make no other distribution of its proposal to any other Offeror, potential Offeror, Commonwealth official or Commonwealth consultant. Each proposal page should be numbered for ease of reference. An official authorized to bind the Offeror to its provisions must sign the proposal. For this RFP, the proposal must remain valid for 120 days or until a contract is fully executed. If the Issuing Office selects the Offeror's proposal for award, the contents of the selected Offeror's proposal will become, except to the extent the contents are changed through Best and Final Offers or negotiations, contractual obligations. The information in the proposal will become a public record upon contract execution, except as limited by Section 106 (b)(1) of the *Commonwealth Procurement Code*, 62 Pa.C.S. §106 (b)(1). Sections of the proposal that contain proprietary and trade secret information of the Offeror must be clearly indicated and presented in a manner that easily allows extraction from other portions of the proposal.

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

I-14. Disadvantaged Business Information.

The Issuing Office encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes:

- a. Department of General Services Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority businesses enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and
- b. United States Small Business Administration-certified small disadvantaged businesses or 8(a) small disadvantaged business concerns.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. In order for a business to qualify as "socially disadvantaged," the Offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this Program can be directed to:

Department of General Services
Bureau of Minority and Women Business Opportunities
Room 611, North Office Building
Harrisburg, PA 17125
Phone: (717) 787-6708
Fax: (717) 772-0021
Email: gs-bmwbo@state.pa.us

Program information and a database of BMWBO-certified minority- and women-owned businesses can be accessed at www.dgs.state.pa.us, DGS Keyword: BMWBO. The federal vendor database can be accessed at <http://www.ccr.gov> by clicking on *Dynamic Small Business Search* (certified companies are so indicated).

I-15. Information Concerning Small Businesses in Enterprise Zones.

The Issuing Office encourages participation by small businesses, whose primary or headquarters facility is physically located in areas the Commonwealth has identified as *Designated Enterprise Zones*, as prime contractors, joint ventures and subcontractors/suppliers.

The definition of headquarters includes, but is not limited to, an office or location that is the administrative center of a business enterprise where most of the important functions of the business are conducted or concentrated and location where employees are conducting the business of the company on a regular and routine basis so as to contribute to the economic development of the geographical area in which the office or business is geographically located.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small businesses located in Designated Enterprise Zones. Information on the location of *Designated Enterprise Zones* can be obtained by contacting:

Aldona M. Kartorie
Center for Community Building
PA Department of Community and Economic Development
4th Floor, Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120-0225
Phone: (717) 720-7409
Fax: (717) 787-4088
Email: akartorie@state.pa.us

I-16. Economy of Preparation.

Offerors should prepare proposals simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of the RFP. Proposals are limited to 100 pages, single-sided, double-spaced, in 12-point font size. Attachments/appendices are in addition to the 100 page limit and, unless specifically required, will not be evaluated. **Please note that sections II-4 through II-9 will be considered the only required attachments/appendices. Also, sections II-10, II-11 and II-12 are each considered separate submittals and do not count towards the 100 page limit.** The Offeror, if approved for further consideration, may be required to make a presentation on a date to be announced on a project to be announced at the time of finalist selection.

I-17. Alternate Proposals.

The Issuing Office has identified the basic approach to meeting its requirements, allowing Offerors to be creative and propose their best solution to meeting these requirements. The Issuing Office will not accept alternate proposals.

I-18. Discussions for Clarification.

Offerors may be required to make an oral or written clarification of their proposals to the Issuing Office to ensure thorough mutual understanding and Offeror responsiveness to the solicitation requirements. The Issuing Office will initiate requests for clarification.

I-19. Prime Contractor Responsibilities.

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

I-20. Proposal Contents.

Offerors should not label proposal submissions as confidential or proprietary. The Issuing Office will hold all proposals in confidence and will not reveal or discuss any proposal with competitors for the contract, unless disclosure is required:

- i. Under the provisions of any Commonwealth or United States statute or regulation; or
- ii. By rule or order of any court of competent jurisdiction.

After a contract is executed, however, the successful proposal is considered a public record under the *Right-to Know Law*, 65 P.S. §66.1—66.9, and therefore subject to disclosure. The financial capability information submitted under **Part II, Section II-8** shall not be disclosed in the final contract. All material submitted with the proposal becomes the property of the Commonwealth of Pennsylvania and may be returned only at the Issuing Office's option. The Issuing Office, in its sole discretion, may include any person other than competing Offerors on its proposal evaluation committee. The Issuing

Office has the right to use any or all ideas presented in any proposal regardless of whether the proposal becomes part of a contract.

I-21. Best and Final Offers.

The Issuing Office reserves the right to conduct discussions with Offerors for the purpose of obtaining “best and final offers.” To obtain best and final offers from Offerors, the Issuing Office may do one or more of the following:

- i. Enter into pre-selection negotiations;
- ii. Schedule additional oral presentations; and
- iii. Request revised proposals.

The Issuing Office will limit any discussions to responsible Offerors (those that have submitted responsive proposals and possess the capability to fully perform the contract requirements in all respects and the integrity and reliability to assure good faith performance) whose proposals the Issuing Office has determined to be reasonably susceptible of being selected for award. The Criteria for Selection found in **Part III, Section III-4** shall also be used to evaluate the best and final offers. Price reductions offered through any reverse online auction shall have no effect upon the Offeror’s Technical Submittal. Dollar commitments to Disadvantaged Businesses and Enterprise Zone Small Businesses can be reduced only in the same percentage as the percent reduction in the total price offered through negotiations, including the online auction.

I-22. News Releases.

Offerors shall not issue news releases, Internet postings, advertisements or any other public communications pertaining to this Project without prior written approval of the Issuing Office, and then only in coordination with the Issuing Office.

I-23. Restriction of Contact.

From the issue date of this RFP until the Issuing Office selects a proposal for award, the Issuing Officer is the sole point of contact concerning this RFP. Any violation of this condition may be cause for the Issuing Office to reject the offending Offeror’s proposal. If the Issuing Office later discovers that the Offeror has engaged in any violations of this condition, the Issuing Office may reject the offending Offeror’s proposal or rescind its contract award. Offerors must agree not to distribute any part of their proposals beyond the Issuing Office. An Offeror who shares information contained in its proposal with other Commonwealth personnel and/or competing Offeror personnel may be disqualified.

I-24. Debriefing Conferences.

Offerors whose proposals are not selected will be notified of the name of the selected Offeror and given the opportunity to be debriefed. The Issuing Office will schedule the time and location of the debriefing. The debriefing will not compare the Offeror with other Offerors, other than the position of the Offeror’s proposal in relation to all other

Offeror proposals. An Offeror's exercise of the opportunity to be debriefed does not constitute the filing of a protest.

I-25. Issuing Office Participation.

Offerors shall provide all services, supplies, facilities, and other support necessary to complete the identified work. For the purpose of contract administration, the Department of Revenue, Pennsylvania Lottery will designate a person to serve as the Pennsylvania Lottery Contract Officer. The Contract Officer will serve as the primary liaison between the Pennsylvania Lottery and the selected contractor and will coordinate overall management and administration of the contract for the Lottery.

I-26. Term of Contract.

The term of the contract will commence on the Effective Date and will have an initial term of four years with options to renew for three additional one-year renewal periods. The Issuing Office will fix the Effective Date after the contract has been fully executed by the selected Offeror and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The selected Offeror shall not start the performance of any work prior to the Effective Date of the contract and the Commonwealth shall not be liable to pay the selected Offeror for any service or work performed or expenses incurred before the Effective Date of the contract.

I-27. Offeror's Representations and Authorizations.

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

- I-27.1 All of the Offeror's information and representations in the proposal are material and important, and the Issuing Office may rely upon the contents of the proposal in awarding the contract(s). The Commonwealth shall treat any misstatement, omission or misrepresentation as fraudulent concealment of the true facts relating to the Proposal submission, punishable pursuant to 18 Pa.C.S. §4904.
- I-27.2 The Offeror has arrived at the price(s) and amounts in its proposal independently and without consultation, communication, or agreement with any other Offeror or potential Offeror.
- I-27.3 The Offeror has not disclosed the price(s), the amount of the proposal, nor the approximate price(s) or amount(s) of its proposal to any other firm or person who is an Offeror or potential Offeror for this RFP, and the Offeror shall not disclose any of these items on or before the proposal submission deadline specified in the Calendar of Events of this RFP.
- I-27.4 The Offeror has not attempted, nor will it attempt, to induce any firm or person to refrain from submitting a proposal on this contract, or to submit a proposal higher than this proposal, or to submit any intentionally high or noncompetitive proposal or other form of complementary proposal.

- I-27.5 The Offeror makes its proposal in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive proposal.
- I-27.6 To the best knowledge of the person signing the proposal for the Offeror, the Offeror, its affiliates, subsidiaries, officers, directors, partners or stockholders and employees are not currently under investigation by any governmental agency and have not in the last five years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding or proposing on any public contract, except as the Offeror has disclosed in its proposal.
- I-27.7 To the best of the knowledge of the person signing the proposal for the Offeror and except as the Offeror has otherwise disclosed in its proposal, the Offeror has no outstanding, delinquent obligations to the Commonwealth including, but not limited to, any state tax liability not being contested on appeal or other obligation of the Offeror that is owed to the Commonwealth.
- I-27.8 The Offeror is not currently under suspension or debarment by the Commonwealth, any other state or the federal government, and if the Offeror cannot so certify, then it shall submit along with its proposal a written explanation of why it cannot make such certification.
- I-27.9 The Offeror has not made, under separate contract with the Issuing Office, any recommendations to the Issuing Office concerning the need for the services described in its proposal or the specifications for the services described in the proposal.
- I-27.10 Each Offeror, by submitting its proposal, authorizes all Commonwealth agencies to release to the Commonwealth information related to liabilities to the Commonwealth, including but not limited to taxes, unemployment compensation and workers' compensation liabilities.
- I-27.11 Until the selected Offeror receives a fully executed and approved written contract from the Issuing Office, there is no legal and valid contract, in law or in equity, and the Offeror shall not begin to perform.
- I-28. Notification of Selection.**
The Issuing Office will notify the selected Offeror in writing of its selection for negotiation after the Issuing Office has determined, taking into consideration all of the evaluation factors, the proposal that is the most advantageous to the Issuing Office.

I-29. RFP Protest Procedure.

- a. **Who May File the Protest.** Any actual or prospective Offeror who is aggrieved in connection with the solicitation or award of the contract may file a protest.
- b. **Time and Place for Filing.**
 - (1) A protest on improprieties in solicitations must be filed by prospective Offerors within seven (7) days after the protesting Offeror knows or should have known of the facts giving rise to the protest, but in no event later than the proposal submission deadline specified in the cover letter to the RFP. Offerors who submit a proposal may file a protest within seven (7) days after the protesting contractor knows or should have known of the facts giving rise to the protest. The date of filing is the date of receipt of the protest.
 - (2) The Issuing Office for good cause may consider any untimely protest.
 - (3) A protest must be in writing and filed with the Issuing Office.
- c. **Notice of Protest.** The Issuing Office shall notify the successful contractor, by registered mail, of the protest if award has been made. If the protest is received before award and substantial issues are raised by the protest, all Offerors who appear to have a substantial and reasonable prospect of winning the award shall be notified by registered mail, and may file their agreement/disagreement with the Issuing Office within three (3) days after receipt of notice of protest.
- d. **Stay of Procurement.** The Issuing Office will immediately decide upon receipt of the protest whether or not the award of a contract shall be delayed, 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 solicitations or with the award of the contract and shall suspend performance under the contract, if awarded, unless: the agency head of the Issuing Office makes a written determination that the protest is clearly without merit or that award of the contract without delay is necessary to protect the substantial interests of the Commonwealth.
- e. **Procedures.** The Issuing Office may decide the merits of the protest on the written, submitted documentation. However, if the Issuing Office deems the protest to be complex, an informal conference may be held before reaching a decision.

f. **Decision.** The Issuing Office shall promptly, but in no event later than 120 days from the filing of the protest, issue a written decision. The decision shall:

- (1) State the reason for the action taken.
- (2) Inform the protesting Offeror of its right to file an action in Commonwealth Court within fourteen (14) days of the receipt of the decision.

A copy of the decision shall be delivered by registered mail to the protesting Offeror and any other person determined by the Issuing Office to be affected by the decision.

I-30. Use of Electronic Versions of this RFP.

The Issuing Office is making this RFP available by electronic means. If an Offeror electronically accepts the RFP, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of a conflict between a version of the RFP in the Offeror's possession and the Issuing Office's version of the RFP, the Issuing Office's version shall govern.

1-31. Insurance, Bonds.

I-31.1. Evidence of Insurance

The successful Offeror will be required to submit acceptable evidence of compliance with insurance coverage, as required by law, including workers' compensation insurance, prior to execution of the contract.

I-31.2. Litigation Bond

Each Offeror will be required to submit WITH ITS PROPOSAL, a Litigation Bond in the amount of \$2,000,000. A claim upon the bond may be made by the Lottery if:

- a. The Offeror sues the Commonwealth of Pennsylvania, the Department of Revenue, the Lottery, or any employee of the Lottery, over the awarding of the contract; and
- b. The Offeror loses the suit; and
- c. A court determines that the action or any portion thereof was frivolous, or was brought in bad faith or was not brought upon any reasonable grounds.

The purpose of the bond is to discourage frivolous lawsuits by permitting the Lottery to recover damages resulting from such lawsuits. The bond shall remain in effect for three (3) years from the proposal submission date. Annual renewals of a one-year bond will meet this provision of the RFP.

Unsuccessful Offerors may request, and the Lottery may grant, a release of the bond after six (6) months from the proposal submission date in return for a release

and covenant not to sue in a form acceptable to the Lottery, signed by the Offeror, notarized and accepted by the Lottery.
The litigation bond of the successful Offeror will be returned upon contract execution.

I-31.3 Fidelity Bond

Within seven (7) days of Contract execution with the Lottery, the Offeror will be required to deliver to the Lottery a fidelity bond in the amount of \$2,500,000 to cover any loss to the Commonwealth due to any fraudulent or dishonest act on the part of the Offeror's officers, its employees or agents. Failure to post such bond within the time period specified shall void the Contract and the Lottery shall be entitled to liquidated damages of \$25,000/day, but not to exceed \$500,000 until a contract is executed with a new Offeror to perform in the place of the original Offeror. This bond shall be maintained during the term of the Contract and any renewals or extensions thereof. The cost of the bond is included in the Contractor's cost.

I-31.4 Performance Bond

Within seven (7) days of contract execution with the Lottery, the Offeror shall be required to deliver to the Lottery a Performance Bond. Failure to post such bond within the time period shall void the contract and the Lottery shall be entitled to liquidated damages of \$25,000/day but not to exceed \$500,000 until a contract is executed with a new Offeror to perform in the place of the original Offeror. A performance bond in the amount of \$2,500,000 will be required for the first year of the contract. The performance bond is forfeited to the Lottery if the Offeror defaults in the performance of the contract. The performance bond will be assessed any damages which are related to the Offeror's failure to meet any requirement of the contract. The amount of the performance bond for the second and subsequent years of the contract shall be the sum of \$2,500,000 plus the total of all liquidated damages assessed against the Offeror during the preceding twelve (12) months of operation under the contract. The performance bond may be assessed all liquidated damage payments due the Lottery which have not been received within thirty (30) calendar days after written notice of the assessment of liquidated damages has been given to the Offeror. The cost of the bond is included in the Offeror's cost.

PART II
PROPOSAL REQUIREMENTS

Offerors must submit their proposals in the format, including heading descriptions, outlined below. To be considered, the proposal must respond to all requirements in this part of the RFP. Offerors should provide any other information thought to be relevant, but not applicable to the enumerated categories, as an appendix to the Proposal. Each Proposal shall consist of the following **four** separately sealed submittals:

- a. Technical Submittal, which shall be a response to RFP Part II, Sections II-1 through Section II-9;
- b. Disadvantaged Business Submittal, in response to RFP Part II, Section II-10;
- c. Domestic Workforce Utilization Certification, in response to RFP Part II, Section II-12;
- d. Cost Submittal, in response to RFP Part II, Section II-11.

NO COST DATA SHALL APPEAR IN ANY PART OF THE TECHNICAL, DISADVANTAGED BUSINESS, OR DOMESTIC WORKFORCE UTILIZATION SUBMITTALS!

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

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

II-1. Statement of the Problem.

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

II-2. Management Summary.

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

II-3. Work Plan.

Describe in narrative form your technical plan for accomplishing the work. Use the task descriptions in Part IV of this RFP as your reference point. Modifications of the task

descriptions are not permitted. Include a Program Evaluation and Review Technique (PERT) or similar type display, time related, showing each event. If more than one approach is apparent, comment on why you chose this approach.

II-4. Prior Experience.

As the Lottery wishes to present a highly professional image, the contractor must have appropriate experience in providing a full array of advertising services for a large and complex account. To this end, the Lottery requires the following information:

- a. **Offeror Experience.** The Offeror shall describe in detail the current and historical experience the Offeror has providing a full array of advertising services. The Offeror shall provide descriptions and references for all engagements of comparable complexity and sensitivity, which have been conducted by the Offeror over the past 3 years.

The description of experience shall be detailed and cover all contracts which the Offeror and any subcontractors have had with experience similar to this contract which qualifies the Offeror to meet the requirements of this contract. Included shall be the names, titles, addresses, and telephone numbers of organizations which may be contacted to verify qualifying experience. Each experience statement shall also include the following:

- (1) Name of top 15 clients and amount of contract billables;
- (2) Term of contract, including effective dates;
- (3) Reason for contract termination/expiration, if contract is no longer in effect;
- (4) Types of services directly provided under the contract and whether the agency was the contractor or a subcontractor.

To be eligible for consideration, the Offeror must have documented capitalized billables in excess of \$100 million per year for each of the past three years.

- b. **Production Experience.** Offerors are required to submit video and CDs presenting examples of their past work within the past three (3) years. A brief, written explanation of the objectives of the submissions must be included. The video is to be limited to 30 minutes, 15 minute audio CD, and a minimum of five (5) POS campaigns along with examples of Internet/email based advertising on CD.
- c. **Identifying Experience.** The Offeror must provide the following information. If two or more companies are joining as one Offeror submitting a joint venture proposal, a breakdown must be included by percent of their media versus other

billables. Additionally, joint ventures must also provide a copy of their agreement and list other clients they have performed work for as a joint venture.

- (1) Name and address of business entity making the proposal.
- (2) Type of business entity (corporation, partnership, etc.).
- (3) Place of incorporation, if applicable, if incorporation is not in Pennsylvania, authority to conduct business in Pennsylvania.
- (4) Name and location of major offices and other facilities that relate to the Offeror's performance under the terms of this RFP.
- (5) Name, address, and function of any and all subcontractors, associated companies, or consultants to be involved in any phase of this project.
- (6) Name, address, and telephone number of Offeror's representative to contact regarding all contractual matters concerning this proposal.
- (7) Name, address, and telephone number of Offeror's representative to contact regarding all technical matters concerning this proposal.
- (8) Offeror's Federal Employer Identification Number(s) and Pennsylvania tax identification number(s).
- (9) Date of registration to do business in Pennsylvania along with registration number.
- (10) Name(s) of all law firms, lobbyists or individuals representing the Offeror within the Commonwealth of Pennsylvania.
- (11) Name of Offeror's accounting firm(s).
- (12) Audited financial statements for the Offeror for the last three years (most recent and two prior fiscal years). If the Offeror is a subsidiary of another corporation, the financial statements of the Offeror, as well as the consolidated financial statements of the parent, shall be submitted. If the Offeror is a parent corporation, parent-only financial statements, if available, and statements for the operating division that will perform these services shall be submitted. These statements shall be prepared in accordance with generally accepted accounting principles and must have been audited by a certified public accountant licensed to do business in the state in which the Offeror's principal place of business is located.

If audited parent-only or Offeror /subsidiary statements are not available, the Lottery will accept un-audited statements provided the Offeror's chief

financial officer certifies that the statements are current, accurate, and complete.

- (13) Any reports to the Securities and Exchange Commission (SEC):
 - (a) 10K reports for the last three fiscal years (most recent and two prior fiscal years); and
 - (b) 10Qs for the current fiscal year.
- (14) Any quarterly reports to shareholders for the current fiscal year.

The Issuing Office reserves the right to reject any proposal which does not contain the above financial information. The Issuing Office reserves the right to require any additional information necessary to determine the financial integrity and responsibility of any Offeror.

II-5. Prior Performance and Disclosure.

Integrity of the Lottery is paramount; therefore the Lottery must assess the competence, integrity, character, reputation, and background of the Offeror. To this end, the Lottery requires certain information of the Offerors.

- a. **Offeror's Prior Contract Performance.** The Contractor shall state whether any of the following have occurred:
 - (1) During the last five years, the Offeror has had a contract terminated for default, or for cause.
 - (2) If so, the Offeror shall submit full details including the other party's name, address and telephone number.
 - (3) During the last two years, the Offeror has been assessed any penalties, inclusive of liquidated damages, under any of its existing or past contracts. If so, indicate the reason for the penalty, and the penalty amount of each incident.
 - (4) During the last two years, the Offeror, a subsidiary or intermediate company, parent company or holding company was the subject of any order, judgment or decree of any federal or state authority barring, suspending or otherwise limiting the right of the Offeror to engage in any business, practice or activity or if trading in the stock of the companies has ever been suspended, with date(s) and explanation(s).
- b. **Offeror Disclosure.** Integrity of the Lottery is paramount; therefore the Issuing Office must assess the competence, integrity, character, reputation, and

background of the Offeror. To this end, the Lottery requires certain information of the Offerors.

- (1) The number of years the Offeror has been in the business of providing advertising services.
- (2) The details of any felony conviction of a criminal offense, state or federal, of the Offeror or any person whose name and address are 1) required by this RFP, or 2) who are otherwise, employees, major partners, officers, 5% (or greater) stockholders, or directors of the Offeror.
- (3) The details of any state or federal civil adjudication of fraud, against the Offeror or any person whose name and address are 1) required by this RFP, or 2) who are otherwise, employees, major partners, officers, 5% (or greater) stockholders, or directors of the Offeror, whether or not such fraud related to lottery services.
- (4) A disclosure of the details of any bankruptcy, insolvency, pending sale, reorganization, or litigation.

II-6. Personnel.

The Offeror shall provide organization charts for both transition and ongoing operations, indicating lines of authority for staff, names and titles of individuals.

- a. **Resumes/Qualifications.** The purpose of this section is to provide information on the Offeror's ability to perform the work that it is proposing. The Offeror shall provide resumes of all management, supervisory and key account personnel planned to be involved in the transition and operation of the Lottery services, and shall provide for each such person:
 - (1) Full name, social security number, date of birth, and current address;
 - (2) Five-year employment history;
 - (3) A specific description of experience that person has in connection with lottery or similar services;
 - (4) Specific indication of what role the individual will have in this project; and,
 - (5) Any additional helpful information to indicate the individual's ability to aid the Offeror in successfully performing the work involved in this RFP.

The resumes should present the required personnel in sufficient detail as to provide the Lottery with a convincing indication that the personnel involved can perform the work specified in this RFP.

b. **Lottery Approval of Staffing/Subcontractors.**

(1) The Lottery reserves the right to review and/or disapprove each Contractor's employees prior to assignment to the Lottery contract.

(2) No subcontracting shall be permitted without the express, written approval of the Lottery. The Lottery reserves the right to require the Offeror to replace subcontractors found to be unacceptable. The Offeror is entirely responsible for adherence by subcontractors to all provisions of the contract. Any change in subcontractors or in the location of facilities at which work is to be performed as part of the contract must be approved by the Lottery's contract administrator, in writing, prior to such change.

II-7. **Training.** If appropriate, indicate recommended training of Agency personnel. Include the Offeror personnel to be trained, duration of the program, place of training, training materials to be used, number and frequency of sessions and number and level of instructors.

II-8. **Financial Capability.** Describe your company's financial stability and economic capability to perform the contract requirements. Financial documents such as audited financial statements or recent tax returns will be acceptable to the Commonwealth.

II-9. **Objections and Additions to Standard Contract Terms and Conditions.**

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

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

II-10. Disadvantaged Business Submittal.

a. **Disadvantaged Business Information.**

- i. To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business, entering into a joint venture agreement with a Small Disadvantaged Business or subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), an Offeror must include proof of Disadvantaged Business qualification in the Disadvantaged Business Submittal of the proposal, as indicated below:
 - (1) A Small Disadvantaged Businesses certified by BMWBO as an MBE/WBE must provide a photocopy of their BMWBO certificate.
 - (2) Small Disadvantaged Businesses certified by the U.S. Small Business Administration pursuant to Section 8(a) of the *Small Business Act* (15 U.S.C. § 636(a)) as an 8(a) or small disadvantaged business must submit proof of U.S. Small Business Administration certification. The owners of such businesses must also submit proof of United States citizenship.
 - (3) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or U.S. Small Business Administration certification as an 8(a) or small disadvantaged business, must attest to the fact that the business has 100 or fewer employees.
 - (4) All businesses claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or U.S. Small Business Administration certification as an 8(a) or small disadvantaged business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.
- ii. All businesses claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business Submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:

- (1) Be rooted in treatment that the business person has experienced in American society, not in other countries.
- (2) Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.
- (3) Indicate that the business person's experience with the racial or ethnic prejudice or cultural bias has negatively impacted his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the Offeror has established that a business is socially disadvantaged by clear and convincing evidence.

- iii. In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
 - (1) The name and telephone number of the Offeror's project (contact) person for the Small Disadvantaged Business or Socially Disadvantaged Business.
 - (2) The business name, address, name and telephone number of the primary contact person for each Small Disadvantaged Business or Socially Disadvantaged Business included in the proposal. The Offeror must specify each Small Disadvantaged Business or Socially Disadvantaged Business to which it is making commitments. The Offeror will not receive credit for stating that it will find a Small Disadvantaged Business or Socially Disadvantaged Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
 - (3) The specific work, goods or services each Small Disadvantaged Business or Socially Disadvantaged Business will perform or provide.
 - (4) The estimated dollar value of the contract to each Small Disadvantaged Business or Socially Disadvantaged Business.
 - (5) Of the estimated dollar value of the contract to each Small Disadvantaged Business or Socially Disadvantaged Business, the percent of the total value of services or products purchased or subcontracted that will be provided by the Small Disadvantaged Business or Socially Disadvantaged Business directly.
 - (6) The location where each Small Disadvantaged Business or Socially Disadvantaged Business will perform these services.

- (7) The timeframe for each Small Disadvantaged Business or Socially Disadvantaged Business to provide or deliver the goods or services.
 - (8) The amount of capital, if any, each Small Disadvantaged Business or Socially Disadvantaged Business will be expected to provide.
 - (9) The form and amount of compensation each Small Disadvantaged Business or Socially Disadvantaged Business will receive.
 - (10) For a joint venture agreement, a copy of the agreement, signed by all parties.
 - (11) For a subcontract, a signed subcontract or letter of intent.
- iv. The Offeror is required to submit only one copy of its Disadvantaged Business Submittal. The submittal shall be clearly identified as Disadvantaged Business information and sealed in its own envelope, separate from the remainder of the proposal.
 - v. The Offeror must include the dollar value of the commitment to each Small Disadvantaged Business or Socially Disadvantaged Business in the same sealed envelope with its Disadvantaged Business Submittal. The following will become a contractual obligation once the contract is fully executed:
 - (1) The amount of the selected Offeror's Disadvantaged Business commitment;
 - (2) The name of each Small Disadvantaged Business or Socially Disadvantaged Business; and
 - (3) The services each Small Disadvantaged Business or Socially Disadvantaged Business will provide, including the timeframe for performing the services.
 - vi. A Small Disadvantaged Business or Socially Disadvantaged Business can be included as a subcontractor with as many prime contractors as it chooses in separate proposals.
 - vii. An Offeror that qualifies as a Small Disadvantaged Business or Socially Disadvantaged Business and submits a proposal as a prime contractor is not prohibited from being included as a subcontractor in separate proposals submitted by other Offerors.

b. **Enterprise Zone Small Business Utilization.**

- i. To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, an Offeror must include the following information in the Disadvantaged Business Submittal of the proposal:
 - (1) Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration), including a description of those activities that occur at the site to support the other businesses in the enterprise zone.
 - (2) Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).
 - (3) Proof of United States citizenship of the owners of the business.
 - (4) Certification that the business employs 100 or fewer employees.
 - (5) Proof that the business' gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax return or audited financial statement.
 - (6) Documentation of business organization, if applicable, such as articles of incorporation, partnership agreement or other documents of organization.
- ii. In addition to the above verifications, the Offeror must include in the Disadvantaged Business Submittal of the proposal the following information:
 - (1) The name and telephone number of the Offeror's project (contact) person for the Enterprise Zone Small Business.
 - (2) The business name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The Offeror must specify each Enterprise Zone Small Business to which it is making commitments. The Offeror will not receive credit for stating that it will find an Enterprise Zone Small Business after the contract is awarded or for listing several businesses and stating that one will be selected later.
 - (3) The specific work, goods or services each Enterprise Zone Small Business will perform or provide.

- (4) The estimated dollar value of the contract to each Enterprise Zone Small Business.
 - (5) Of the estimated dollar value of the contract to each Enterprise Zone Small Business, the percent of the total value of services or products purchased or subcontracted that each Enterprise Zone Small Business will provide.
 - (6) The location where each Enterprise Zone Small Business will perform these services.
 - (7) The timeframe for each Enterprise Zone Small Business to provide or deliver the goods or services.
 - (8) The amount of capital, if any, each Enterprise Zone Small Business will be expected to provide.
 - (9) The form and amount of compensation each Enterprise Zone Small Business will receive.
 - (10) For a joint venture agreement, a copy of the agreement, signed by all parties.
 - (11) For a subcontract, a signed subcontract or letter of intent.
- iii. The dollar value of the commitment to each Enterprise Zone Small Business must be included in the same sealed envelope with the Disadvantaged Business Submittal of the proposal. The following will become a contractual obligation once the contract is fully executed:
- (1) The amount of the selected Offeror's Enterprise Zone Small Business commitment;
 - (2) The name of each Enterprise Zone Small Business; and
 - (3) The services each Enterprise Zone Small Business will provide, including the timeframe for performing the services.

II-11. Cost Submittal.

The information requested in this section shall constitute your cost submittal. The Cost Submittal shall be placed in a separate sealed envelope within the sealed proposal, separated from the technical submittal. The total cost you are proposing must be broken down into the following components (where applicable, include cost/commissions).

	<u>Media Cost %</u>	<u>Gross Media Cost</u>	<u>Commission</u>	<u>Total Invoice to Lottery</u>
Media Placement*	_____	\$100.00	_____	_____
Production	_____	/Markup %		
Hourly Rates, General	_____	/hour		
Travel Costs**	_____			
Any Other Appropriate Costs Not Listed Above _____				

* For all advertisement placements, the proposed commission rate, whether positive or negative, must be calculated and expressed as a percentage of gross media cost.

** Itemize transportation, lodging and meals per diem costs separately. Travel and subsistence costs must conform with the requirements of Commonwealth Management Directive 230.10, a copy of which is attached as Appendix C. The Commonwealth may accept higher rates normally paid by a contractor, if those rates were approved by the contractor's officials and published prior to submitting this proposal to the Commonwealth.

In addition, no costs will be accepted with regard to the following items.
(Reference Appendix C of Appendix D -- Current Contract w/Amendments #1, #2, #3.)

- a. Mark-up or percentage on Non-Media Development of Production Items.
- b. Per Diem/Travel Costs for normal account service requirements.
- c. Copywriting hours on any project.
- d. Account Service hours.
- e. Time for supervision of print production in connection with purchasing print materials.
- f. Creative Development hours on any project.
- g. Broadcast Supervision or mark-up on any broadcast production of commercial announcements wholly devoted to Lottery Beneficiary campaigns.
- h. Normal out-of-pocket costs such as but not limited to telephone, photocopy, messenger and delivery services.
- i. Routine legal consultation costs.

- j. Supervision of pre-testing recommended by the agency or Lottery for advertising campaigns.
- k. Supervision of subcontractors.
- l. Commission for print materials purchased in connection with services rendered.

Offerors should **not** include any assumptions in their cost submittals. If the Offeror includes assumptions in its cost submittal, the Issuing Office may reject the proposal. Offerors should direct in writing to the Issuing Office pursuant to **Part 1, Section I-10**, of this RFP any questions about whether a cost or other component is included or applies. All Offerors will then have the benefit of the Issuing Office's written answer so that all proposals are submitted on the same basis.

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

II-12. Domestic Workforce Utilization Certification. Complete and sign the Domestic Workforce Utilization Certification contained in **Appendix B** of this RFP. Offerors who seek consideration for this criterion must submit in hardcopy the signed Domestic Workforce Utilization Certification Form in a separately sealed envelope.

PART III
CRITERIA FOR SELECTION

III-1. Mandatory Responsiveness Requirements.

To be eligible for selection, a proposal must be

- (a) timely received from an Offeror;
- (b) properly signed by the Offeror; and
- (c) formatted such that all cost data is kept separate from and not included in the Technical Submittal.

III-2. Technical Nonconforming Proposals. The Issuing Office reserves the right, in its sole discretion, to waive technical or immaterial nonconformities in an Offeror's proposal.

III-3. Evaluation. The Issuing Office has selected a committee of qualified personnel to review and evaluate timely submitted proposals. Independent of the committee, BMWBO will evaluate the Disadvantaged Business Submittal and provide the Issuing Office with a rating for this component of each proposal. The Issuing Office will notify in writing of its selection for negotiation the responsible Offeror whose proposal is determined to be the most advantageous to the Commonwealth as determined by the Issuing Office after taking into consideration all of the evaluation factors. The Issuing Office will award a contract only to an Offeror determined to be responsible in accordance with the most current version of Commonwealth Management Directive 215.9, *Contractor Responsibility Program*.

III-4. Criterion for Selection. The following areas of consideration will be used in making the selection:

- a. **Understanding the Problem.** This refers to the Offeror's understanding of the Lottery's needs that generated the RFP, of the Lottery's objectives in asking for the services or undertaking the study, and of the nature and scope of the work involved.
- b. **Offeror Qualifications.** This refers to the ability of the Offeror to meet the terms of the RFP, especially the time constraint and the quality, relevancy, and recency of studies and projects completed by the Offeror. This also includes the Offeror's financial ability to undertake a project of this size. To be considered, Offeror's must have documented capitalized billables in excess of \$100 million per year for each of the past three years.
- c. **Personnel Qualifications.** This refers to the competence of professional personnel who would be assigned to the job by the contractor. Qualifications of professional personnel will be measured by experience and education, with

particular reference to experience on studies/services similar to that described in the RFP. Particular emphasis is placed on the qualifications of Offeror's proposed project manager.

d. **Soundness of Approach.** Emphasis is on whether the technical approach is completely responsive to all written specifications and requirements contained in the RFP and appears to meet Lottery objectives.

e. **Cost.**

f. **Disadvantaged Business Participation.**

Priority Rank 1 Proposals submitted by Small Disadvantaged Businesses.

Priority Rank 2 Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.

Priority Rank 3 Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.

Priority Rank 4 Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated, with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the above-listed priority ranking

To the extent that an Offeror qualifies as a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements with businesses who are not Small Disadvantaged Businesses or Socially Disadvantaged Businesses for more than 40% of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than 40% of the total estimated dollar amount of the contract to other businesses that do not qualify as Small Disadvantaged Businesses or Socially Disadvantaged Businesses, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

Priority Rank 1 Proposals submitted by an Enterprise Zone Small Business will receive the highest score.

Priority Rank 2 Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive the next highest score for this criterion.

Priority Rank 3 Proposals submitted with subcontracting commitment to an Enterprise Zone Small Business will receive the lowest score for this criterion.

Priority Rank 4 Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that an Offeror is an Enterprise Zone Small Business, the Offeror cannot enter into contract or subcontract arrangements with businesses that do not qualify as Enterprise Zone Small Businesses for more than 40% of the total estimated dollar amount of the contract in order to qualify as an Enterprise Zone Small Business for purposes of this RFP.

g. **Domestic Workforce Utilization** Each proposal will be scored for its commitment to use domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those Offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States. Those who propose to perform a portion of the direct labor outside the United States will receive a correspondingly smaller score for this criterion. Offerors who seek consideration for this criterion must submit in hardcopy the signed Domestic Workforce Utilization Certification Form in the same sealed envelope with the Cost Submittal. The certification will be included as a contractual obligation when the contract is executed.

PART IV
WORK STATEMENT

IV-1. Objectives.

- a. **General.** Through this RFP, the Issuing Office is attempting to secure the services of an Agency to assist in the promotion of its games and related activities. The objective is to maximize net revenue from Lottery sales for the benefit of older Pennsylvanians, as prescribed in the law which created the Lottery.
- b. **Specific.** The Pennsylvania Lottery has the following specific objectives for issuing this RFP:
 - i. To maximize the net proceeds from ticket sales for the Commonwealth; and,
 - ii. To conduct marketing programs in such a manner as to promote the positive image and integrity of the Lottery and the programs it supports; and,
 - iii. To effectively and efficiently market Lottery products.

IV-2. Nature and Scope of the Project.

The Offeror is expected to assist the Lottery in promoting each of the current and future Lottery games, using various media to reach all citizens of the Commonwealth. It will develop media plans, create copy, produce commercial segments, place advertisements in media, assist in overall marketing analysis, strategy and production planning, conduct research studies, provide drawing input and any other related marketing activities to promote games and winner awareness.

IV-3. Requirements.

- a. **Annual Plan.** After the contract is awarded, the Offeror will be required to provide an annual plan and budget consisting of their best judgment and ideas to promote the activities of the Pennsylvania Lottery in conjunction with the Lottery's instant service provider and terminal based service provider. This plan will include but not be limited to advertising, media placement, promotional services, research, artwork, account management and additional services.

The Offeror should take into consideration that Pennsylvania is bordered on all sides by Lottery states, has horseracing with both at-track and off-track betting, slots gaming facilities and legal small games of chance.

- b. **Presentation.** The Offeror, if approved for further consideration, may be required to make a presentation on a date to be announced on a project to be announced at the time of finalist selection.
- c. **Available Personnel.** The Offeror shall assign an account representative(s) who is available on-call for Lottery meetings. The Offeror shall specify the travel time requirements.

IV-4. Tasks.

Describe in narrative form your technical plan for accomplishing the following:

- a. **Marketing Plan.** Develop a comprehensive, annual marketing plan for the Pennsylvania Lottery beginning July 1, 2008 through June 30, 2009 based on a \$32 million dollar budget. The plan should include marketing, advertising, promotional, and public relations strategies and a media plan with support recommendations for, but not limited to the following: all existing Lottery products (The Daily Number, Big 4, Cash 5, Match 6, Mix & Match, Powerball, Millionaire Raffle and Instant Games), cross-merchandising of those products, a gifting program, a beneficiary program, a winner awareness program, an internet program and a player education program.
- b. **Research Plan.** Develop and describe the implementation of an annual research plan for the Pennsylvania Lottery beginning July 1, 2008 through June 30, 2009. The plan should address, but not be limited to marketing effectiveness, brand/product health, value segmentation, advertising effectiveness, creative development testing and product spending.
- c. **New Game Concepts.** The Lottery makes a significant commitment to developing new instant and numbers games on an ongoing basis. Please describe in detail ideas for one new instant game product and one new numbers game product which would complement the Lottery's current mix of games.
- d. **Niche Marketing.** The Offeror shall propose a method and establish criteria for the identification of appropriate niche markets. The Offeror shall then recommend a strategy for focusing on these niche markets as well as a return on investment for its proposed plan.
- e. **Best Practices in Lottery Marketing.** Please discuss what you believe are two of the most effective marketing/advertising campaigns currently being employed by other state lotteries and if applicable, and appropriate, how any of these might work for the Pennsylvania Lottery.
- f. **Cooperative Advertising.** Identify, develop and propose executions for cooperative advertising, promotions, sponsorship opportunities and/or sales campaigns with other commercial entities.

- g. **Alternative Gaming.** Slots gaming facilities have recently come to Pennsylvania. Discuss opportunities as to how the Lottery could market itself within these establishments, and how the Lottery should be distinguished from these establishments.
- h. **Additional Concepts.** Please describe any additional concepts or items you feel are relevant and important for the Lottery for which information was not requested in this section of the RFP.

IV-5. Reports and Project Control.

- a. **Task Plan.** A work plan for each task that identifies the work elements of each task, the resources assigned to the task, and the time allotted to each element and the deliverable items to be produced. Where appropriate, a PERT or GANTT chart display should be used to show project, task, and time relationship.
- b. **Status Report.** A periodic written, or at the direction of the Lottery's Executive Director, an oral progress report covering activities, problems, and recommendations; the report should be keyed to the work plan developed by the contractor in its proposal, as amended or approved by the contracting agency.
- c. **Problem Identification Report.** An "as required" report, identifying problem areas. The report should describe the problem and its impact on the overall project and on each affected task. It should list possible courses of action with advantages and disadvantages of each, and include contractor recommendations with supporting rationale.
- d. **Monthly Media Reports.** The Agency shall prepare a monthly report by game, which reflects the months' cost of advertising by type, and by game and/or advertising activity. Additionally, the Agency on a monthly basis shall prepare a report, which tracks their commission billings for that month, as well as cumulative totals for the fiscal year.
- e. **Invoice Reconciliation.** Describe the procedure the Agency employs to ensure that all advertisements are implemented in conformance with the parameters for which the Lottery is being billed.
- f. **Final Report.** The Agency shall upon the completion of each major assigned project, or upon the request of the Executive Director of the Lottery, prepare a final report in an attempt to quantify the effectiveness of that advertising activity in a format addressing, as applicable, the following:
 - i. Abstract or summarize the result of the effectiveness of the service proposed and rendered in terminology that will be meaningful to Lottery management, marketing and finance departments.

- ii. Describe data collection and analytical and other techniques used to obtain the information contained in the final report.
- iii. Summarize findings, conclusions, and recommendations for possible future similar projects.
- iv. Include all supporting documentation; e.g., flow charts, forms, questionnaires, etc.

IV-6. Contract Requirements—Disadvantaged Business Participation and Enterprise Zone Small Business Participation.

All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must also include a provision requiring the selected contractor to meet and maintain those commitments made to Disadvantaged Businesses and/or Enterprise Zone Small Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. All contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must include a provision requiring Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture to perform at least **50 %** of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business participation portion of the joint venture.

The selected contractor's commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation shall be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO, which will make a recommendation to the Contracting Officer regarding a course of action.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Business participation and/or Enterprise Zone Small Business participation of the original contract.

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

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY

POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE
PROOF OF DISADVANTAGED BUSINESSES STATUS OR ENTITLE AN OFFEROR TO
RECEIVE CREDIT FOR DISADVANTAGED BUSINESSES UTILIZATION.

APPENDIX A
STANDARD CONTRACT TERMS AND CONDITIONS

**STANDARD CONTRACT
TERMS AND CONDITIONS - SAP**

If an award is made to a Bidder, the Bidder shall receive a Contract that obligates Bidder to furnish the awarded item(s) in accordance with these Standard Contract Terms and Conditions - SAP:

1. TERM OF CONTRACT

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

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

The Contractor shall not start performance until all of the following have occurred: a. the Effective Date has arrived; b. the Contractor has received a copy of the fully-executed Contract; and c. the Contractor has received a Purchase Order. 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. Except as otherwise provided in Paragraph 3, 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.

2. PURCHASE ORDERS

The Commonwealth may issue Purchase Orders against the Contract. These orders constitute the Contractor's authority to make delivery. All Purchase Orders received by the Contractor up to and including the expiration date of the Contract are acceptable and must be performed in accordance with the Contract. Contractors are not permitted to accept Purchase Orders which require performance extended beyond those performance time periods specified in the Contract but in no event longer than ninety (90) days after the expiration date of the Contract period. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Contract.

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

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

The Commonwealth and the Contractor specifically agree as follows:

- a. No handwritten signature shall be required in order for the Contract or Purchase Order to be legally enforceable.
- b. Upon receipt of a Purchase Order, the Contractor shall promptly and properly transmit an acknowledgement in return. Any order which is issued electronically shall not give rise to any obligation to deliver on the part of the Contractor, or any obligation to receive and pay for delivered products on the part of the Commonwealth, unless and until the Commonwealth transmitting the order has properly received an acknowledgement.

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

Purchase Orders under three thousand dollars (\$3,000) in total amount may also be made in person or by telephone using a Commonwealth Procurement VISA Card. When an order is placed by telephone, the Commonwealth agency shall provide the agency name, employee name, credit card number, and expiration date of the card. Contractors agree to accept payment through the use of the Commonwealth Procurement VISA card.

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

3. INDEPENDENT CONTRACTOR

In performing its obligations under the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth.

4. COMPLIANCE WITH LAW

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

5. ENVIRONMENTAL PROVISIONS

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

6. POST-CONSUMER RECYCLED CONTENT

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

7. COMPENSATION

- a. The Contractor shall be required to perform at the price(s) quoted in the Contract. All items shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for items supplied and performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.
- b. Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall send an invoice itemized by purchase order line item to the address referenced on the Purchase Order promptly after

items are satisfactorily delivered. The invoice should include only amounts due under the Contract/Purchase Order. The Purchase Order number must be included on all invoices. In addition, the Commonwealth shall have the right to require the Contractor to prepare and submit a "Work In Progress" sheet that contains, at a minimum, the tasks performed, number of hours, hourly rates, and the purchase order or task order to which it refers.

8. PAYMENT

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

9. TAXES

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

10. WARRANTY

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

11. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the commonwealth under the contract. The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract. This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same. As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization. The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract. If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with non-infringement equal performance products or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

12. OWNERSHIP RIGHTS

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

13. ASSIGNMENT OF ANTITRUST CLAIMS

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

14. HOLD HARMLESS PROVISION

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

15. AUDIT PROVISIONS

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

period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

16. INSPECTION AND REJECTION

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.

17. DEFAULT

- a. The Commonwealth may, subject to the provisions of Paragraph 18, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph 19, Termination Provisions) 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; or
 - 15) Breach of any provision of the Contract.
- 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 Issuing Office, 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 Paragraph 20, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

18. FORCE MAJEURE

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

The Contractor shall notify the Commonwealth orally within 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.

19. TERMINATION PROVISIONS

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

- a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract or a Purchase Order for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.
- b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not

appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract or a Purchase Order. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under the Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid 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 Paragraph 17, Default, upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract or a Purchase Order for other cause as specified in 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 19.a.

20. CONTRACT CONTROVERSIES

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

21. ASSIGNABILITY AND SUBCONTRACTING

- a. Subject to the terms and conditions of this Paragraph 21, 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.

22. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

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

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

23. CONTRACTOR INTEGRITY PROVISIONS

- a. For purposes of this clause only, the words "confidential information," "consent," "contractor," "financial interest," and "gratuity" shall have the following definitions.

- 1) **Confidential Information** means information that is not public knowledge, or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.
 - 2) **Consent** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this agreement.
 - 3) **Contractor** means the individual or entity that has entered into the Contract with the Commonwealth, including directors, officers, partners, managers, key employees and owners of more than a five percent interest.
 - 4) **Financial Interest** means:
 - a) Ownership of more than a five percent interest in any business; or
 - b) Holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
 - 5) **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.
- b. The Contractor shall maintain the highest standards of integrity in the performance of the Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.
 - c. The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.
 - d. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly, or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.
 - e. The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.
 - f. Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.
 - g. Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.
 - h. The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.
 - i. The Contractor, by execution of the Contract and by the submission of any bills or invoices for payment pursuant thereto, certifies, and represents that he or she has not violated any of these provisions.
 - j. The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or

responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract unless otherwise provided by law.

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

24. CONTRACTOR RESPONSIBILITY PROVISIONS

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

b. The Contractor also certifies, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.

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

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

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

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

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

25. AMERICANS WITH DISABILITIES ACT

- a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As

a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

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

26. HAZARDOUS SUBSTANCES

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

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

d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

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

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

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

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

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

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

27. COVENANT AGAINST CONTINGENT FEES

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

28. APPLICABLE LAW

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

29. INTEGRATION

The RFQ - Invitation For Bids form, the Contract form, including 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. All such amendments will be made using the appropriate Commonwealth form.

30. CHANGES

The Commonwealth reserves the right to make changes at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change shall be made by the Contracting Officer by notifying the Contractor in writing. The change shall be effective as of the date of the change, unless the notification of change specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required by any notification of change shall be handled through Paragraph 19, "Contract Controversies".

EXHIBIT A-1
 CONSTRUCTION PRODUCTS
 RECYCLED CONTENT

(A) REQUIREMENT

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

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

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

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

¹ Consolidated latex paint used for covering graffiti, where color and consistency of performance are not primary concerns.
² Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceiling, and trim; gutterboards; and concrete, stucco, masonry, wood, and metal surfaces.

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

EXHIBIT A-2
VEHICULAR PRODUCTS
RECYCLED CONTENT

(A) REQUIREMENT

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

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

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

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

EXHIBIT A-3
 PAPER PRODUCTS
 RECYCLED CONTENT

(A) REQUIREMENT

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

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

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

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

EXHIBIT A-4
 LANDSCAPING PRODUCTS
 RECYCLED CONTENT

(A) REQUIREMENT

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

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

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

EXHIBIT A-5
 MISCELLANEOUS PRODUCTS
 RECYCLED CONTENT

(A) REQUIREMENT

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

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

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

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

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

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

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

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

EXHIBIT A-6
 NONPAPER OFFICE PRODUCTS
 RECYCLED CONTENT

(A) REQUIREMENT

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

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

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

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

**EXHIBIT A-7
 PARK & RECREATION PRODUCTS
 RECYCLED CONTENT**

(A) REQUIREMENT

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

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

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

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

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

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

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

EXHIBIT A-8
 TRANSPORTATION PRODUCTS
 RECYCLED CONTENT

(A) REQUIREMENT

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

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

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

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

(B) BIDDER'S CERTIFICATION

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

(C) MANUFACTURER/MILL CERTIFICATION

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

(D) ENFORCEMENT

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

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

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

MANUFACTURER/MILL CERTIFICATION

(To be submitted with invoice for each order)

TO BE COMPLETED BY MANUFACTURER/MILL:

NAME OF MANUFACTURER/MILL: _____

ADDRESS OF MANUFACTURER/MILL: _____

FEDERAL EMPLOYER I.D. NO.: _____

CONTRACT OR REQUISITION NO. _____

NAME OF CONTRACTOR: _____

ADDRESS OF CONTRACTOR: _____

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

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

Signature

Name of Signatory

Title

Date

APPENDIX B

DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

APPENDIX B
DOMESTIC WORKFORCE UTILIZATION CERTIFICATION

Each proposal will be scored for its commitment to use the domestic workforce in the fulfillment of the contract. Maximum consideration will be given to those offerors who will perform the contracted direct labor exclusively within the geographical boundaries of the United States. Those who propose to perform a portion of the direct labor outside of the United States will receive a correspondingly smaller score for this criterion.

In order to be eligible for any consideration for this criterion, offerors must complete and sign the following certification. This certification will be included as a contractual obligation when the contract is executed. Failure to complete and sign this certification will result in no consideration being given to the offeror for this criterion.

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

All of the direct labor performed within the scope of services under the contract will be performed exclusively within the geographical boundaries of the United States.

OR

_____ percent (____%) [Contractor must specify the percentage] of the direct labor performed within the scope of services under the contract will be performed within the geographical boundaries of the United States. Please identify the direct labor performed under the contract that will be performed _____ outside _____ the _____ United States:

[Use additional sheets if necessary]

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

Attest or Witness:

Signature/Date

Printed Name/Title

Corporate or Legal Entity's Name

Signature/Date

Printed Name/Title

APPENDIX C

COMMONWEALTH MANAGEMENT DIRECTIVE
TRAVEL AND SUBSISTENCE

MANAGEMENT DIRECTIVE

230.10
Amended
Number

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE

Subject:

Travel and Subsistence Allowances

By Direction Of:

Michael J. Masch
Michael J. Masch, Secretary of the Budget

Date:

December 28, 2005

This Management Directive governs reimbursable expenses for officials and employees in agencies under the Governor's jurisdiction and in other agencies subject to *Section 216 of The Administrative Code of 1929*, that have not been exempted by the Executive Board. This directive replaces *Management Directive 230.10*, dated November 1, 2000 and all Revisions.

This amendment reflects the change in the personal automobile mileage reimbursement rate. The rate change is effective January 1, 2006.

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01 PURPOSE.

Policies and monetary limitations governing reimbursable expenses of officials and employees under the Governor's jurisdiction, and in other agencies subject to *Section 216 of the Administrative Code* that have not been exempted by the Executive Board, are set forth herein.

02 APPLICABILITY.

a. The Governor, Lieutenant Governor, cabinet officers, administrative department heads, deputy administrative department heads, and the executive directors of the Civil Service Commission, Fish and Boat Commission, Game Commission, and Historical and Museum Commission are exempt from the monetary limits relating to lodging and subsistence established herein. They are, however, expected to observe all other monetary allowances, the nonmonetary policies, and to limit requests for reimbursement to reasonable amounts consistent with fulfilling the duties of their positions.

In addition, the Governor, Lieutenant Governor, cabinet officers, and administrative department heads will be entitled to the actual cost for pressing/steaming of garments, as needed, when traveling on official business.

b. All officials and employees not exempted above, and paid and nonpaid members of boards, commissions, and councils under the Governor's jurisdiction, including members of departmental boards, commissions, and councils, will be subject to policies and amounts of reimbursement defined herein.

c. Exemptions for individuals may be made by the Secretary of the Budget or his Deputy Secretary for Comptroller Operations, upon submission of written requests approved by the agency head or designated deputy, when a travel assignment would otherwise impose a financial hardship. Individuals with disabilities may, on a case-by-case basis, be exempted from the policy defined in this directive. Exemption requests should be sent to the Bureau of Commonwealth Payroll Operations (BCPO), who will review and forward them to the Secretary or Deputy Secretary for Comptroller Operations for consideration and response.

Reimbursement for expenses incurred by individuals not employed by the Commonwealth, but who perform services for the Commonwealth, will require an approved exception. Written requests approved by an agency head or designated deputy should be submitted to the BCPO for review and approval prior to the occurrence. Reimbursement will be permitted for actual amounts expended in accordance with the provisions and maximum dollar amounts cited herein.

d. In those cases where the provisions of a collective bargaining agreement or a memorandum of understanding are inconsistent with this directive, the provisions of such agreement or understanding shall take precedence insofar as they apply to the employees encompassed by such agreements or memoranda.

03 GENERAL POLICY.

a. Employees shall be entitled to receive reimbursement for out-of-pocket expenses incurred in the performance of their duties within prescribed maximums.

b. Maximums established herein are not flat allowances and only amounts actually expended may be claimed.

c. Employees may incur miscellaneous business related expenses for which reimbursement may be made if appropriate. Receipts will be required in accordance with Section 07, Receipts. Such expenses and reimbursement, if identified as business related, may include, but are not limited to:

(1) Baggage handling and gratuities when using public transportation or conveniences (e.g., taxi, limousine, air porter services, or airport/rail curbside check-in), or when using a lodging facility that has porter age (e.g., "bell person") services, rather than a facility where travelers are expected to carry their own luggage. The gratuity for baggage handling is limited to \$1.50 per piece. Gratuities for baggage storage, as needed (e.g., between appointments or between hotels and meeting places) will be reimbursed at actual cost.

(2) Commissions for currency conversion to foreign or U.S. dollars; traveler's checks.

(3) Services of guides, interpreters, packers, drivers of vehicles; fees for the issuance of passports, visa fees, inoculations, and affidavits.

(4) Extraordinary miscellaneous business related expenses not addressed in this section, when necessarily incurred by an employee in connection with the transaction of official business, shall be allowed when approved by an agency head or designated deputy. Receipts are required.

(5) The following exceptions apply ONLY when employees are traveling in FOREIGN COUNTRIES:

(a) Laundry expenses in accordance with the following schedule provided all claimed expenditures are supported with receipts:

1 FIRST FIVE DAYS. Actual cost for pressing/steaming of garments.

2 DAY SIX through TEN. Actual dry cleaning cost for two suits or dresses. In addition, other actual laundry expenses up to a maximum allowance of \$40.00.

3 DAY ELEVEN through FIFTEEN and subsequent FIVE-DAY intervals. An additional \$40.00 maximum allowance for other actual laundry expenses, plus the actual dry cleaning cost for two suits or dresses will apply to each interval for the duration of a trip.

(b) Actual meal expenses, up to the maximum amount published in *Management Directive, 230.14, Foreign Areas Subsistence Allowances*. No deduction from the maximum subsistence allowance will be required for meals that are provided.

d. REIMBURSEMENT FOR ALCOHOLIC BEVERAGES IS STRICTLY PROHIBITED.

e. Employees will not be eligible for reimbursement of meals or lodging when furnished by the Commonwealth without charge or when furnished free by friends, relatives, or any other source. Meals or lodging which are provided free must be noted on the daily purpose of travel section of the Travel Expense Voucher.

f. Employees traveling on official business are expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business. Employees are liable for the payment of any expenditures disallowed by BCPO.

g. Parking fines or moving vehicle violation fines are not reimbursable.

h. Employees in travel status or on special assignment within the Commonwealth must return to headquarters or residence on all weekends including holidays observed on Monday or Friday. No subsistence or lodging will be paid for the weekends or Monday or Friday holidays. If payment of subsistence and lodging can be fully justified as a cost savings in comparison to the costs of returning to home or headquarters, an exception may be requested. Any request for exemption should be submitted to BCPO prior to incurring any expenses.

i. All persons who incur expenses while traveling on official Commonwealth business are to be reimbursed in accordance with this directive. To preclude the possibility of financial benefit, expense reimbursements received from any other source such as the federal government, a private business, an individual, or other third party shall be remitted to BCPO immediately upon receipt. Checks received are not to be cashed, but must be endorsed payable to the order of the Commonwealth of Pennsylvania.

j. Form STD-191, Travel Expense Voucher, will be prepared and submitted to:

- (1) Document any travel expenses incurred (hotel and/or transportation costs).
- (2) Request reimbursement for incurred expenses.

k. Acceptance of honoraria is governed by 4 Pa. Code § 7.157 (*Executive Order 1980-18, Code of Conduct*).

l. Except for those officials specifically exempted, all persons who travel on official business and submit Form STD-191 for reimbursement of expenses must have their expense vouchers countersigned in the space designated "Supervisor Signature and Date." For members of boards, commissions, and committees and persons in similar circumstances, the person countersigning need not be in a supervisory position over the traveler, but may be an administrative employee familiar with the traveler's duties and responsibilities. Travel expense vouchers of members of departmental boards, commissions, and committees will be countersigned by the respective department head or a designated deputy department head.

m. Employees are responsible for ensuring that expenses claimed on Form STD-191 are proper, accurate, and incurred in accordance with this directive. The careless, fraudulent, or negligent preparation of Form STD-191 will require financial restitution and may result in disciplinary action. In addition, a traveler who knowingly presents a false, fictitious, or fraudulent claim against the Commonwealth may be subject to penalties under the following criminal statutes: 18 Pa. C. S. §§ 3922(a), 4104(a), 4114, 4903(a), and 4911. Under § 4911(b), the offense becomes a felony when the traveler had the intent to defraud.

n. Supervisors are responsible for reviewing and approving Forms STD-191 submitted by employees to ensure the necessity, propriety, correctness, and accuracy of travel expenses incurred. Failure to exercise care in the review and approval of travel expenses may result in disciplinary action.

04 DEFINITIONS.

a. **Business Travel.** Travel that is necessary to carry out an employee's assigned job responsibilities.

b. **Commonwealth Employee.** A person who has been hired by an agency subject to *The Administrative Code of 1929* and whose employment has not yet been terminated (71 P. S. §§ 51-732).

c. **Itemized Receipt.** A written acknowledgment from the vendor attesting to the receipt of cash, check, money order, credit card, etc., in exchange for goods or services, with the cost and description of each item or article stated separately.

d. **Nonovernight Travel Status.** Employees are considered to be in nonovernight travel status if they are traveling on approved official business away from both residence and headquarters but are not entitled to claim reimbursement for overnight lodging.

e. **Official Headquarters.** An employee's designated municipality recorded on the Integrated Personnel Payroll System as the official worksite. Only the agency assigned official worksite may be claimed as the official headquarters.

f. **Overnight Travel Status.** Employees are considered to be in overnight status only if they are traveling on approved official business away from both residence and headquarters and they stop to obtain lodging and sleep and not merely to obtain rest or a meal.

g. **Residence.** The mailing address for an employee recorded on the Integrated Personnel Payroll System.

h. **Training-Related Travel.** Travel that is necessary in conjunction with an approved out-service training assignment.

05 AUTHORIZATION TO TRAVEL.

a. **Business Travel.** Business travel need not be specifically authorized in advance unless preauthorization is required pursuant to policies of the Governor's Office, the Office of Administration, or the employing agency. BCPO must be notified, in writing, of any agency policy change. Without written notification, no agency policy change can be enforced.

b. **Training-Related Travel.** Approval for training-related travel resides with agency heads. Refer to the provisions outlined in *Management Directive 535.3, Out-Service Training*.

06 CASH ADVANCEMENTS.

a. Normally, employees are expected to provide themselves with sufficient funds to defray current expenses.

b. Cash advancements may be made from advancement accounts, designated and approved for this purpose, to individual employees in active pay status when anticipated expenses arising from a travel assignment are unusually large with respect to the normal travel required by an employee's duties. Approval is requested on Form STD-191A, Request for Accounting for Travel Advance. Advances in excess of \$1,000 may be made only with approval of the agency head or designee and agency comptroller. Generally, advances will not be made for less than \$100.00, nor will they be provided more than five workdays before the date they are needed. Unless justified by circumstances, Form STD-191 accounting for the travel advance and with an entry that an advance was received must be filed within 30 days of the issuance of the advance. A personal check or money order made payable to the Commonwealth of Pennsylvania for amounts advanced in excess of actual expenses must be submitted with the STD-191. Employees are not authorized to have more than two advances outstanding at any time. Advances given for trips that are cancelled must be returned immediately.

07 RECEIPTS.

a. Itemized receipts and an explanation must be submitted with the STD-191 for:

- (1) Every item of expense \$35.00 or more except for subsistence and personal automobile mileage.
- (2) Every expenditure in this directive which specifically requires a receipt.

b. An itemized receipt (defined in Part 04 of this directive) must include the:

- (1) Name and address of the vendor.
- (2) Date of service.
- (3) Description of service.
- (4) Amount paid for each individual item.

c. The Commonwealth's authorized Corporate Card must be used, whenever possible, instead of hotel orders and/or transportation orders. Itemized receipts from hotels or transportation companies must be submitted with the STD-191. Credit card slips and/or statements alone are not acceptable.

Management Directive 230.13, Commonwealth Corporate Card Program, provides detailed information.

d. No item of expense will be approved if a required receipt is missing, unless it was impossible to secure such a receipt and the reason is fully explained. Mere inconvenience is not a satisfactory explanation.

08 SUBMISSION AND AUDIT OF TRAVEL EXPENSE VOUCHERS.

a. Form STD-191, Travel Expense Voucher, that either documents travel expenses incurred or requests reimbursement for travel expenses shall be submitted at least monthly to BCPO (see Enclosure 1).

b. All travel and subsistence expenses are subject to audit by BCPO. The audit will include a review of the propriety of the expenses incurred. As part of normal audit procedures, BCPO is authorized to request additional information for any expenses claimed. If there is a pattern of unusual claims, agency officials or BCPO may require an employee to provide itemized receipts for any such future claims.

09 TRANSPORTATION.

a. General.

(1) All modes of transportation are authorized consistent with and appropriate to the requirements of an assignment and the efficient and economic conduct of official business.

(2) All travel shall be by the most direct and expeditious route considering both travel time and distance.

(3) Charges for first class accommodations on an airline or railroad will not be reimbursed without prior approval of the Secretary of the Budget or Deputy Secretary for Comptroller Operations.

b. Form STD-193, Transportation Orders.

(1) Employees having the Commonwealth Corporate Card must use the card to procure airline, train, and car rentals from vendors who accept the Corporate Card. When use of the Corporate Card is not feasible, Transportation Orders may be issued to travelers, provided the transportation facility will accept them (see Enclosure 2). If transportation has been arranged through a travel agency, the STD-193 should be made out to the agency with a notation indicating the carrier (Example: Smith Travel Agency, U.S. Air).

(2) With BCPO concurrence, Transportation Orders may be issued to a person who is not a Commonwealth employee or who renders a service to the Commonwealth. This does not include persons who are being reimbursed for their services under contract with the Commonwealth.

(3) Agencies are responsible for issuing and controlling Transportation Orders.

(4) Transportation Orders are for use by one individual only and are not to be used for personal travel.

(5) If requested by a transportation representative, employees will identify themselves using some form of official identification.

(6) Transportation Orders must be prepared in ink and are not to be altered in any way. All copies must be legible and complete in all respects.

(7) If a Transportation Order is ruined and cannot be used, it must be marked void and returned to the issuing office.

(8) Under no circumstance is an official or employee to accept reimbursement for any unused ticket or portion thereof which was obtained by a Transportation Order. Questions regarding unused tickets should be referred to the BCPO Travel Audit Section.

(9) The loss or theft of any Transportation Order must be reported promptly to the issuing office and the comptroller.

c. Personal Automobile.

(1) When travel is by a personal automobile, as defined in *4 Pa. Code § 39.94*, for the purpose of conducting official Commonwealth business, the Commonwealth mileage reimbursement allowance will be equivalent to the mileage reimbursement rate established by the General Services Administration (GSA) of the Federal Government. Effective September 1, 2005 through December 31, 2005, the mileage reimbursement allowance for personal automobiles shall be 48.5 cents per mile. Effective January 1, 2006, the mileage reimbursement allowance for personal automobiles shall be 44.5 cents per mile. When the GSA mileage reimbursement rate is increased or decreased, the Commonwealth mileage reimbursement allowance will be increased or decreased on the same day as the GSA effective date. Employees eligible to claim retroactive reimbursement as a result of a mileage reimbursement allowance increase must document their claim by either:

(a) Filing a supplemental STD-191 for the difference between the old and new mileage reimbursement allowance, or by

(b) Including any retroactive claim for the difference between the old and new mileage reimbursement allowance on their next STD-191.

Note: A copy of the employee's original STD-191 for the corresponding time period must be provided with the employee's supplemental claim.

(2) Two or more employees traveling to the same destination on official business may be required by their supervisor to travel in the same vehicle.

(3) **Scheduled Days Off and Holidays.** On holidays or scheduled days off, employees may be reimbursed for mileage and other commuting costs from their residence to a point of public transportation or designated worksite, other than their official headquarters.

(4) **Scheduled Workdays.** Mileage traveled by employees between their residence and their official headquarters on scheduled workdays is considered commuting mileage. Commuting mileage and other commuting costs are not reimbursable. Employees who are required to travel from their residence to a temporary worksite, other than official headquarters, will be reimbursed either from their residence to the temporary worksite, or their official headquarters to the temporary worksite, whichever is the shortest mileage distance.

Example 1: An employee's residence is six miles from official headquarters and 20 miles from the temporary worksite. The distance from the official headquarters to the temporary worksite is 14 miles. Thus, the six miles traveled between the residence and official headquarters is considered personal commuting and should not be reimbursed.

(a) **Situation 1.** An employee travels 14 miles from their official headquarters to the temporary worksite. Upon return from the temporary worksite at the end of the scheduled workday, the employee goes directly to their residence without stopping at their official headquarters. The total reimbursable official business mileage round trip is 28 (14 + 14) miles.

(b) **Situation 2.** An employee who leaves from their residence and reports directly to the temporary worksite (20 miles) and later returns to the residence (20 miles) without being required to stop at official headquarters, would be entitled to 28 (14 + 14) reimbursable miles.

Example 2: An employee's official headquarters is 15 miles from the residence and 27 miles from the temporary worksite. The distance from the residence to the temporary worksite is 12 miles. Thus, the 15 miles traveled between the residence and official headquarters is considered personal commuting and should not be reimbursed.

(a) **Situation 1.** An employee leaves their residence and travels 12 miles to a temporary worksite. At the end of the workday, the employee returns to their residence. Since the shortest distance is the residence to the temporary worksite, the total reimbursable official business mileage round trip is 24 (12 + 12) miles.

(b) **Situation 2.** After reporting to official headquarters at the beginning of the workday, an employee is required to travel 27 miles from their official headquarters to the temporary worksite. At the end of the workday, the employee does not return to official headquarters, but goes directly to the residence. Since the shortest distance at the end of the workday is the residence to the temporary worksite, the total reimbursable official business mileage round trip is 39 (27 + 12) miles.

(c) **Situation 3.** After reporting to official headquarters at the beginning of the workday, an employee is required to travel 27 miles from the official headquarters to the temporary worksite. In the afternoon, the employee returns 27 miles to official headquarters from the temporary worksite. At the end of the workday, the employee returns to the residence. The total reimbursable official business mileage round trip is 54 (27 + 27) miles.

Example 3: An employee's residence is 13 miles from the official headquarters and 20 miles from the temporary worksite. The distance from the official headquarters to the temporary worksite is 30 miles. Thus, the 13 miles traveled between the residence and official headquarters is considered personal commuting and should not be reimbursed.

(a) **Situation 1.** After reporting to official headquarters at the beginning of the workday, an employee is required to travel 30 miles to the temporary worksite. In the afternoon, the employee is required to return 30 miles to official headquarters from the temporary worksite. At the end of the scheduled workday, the employee returns 13 miles to the residence. The total reimbursable official Commonwealth business mileage for the day is 60 (30 + 30) miles.

(b) **Situation 2.** After reporting to official headquarters at the beginning of the workday, an employee is required to travel 30 miles from the official headquarters to the temporary worksite. At the end of the workday, the employee returns 20 miles to the residence. The total reimbursable official business mileage round trip is 50 (30 + 20) miles.

(5) Mileage "From and to" headquarters (workday) or residence (holiday or scheduled day off) to the point of public transportation may be claimed for the beginning and end of the trip if justification is provided to show that the additional mileage cost for two round trips is less than parking costs of the employee's personal automobile.

d. Car Rentals.

(1) Use of rental cars or other special conveyances will be allowed only when a Commonwealth-owned vehicle, private vehicle, or public means of transportation is not available. All such expenditures must be justified. Itemized receipts are required for rental cars, for gas and/or for emergency repairs.

(2) Rental cars selection is limited to compact or intermediate unless a larger car can be justified.

(3) Collision Damage Waiver insurance will be reimbursed. Liability insurance supplemental, personal accident insurance, safe trip insurance, and personal effects coverage **ARE NOT** reimbursable.

e. Railroad Travel.

(1) Employees will be responsible to obtain their own tickets except in the Harrisburg area. Purchases should be made with a Transportation Order or credit card if the railroad company will accept them; otherwise, the employee must purchase the ticket. The ticket stub will serve as a receipt.

(2) The Commonwealth's authorized travel agent will secure railroad tickets for employees in the Harrisburg area. Employees will be responsible to provide the Transportation Order or credit card number to the travel agent at the time of ticket delivery.

f. Bus Travel.

Employees will be responsible to obtain their own tickets. Purchases should be made with a Transportation Order or credit card if the bus company will accept them; otherwise, the employee must purchase the ticket. The ticket stub will serve as a receipt.

g. Air Travel.

(1) Employees in the Harrisburg area are required to obtain domestic and international airline reservations and, as needed, hotel accommodations and travel reservations needed in conjunction with air travel through the Commonwealth's authorized travel agent. An explanation must be included on the travel expense voucher whenever the Commonwealth's authorized travel agent is not used to obtain airline reservations. The Commonwealth's authorized travel agent will select the commercial airline offering the lowest airline fare available on the day the reservation is made which suits the employee's planned itinerary. Reservations and ticket billings must be in accordance with *Management Directive 230.9, Air Travel Acquisition and Billing for Airline Tickets*.

(2) The use of special lower fare airline tickets, such as supersavers, 30-day advance bookings, and senior citizen discounts, etc., is recommended when an agency determines that this type of ticket is practical and there is significant cost savings to the Commonwealth. Justification for the acquisition of special lower fare airline tickets must be submitted by employees, in writing, and approved by their agency prior to arranging for the ticket purchase. Round trip tickets for special lower fare airline tickets that are restricted or have specific eligibility requirements should be secured only when it is relatively certain the ticket will be used.

Employees acquiring special lower fare airline tickets without agency authorization will be responsible for any cancellation fees. Cancellation fees resulting from the Commonwealth's decision to cancel a trip will be paid by the Commonwealth Agencies must consider, at a minimum, the following factors when approving the acquisition of special lower fare airline tickets:

- (a) Additional lodging, subsistence, and transportation costs.
- (b) Salary/benefit costs associated with missed work hours.
- (c) Miscellaneous expenses, as applicable.

(3) Operating costs of Commonwealth-owned, leased, chartered, rented aircraft shall be charged to the agency using such aircraft.

(4) The Secretary of Transportation and his designated representatives are hereby authorized to obtain, other than by purchase, charter or rental aircraft for use by Commonwealth agencies on official business. Agency requests for aircraft should be directed to the Flight Services Division, Bureau of Aviation, Department of Transportation, Capital City Airport. Such aircraft may be piloted by licensed professional pilots of the Department of Transportation, by Commonwealth employees whose job requires them to fly in the performance of their assigned duties, or by licensed employees of the charter or rental company. The Secretary of Transportation will be responsible for:

(a) Verifying that the Department of Transportation could not provide adequate aircraft.

(b) Determining the type of aircraft, the number and qualifications of pilots to be used, the carrier, and a fair and reasonable rental.

(c) Ensuring that the aircraft obtained for use on official business has the necessary insurance, as determined by the Department of General Services, to properly cover the Commonwealth and its employees.

(d) Certifying the validity of invoices for rental services to the appropriate agency comptrollers.

(5) Licensed Commonwealth employees may use their privately owned aircraft upon approval by the Secretary of Transportation or his designated representative. Requests for approval should be directed to the Flight Services Division, Bureau of Aviation, Department of Transportation, Capital City Airport. Reimbursement of expenses for the use of an employee's privately owned aircraft for personal convenience on official business will be allowed only to the extent that the costs incurred do not exceed the estimated cost of the most regularly used mode of transportation between locations, that is, rate of personal car mileage reimbursement or cost of commercial air fare, considering an employee's itinerary.

h. Local Transportation.

(1) Use of taxicabs is allowed only when justified by the travel assignment. The use of a taxicab in lieu of an airport limousine is allowed only when airport limousine service is not available or when the taxicab is less expensive than the limousine.

(2) Cash paid for local bus, streetcar, and subway fares, and the like, is reimbursable and no receipts will be required, unless the amount is \$35.00 or more.

(3) Parking charges, either lot or meter, in reasonable amounts, as well as toll road, toll bridges, and ferry charges, are reimbursable to employees operating Commonwealth, personal, or authorized rental automobiles on local assignments. Reasonable charges for parking an automobile at an airline, bus or railroad terminal, or other parking area while away from residence or headquarters on official business will be allowed.

10 LODGING.

a. General.

(1) Normally, expenses for lodging will not be allowed at the place of an employee's official headquarters or residence nor at sites located within 50 miles of the employee's official headquarters or residence. Agencies are authorized, when provided with adequate written justification, to approve exceptions when employees require lodging within 50 miles of their official headquarters, or residence. Written justification must include details concerning itinerary, weather, time constraints, or other valid reasons to support the agency's decision. To ensure timely reimbursement of submitted Travel Expense Vouchers (TEV), a copy of the written justification signed by an agency head or designated deputy MUST be attached to the employee's TEV.

Note: Approval authority may not be delegated below the deputy level. In this instance, no other publication is applicable.

(2) Government rates must be requested by all travelers and confirmed at the time reservations are made and at time of check-in.

(3) Hotel charges will not be reimbursed if the employee is negligent in canceling reservations in accordance with the hotel's policy.

(4) Claims for lodging that include meals will be allowed when contracted for at the minimum rate, and when incurred by employees residing at a host establishment while attending a conference or convention on official business. Hotel orders or credit cards may be used to obtain accommodations under the hotel meal plan; however, the meals provided cannot be claimed for subsistence.

(5) With BCPO concurrence, hotel orders may be issued to persons who are not Commonwealth employees, who render a service to the Commonwealth. This does not include persons who are being reimbursed for their services under contract with the Commonwealth.

(6) The Commonwealth's authorized travel agent will arrange reservations at the government rate or special conference rate, whichever is lower. Employees will be responsible for providing the corporate card or hotel order to the hotel at the time of check-in.

Note: *Management Directive 230.13, Commonwealth Corporate Card Program*, contains a copy of the Pennsylvania Exemption Certificate to be used with the corporate card to exempt employees traveling on official business from local occupancy taxes.

b. Form STD-192, Hotel Orders.

(1) Form STD-192, Hotel Orders, may be used for hotel rentals when the corporate card is not accepted, provided the hotel will accept them (see Enclosure 3). When Hotel Orders are not used, itemized receipts must be submitted.

(2) Hotel Orders are issued and controlled by agencies.

(3) Hotel Orders are for use by one individual only and are not to be used for personal travel.

(4) If requested by a hotel representative, employees will identify themselves using some form of official identification.

(5) Hotel Orders must be prepared in ink and are not to be altered in any way. All copies must be legible and complete in all respects.

(6) If a Hotel Order is ruined and cannot be used, it must be marked void and returned to the issuing office.

(7) The loss or theft of any hotel order must be reported promptly to the issuing office and the comptroller.

c. Lodging Rate Allowances.

(1) The per night lodging rate allowances listed below are to be used by employees authorized to incur overnight lodging expenses:

City Location	County	Allowance
Allentown	Lehigh	\$75 plus tax
Beaver Falls	Beaver	\$75 plus tax
Chester/Radnor	Delaware	\$100 plus tax
Gettysburg	Adams	\$75 plus tax
Harrisburg	Dauphin	\$65 plus tax
King of Prussia/Fort Washington	Montgomery	\$100 plus tax
Lancaster	Lancaster	\$75 plus tax
Mechanicsburg	Cumberland	\$75 plus tax
Mercer	Mercer	\$75 plus tax
Philadelphia	Philadelphia	\$100 plus tax
Pittsburgh	Allegheny	\$100 plus tax
Reading	Berks	\$75 plus tax
Scranton	Lackawanna	\$75 plus tax
Warminster	Bucks	\$75 plus tax
Valley Forge/Malvern	Chester	\$100 plus tax
All Other Locations	PA/U.S.	\$50 plus tax

Note: The above lodging rate allowances are not flat allowances. Employees will only be reimbursed for actual expenses incurred. Copies of the employee's hotel receipt, hotel order, charge card receipt, etc., are to be attached to the STD-191 form when requesting reimbursement. Employees obtaining lodging within the above allowances will not be required to provide written justification on their STD-191 form for the selection of the lodging facility.

(2) In those instances when lodging cannot be secured within the established lodging rate allowance, employees may exceed the allowance if written justification is provided on the STD-191 form. Employees are required to provide, on the STD-191 form, the reason for selecting the lodging facility (e.g., closest lodging facility to worksite - next hotel 25 miles away; no rooms available at hotel with lowest rate; lodging facility booked by Commonwealth Travel Center; inclement weather; lateness of the hour; etc.). Although employees are not required to list lodging establishments contacted, they are, however, still expected to secure lodging at the available facility offering the best lodging rate within the immediate area of the travel assignment.

(3) Lodging rate allowances may be exceeded when an employee must stay at a specific lodging facility where rooms within the allowance are not available and where the employee's presence is required by the nature of the official business (e.g., location of conference, training course, and convention). A written explanation must be provided on the STD-191 form.

(4) Lodging accommodations obtained by Commonwealth employees traveling on official business can be subject to several different taxes. The most frequently encountered taxes are listed below with guidelines for travelers regarding the Commonwealth's obligation to pay:

(a) The Commonwealth is subject to the following tax which must be paid and will be reimbursed:

*Hotel Occupancy Tax (72 P. S. § 7209 et seq.)

A six percent room rental excise tax applicable to every room occupancy.

(b) The Commonwealth is not subject to the following taxes and employees should make every effort to have them eliminated. However, if the tax must be paid, the Commonwealth will reimburse the employee for actual expenses incurred. Comptrollers should delete these taxes from the hotel/motel invoice when a Hotel Order is used.

*Hotel Room Rental Tax (53 P. S. § 16223) *Pennsylvania Convention Center Authority Act*. A local hotel room rental tax imposed by first class cities or first class counties to fund construction of convention centers (Allegheny, Bucks, Delaware, Montgomery, and Philadelphia). The amount of the tax can range from one to six percent.

*Local Sales, Use, and Hotel Occupancy Tax authorized by the *Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (53 P. S. § 12720.501 et seq.) and the Second Class County Code (16 P. S. § 6152-B)*. The one percent tax is imposed in a taxable county on the occupancy of hotel/motel rooms (Philadelphia, Allegheny).

Note: *Management Directive 230.13, Commonwealth Corporate Card Program, Revision No. 1*, contains a copy of the Pennsylvania Exemption Certificate to be used with the Corporate Card to exempt employees traveling on official business from local occupancy taxes.

d. Short-Term Lodging.

Employees who are required to work at a temporary worksite, away from their residence or headquarters, for an extended period of time of 60 days or more, may if approved in advance, enter into a short-term lodging agreement. All requests for such short-term lodging agreements must be submitted through BCPO to the Secretary of the Budget or Deputy Secretary for Comptroller Operations for review and approval. Failure to obtain Office of the Budget approval prior to entering into a short-term lodging agreement (contract or lease) will result in the employee or individual giving authority to enter into such an agreement being liable for any resulting costs.

Detailed justification showing a cost comparison of both the regular travel expenses reimbursement and the alternative short-term lodging costs must be provided. Reimbursement under a short-term lodging agreement is limited to lodging, necessary utilities (extra costs for telephone and cable television are excluded), and mileage or transportation expenses for a biweekly round trip between the temporary worksite and the employee's permanent residence or headquarters. Subsistence expenses will not be allowed under a short-term lodging agreement which includes kitchen facilities. No mileage will be allowed between the short-term lodging and the temporary worksite.

11 SUBSISTENCE.

a. General.

(1) The allowances for subsistence do not require receipts unless specifically stated. However, they are not flat allowances and only amounts actually expended may be claimed.

(2) Employees who reside at a place other than official headquarters will not be eligible for reimbursement of subsistence expenses while at a residence or headquarters, unless specifically provided for in this directive.

(3) Reimbursement for the cost of noonday meals is not permissible for employees not engaged in overnight travel except as specifically provided for in this directive, in collective bargaining agreements or memoranda of understanding.

(4) Nonpaid members of boards, commissions, and councils in nonovernight travel status will be eligible for reimbursement of the actual cost of meals up to the following maximums: breakfast, \$6.00; lunch, \$6.00; dinner, \$16.00.

(5) Increased subsistence allowances are available in out-of-state locations designated as high cost areas by the Bureau of Financial Management, Office of the Budget.

(6) No subsistence will be allowed for employees who have been granted short-term lodging agreements.

b. Overtime.

An employee who works more than two hours past his scheduled quitting time while at headquarters will be reimbursed for the cost of a meal up to a maximum of \$8.00 only if the employee has not been given notice of the overtime requirement at least two hours before commencement of the regular shift. An employee must state their normal work hours on the STD-191 and certify that the required notice had not been given.

c. Nonovernight Travel Status.

(1) An employee in a nonovernight travel assignment that takes the employee 50 miles or more from both residence and headquarters who works more than two hours past scheduled quitting time with or without prior notice will be reimbursed for the cost of a meal up to a maximum of \$8.00. The employee must state his normal work hours on the STD-191.

(2) An employee in a nonovernight travel assignment that is less than 50 miles from residence and headquarters who works more than two hours past scheduled quitting time and was not given notice at least two hours prior to the commencement of the regular shift will be reimbursed for a meal up to a maximum of \$8.00. An employee must state his normal work hours on the STD-191 and certify that the required notice had not been given.

(3) An allowance of \$7.00 is granted for half or more of each six-hour period spent in a required nonovernight travel assignment on a day not part of an employee's regular work schedule, that is, a holiday or scheduled day off. The six-hour period need not have been immediately preceded by and in connection with a 24-hour travel period. Such allowances can not exceed the full-day rate of \$28.00. Reimbursement is calculated as follows:

0 to less than 3 hours	\$ 0.00
3 to less than 9 hours	\$ 7.00
9 to less than 15 hours	\$14.00
15 to less than 21 hours	\$21.00
21 to 24 hours	\$28.00

d. Overnight Travel Status.

(1) While in overnight travel status, reimbursement for meals and other subsistence expenses is allowed to a maximum of \$28.00, which includes tips and sales tax, for each 24-hour period spent in a continuous overnight travel status. The 24-hour period begins at any time of day or night that the employee leaves headquarters or residence to embark upon overnight travel on official business. This allowance covers all meals and subsistence expenses not specifically provided for elsewhere.

Note: Refer to *Management Directive 230.15, Continental United States High Cost Subsistence Allowances*, or *Management Directive 230.14, Foreign Areas Subsistence Allowances*, when traveling on official Commonwealth business in high cost areas. These publications provide for subsistence allowances that exceed the dollar amount stated above and applied in this publication.

(2) Overnight travel not part of a full 24-hour period will be divided into six-hour periods. The six-hour periods need not have been immediately preceded by and in connection with a 24-hour travel period. An employee on overnight travel status under these conditions shall be eligible for an allowance of \$7.00 for half or more of each six-hour period. Reimbursement is calculated as follows:

0 to less than 3 hours	\$ 0.00
3 to less than 9 hours	\$ 7.00
9 to less than 15 hours	\$14.00
15 to less than 21 hours	\$21.00
21 to 24 hours	\$28.00

(a) **Example 1.** An employee leaves headquarters on Monday at 8:00 a.m. and returns on Tuesday at 2:00 p.m. The employee is entitled to a \$28.00 subsistence allowance for the 24-hour period from 8:00 a.m. Monday until 8:00 a.m. Tuesday. The employee is also entitled to an additional \$7.00 allowance for a six-hour time period from 8:00 a.m. Tuesday to 2:00 p.m. Tuesday. The total subsistence for the entire period will then be \$35.00.

(b) **Example 2.** An employee leaves headquarters at 8:00 a.m. on Monday and returns at 5:00 p.m. on Tuesday. The employee is entitled to a \$28.00 subsistence allowance for the time period from 8:00 a.m. Monday to 8:00 a.m. Tuesday. The employee is entitled to an additional \$14.00 for the nine-hour time period between 8:00 a.m. Tuesday and 5:00 p.m. Tuesday. The total allowance for the entire time period would then be \$42.00.

(c) **Example 3.** An employee leaves headquarters at 10:00 p.m. Monday and returns at 11:00 a.m. Tuesday. The employee is entitled to \$14.00 for the 13-hour time period.

(3) The subsistence allowance of employees in overnight travel status attending luncheon meetings, dinner meetings, seminars, or conventions at which meals are provided shall have their total subsistence allowance reduced by the following amounts for meals provided at such meetings: breakfast, \$6.00; lunch, \$6.00; dinner, \$16.00.

(4) Subsistence will not be reimbursed if the employee is registered in a hotel which provides all meals which are included in lodging costs.

e. Luncheon or Dinner Meetings.

(1) Luncheon or dinner meetings sponsored by the Commonwealth will be paid under contract; therefore, no claims for such expenses may be presented on Travel Expense Vouchers.

(2) Employees on official business attending luncheon or dinner meetings not sponsored by the Commonwealth are entitled to receive reimbursement for actual costs incurred. This applies whether the engagement is held at residence or official headquarters. Luncheon or dinner meetings must meet the following criteria:

(a) The luncheon or dinner meeting must be planned in advance, must include persons who are not employed by the Commonwealth, and must be approved by an agency head or designated deputy agency head.

(b) The meal must be an integral part of the meeting.

(c) The meal must be served at the same establishment that hosts the meeting.

(d) The purpose of the meeting must be to discuss business and the nature of the business must be stated on the STD-191.

(3) Employees in overnight travel status while attending a luncheon or dinner meeting, seminar, or convention, at which meals are provided, shall have their total subsistence claims reduced by the following amounts for meals provided at such meetings: breakfast, \$6.00; lunch, \$6.00; dinner, \$16.00.

Example: An employee leaves headquarters on Monday at 7:00 p.m. to attend a meeting on Tuesday at which lunch is provided. The employee returns home Tuesday at 10:00 p.m. and is entitled to a \$28.00 subsistence allowance for the 24-hour period from 7:00 p.m. Monday until 7:00 p.m. Tuesday, and \$7.00 for the three hours from 7:00 p.m. to 10:00 p.m., for a total of \$35.00. The \$35.00 must be reduced by \$6.00 for the lunch that was provided. The total subsistence allowed, therefore, is \$29.00.

(4) Employees and members of boards, commissions, and councils who are required to attend a non-Commonwealth sponsored luncheon or dinner meeting will have actual costs reimbursed. A receipt is required.

f. Reimbursement of Expenses Incurred on Behalf of Others.

(1) Agency heads are authorized to incur reasonable expenses on behalf of others who are not Commonwealth employees in the course of their official duties. Agency heads are further authorized to approve reasonable expenses incurred by their deputies on behalf of others in the course of their official duties.

(2) Agency heads are authorized to incur reasonable subsistence expenses, and to approve reasonable expenses incurred by their deputies, on behalf of other Commonwealth employees when the expenses are incurred as part of a business meeting under the following circumstances:

(a) The purpose of the meeting is to discuss official business.

(b) The meeting includes either persons who are not employed by the Commonwealth or employees of other Commonwealth agencies whose attendance is relative to the official business being conducted.

(c) The meal is an integral part of the meeting.

(3) Other classes of employees covered by this section, such as employees required to transfer patients or prisoners, are at times required to spend money in the course of their official duties to satisfy expenses incurred on behalf of others. Agency heads are responsible for submitting to their agency comptroller a list of employees eligible to incur expenses on behalf of others under this section.

(4) Complete justification for incurring expenses must be included on Travel Expense Vouchers. Justification should include but not be limited to:

(a) A list of names, positions, and agencies of the individuals for whom the expenses were incurred.

(b) An explanation of the nature and circumstances requiring the incurring of expenses on behalf of others.

(c) Itemized receipts for the expenses incurred.

(5) Agency heads may request approval for additional agency personnel to incur expenses on behalf of others by submitting to the agency comptroller a request containing full justification for the exception.

12 OTHER EXPENSES.

a. Out-Service Training.

Registration fees for formal courses of study, workshops, conferences, and seminars are reimbursable in accordance with *Management Directive 535.3, Out-Service Training (OST)*. All requests for OST reimbursement must be submitted, in writing, to the appropriate agency approving authority and approved prior to the effective date of the training.

OST costs of \$3,000 (excluding travel expenses) or less should be paid as direct expenditures using the Commonwealth Purchasing Card. (Reference *Management Directive 310.23, Commonwealth Purchasing Card Program*.) When an agency does not have a Commonwealth Purchasing Card, OST costs up to \$1,500 should be paid through the agency advancement account or by submission of the invoice to the agency comptroller. OST requests exceeding \$3,000 (excluding travel expenses) should be submitted on Form STD-279, Out-Service Training Authorization. Total travel costs related to OST will be reimbursed to the employee on Form STD-191, and when an STD-279 is required as indicated above, it must be attached to the STD-191 submitted to BCPO.

b. Training Travel.

Agency written approval, in accordance with *Management Directive 535.3*, is required for employees traveling to a training site. A copy of the agency approval for out-service training travel must be attached to the STD-191 when submitted to BCPO. Employees on leave of absence without pay after their educational leave with pay for out-service training purposes is completed are not eligible for reimbursement of travel or subsistence expenses when not in active pay status.

Employees who do not regularly report to headquarters, but who receive written authorization to do so for a training session, are eligible to receive transportation and necessary expenses incurred. A copy of the authorization must be attached to the STD-191 when submitted to BCPO.

c. Travel Status.

Generally, employees should not be in a travel status more than 60 consecutive days in any 90 consecutive day period at a given site, except as outlined herein. BCPO shall review travel vouchers and recommend changes in headquarters to agency heads in instances where it appears that a change of headquarters is appropriate.

If, after receiving BCPO's recommendation, the agency allows the employee to remain in travel status, the agency head will provide BCPO with justification detailing the advantages of such action. The justification will be supported by a plan for a periodic review of the transaction.

d. Transfer Travel.

Employees eligible to receive moving expenses, in accordance with *Management Directive 625.3, Moving Employee Household Goods and Commonwealth Property* may be granted up to 30 days in travel status at their new location to provide employees with adequate time to locate new living quarters and to move to the new location.

Agency heads may authorize, in writing, an extension to a maximum of 60 days, if required by unusual local conditions. The 30-day allowance, plus the extension, is to be used within the 90 consecutive day period that begins when the employee is notified of the requirement to move to the new location. A copy of the signed approval must be attached to the STD-191 when submitted to BCPO.

The following restrictions apply:

(1) The initial travel allowance plus any approved extension is not a flat allowance. Only the days actually needed to complete an eligible relocation may be approved.

(2) Employees will not be reimbursed for local personal mileage.

(3) Employees returning to headquarters or residence on scheduled days off or holidays will not be entitled to subsistence or lodging for those periods.

This directive replaces, in its entirety, *Management Directive 230.10*, dated November 1, 2000 and all Revisions.

PREPARATION AND SUBMISSION OF TRAVEL EXPENSE VOUCHER

1. Form STD-191, Travel Expense Voucher (TEV) is available as a four-part snap set. The original and two copies of both the TEV and all TEV attachments must be submitted at least monthly to the Bureau of Commonwealth Payroll Operations (BCPO). REMOVE ALL CARBONS BEFORE SUBMITTING TO BCPO.

2. IT IS NOT NECESSARY TO HAVE THE STD-191 TYPED. COMPLETION BY HAND IS ENCOURAGED TO EXPEDITE PROCESSING AND PAYMENT. Data required should be printed legibly in ink and signed by the traveler and supervisor and the agency, if required.

3. Form STD-191 should be completed by the traveler according to the instructions shown below. Circled letters on the form correspond to the instructions.

Detach work copy and remove from set. Complete work copy, then transfer information onto snapset. (Read directions on set regarding carbons.)

- A. Enter name, social security number, agency, and complete residence address.
- B. Enter bargaining unit code and class title.
- C. Enter dates for the period.
- D. Enter office telephone number including area code.
- E. Enter beginning and ending time of regular lunch period and regular work hours.
- F. Enter an X in the applicable block for Was Commonwealth Corporate Card Used?
- G. Enter complete headquarters address.
- H. Enter account code to which reimbursement will be charged.
- I. Enter itinerary information for each travel assignment as follows:
 - (1) Enter the date, time traveler leaves (lv), and the time traveler returns (ret) to official headquarters or residence when on travel assignment.
 - (2) List locations as "from" and "to" for each travel assignment.
- J. Enter transportation information for each travel assignment as follows:
 - (1) Enter Mileage in state car miles column if a state car was used or in the personal auto miles column if a personal vehicle was used.
 - (2) Enter name of carrier providing transportation and number of the STD-193, if used.
 - (3) Enter the amount you paid if commercial transportation is obtained without the use of an STD-193. Receipt must be attached to the STD-191.

K. Enter lodging information as follows:

(1) Enter name of hotel or motel providing accommodations and the number of the STD-192, if used,

OR

(2) Enter name of hotel or motel and total charges paid. Receipt and folio for charges must be attached to the STD-191.

L. Enter amount you paid for subsistence, up to the maximums allowed, for overnight travel or for meals allowed during other travel or overtime assignments.

M. Enter explanation and amount for miscellaneous expenses incurred; for example, turn-pike, bridge tolls, or parking charges. Attach required receipts.

N. Enter applicable total expenditures for each column in the Column Totals Amount You Paid row. Enter the total personal auto mileage and calculate the mileage allowance using the current mileage rate. Enter in the righthand column the Total Personal Mileage Reimbursement Claimed.

O. Cross check to make sure the total amount you paid (right) agrees with the Column Totals (bottom).

P. Enter the total reimbursement claimed by adding the personal automobile allowance to the grand total calculated above.

Q. Complete the reverse of the STD-191 to indicate the purpose of each travel assignment. Include the dates for each instance of travel, persons or organizations visited, subject of conferences or meetings, reason for each visit, and the address of the place visited. Include explanation if overnight lodging cost exceeded the lodging rate allowance.

Date	Purpose of Travel
9/1/yr.	Traveled to Harrisburg to attend meeting on long-term care.
9/7 - 9/9/yr.	Traveled to Scranton to make a presentation at a 3-day conference on Child Care.
9/13 - 9/14/yr.	Traveled to Pittsburgh to work at State Office of Aging on Elder-Care.
9/20 - 9/21/yr.	Traveled to Harrisburg to work at State Office of Aging on Elder-Care.

NOTE: THIS INFORMATION CAN BE PLACED ON THE FRONT OF THE FORM IF THERE IS ROOM.

If the expense voucher requires more than one sheet and the explanation is brief, use the reverse of the last sheet only; otherwise, begin the explanation on the reverse of the first sheet.

R. Transcribe all information, hand printed, to the original and copies of the STD-191. Sign and date all copies. Read directions on the STD-191 regarding carbons and order of completion.

S. Obtain supervisor's signature.

- T. Remove all carbons.
 - U. Attach copies 3 and 4 of Forms STD-192 or STD-193, as well as any receipts, to the original and second copy of the STD-191.
 - V. Forward copies 1, 2, and 3, of the STD-191, with attachments, to BCPO.
 - W. Retain the work copy until payment is received.
4. Attachments to Form STD-191.
- (1) Transportation Orders – traveler's copies 3 and 4.
 - (2) Hotel Orders – traveler's copies 3 and 4.
 - (3) Receipts, as required.
 - (4) Copies of telegrams.
 - (5) Form STD-279, if required.
 - (6) Authorization for aircraft rental (Department of Transportation), if required.
 - (7) Others, as needed.

TRAVEL EXPENSE VOUCHER

TRAVELER'S NAME (PRINT CLEARLY) **JAYNE JONES** **FOR THE PERIOD** **9/1/78 TO 9/27/78** **FORM NO.** **954509**
 TRAVELER'S SOCIAL SECURITY NO. **000-00-0000** **OFFICE PHONE NO.** **(717) 783-0000** **WAS COMMONWEALTH COMPENSATE CARD USED?** YES NO
 AGENCY **DEPT OF HEALTH** **REGULAR WORK HOURS** **8:30 - 5:00 PM**

HEADQUARTERS **PHILADELPHIA** **ORIG** **335** **AMOUNT** **612.90**
RESIDENCE STREET ADDRESS **Room 102 S OFF BLDG**
CITY AND STATE **PHILADELPHIA PA 19102-1008**

DATE	ITINERARY		LIST LOCATIONS	STATE OR FEDERAL INDELS	FEDS. OR AUTO INDELS	TRANSPORTATION NAME OF CARRIER & T.O. NUMBER	AMOUNT YOU PAID	LODGING NAME OF HOTEL & R.O. NUMBER	AMOUNT YOU PAID	PERSISTENCE AMOUNT YOU PAID	EXPLANATION	MISCELLANEOUS EXPENSE	TOTAL AMOUNT YOU PAID
	TIME	THRU											
9/1/78	9:00 AM	4:30 PM	PHILA TO HBG + RETURN		214	AMTRAK TO 713559		CORY INN NO 6 28609 (CONIFERHILL HOTEL)	28.00		PARKING		5.50
9/7/78	8:00 AM		FROM: PHILA TO: SCRANTON						22.50		COPYING + POSTAGE TO MAIL REPORTS		5.00
9/8/78			IN SCRANTON						13.75		CAB TO TRAIN		18.75
9/9/78	6:00 PM		FROM: SCRANTON TO: PHILA			AA	250.00	XYZ HOTEL	85.00	26.00			361.00
9/13/78	8:30 AM		FROM: PHILA TO: PITTS						6.50				6.50
9/14/78	5:00 PM		FROM: PITTS TO: PHILA						55.00	84.25			79.25
9/20/78	8:00 AM		FROM: PHILA TO: HBG		102			LAZEE MOTEL		14.00			14.00
9/21/78	8:00 PM		FROM: HBG TO: PHILA		102								
AMOUNT YOU PAID							250.00		140.00	140.00			549.66
MILEAGE					204								63.24
COLUMN TOTALS													612.90

PERSONAL MILEAGE REIMBURSEMENT CLAIMED **204** **X-RATE** **.31** **\$ 63.24**
TOTAL REIMBURSEMENT CLAIMED **\$ 612.90**
LESS ADVANCE (ATTACH COPY OF STD-191A) **\$**
NET DUE EMPLOYEE OR (COMM. OF PA) **\$**

I certify that the statements and expenses obtained are correct, reasonable and were incurred in the performance of Commonwealth duties and that I have not and will not accept reimbursement of any of these expenses from any other source. I further certify that if my personal automobile was used for Commonwealth business during the period of travel claimed, insurance coverage was in effect to comply with the Pennsylvania Motor Vehicle Financial Responsibility Law (Act 1984-17).

TRAVELER'S SIGNATURE: *Jayne Jones* DATE: **9/30/78**
 SUPERVISOR SIGNATURE: *Jayne Jones* DATE: **10/1/78**
 AGENCY SIGNATURE (IF REQUIRED): _____ DATE: _____

*UP TO ALLOWABLE EXHIBIT (THIS IS NOT AN AUTOMATIC ALLOWANCE, DO NOT CLAIM MORE THAN YOU SPENT)

PREPARATION OF TRANSPORTATION ORDER

Form STD-193 should be completed by the traveler according to the instructions shown below. Circled letters on the form correspond to the instructions.

- A. Enter the name of the company providing the transportation for the traveler. Official abbreviations are acceptable. Example: AMTRAK, AA.
- B. Enter depart from, arrive at, and return to information with applicable dates.
- C. Enter traveler's name, comptroller office and agency name/number, and address of agency comptroller.
- D. Ticket agent should insert the type of ticket, type of transportation, the transportation company's Federal Identification Number, the ticket number, and total charge.
- E. Issuing officer should insert traveler's current account code and sign the order.
- F. Traveler signs the order to certify receipt of transportation and includes telephone number.
- G. Traveler retains copies 3 and 4 to attach to the Travel Expense Voucher (Form STD-191).

COMMONWEALTH OF PENNSYLVANIA STD-193 REV. 5/88		TRANSPORTATION ORDER						No. 723559																		
(A) AMTRAK <small>TRANSPORTATION COMPANY NAME</small>	DEPART FROM	PHILA				DATE	9/7/78 (B)																			
<small>IS AUTHORIZED TO FURNISH TRANSPORTATION FOR THE BELOW NAMED TRAVELER ONLY.</small> (C) JAYNE JONES <small>NAME OF TRAVELER (PLEASE PRINT)</small>	ARRIVE AT	SCRANTON				DATE	9/7/78 (B)																			
<small>NAME OF TRAVELER (PLEASE PRINT)</small> (C) PHHS-DEPT OF HEALTH 007 <small>COMPTROLLER OFFICE AND AGENCY NAME/NUMBER</small>	RETURN TO	PHILA				DATE	9/9/78 (B)																			
<small>COMPTROLLER ADDRESS</small> (C) RM 602, H + W BLDG HARRISBURG, PA. 17120	<table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <thead> <tr> <th colspan="2">TICKET</th> <th colspan="4">TYPE OF TRANSPORTATION (1/)</th> </tr> <tr> <th>ONE WAY</th> <th>ROUND TRIP</th> <th>TRAIN FIRST CLASS</th> <th>TRAIN COACH CLASS</th> <th>PLANE FIRST CLASS</th> <th>PLANE COACH CLASS</th> <th>CAR RENTAL</th> <th>BUS</th> </tr> </thead> <tbody> <tr> <td></td> <td style="text-align: center;">X</td> <td></td> <td style="text-align: center;">X</td> <td></td> <td></td> <td></td> <td style="text-align: center;">(D)</td> </tr> </tbody> </table>		TICKET		TYPE OF TRANSPORTATION (1/)				ONE WAY	ROUND TRIP	TRAIN FIRST CLASS	TRAIN COACH CLASS	PLANE FIRST CLASS	PLANE COACH CLASS	CAR RENTAL	BUS		X		X				(D)	TRANSPORTATION CO. FEDERAL ID NUMBER _____	
TICKET		TYPE OF TRANSPORTATION (1/)																								
ONE WAY	ROUND TRIP	TRAIN FIRST CLASS	TRAIN COACH CLASS	PLANE FIRST CLASS	PLANE COACH CLASS	CAR RENTAL	BUS																			
	X		X				(D)																			
SUPER SAVER _____		TICKET NO.		TOTAL CHARGE		\$																				
(E) ACCOUNT CODE <small>See instructions on reverse side.</small>	FUND	DEPT	APP	YEAR	LDG	ORG	COST FUNCTION	OBJ																		
<small>NOT VALID UNLESS SIGNED BY ISSUING OFFICER</small> (E) <i>Jayne Jones</i> <small>ISSUING OFFICER'S SIGNATURE</small>		<small>I CERTIFY THAT THE ABOVE TRANSPORTATION HAS BEEN FURNISHED.</small> (E) <i>Jayne Jones 787-1513</i> <small>TRAVELER'S SIGNATURE AND TELEPHONE NUMBER</small>																								
PENALTY FOR FRAUDULENT USE—\$1,000 FINE AND IMPRISONMENT 1. TRANSPORTATION COMPANY—ATTACH TO INVOICE																										

PREPARATION OF HOTEL ORDER

Form STD-192 should be completed by the traveler according to the instructions shown below. Circled letters on the form correspond to the instructions.

- A. Enter the name of the hotel providing the accommodations including the city and state.
- B. Enter the current date and the dates for which the actual accommodations were provided.
- C. Enter traveler's name, comptroller office and agency name/number, and address of agency's comptroller.
- D. Hotel management should enter daily room rate including taxes, total nights, total charges (room and tax only), and the hotel Federal Identification Number. NO MISCELLANEOUS CHARGES ARE ALLOWED.
- E. Issuing officer should insert traveler's current account code and sign the order.
- F. Traveler should review the order before signing. Traveler's signature certifies the accuracy of the information and charges recorded by the hotel. Agency contact telephone number should be included.
- G. Traveler retains copies 3 and 4 to attach to the Travel Expense Voucher (Form STD-191).

COMMONWEALTH OF PENNSYLVANIA STD-192 REV. 3-97		HOTEL ORDER		(TRAVELER & HOTEL MANAGEMENT - SEE REVERSE FOR INSTRUCTIONS) No. 893509																	
<p>(A) <u>PAYLESS</u> <small>(HOTEL NAME)</small></p> <p>IN (CITY, STATE) <u>SCRANTON, PA.</u> IS AUTHORIZED TO FURNISH ACCOMMODATIONS FOR THE BELOW NAMED TRAVELER ONLY</p> <p>NAME OF TRAVELER (PLEASE PRINT) (C) JAYNE JONES <small>COMPTROLLER AND AGENCY NAME/NUMBER</small></p> <p>(G) PHHS - DEPT OF HEALTH 001 <small>COMPTROLLER ADDRESS</small> RM 602, H+W BUILDING HARRISBURG, PA. 17120</p>	<p>DATE <u>9/7/</u> <small>(MONTH/DAY)</small></p> <p>ACCOMMODATIONS: NIGHT OF <u>9/7/</u> <small>(MONTH/DAY)</small></p> <p>TO AND INCLUDING NIGHT OF <u>9/8/</u> <small>(MONTH/DAY)</small></p> <p>NO MISCELLANEOUS CHARGES ALLOWED.</p>	<p>YR (B) <small>(YEAR)</small></p> <p>YR (B) <small>(YEAR)</small></p> <p>YR (B) <small>(YEAR)</small></p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: x-small;">DAILY CHARGE (INCLUDE TAX)</td> <td style="font-size: x-small;">TOTAL NIGHTS</td> <td style="font-size: x-small;">TOTAL CHARGES (ROOM & TAX ONLY)</td> </tr> <tr> <td style="text-align: center;">\$ 47.70</td> <td style="text-align: center;">x 2</td> <td style="text-align: center;">= \$ 95.40</td> </tr> </table>	DAILY CHARGE (INCLUDE TAX)	TOTAL NIGHTS	TOTAL CHARGES (ROOM & TAX ONLY)	\$ 47.70	x 2	= \$ 95.40	<p>HOTEL FEDERAL IDENTIFICATION NUMBER</p>	<p style="writing-mode: vertical-rl; transform: rotate(180deg);">1. HOTEL COPY - ATTACH TO INVOICE</p>										
DAILY CHARGE (INCLUDE TAX)	TOTAL NIGHTS	TOTAL CHARGES (ROOM & TAX ONLY)																			
\$ 47.70	x 2	= \$ 95.40																			
<p>(E) ACCOUNT CODE →</p> <table border="1" style="width: 100%; border-collapse: collapse; font-size: x-small;"> <tr> <th>FUND</th> <th>DEPT</th> <th>APP</th> <th>YR</th> <th>LDG</th> <th>ORG</th> <th>COST FUNCTION</th> <th>OBJ</th> </tr> <tr> <td> </td> </tr> </table>	FUND	DEPT	APP	YR	LDG	ORG	COST FUNCTION	OBJ									I CERTIFY THAT THE ABOVE ACCOMMODATIONS HAVE BEEN FURNISHED.				
FUND	DEPT	APP	YR	LDG	ORG	COST FUNCTION	OBJ														
<p>NOT VALID UNLESS SIGNED BY ISSUING OFFICER</p> <p>(E) <u>Harry Layone</u> <small>ISSUING OFFICER'S SIGNATURE</small></p>		<p>(F) <u>Jayne Jones</u> <small>TRAVELER'S SIGNATURE AND TELEPHONE NUMBER</small></p>			<p>(F) AGENCY CONTACT TELEPHONE NUMBER: <u>787-6543</u></p>																
PENALTY FOR FRAUDULENT USE - \$1000 FINE AND IMPRISONMENT.																					

APPENDIX D

CURRENT CONTRACT W/AMENDMENTS #1, #2, #3

ME 118328

AGREEMENT FOR LOTTERY
ADVERTISING SERVICES

BETWEEN

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
PENNSYLVANIA LOTTERY

AND

MARC USA,
CONTRACTOR

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AGREEMENT FOR LOTTERY SERVICES

THIS AGREEMENT is made as of the 13th day of January, 200³, by and between the COMMONWEALTH OF PENNSYLVANIA, (hereinafter referred to as the "COMMONWEALTH"); acting through the DEPARTMENT OF REVENUE (hereinafter referred to as the "DEPARTMENT"), for the Pennsylvania Lottery and MARC USA, (hereinafter referred to as "AGENCY" or "CONTRACTOR"), a corporation duly organized in good standing under the laws of the COMMONWEALTH, with offices at Suite 500, Four Station Square, Pittsburgh, Pennsylvania, 15219-1119, and having Federal Employer Identification Number [REDACTED]

WHEREAS, the DEPARTMENT has as one of its responsibilities the operation and management of the Pennsylvania Lottery, in accordance with the provisions of Act No. 91 of 1971, P.L. 351, approved August 26, 1971, as amended, sometimes known as the "State Lottery Law," (hereinafter also referred to as the "Act"); and,

WHEREAS, under the provisions of the Act, the DEPARTMENT has the authority and duty to pay costs incurred in the operation and administration of the Pennsylvania Lottery, including costs resulting from any contracts entered into for promotional, advertising or operation services, or for the purchase of lottery materials; and,

WHEREAS, the DEPARTMENT further has the authority to allocate monies from the Lottery Fund to pay the expenses of the operation of the Pennsylvania Lottery; and,

WHEREAS, the DEPARTMENT deems it necessary to engage the services of a qualified advertising agency to perform the full range of advertising services necessitated by the State Lottery Law; and,

WHEREAS, the AGENCY has demonstrated that it is qualified by training and experience to perform the services required in the manner and on the terms and conditions set forth herein; and,

WHEREAS, Officials of the COMMONWEALTH and the DEPARTMENT have determined that the AGENCY is qualified to serve the present needs of the COMMONWEALTH, Department of Revenue, Pennsylvania State Lottery.

II. AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth, and intending to be legally bound, the parties hereto agree as follows:

1. DEFINITIONS

As used in this Agreement, the term:

a. "Agreement" shall mean this Agreement for Lottery Advertising Services dated as of the date first recited above.

b. "Commencement Date" with respect to this Agreement shall mean the date upon which this Agreement is fully executed.

- c. "Lottery" shall mean the Pennsylvania Lottery.
- d. "Director" shall mean the Executive Director of the Pennsylvania Lottery.
- e. "Secretary" shall mean the Secretary of Revenue of the Commonwealth of Pennsylvania.
- f. "Term" with respect to this Agreement shall have the meaning given in Paragraph 3, hereof.
- g. "Subcontractor" with respect to this Agreement shall mean any individual or firm that provides goods or services which do not represent a component of a project or job being developed or managed by the AGENCY.
- h. "Supplier/Vendor" with respect to this Agreement shall mean any individual or firm that provides goods or services which represent a component of a service, project or job developed or managed by the AGENCY.

2. WORK STATEMENT

The AGENCY shall provide full professional advertising services and advice during the term of the Agreement, including but not limited to marketing concepts, designs, layouts, copy, research, liaison, public relations coordination and supervision, media placement, pre-testing of advertising materials, media recommendations, marketing assistance, and execution and supervision of all subcontracted assignments as more fully set forth in the Department's Request for Proposals, attached hereto and made a part hereof as Appendix A and any amendments thereto,

and the AGENCY'S Proposal, attached hereto and made a part hereof as Appendix B.

The AGENCY shall prepare and submit a marketing plan and a marketing research plan or such portion or portions of either plan thereof as required by the DEPARTMENT to the DEPARTMENT annually or at such other times as required by the LOTTERY. The plan shall be prepared in cooperation with the LOTTERY'S marketing division and submitted to the Secretary, the LOTTERY, and its marketing division. The document shall cover a period specified by the DEPARTMENT and shall be submitted at a date specified by the DEPARTMENT.

The AGENCY also shall provide general professional advertising services and advice to the DEPARTMENT at the discretion of the Secretary and under the prices and terms set forth in this Agreement and any amendment(s) hereto.

3. CONTRACT TERM AND EXTENSIONS

This Agreement is for a term commencing on the effective date, and expiring at midnight three (3) years from the commencement date, unless extended as hereinafter provided. It is understood and agreed by the parties that the DEPARTMENT, at its option, may extend the term of this Agreement for ^{two (2)} additional terms of up to one (1) year each. The DEPARTMENT may exercise such option by sending written notice to the AGENCY at least three (3) months prior to the expiration date of the Agreement or by such other date as shall be mutually agreed upon by both parties in writing. Such extension shall be based upon the terms

NS
11-25-02

and conditions agreed to between the DEPARTMENT and the AGENCY pursuant to this Agreement.

As used herein, "term" shall refer to the three year period, plus any extensions, for which this Agreement is in effect.

4. AVAILABILITY FOR CONFERENCES

a. The AGENCY shall provide such employees as may be required by the DEPARTMENT for at least quarterly advertising review meetings.

b. The AGENCY shall provide such employees as are required by the DEPARTMENT for such conferences as may be called by the DEPARTMENT.

5. PROPRIETARY RIGHTS

The AGENCY shall relinquish to the DEPARTMENT any and all copyrights or privileges to data developed and delivered to the DEPARTMENT under this Agreement. The term "data," as used herein, includes but is not limited to written reports, studies, drawings or other graphic, electronic, chemical, or mechanical representations, and work of any similar nature which is required to be delivered by the AGENCY to the DEPARTMENT under this Agreement. The AGENCY further agrees that it shall not include in the data any copyrighted matter without the written approval of the Secretary, unless the AGENCY provides the DEPARTMENT with the written permission of the copyright owner for the DEPARTMENT to use such copyrighted matter.

6. PATENT, TRADEMARK AND COPYRIGHT PROTECTION

The AGENCY, at its sole expense, agrees to defend and hold harmless the COMMONWEALTH, the DEPARTMENT, the LOTTERY, its agents and employees, against any claims, damages, losses or expenses, for the infringement of United States patents or copyrights or any trademarks or other copyrights by the data furnished by the AGENCY and used by the DEPARTMENT for LOTTERY purposes in accordance with any restrictions or use which the AGENCY had communicated to the DEPARTMENT. The DEPARTMENT agrees to give the AGENCY prompt written notice of all such suits and shall reasonably cooperate with the AGENCY in the defense of such suits.

If the data furnished hereunder other than data owned exclusively by the LOTTERY become the subject of a lawsuit or claim of infringement of an United States or other copyright or patent, or if the AGENCY becomes aware that such item or items are likely to become the subject of a lawsuit or claim of infringement, the AGENCY shall immediately notify the DEPARTMENT and the LOTTERY in writing, and, without diminishing the AGENCY'S obligation to defend and hold harmless the COMMONWEALTH, the DEPARTMENT, the LOTTERY, their agents and employees, the AGENCY may exercise one of the following options in order to provide the DEPARTMENT and the LOTTERY with continued uninterrupted use of the item(s) for the purposes of and as contemplated by this Agreement:

(a) Obtain for the DEPARTMENT and the LOTTERY the right to continue the use of the infringing item at no cost to the DEPARTMENT; or,

(b) Substitute for the alleged infringing items other equivalent or better items deemed satisfactory to the DEPARTMENT, at no additional cost to the DEPARTMENT; or

(c) Agree to an alternative acceptable to both the AGENCY and the DEPARTMENT.

In the event the use of the item(s) furnished hereunder is prevented by preliminary and/or permanent injunction, or in any other manner, the AGENCY shall, immediately upon notice to it of the action preventing the DEPARTMENT'S use of the item, exercise one of the three options provided for above at no additional cost to the DEPARTMENT so as to provide the DEPARTMENT with continued, uninterrupted use of data as contemplated by this Agreement.

7. INDEMNIFICATION

The AGENCY shall indemnify and hold harmless the COMMONWEALTH, the DEPARTMENT and the LOTTERY, its agents and employees, from and against all claims, damages, losses and expenses, including reasonable attorneys fees, for loss or injury alleged to have been caused in whole or in part by any negligent or equally or more culpable act or omission of:

(a) the AGENCY; or,

(b) any subcontractor to the AGENCY; or,

(c) any person directly or indirectly employed by the AGENCY or by a subcontractor to the AGENCY; or,

(d) any person for whose acts or omissions the AGENCY or subcontractor to the AGENCY may be liable in performing obligations of the AGENCY under this Agreement, including situations in which the allegation is made that the alleged loss or injury was caused in part by an act or omission of any person or entity indemnified hereunder.

Notwithstanding the foregoing, in the case of loss or injury caused in part by persons listed in (a)-(d) above, the AGENCY'S indemnification shall be limited to its comparative share. The maximum liability of the AGENCY for any loss or injury set forth herein shall not exceed one million dollars (\$1,000,000).

8. INDEPENDENT CONTRACTOR AND GOVERNMENTAL RESPONSIBILITY

The AGENCY shall perform its services under this Agreement as an independent contractor and shall provide and pay for such workmen's compensation and other insurance as is required by law. The AGENCY shall further provide for such social security, tax and any other payments or deductions as are required by law.

9. PRIME CONTRACTOR RESPONSIBILITIES

The AGENCY shall be the prime contractor, and, as such, is responsible for all contractual activities performed under this Agreement whether or not the AGENCY performs them. The AGENCY shall be the sole point of contact with regard to contractual matters, including payment of any or all charges under this Agreement.

10. SUBCONTRACTING

No subcontracting is permitted without the express, written approval of the DEPARTMENT. The DEPARTMENT reserves the right to require the AGENCY to replace, at no increase in the contract price or extension of the time for the AGENCY'S performance, such subcontractors reasonably found to be unacceptable to the DEPARTMENT. The AGENCY shall be responsible for enforcing against subcontractors those provisions of the Agreement applicable to subcontractors. Any change in subcontractors or in the location of facilities at which work is to be performed to a location outside the Commonwealth, must be approved by the DEPARTMENT in writing prior to such change.

11. TICKET PURCHASE AND PRIZE PAYMENT RESTRICTIONS

The AGENCY acknowledges that, under the Department's LOTTERY rules and regulations and DEPARTMENT policy generally, no officer or employee and no spouse, child, brother, sister, or parent residing in the household of any officer or employee of the AGENCY or of any subcontractor shall purchase a Pennsylvania Lottery ticket or be paid a prize in any Pennsylvania Lottery game. The AGENCY warrants that it has communicated this requirement to each officer and employee of the AGENCY and any subcontractors.

12. TERMS OF PAYMENT

The DEPARTMENT agrees to remit to the AGENCY, for the term of this Agreement, plus any extensions, payment for services

provided as set forth in Appendix C, Prices and Terms, attached hereto and made a part hereof by reference.

13. ABSENCE OF CERTAIN CHANGES OR EVENTS

The AGENCY warrants that:

A. As of the effective date of this Agreement, the AGENCY has not, except as disclosed to the LOTTERY:

(1) sold, assigned, voluntarily encumbered, granted a license or sublicense with respect to or disposed of all or substantially all of its assets, other than in the ordinary course of its business as conducted on the date of its proposal November 26, 2001.

(2) entered into any contract or commitment except in the ordinary course of business except for acquisitions within its business area as conducted on the date of the AGENCY'S Proposal, November 26, 2001.

(3) changed in any respect material to this Agreement its business policies or practices;

(4) altered or revised in any way its accounting principles, procedures, methods or practices;

(5) entered into any other transaction or taken any other action except in the ordinary course of business as conducted on the date of its Proposal, November 26, 2001. Neither the DEPARTMENT nor the AGENCY are aware of any plans of any member of the AGENCY'S management, supervisory or key employees actively involved in the AGENCY'S performance of this Agreement to retire or

otherwise cease being an employee of the AGENCY prior to or within one (1) year following the commencement of the term of this Agreement.

B. As of the effective date of this Agreement, there has been no material adverse change in the financial condition, business, properties, or prospects of the AGENCY.

If the AGENCY experiences any changes as outlined in A or B, above, during the period of this Agreement, the AGENCY shall notify the DEPARTMENT and the LOTTERY, in the manner set forth in Paragraph 30 of this Agreement, of such change at the time the change occurs or is identified, whichever is earlier. Failure to notify the DEPARTMENT and the LOTTERY of such change will be sufficient grounds for terminating this Agreement.

14. AGENCY PERSONNEL

The DEPARTMENT has the right to designate up to five individuals employed by the AGENCY as personnel determined to be key to the successful implementation of this Agreement. Upon notice, as set forth in Paragraph 30 of this Agreement, by the DEPARTMENT of the designation of such key agency personnel, the AGENCY agrees to warrant to the DEPARTMENT, in writing, that it shall undertake to exert its best efforts consistent with the prudent conduct of business and reasonable terms of employment, to retain the services of such key personnel for the entire term of this Agreement plus all extensions thereof.

Should any of the designated employees terminate his or her employment, the AGENCY shall give advance notice to the DEPARTMENT within three (3) business days after the AGENCY becomes aware of the termination.

The AGENCY also warrants that it shall exert its best efforts to develop and maintain a staff of sufficient depth and continuity to serve the LOTTERY.

15. ASSIGNMENT

The AGENCY is prohibited from assigning, transferring, or otherwise disposing of this Agreement or any section or portion thereof, its rights, title, or interests therein, or its power to execute such Agreement to any other person, company, corporation, or entity without the prior written consent of the DEPARTMENT. The DEPARTMENT shall not reasonably withhold its consent under this Paragraph in the case of any corporate reorganization which would not materially prejudice the DEPARTMENT'S interest hereunder.

16. NONDISCRIMINATION

The AGENCY agrees that throughout the term of this Agreement it will comply with the nondiscrimination provisions contained in Appendix D, incorporated herein and made a part hereof.

17. QUARTERLY REPORT - MBE/WBE SERE

The CONTRACTOR must provide the Department of General Services, Minority and Women Business Enterprise Office, with quarterly reports that indicate whether the CONTRACTOR utilized a Minority Business Enterprise, Women's Business Enterprise, or

Socially/Economically Restricted Business for activities under this Agreement during the quarter and list the names of and the amount paid to the Minority Business Enterprise, Women's Business Enterprise, or Socially/Economically Restricted Business utilized. The first such report shall be due on the 100th day after the starting date of this Agreement, and subsequent reports shall be due each 100th day thereafter.

18. AMERICANS WITH DISABILITIES ACT PROVISIONS

During the term of this Agreement, the CONTRACTOR agrees as follows:

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the CONTRACTOR understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Agreement or from activities provided for under this Agreement. As a condition of accepting and executing this Agreement, the CONTRACTOR agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the 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 Paragraph a, above.

19. CONFIDENTIALITY

The AGENCY agrees not to divulge or release any information, reports, or recommendations developed or obtained in connection with performance of this Agreement, except to authorized DEPARTMENT personnel or upon approval of the Secretary of Revenue. The AGENCY agrees to abide by the terms of the DEPARTMENT'S confidentiality provisions, attached hereto and made a part hereof as Appendix E, which provisions shall survive the term of this Agreement and any extensions thereof. News releases pertaining to any service provided by the AGENCY under this Agreement will not be made without prior written approval of the DEPARTMENT.

20. CONTRACTOR INTEGRITY

a. Definitions.

i. "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.

ii. "Consent" means written permission signed by a duly authorized officer or employe of the COMMONWEALTH, provided that where the material facts have been disclosed, in writing, by prequalification, bid,

proposal, or contractual terms, the COMMONWEALTH shall be deemed to have consented by virtue of execution of this Agreement.

iii. "Contractor" means the individual or entity that has entered into this Agreement with the COMMONWEALTH, including directors, officers, partners, managers, key employes, and owners of more than a five (5%) percent interest.

iv. "Financial interest" means:

- (1) ownership of more than a five (5%) percent interest in any business; or
- (2) holding a position as an officer, director, trustee, partner, employe, or the like, or holding any position of management.

v. "Gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

b. The CONTRACTOR shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the COMMONWEALTH.

c. The CONTRACTOR shall not disclose to others any confidential information gained by virtue of this Agreement.

d. The CONTRACTOR shall not, in connection with this or any other Agreement with the COMMONWEALTH, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendations, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the COMMONWEALTH.

e. The CONTRACTOR shall not, in connection with this or any other Agreement with the COMMONWEALTH, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employe of the COMMONWEALTH.

f. Except with the consent of the COMMONWEALTH, neither the CONTRACTOR nor anyone in privity with him 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 Agreement except as provided therein.

g. Except with the consent of the COMMONWEALTH, the CONTRACTOR shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.

h. The CONTRACTOR, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the COMMONWEALTH in writing.

i. The CONTRACTOR, by execution of this Agreement and by the submission of any bills or invoices for payment pursuant

thereto, certifies and represents that he has not violated any of these provisions.

j. The CONTRACTOR, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the CONTRACTOR's integrity or responsibility, as those terms are defined by the COMMONWEALTH's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the CONTRACTOR's business or financial records, documents or files of any type or form which refer to or concern this Agreement. Such information shall be retained by the contractor for a period of three (3) years beyond the termination of the contract unless otherwise provided by law.

k. For violation of any of the above provisions, the COMMONWEALTH may terminate this and any other Agreement with the CONTRACTOR, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another CONTRACTOR to complete performance hereunder, and debar and suspend the CONTRACTOR from doing business with the COMMONWEALTH. These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other. These rights

and remedies are in addition to those the COMMONWEALTH may have under law, statute, regulation, or otherwise.

21. CONTRACTOR RESPONSIBILITY

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 subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the COMMONWEALTH, or with a person under contract, subcontract, grant, or subgrant with the COMMONWEALTH or its state-affiliated entities, and state-related institutions. The term CONTRACTOR may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the COMMONWEALTH.

a. The CONTRACTOR must certify, in writing, for itself and all of its subcontractors, that as of the date of its execution of any COMMONWEALTH contract, that neither the CONTRACTOR, nor any subcontractors, nor any suppliers are under suspension or debarment by the COMMONWEALTH or any governmental entity, instrumentality, or authority and, if the CONTRACTOR cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.

b. The CONTRACTOR must also certify, in writing, that as of the date of its execution, of any COMMONWEALTH contract it has no tax liabilities or other COMMONWEALTH obligations.

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

d. The failure of the CONTRACTOR to notify the contracting agency of its suspension or debarment by the COMMONWEALTH, any other state, or the federal government shall constitute an event of default of the contract with the COMMONWEALTH.

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

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

22. TAXES

The DEPARTMENT shall have no responsibility for the payment of any federal, state or local taxes which become payable by the AGENCY or its subcontractors as a result of this Agreement. The DEPARTMENT agrees to provide the AGENCY with applicable Pennsylvania sales and use tax exemption certificates.

The DEPARTMENT reserves the right to offset against the compensation due the AGENCY any COMMONWEALTH liability, except tax liabilities which are properly appealed by the AGENCY.

23. ACCOUNTING RECORDS

The AGENCY shall maintain, in accordance with generally accepted accounting principles, all pertinent books, documents, financial and accounting records and evidence pertaining to the Agreement to the extent and in such detail as necessary to document all net costs, direct and indirect, for which payment is claimed.

Subject to execution by the DEPARTMENT, or its designee, of the AGENCY'S confidentiality statement, such financial and

accounting records shall be made available for inspection and copying, upon request, to the Department, its designees, the State Inspector General or any authorized agency of the Commonwealth of Pennsylvania at any time during the contract period and any extension thereof, and for three (3) years from expiration date or final payment under this Agreement, whichever is later in time.

24. RIGHT TO AUDIT

Subject to execution by the DEPARTMENT, or its designee, of the AGENCY'S confidentiality statement, the AGENCY agrees to permit the audit of its records by the DEPARTMENT, its designees, and the State Inspector General. All billings, cost, and financial accounting records, source documentation, data systems, programs, applications, project planning summaries, and filed summaries, will be available for audit, examination, inspection and copying. The COMMONWEALTH reserves the right to perform, at its sole discretion, additional audits, including but not limited to audits of a financial/compliance, economy/efficiency, program results nature, or limited scope audits. Additionally, the COMMONWEALTH and the DEPARTMENT reserve the right to inspect and copy any of the AGENCY'S third-party auditor's reports and management letters.

25. WAIVER

The failure of a party to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or

deprive the party of the right thereafter to insist upon strict adherence to that term or any other term of the Agreement.

26. AMENDMENTS, MODIFICATIONS

This Agreement may not be modified, amended, or extended, unless in writing and signed by both parties and any breach or default by a party shall not be waived or release other than in writing signed by the other party.

27. FORCE MAJEURE

A party shall be excused from any breach or default with respect to this Agreement to the extent that the party was prevented from performance by reason of anything beyond the party's control not reasonably avoidable such as a strike or other labor disturbance, act of any governmental authority or agency, fire, flood, wind, storm or any act of God, or the act or omission of any party not controlled by that party ("force majeure").

Neither the AGENCY nor the DEPARTMENT shall be liable to the other for any delay in or failure of performance under this Agreement due to a force majeure. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of such causes of delay or failure shall extend the period for performance to such extent as determined by the Secretary to be necessary to enable complete performance by the AGENCY if reasonable diligence is exercised after the causes of delay or failure has been removed.

28. DISPUTE

In the event that any dispute arises between the parties with respect to the performance which is required of the AGENCY under this Agreement, the DEPARTMENT shall make a determination in writing of its interpretation and shall send the same to the AGENCY. That interpretation shall be final, conclusive and unreviewable in all respects, unless the AGENCY within thirty (30) days of the receipt of said writing delivers to the Secretary of Revenue or his duly authorized designee a written appeal. The decision of the Secretary (or said designee) on any such appeal shall be final, conclusive and unreviewable in that the AGENCY shall thereafter with good faith and diligence render such performance as the DEPARTMENT or Secretary of Revenue has determined is required of it. The AGENCY'S sole options with respect to any such decision shall be either:

- (1) to accept said decision as a correct and binding interpretation of the Agreement; or,
- (2) to make such claim as it may desire to the COMMONWEALTH'S Board of Claims pursuant to the Act of May 20, 1937. P.L. 728, No. 193, as amended. 72 P.S. § 4651-1, et seq.

Pending a final resolution of any such claim brought before said Board, the AGENCY shall proceed diligently and in good faith with the performance of this Agreement as interpreted by the DEPARTMENT and the DEPARTMENT shall compensate the AGENCY pursuant to the terms of this Agreement.

29. TERMINATION

This Agreement may be terminated by the DEPARTMENT:

A. If, because of legislative or other governmental changes or lack of funding, continuation of the Pennsylvania Lottery or its games shall be determined by the DEPARTMENT not to be in the best interest of the COMMONWEALTH. Such termination shall be effected by the DEPARTMENT sending notice to the AGENCY, in writing, of its intention to terminate at least thirty (30) days prior to the termination date;

B. By sending to the AGENCY at least thirty (30) days' notice that it will terminate this Agreement due to the AGENCY'S nonperformance or inadequate performance or other cause unless the AGENCY adequately remedies its nonperformance or inadequate performance or other cause during such reasonable period as the DEPARTMENT shall have specified; or,

C. Upon the occurrence of any changes, as set forth in Paragraph 13 of this Agreement, which the DEPARTMENT, in its sole discretion, determines to be contrary to the best interest of the COMMONWEALTH by sending to the AGENCY at least thirty (30) days' notice prior to the termination date.

30. NOTICE

The parties agree that all notices given pursuant to the terms of this Agreement shall be sufficient and deemed given upon

receipt if in writing and mailed "Certified Mail -- Return Receipt Requested." All other communications shall be sufficient if in writing and mailed prepaid first class. Any such notice or communication shall be sent to the following addresses of the respective parties, or such other addresses as may be designated from time to time by the parties in writing:

(a) As to the DEPARTMENT:

Secretary of Revenue
Pennsylvania Department of Revenue
Department 281100
11th Floor
Strawberry Square
Harrisburg, Pennsylvania 17128-1100
Telephone No. (717) 783-3682
Facsimile No. (717) 783-3990

and

Executive Director
Pennsylvania State Lottery
2850 Turnpike Industrial Drive
Middletown, Pennsylvania 17057
Telephone No. (717) 986-4759
Facsimile No. (717) 986-4767

(b) As to the AGENCY:

President and CEO
Michele Fabrizi
Suite 500
Four Station Square
Pittsburgh, PA 15219
Telephone No. (412) 562-2057
Facsimile No. (412) 562-1680

31. ORDER OF PRECEDENCE

This Agreement shall be interpreted in the following order of precedence:

- (1) Contract terms;
- (2) The RFP;

(3) AGENCY'S proposal.

32. RESOLUTION

The Resolution signed by the President of the AGENCY or its Secretary or Assistant Secretary, authorizing the signatory to execute this Agreement between the AGENCY and the Commonwealth of Pennsylvania is attached hereto and made a part hereof as Appendix F.

33. APPENDICES

The following documents are hereby made a part of this Agreement and are included as Appendices hereto:

APPENDIX A	Request for Proposals dated October 24, 2001.
APPENDIX B	Proposal for Advertising Services to the Pennsylvania State Lottery dated November 26, 2001.
APPENDIX C	Prices and Terms
APPENDIX D	Nondiscrimination Provisions
APPENDIX E	Confidentiality Provisions
APPENDIX F	Resolution

34. GENERAL PROVISIONS

This Agreement shall be governed by and construed according to the laws of the Commonwealth of Pennsylvania. This Agreement constitutes the entire Agreement between the DEPARTMENT and the AGENCY with respect to lottery advertising services. It shall not be amended or modified except by an instrument in writing duly signed by both parties. Any such modification or amendment

shall be as the parties may mutually agree and shall be as permitted by law.

35. EFFECTIVE DATE

This Agreement shall be effective only upon full and complete execution by all of the signatories hereto, including the Office of Attorney General. No party shall have any right to rely upon any terms of this Agreement until all required signatures have been affixed to this Agreement, including all required signatures for form and legality.

36. SEVERABILITY

If a court of competent jurisdiction determines any portion of this Agreement to be invalid, it shall be severed and the remaining portions of this Agreement shall remain in effect.

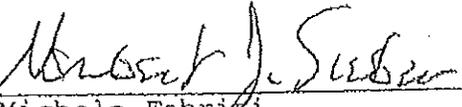
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

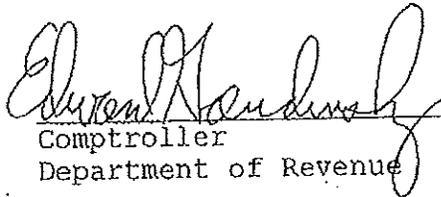
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

MARC, USA

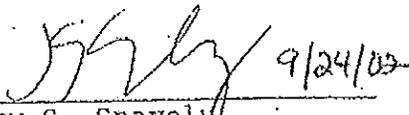

Larry P. Williams, 9-25-02
Secretary of Revenue

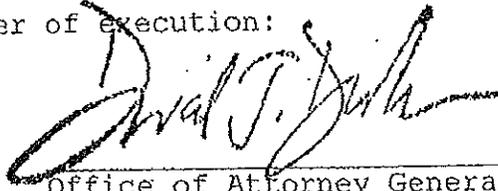
By: 
Michele Fabrizi
President

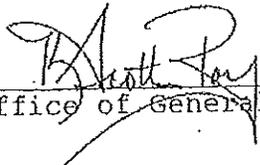
By: Norbert J. Sieber
Executive Vice President


Comptroller
Department of Revenue

Approved as to legality and manner of execution:

 9/24/02
Jeffery S. Snaveley
Acting Chief Counsel
Department of Revenue


Office of Attorney General

 12/16/02
Office of General Counsel

See Attached Coding Sheet

Certified a True and
Correct Copy

Coding		Amount	Coding		Amount
Fund	2027002000	\$5,000,000	Fund	2027005000	\$10,000,000
Cost Center	1861101000		Cost Center	1861101000	
G/L	6343200		G/L	6343200	
Fund	2027002000	\$3,000,000	Fund	2027005000	\$3,000,000
Cost Center	1861101609		Cost Center	1861101609	
G/L	6343200		G/L	6343200	
Fund	2027002000	\$2,000,000	Fund	2027005000	\$2,000,000
Cost Center	1861101610		Cost Center	1861101610	
G/L	6343200		G/L	6343200	
Fund	1020702000	\$5,000,000			
Cost Center	1861101000				
G/L	6343200				
Fund	2027003000	\$20,000,000			
Cost Center	1861101000				
G/L	6343200				
Fund	2027003000	\$6,000,000			
Cost Center	1861101609				
G/L	6343200				
Fund	2027003000	\$4,000,000			
Cost Center	1861101610				
G/L	6343200				
Fund	2027004000	\$20,000,000			
Cost Center	1861101000				
G/L	6343200				
Fund	2027004000	\$6,000,000			
Cost Center	1861101609				
G/L	6343200				
Fund	2027004000	\$4,000,000			
Cost Center	1861101610				
G/L	6343200				

APPENDIX A

APPENDIX A

REQUEST FOR PROPOSALS FOR ADVERTISING SERVICES FOR THE
PENNSYLVANIA STATE LOTTERY DATED OCTOBER 24, 2001.

APPENDIX B

APPENDIX B

AGENCY'S PROPOSAL DATED NOVEMBER 26, 2001

Copies maintained separately by the LOTTERY and the AGENCY.
(Copies available without proprietary information, upon request
to LOTTERY).

APPENDIX C

Proposed compensation also reflects:

- i. No charge for copywriting.
- ii. No charge for agency time for supervision of print production in connection with purchasing print materials.
- iii. No charge for broadcast supervision and no agency mark-up on any broadcast production of commercial announcements wholly devoted to Lottery benefits.
- iv. No charge for other normal out-of-pocket costs such as telephone, photocopy, messenger and delivery services.
- v. No charge for routine legal consultation costs.

Only work satisfactorily performed after execution of a written contract, after the CONTRACTOR's receipt of a notice to proceed from the COMMONWEALTH and after the contract term has begun will be reimbursed.

2. TERMS OF PAYMENT

The DEPARTMENT agrees to pay the AGENCY, which agrees to accept as full compensation for the services rendered hereunder including AGENCY compensation, all media billings, and any other costs and expenses incurred. All such sums shall be billed and paid as follows:

A. All media charges shall be billed to the DEPARTMENT at rates as set forth in Paragraph 1(a), above. To determine the billing amounts, the AGENCY will multiply net⁴ media (costs) by the Commission Factor set forth in Paragraph 1(a), above. All such bills will be tendered on a monthly basis. The AGENCY shall exercise its best efforts to obtain the lowest available rates from all media and to take advantage of all prompt payment discounts, the benefits of which shall be made available to the DEPARTMENT. Such bills shall be due and payable by the DEPARTMENT to the AGENCY by the tenth day of the month following the month in which they are billed.

- C2 -

⁴ "Net" means those actual amounts billed to the AGENCY by Vendors, reduced by any discounts realized by the AGENCY.

B. All production items including, but not limited to such items as audio and video, recording and duplication, editing, photography, electronic mechanicals and equipment rental shall be billed at cost, showing outside suppliers' invoices, to which may be added an AGENCY mark-up of fifteen (15%) percent. Such costs shall not include those costs incurred to supervise the AGENCY'S employees. These charges shall be billed as work is performed and payment shall be due within sixty (60) days of receipt of the AGENCY'S invoice. All such items, which are produced by the AGENCY without outside supplier participation, shall be billed in accordance with the AGENCY'S standard hourly billing rate which is in effect from time to time and which is applied generally to the AGENCY'S clients. With respect to items produced by the AGENCY'S AV Division, Little Room Productions (hereinafter referred to as ("Little Room")), and its Print Division, Evolve, the DEPARTMENT shall be billed for each item direct labor charges at the same standard hourly billing rates charged to other clients of Little Room and Evolve, administrative labor charges of Little Room and Evolve employees at standard hourly billing rates, and materials and outside supplier costs. It is understood that although there will be no AGENCY mark-up of Little Room or Evolve labor charges, there will be added an AGENCY mark-up of fifteen (15%) percent for all materials and outside supplier costs incurred by Little Room and Evolve. Such AGENCY mark-up will not be included in Little Room's billings or Evolve's billings to the AGENCY but will be added separately to the AGENCY'S billings to the DEPARTMENT.

C. All surveys, marketing research, motivational studies and behavioral studies shall be specifically authorized by the DEPARTMENT in writing. They shall be billed at AGENCY cost plus research supervision at the AGENCY'S standard hourly billing rates, which are in effect from time to time and which are applied generally to the AGENCY'S clients, whether conducted by the AGENCY or subcontracted elsewhere. Such charges shall be billed as work is completed. Payment is due within 60 (sixty) days of receipt of the AGENCY'S invoices.

D. All Public Relations/Promotions fees and charges for services provided shall be billed at the AGENCY'S standard hourly billing rates, which are in effect from time to time and which are applied generally to the AGENCY'S clients. Charges shall be billed monthly and are due within sixty (60) days of receipt of the AGENCY'S invoices.

E. In addition to the payments specified above, the DEPARTMENT will reimburse the AGENCY for costs incurred in the procurement of any additional services or materials under this Agreement. Such procurements shall only be done with the prior approval of the Secretary of Revenue or his designee. The cost of such purchases shall be the delivered cost price to the AGENCY without any additional mark-up or add-on.

F. The AGENCY will charge for Art Direction on all advertisement and collateral production at the AGENCY'S standard hourly billing rates, which are in effect from time to time and which are applied generally to the AGENCY'S clients. The AGENCY will charge for Broadcast Supervision based on actual time spent with the actual production of the commercial at the AGENCY'S standard hourly billing rates. There will be no charge for Copywriting. The AGENCY will not charge for AGENCY time for supervision of pre-testing recommended by the AGENCY or the DEPARTMENT for advertising campaigns. Out-of-pocket costs associated with advertising pre-testing will be billed at cost. The AGENCY will not charge for supervision of subcontractors. Such subcontractor's invoices will be rebilled at cost. There will be no charge for other normal out-of-pocket costs such as telephone, photocopy, messenger and delivery services, nor will there be any charges for routine legal consultation costs.

G. The AGENCY will not charge the DEPARTMENT for any commission for print materials purchased in connection with services rendered under this Agreement, but the AGENCY may add a service charge at the AGENCY'S standard hourly billing rates, which are in effect from time to time and which are applied generally to AGENCY'S clients, for the actual time expended for purchase and quality control relative to such printing.

H. It is agreed between the parties hereto that whenever the DEPARTMENT may require additional professional services including, but not limited to, services resulting from changes required by the DEPARTMENT, in addition to the categories listed above, said service shall be compensated only as the parties may mutually agree.

I. Appendix C of this Agreement shows average hourly billing rates for staff time. Actual billing, however, will be determined based on the AGENCY'S standard hourly billing

rates for the hours expended by staff. Such rates will be those which are in effect from time to time and which are applied generally to the AGENCY'S clients. The AGENCY will provide the DEPARTMENT with a complete listing of staff and their hourly rates upon the execution of this Agreement and upon any rate change.

J. Travel per diem cost for normal service requirements will not be charged. Any travel by the AGENCY outside normal service requirements will be billed to the DEPARTMENT at the AGENCY'S then current rates as reflected in the AGENCY'S written travel policies as are in effect from time to time. If there is no AGENCY policy regarding travel per diem costs, the DEPARTMENT shall reimburse the AGENCY at the then current COMMONWEALTH travel per diem rates.

APPENDIX D

NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

Each contract entered into by a governmental agency shall contain the following provisions by which 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, 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. Contractors and subcontractors 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. Contractors 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 furnish all necessary employment documents and records to and permit access to their books, records, and accounts by the contracting agency and the Bureau of Contract Administration and Business Development, for purposes of investigation, to ascertain compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. If the contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, the contractor or subcontractor shall furnish such information on reporting forms supplied by the contracting agency or the Bureau of Contract Administration and Business Development.

6. The contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

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.

APPENDIX E

NONDISCLOSURE STATEMENT

This statement shall govern the conditions of disclosure by the Commonwealth of Pennsylvania, Department of Revenue, of certain confidential information to the CONTRACTOR relating to the attached Agreement.

Confidential information shall include any information provided to the CONTRACTOR by the Department which is determined by the Department to be confidential, proprietary, business sensitive or any other information provided to the CONTRACTOR which is determined by the Department to be confidential.

With regard to such confidential information, the CONTRACTOR, its officers, agents and employees, hereby agree not to use such information, for itself or others, or to disclose such information to others, except to its employees who reasonably require same for the purpose hereof and who are bound to it by like obligation as to confidentiality, without the express written permission of the Commonwealth of Pennsylvania, Department of Revenue, Pennsylvania State Lottery.

This nondisclosure obligation shall not apply to information:

- (a) subsequently otherwise acquired by the CONTRACTOR from a third party having an independent right to disclose the information;

(b) which is now or later becomes publicly known through
no fault of the CONTRACTOR.

The Project Leader or other CONTRACTOR employee with principal
responsibility for the safeguarding of the confidential information
will be James Nulph

By Robert J. Nelson

APPENDIX F

CERTIFIED COPY OF CORPORATE RESOLUTION

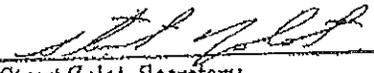
OF

MARC USA INC.

I, Stuart Zolot, hereby certify that I am the Secretary of MARC USA INC., a Delaware corporation (the "Corporation"); that the following resolution was regularly adopted in accordance with the Bylaws by the Board of Directors of said Corporation at a meeting duly called and held on the 27th day of August, 2002, a quorum being present; and that said resolution is now in full force and effect:

RESOLVED, that the President or any Vice President of the Corporation be and is hereby authorized and empowered to enter into an Agreement for Lottery Advertising Services with the Commonwealth of Pennsylvania, Department of Revenue, Pennsylvania Lottery, incorporating such terms and provisions submitted to this meeting and with such other terms and provisions as the President and/or Vice President shall deem necessary and proper for the benefit of the Corporation.

In testimony hereof, I have hereto subscribed my name as Secretary of said Corporation this 23rd day of September, 2002.


Stuart Zolot, Secretary

FIRST AMENDMENT TO AGREEMENT FOR
LOTTERY ADVERTISING SERVICES

THIS FIRST AMENDMENT to the Agreement of January 13, 2003, is hereby made and entered into this 1st day of October, 2004, between the COMMONWEALTH OF PENNSYLVANIA (hereinafter referred to as the "COMMONWEALTH"), acting through the DEPARTMENT OF REVENUE (hereinafter referred to as the "DEPARTMENT"), for the PENNSYLVANIA LOTTERY (hereinafter referred to as "LOTTERY"), and MARC USA, (hereinafter referred to as "AGENCY" or "CONTRACTOR"), a corporation duly organized in good standing under the laws of Pennsylvania, with offices at Suite 500, Four Station Square, Pittsburgh, Pennsylvania, 15219-1119, and having Federal Employer Identification Number



I. RECITALS

WHEREAS, the DEPARTMENT has as one of its responsibilities the operation and management of the Pennsylvania Lottery in accordance with the provisions of Act No. 91 of 1971, P.L. 351, approved August 26, 1971, as amended, and sometimes known as the "State Lottery Law," (hereinafter also referred to as the "Act"); and,

WHEREAS, under the provisions of the Act, the DEPARTMENT has the authority and duty to pay costs incurred in the

Certified a True and
Correct Copy. MS

operation and administration of the Pennsylvania Lottery, including costs resulting from any contracts entered into for promotional, advertising or operation services, or for the purchase of lottery materials; and,

WHEREAS, the DEPARTMENT further has the authority to expend monies from the State Lottery Fund to pay the expenses of the operation of the Pennsylvania Lottery; and,

WHEREAS, the DEPARTMENT engaged the services of the AGENCY to perform the full range of advertising services necessitated by the State Lottery Law; and,

WHEREAS, the DEPARTMENT and the AGENCY are authorized to amend the Agreement of January 13, 2003, pursuant to Paragraph 34 of the Agreement.

II. AGREEMENT

NOW, THEREFORE, this 1st day of October, 2004, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth, and intending to be legally bound, the Parties hereto execute this First Amendment to the Agreement, as follows:

1. Appendix C, PRICES AND TERMS, is hereby amended as follows:

Certified a True and
Correct Copy. MS

(a) Subparagraph 1.a, PRICES, is amended by replacing the chart in "a. Media Placement Commission" with the following:

"Media Placement Commission cost percentages shall be calculated annually and reset on the anniversary date of the contract."

MEDIA PLACEMENT COMMISSION All Types Annually	Media Cost %	Gross Media Commission Factor	Voluntary Discounted Media Rate %	Discounted Gross Media Commission Factor
First \$5 Million media billing annually	11.0%	1.12941	10.4500%	1.12294
Next \$5 Million media billing annually	10.0%	1.11764	9.5000%	1.11176
Over \$10 Million to \$15 Million media billing annually	8.0%	1.09412	7.6000%	1.08941
Over \$15 Million media billing annually	5.50%	1.06471	5.2250%	1.06147

(b) Paragraph 1.B., Production, is amended by replacing "Production - 15% Markup," with the following:

PRODUCTION - ALL	15% Markup	1.17647	14.2500%	1.16765
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(c) Paragraph 2.B., is hereby amended by deleting "sixty (60) days of receipt" at Line 9, and inserting: "thirty (30) days of the DEPARTMENT'S approval."

(d) Paragraph 2.C., is hereby amended by deleting "sixty (60) days of receipt" at Line 9, and inserting: "thirty (30) days of the DEPARTMENT'S approval."

(e) Paragraph 2.D, is hereby amended by deleting "sixty (60) days of receipt" at Line 9, and inserting:
"thirty (30) days of the DEPARTMENT'S approval."

2. All other terms and conditions of the Agreement of January 13, 2003, shall remain in full force and effect.

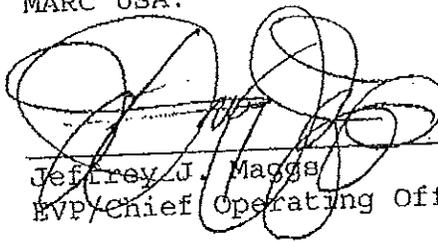
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IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to the Agreement of January 13, 2003, to be duly executed as of the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE:

 7/16/04
Date
Gregory E. Fajt
Secretary of Revenue

MARC USA:

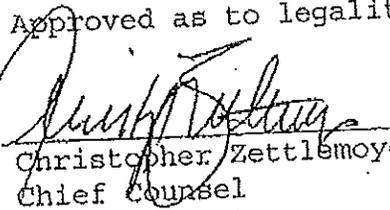
 7/1/04
Date
Jeffrey J. Maggs
EVP/Chief Operating Officer

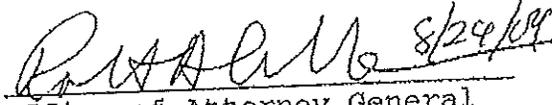
 10/1/04
Date
Randy Selig
Comptroller
DEPARTMENT OF REVENUE

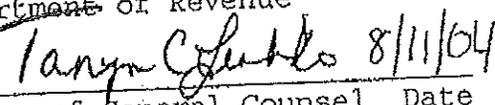
CERTIFICATION OF FUNDS:

I hereby certify that funds in the amount of \$ _____ are available under Appropriation:

Approved as to legality and manner of execution:

 9/7/04
Date
Christopher Zettlemoyer
Chief Counsel
Department of Revenue

 8/24/04
Date
Office of Attorney General

 8/11/04
Date
Tanya Columbus
Office of General Counsel

Appr. By: _____
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Certified a True and Correct Copy. 

CERTIFIED COPY OF CORPORATE RESOLUTION

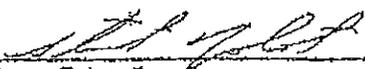
OF

MARC USA INC.

I, Stuart Zolot, hereby certify that I am the Secretary of MARC USA INC., a Delaware corporation (the "Corporation"); that the following resolution was regularly adopted in accordance with the Bylaws by the Board of Directors of said Corporation at a meeting duly called and held on the 27th day of August, 2002, a quorum being present; and that said resolution is now in full force and effect:

RESOLVED, that the President or any Vice President of the Corporation be and is hereby authorized and empowered to enter into an Agreement for Lottery Advertising Services with the Commonwealth of Pennsylvania, Department of Revenue, Pennsylvania Lottery, incorporating such terms and provisions submitted to this meeting and with such other terms and provisions as the President and/or Vice President shall deem necessary and proper for the benefit of the Corporation.

In testimony hereof, I have hereto subscribed my name as Secretary of said Corporation this 23rd day of September, 2002.


Stuart Zolot, Secretary

SECOND AMENDMENT TO AGREEMENT FOR
LOTTERY ADVERTISING SERVICES

THIS SECOND AMENDMENT to the Agreement of January 13, 2003, is hereby made and entered into this 19th day of September, 2005, between the COMMONWEALTH OF PENNSYLVANIA (hereinafter referred to as the "COMMONWEALTH"), acting through the DEPARTMENT OF REVENUE (hereinafter referred to as the "DEPARTMENT"), for the PENNSYLVANIA LOTTERY (hereinafter referred to as "LOTTERY"), and MARC USA (hereinafter referred to as "AGENCY" or "CONTRACTOR"), a corporation duly organized in good standing under the laws of Pennsylvania, with offices at Suite 500, Four Station Square, Pittsburgh, Pennsylvania, 15219-1119, and having Federal Employer Identification Number



I. RECITALS

WHEREAS, the DEPARTMENT has as one of its responsibilities the operation and management of the Pennsylvania Lottery in accordance with the provisions of Act No. 91 of 1971, P.L. 351, approved August 26, 1971, as amended, and sometimes known as the "State Lottery Law," (hereinafter also referred to as the "Act"); and,

WHEREAS, under the provisions of the Act, the DEPARTMENT has the authority and duty to pay costs incurred in the operation and administration of the Pennsylvania Lottery, including costs resulting from any contracts entered into for promotional, advertising or operation services, or for the purchase of lottery materials; and,

WHEREAS, the DEPARTMENT further has the authority to expend monies from the State Lottery Fund to pay the expenses of the operation of the Pennsylvania Lottery; and,

WHEREAS, the DEPARTMENT entered into an Agreement with the AGENCY on January 13, 2003, as amended by First Amendment on October 1, 2004, to perform the full range of advertising services necessitated by the State Lottery Law; and,

WHEREAS, the DEPARTMENT and the AGENCY are authorized to amend the Agreement of January 13, 2003, pursuant to Paragraph 34 of the Agreement, and to extend the term of the Agreement pursuant to Paragraph 3 of the Agreement.

II. AGREEMENT

NOW, THEREFORE, this 19th day of September, 2005, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth, and intending to be legally bound, the Parties hereto execute this Second Amendment to the Agreement, as follows:

1. Paragraph 3, CONTRACT TERM AND EXTENSIONS, is hereby amended as follows:

3. CONTRACT TERM AND EXTENSIONS

This Agreement is for an additional twelve month period, commencing on January 13, 2006, and expiring at midnight January 12, 2007. It is understood and agreed by the parties that the DEPARTMENT, at its option, may extend the term of this Agreement for one (1) additional term of one year. The DEPARTMENT may exercise such option by sending written notice to the AGENCY at least three (3) months prior to the expiration date of the Agreement or by such other date as shall be mutually agreed upon by both parties in writing. Such extension shall be based upon the terms and conditions agreed to between the DEPARTMENT and the AGENCY pursuant to this Agreement.

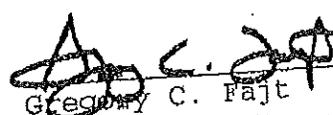
As used herein, "term" shall refer to the three year period, plus any extensions, for which this Agreement is in effect.

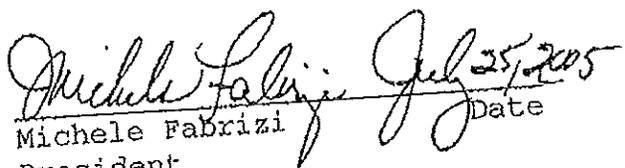
2. All other terms and conditions of the Agreement of January 13, 2003, and the First Amendment of October 1, 2004, shall remain in full force and effect.

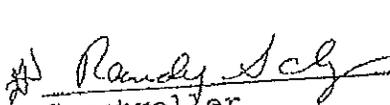
IN WITNESS WHEREOF, the Parties hereto have caused this
Second Amendment to the Agreement of January 13, 2003, to be
duly executed as of the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

MARC USA


Gregory C. Fajt
Secretary of Revenue
8/4/05
Date


Michele Fabrizi
President
July 25, 2005
Date

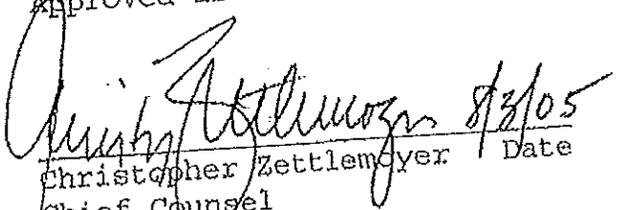

Randy Schy
Comptroller
9/19/05
Date

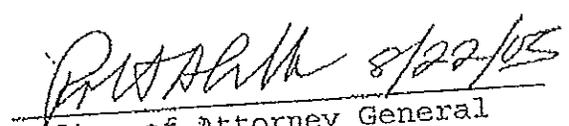
CERTIFICATION OF FUNDS:

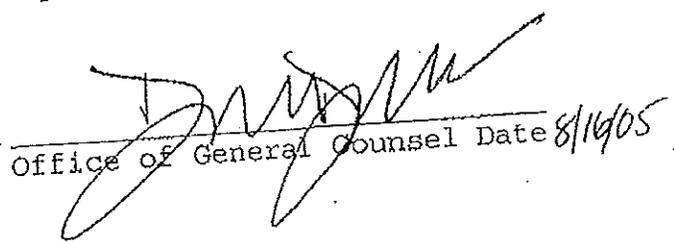
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SEP 15 2005

I hereby certify that funds in the
amount of \$ 28,000,000.00 are
available under Appropriation:

Approved as to legality and manner of execution:


Christopher Zettlemoyer
Chief Counsel
Department of Revenue
8/3/05
Date


Office of Attorney General
8/22/05


Office of General Counsel
Date 8/14/05

Certified a True and
Correct Copy. ms

THIRD AMENDMENT TO AGREEMENT FOR
LOTTERY ADVERTISING SERVICES

THIS THIRD AMENDMENT to the Agreement of January 13, 2003, is hereby made and entered into this 15th day of November, 2006, between the COMMONWEALTH OF PENNSYLVANIA (hereinafter referred to as the "COMMONWEALTH"), acting through the DEPARTMENT OF REVENUE (hereinafter referred to as the "DEPARTMENT"), for the PENNSYLVANIA LOTTERY (hereinafter referred to as "LOTTERY"), and MARC, USA (hereinafter referred to as "AGENCY" or "CONTRACTOR"), a corporation duly organized in good standing under the laws of Pennsylvania, with offices at Suite 500, Four Station Square, Pittsburgh, Pennsylvania, 15219-1119, and having Federal Employer Identification Number

I. RECITALS

WHEREAS, the DEPARTMENT has as one of its responsibilities the operation and management of the Pennsylvania Lottery in accordance with the provisions of Act No. 91 of 1971, P.L. 351, approved August 26, 1971, as amended, and sometimes known as the "State Lottery Law," (hereinafter also referred to as the "Act"); and,

WHEREAS, under the provisions of the Act, the DEPARTMENT has the authority and duty to pay costs incurred in the operation and administration of the Pennsylvania Lottery, including costs resulting from any contracts entered into for promotional, advertising or operation services, or for the purchase of lottery materials; and,

WHEREAS, the DEPARTMENT further has the authority to expend monies from the State Lottery Fund to pay the expenses of the operation of the Pennsylvania Lottery; and,

WHEREAS, the DEPARTMENT entered into an Agreement with the AGENCY on January 13, 2003, as amended by First Amendment on October 1, 2004, and the Second Amendment on September 19, 2005, to perform the full range of advertising services necessitated by the State Lottery Law; and,

WHEREAS, the DEPARTMENT and the AGENCY are authorized to amend the Agreement of January 13, 2003, pursuant to Paragraph 34 of the Agreement.

II. AGREEMENT

NOW, THEREFORE, this 15th day of November, 2006, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth, and intending to be legally bound, the Parties hereto execute this Third Amendment to the Agreement, as follows:

1. Paragraph 2, WORK STATEMENT, is hereby amended by adding the following after the end of said paragraph:

Upon the effective date of this Third Amendment to the Agreement for Lottery Advertising Services and continuing through its term, the AGENCY shall redesign, develop, and maintain the Lottery's website, including PALOTTERY.com, electronic marketing in accordance with pages 1 through 18 inclusive, of the AGENCY'S revised Website Redevelopment Engagement Proposal dated June 19, 2006, a copy of which is attached hereto and made a part hereof as APPENDIX G, WEBSITE REDEVELOPMENT ENGAGEMENT.

2. Paragraph 3, CONTRACT TERM AND EXTENSIONS, is hereby amended as follows:

3. CONTRACT TERM AND EXTENSIONS

This Agreement is for an additional twelve month period, commencing on January 13, 2007, and expiring at midnight January 12, 2008.

As used herein, "term" shall refer to the three year period, plus any extensions, for which this Agreement is in effect.

3. Paragraph 5, PROPRIETARY RIGHTS, is hereby amended by adding the following after the end of said paragraph:

The AGENCY shall retain all rights to proprietary software tools and other proprietary technology it possesses at the time of the effective date of this Third Amendment to the Agreement of January 13, 2003, subject to the license granted to the DEPARTMENT pursuant to said Third Amendment to use such proprietary software tools and proprietary technology. The AGENCY shall provide the LOTTERY with a complete list of all claimed proprietary software tools and proprietary technology used in connection with the website prior to the commencement of services under this Third Amendment.

4. Paragraph 12, TERMS OF PAYMENT, is hereby amended by inserting the phrase "and Appendix C.1" after the term "Appendix C" in the within paragraph.

5. APPENDIX C, PRICES AND TERMS, is hereby amended by inserting the phrase "Appendix C.1" after the end of "Appendix C."

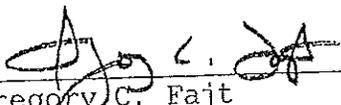
6. APPENDIX C.1, ADDITIONAL PRICES AND TERMS, is attached hereto and made apart hereof by reference.

7. All other terms and conditions of the Agreement of January 13, 2003, the First Amendment of October 1, 2004, and the Second Amendment of September 19, 2005, shall remain in full force and effect.

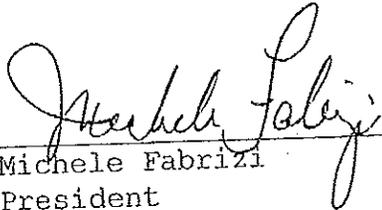
IN WITNESS WHEREOF, the Parties hereto have caused this Third Amendment to the Agreement of January 13, 2003, to be duly executed as of the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE

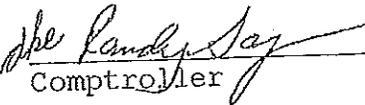
MARC USA



Gregory C. Fajt Date
Secretary of Revenue 10/13/06



Michele Fabrizi Date
President 10/9/06

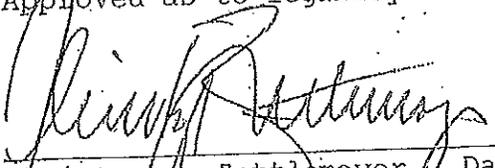


Randy Jay Date
Comptroller 11/15/06

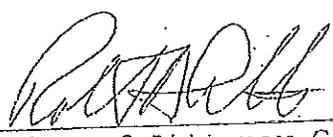
CERTIFICATION OF FUNDS:

I hereby certify that funds in the amount of \$ _____ are available under Appropriation:

Approved as to legality and manner of execution:



Christopher Zettlemoyer Date
Chief Counsel 10.11.06
Department of Revenue



Office of Attorney General 11/2/06



Office of General Counsel Date
10.29.06

APPENDIX C.1

ADDITIONAL PRICES AND TERMS

WEBSITE REDEVELOPMENT

The Prices and Terms set forth in this Appendix C.1 supplement the Prices and Terms set forth in Appendix C and apply to services performed by the AGENCY pursuant to the terms of APPENDIX G, WEBSITE DEVELOPMENT.

1. PRICES

The hourly rate for the Website Redevelopment Services and Technical Services performed by the AGENCY shall be billed by the AGENCY at \$104.00 per hour as set forth in page 18 of APPENDIX G.

2. TERMS

TIME AND MATERIALS BILLING

The AGENCY shall be compensated for the services and deliverables expressly set forth in APPENDIX G on a time and materials basis in accordance with the resource estimates and timetable set forth in APPENDIX G and as set forth below. If the specifications of the Website Redevelopment materially change, the costs may be subject to adjustment by Change Order upon written agreement of the Parties.

If, during the provision of services under this Third Amendment, there is a change in the specifications, the AGENCY

shall provide a Change Notice to the LOTTERY pursuant to the provisions of Paragraph 30 of the Agreement of January 13, 2003, NOTICE. Should the parties be unable to agree upon a suitable Change Order to accommodate such material changes, the LOTTERY shall have right to terminate this Third Amendment by providing written notice of same to the AGENCY of termination. In the event LOTTERY elects to so terminate, LOTTERY shall pay the AGENCY for time and material charges incurred to the date of notification of termination.

INCREMENTAL COSTS

The following cost shall be billed to the LOTTERY on a "pass through" basis without mark up by the AGENCY. Services shall be billed at a rate mutually agreed to by the parties prior to the commencement of such services and memorialized in a separate letter of understanding:

- Software Licensing and/or Usage Fees
 - Content Management System
 - Email Campaign Management
 - Web Analytics
- Hosting and Technical Maintenance.
- Ongoing Agency eMarketing Consulting (Reporting, Analysis, Strategy, etc.)
- Stock Photography and Stock Audio/Video